



Audit and Scrutiny Committee

Agenda

Part One

Council Chamber - Town Hall

Tuesday, 30 September 2014 at 7.00 pm

Membership (Quorum – 3)

Councillors

Cllrs Clark (Chair), Barrett (Vice-Chair), Chilvers, Mrs Hones, Kerslake, Dr Naylor, Sleep and Mrs Squirrell

Committee Co-ordinator: Claire Hayden (01277 312741)

Additional Information:

Substitutes

The names of substitutes shall be announced at the start of the meeting by the Chair and the substitution shall cease at the end of the meeting.

Substitutes for quasi judicial Committees must be drawn from members who have received training in quasi-judicial decision making. If a casual vacancy occurs on a quasi judicial Committee it will not be filled until the nominated member has been trained.

Rights to attend and speak

Any Member may attend any body to which these Procedure Rules apply.

A Member who is not a member of the committee may speak at the meeting if they have given prior notification by no later than one working day before the meeting to the Chair and advised them of the substance of their proposed contribution.

The member may speak at the Chair's discretion, it being the expectation that a member will be allowed to speak on a ward matter.

Point of Order/Personal explanation/Point of Information

8.3.14 Point of order

A member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the point of order will be final.

8.3.15 Personal explanation

A member may make a personal explanation at any time. A personal explanation must relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate, or outside of the meeting. The ruling of the Chair on the admissibility of a personal explanation will be final.

8.3.16 Point of Information or clarification

A point of information or clarification must relate to the matter being debated. If a Member wishes to raise a point of information, he/she must first seek the permission of the Chair. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate. If the Chair gives his/her permission, the Member will give the additional information succinctly. Points of Information or clarification should be used in exceptional circumstances and should not be used to interrupt other speakers or to make a further speech when he/she has already spoken during the debate. The ruling of the Chair on the admissibility of a point of information or clarification will be final.

Information for Members of the Public

Access to Information and Meetings

You have the right to attend all meetings of the Council and its Boards and Committees. You also have the right to see the agenda, which will be published no later than 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.brentwood.gov.uk or from Democratic Services (01277 312739).

Webcasts

All of the Council's meetings are webcast, except where it is necessary for the items of business to be considered in private session (please see below).

If you are seated in the public area of the Council Chamber, it is likely that your image will be captured by the recording cameras and this will result in your image becoming part of the broadcast. This may infringe your Human Rights and if you wish to avoid this, you can sit in the upper public gallery of the Council Chamber.

Private Sessions

Occasionally meetings will need to discuss some of its business in private. This can only happen on a limited range of issues, which are set by law. When a Board or Committee does so, you will be asked to leave the meeting.

Guidelines on filming, photography, recording and use of social media at council and committee meetings

The council welcomes the filming, photography, recording and use of social media at council and committee meetings as a means of reporting on its proceedings because it helps to make the council more transparent and accountable to its local communities.

Where members of the public use a laptop, tablet device, smart phone or similar devices to make recordings these devices must be set to 'silent' mode to avoid interrupting proceedings of the council or committee.

If you wish to record the proceedings of a meeting and have any special requirements or are intending to bring in large equipment then please contact the Communications Team before the meeting.

The use of flash photography or additional lighting may be allowed provided it has been discussed prior to the meeting and agreement reached to ensure that it will not disrupt proceedings.

The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of these activities, in their opinion, are disrupting proceedings at the meeting.

Access

There is wheelchair access to the Town Hall from the Main Entrance. There is an induction loop in the Council Chamber.

Evacuation Procedures

Evacuate the building using the nearest available exit and congregate at the assembly point in the North Front Car Park.

Part I

(During consideration of these items the meeting is likely to be open to the press and public)

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12	Urgent Business An item of business may only be considered where the Chair is of the opinion that, by reason of special circumstances, which shall be specified in the Minutes, the item should be considered as a matter of		

urgency.

13 **Local Government Act
1972 - Exclusion of Press
and Public**

A handwritten signature in black ink, appearing to read 'S. H. [unclear]', written in a cursive style.

Acting Chief Executive

Town Hall
Brentwood, Essex
22.09.2014



Minutes

Audit & Scrutiny Committee

1st July 2014

Membership/Attendance

- | | |
|---------------------------|--------------------|
| * Cllr Clark (Chair) | Cllr Dr Naylor |
| Cllr Barrett (Vice-Chair) | * Cllr Sleep |
| * Cllr Chilvers | Cllr Mrs Squirrell |
| * Cllr Hones | |
| * Cllr Kerlake | |

*present

Substitute Present

Cllr Morrissey (for Cllr Barrett), Cllr Newberry (for Cllr Mrs Squirrell) and Cllr Parker (for Cllr Dr Naylor)

Also present

Cllr Aspinell
Cllr Mrs Hubbard
Cllr Le-Surf
Cllr Mynott

Officers Present

Ben Bix – Corporate and Democratic Service Manager
Christine Connolly - Ernst & Young, External Audit
Debbie Hanson - Ernst & Young , External Audit
Claire Hayden – Governance and Member Support Officer
Jo-Anne Ireland – Director of Strategy and Corporate Services (Section 151 Officer)
Paul Knight – Head of Business Transformation
Gary Moss – Interim Chief Accountant
Liana Nicholson – BDO, Internal Audit
Tony Pierce – Acting Head of Planning
Greg Rubins – BDO, Internal Audit
Rick Steels – Revenues and Benefits Manager
Sue White – Risk and Insurance Manager

32. Apologies for Absence

Apologies for absences were received from Cllrs Barrett, Dr Naylor and Mrs Squirrell. In Cllr Barrett's absence, the Chair appointed Cllr Chilvers as acting Vice-chair for the duration of the meeting.

Minutes of Overview and Scrutiny meeting held on 25.2.2014 and Audit Committee meeting held on 11.3.2014.

The minutes of the Audit Committee meeting held on 11.3.2014 were approved and signed by the Chair as a correct record

Cllr Morrissey asked for the following amendments to be made to Overview and Scrutiny Minutes of 25.2.2014.

358. William Hunter Way

~~Following a full discussion,~~ Cllr Mrs Hones *MOVED* and Cllr Tee *SECONDED* the recommendation in the report and it was.

359. Update on Crossrail Project

~~Following a full discussion,~~ Cllr Mrs Hones *MOVED* and Cllr Dr Naylor *SECONDED* the recommendation and it was.

360. Draft Overview and Scrutiny Annual Report

~~Following a full discussion,~~ Cllr Braid *MOVED* and Cllr Mrs Coe *SECONDED* the recommendation and it was

A motion was *MOVED* by Cllr Morrissey and *SECONDED* by Cllr Chilvers.

Voting took place by a show of hands and in accordance with Rule 9.2 of the Council Procedure Rules, the Chair exercised his casting vote and the *MOTION* was *CARRIED*.

RESOLVED that the minutes of Overview and Scrutiny Committee 25.2.2014 be amended.

33. Statement of Accounts

The report presented the Council's Statement of Accounts for 2013/2014. These accounts were presented to the External Auditors (Ernst & Young) by the statutory deadline of 30 June 2014.

An amendment to the motion was *MOVED* by Cllr Clark and *SECONDED* by Cllr Chilvers as follows:

- 2.1 That Members review the Statement of Accounts for 2013/2014.
2.2 *That Members approve the Annual Governance Statement.*

Following a debate, Cllr Kerslake MOVED and Cllr Clark SECONDED to defer item 2.2 until 30.9.2014.

RESOLVED UNANIMOUSLY to review the Statement of Account for 2013/2014.

34. Internal Audit Annual Report

The report summaries the Internal Audit activity over the 2013/2014 financial year and includes the Head of Internal Audit's annual opinion on the effectiveness of the Council's governance, risk management and internal control arrangements.

The report was prepared by the previous Internal Auditors – Essex County Council, whose contact ended on 31.3.2014, and therefore were not in attendance. Cllr Chilvers asked that in future could the previous Internal Auditors attend this meeting to present the Internal Audit Annual Report after the termination of their contract.

A motion was MOVED by Cllr Clark and SECONDED by Cllr Chilvers to receive the recommendations as set out in the report.

RESOLVED UNANIMOUSLY to accept the Internal Audit Annual Report 2013/2014.

35. Internal Audit Progress Report

The report details the progress to date against the Internal Audit Plan that was agreed with the Audit Committee in March 2014.

A motion was MOVED by Cllr Clark and SECONDED by Cllr Newberry to approve the recommendation as set out in the report.

RESOLVED UNANIMOUSLY to note the Internal Audit Plan.

36. Strategic Risk Review

The report provided the Audit & Scrutiny Committee with the reviewed Insurance and Risk Management Strategy to the Committee for approval.

The report also updated members of the Committee on new, closed and changes to strategic risks.

Member expressed concerns with regards to Risk 21 – ICT. Mr Knight, updated the committee on going forward to reduce the risk in the future.

Members requested that in future reports include evidence showing what action is taking to mitigate the risk.

A motion was MOVED by Cllr Clark and SECONDED by Cllr Newberry to approve the recommendation as set out in the report.

RESOLVED UNANIMOUSLY to agree:-

- 2.1 To agree the revised Insurance & Risk Management Strategy
- 2.2 To agree the amendments to the Council's Strategic Risk Register and the risk scores recorded for each risk accurately represent the current status of each risk.

37. Corporate Complaints Monitoring

The report before Members is to monitor and review the complaints received through the Council's formal complaints process.

An amendment to the motion was MOVED by Cllr Clark and SECONDED by Cllr Morrissey as follows:

- 2.1 That the Committee note the complaints received through the Council's formal complaints process.
- 2.2 *All departments are offered an amnesty to refer any open complaints to the formal process.*

RESOLVED UNANIMOUSLY to approve the recommendations.

38. Fraud Statistics

The report detailed the work carried out by the Fraud Investigation team for February 2014 through to May 2014. Members noted that the number of completed investigations and the subsequent sanctions applied to offenders bore no relation to the number of investigations opened during the same period.

196 referrals of potential fraud were reported between February 2014 and May 2014. With the exception of 3 potential housing tenancy frauds, 193 of the referrals were for suspected Housing Benefits (HB) and/or Local Council Tax Support (LCTS) fraud.

10 cases were successfully investigated during this period, all for benefit fraud. The Fraud Investigation team applied sanctions to all 10 cases, 2 of which were successful prosecutions.

A motion was MOVED by Cllr Clark and SECONDED by Cllr Morrissey to approve the recommendation as set out in the report.

RESOLVED UNANIMOUSLY to note the contents of report.

39. Annual Audit Certification Fees 2014/2015

The report sets out the proposed Audit and Certification work proposed for 2014/2015, together with the fees.

The proposed Audit Fee for 2014/2015 remains the same as 2013/14 as it reflects the scale of fee agreed for each audited body as part of a 5 year procurement exercise.

A motion was MOVED by Cllr Clark and SECONDED by Cllr Chilvers to approve the recommendation as set out in the report.

RESOLVED UNANIMOUSLY to approve the proposed Audit and Certification work and fees for 2014/2015.

40. Scrutiny Work Programme 2014/2015

The report requests the Audit & Scrutiny Committee to develop an annual work programme to guide its work for 2014/2015. The work of the Audit and Scrutiny Committee will be delivered both by Members working in groups and through the formal Committee reports. The Audit and Scrutiny Committee will make recommendations to decision making committees and Council as necessary.

Agreement by members to work cross party on these projects.

A motion was MOVED by Cllr Clark and SECONDED by Cllr Chilvers to approve the recommendation as set out in the report.

RESOLVED UNANIMOUSLY to agree:

2.1 That the Audit and Scrutiny Committee agree its scrutiny work programme 2014/15 to include the following projects:

- William Hunter Way
- Crossrail
- Member/Officer Communications/ Members Casework
- Local Council Tax Support Scheme
- IT Resilience and Business Continuity
- Budget Scrutiny
- Community Safety Partnership Annual Review

2.2 That the work programme be reviewed and updated at each meeting of the Committee.

41. Review of S106 obligations and accounts

The report sets out the findings from a recent review of all historic Section 106 (S106) Planning Obligations.

A motion was **MOVED** by Cllr Clark and **SECONDED** by Cllr Chilvers to approve the recommendation as set out in the report.

- 2.1 That the S106 obligations and accounts are noted as shown in Appendix A.
- 2.2 That this Committee notes that a specialist service system is being commissioned to provide a secure and regular S106 monitoring reports as shown in Appendix B.
- 2.3 The future regular S106 monitoring reports will go to Planning and Development Committee.

30 September 2014

Audit and Scrutiny Committee

Statement of Accounts 2013/14

Report of: *Jo-Anne Ireland, Acting Chief Executive*

Wards Affected: *None*

This report is: *Public*

1. Executive Summary

- 1.1 This report presents the Council's 2013/14 Statement of Accounts for approval. There have been a number of changes to the draft Statement presented to the Committee in July. The external audit results report is elsewhere on the agenda.

2. Recommendation(s)

- 2.1 That Members approve the Statement of Accounts for 2013/14.**

3. Introduction and Background

- 3.1 The main sections in the Statement are:

a) Explanatory Foreword

The purpose of this foreword is to provide an easily understandable guide to the most significant matters reported in the accounts.

b) Movement in Reserves Statement

This is a summary of the movements in the financial year within the different reserves held by the Council. The reserves are analysed into usable reserves (i.e. those that can be applied to fund expenditure or reduce local taxation) and other reserves.

c) Comprehensive Income and Expenditure Statement

This account brings together the expenditure and income relating to all of the services for which the Council is responsible and demonstrates how the net cost for the year has been financed.

d) Balance Sheet

This sets out the financial position of the Authority as at 31 March 2014. The Balance Sheet reflects the balances and reserves, and net current assets employed in all of its operations, together with summarised information on any fixed assets held.

e) Cash Flow Statement

This summarises the Council's cash transactions throughout the year.

f) Notes to the Core Financial Statements including Accounting Policies

These provide supporting analysis to the Core Financial Statements. The Accounting Policies outline the legislation and principles upon which the Statement of Accounts has been prepared.

g) Housing Revenue Account Income and Expenditure Statement

This reflects a statutory requirement to account separately for local council housing provision. It summarises the resources that have been generated and consumed in providing services and managing the Council's housing stock during the last year. It includes all day to day expenses and related income on an accruals basis, as well as transactions measuring the value of fixed assets actually consumed.

h) Collection Fund

The Council is required to maintain a separate Collection Fund to receive monies as a billing authority in relation to the Council Tax and National Non-Domestic Rates (Business Rates) and accounts for the distribution of Council Tax to preceptors (Essex County Council and Essex Police and Fire Authorities) and the Council's own General Fund; with the addition of the Government for Business Rates.

- 3.2 The Annual Governance Statement (AGS) is not an official part of the Statement of Accounts, but is provided as a supporting document to publish the governance arrangements in place within the Council to ensure that business is conducted in accordance with the law and proper standards and that public money is safeguarded.

4. Issue, Options and Analysis of Options

- 4.1 In accordance with statute, the responsible financial officer must re-sign and authorise for issue the final audited statements. This was done on 19th September. The Council (or delegated Committee) must approve the statements by 30th September at the latest.

- 4.2 Since 30th June there have been a number of amendments to the accounts agreed with the auditors. Most of these are minor amendments including typographical errors. Some are, however, significant and are described below, together with 2 items which, with the agreement of the auditors, will be adjusted in 2014/15.
- i. Cash and creditors were both overstated by £1.3 million in the draft accounts and have been amended in the Balance Sheet and various notes. The error was the result of an incorrect accounting adjustment to reflect timing differences between cash shown in the bank statements and in the accounts. The Council has not lost any cash. Rather the Council's short-term investments (which in accounting terms are "cash equivalents") were overstated in the draft accounts.
 - ii. Since 30th June valuations of a number of assets ("Other land and buildings" in the balance sheet) have been received, and the accounts have been amended accordingly. The values of the Town Hall and the golf course have reduced by £3.1 million and £1.1 million respectively. The value of the Pavilion Complex at King George's playing fields increased by £0.5 million.
 - iii. The way in which defined benefits pension schemes are accounted for changed between 2012/13 and 2013/14. The changes were largely presentational and there was no change to the net pensions liability. Note 35 in the draft statements was amended and the 2012/13 figures were restated to show what the effect of the new accounting would have been if applied to that year. It has been agreed with the auditors that the amendments were not necessary and note 35 has been amended to show the original 2012/13 figures.
 - iv. A revision to the actuary's report on the Pension Fund was advised after the accounts had been prepared. Although the Pension Reserve and Pension Liability were changed by a compensating amount of £309,000, this is not a material amount considering the figures in the accounts are £40.1 million.
 - v. Note 15.2 – the figure for "Interest expense" has been reduced by £364,000 to £2,180,000. The original figure incorrectly included the notional amount of interest payable in respect of the Council's share of the pension fund.
 - vi. The auditors reported an "unadjusted error" in the 2012/13 accounts in respect of fixed (non-current) assets. The issue was extremely technical, but in essence was that, because of the way revaluations

were accounted for, the Revaluation Reserve and Capital Adjustment Account were incorrect by compensating amounts. The issue has been largely resolved but, in so doing, errors have been discovered in the 2011/12 accounts. Discussions are ongoing with the auditors and an adjustment in the region of £500,000 could be required. The adjustment will have no effect on the Council's financial position and it has been agreed with the auditors that any adjustment will be made in 2014/15.

- vii. There is an error in the Collection Fund which means that the General Fund balance as at 31st March 2014 is understated by £138,000. This adjustment will be made in 2014/15.

5. Reasons for Recommendation

- 5.1 A system of sound financial control and governance arrangements underpins all of the services and priorities of the Council.

6. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive

Tel & Email 01277 312712 / jo-anne.ireland@brentwood.gov.uk

- 6.1 The key messages from the financial statements will be set out at the meeting.

Legal Implications

Name & Title: Chris Potter, Monitoring Officer

Tel & Email 01277 312860 / christopher.potter@brentwood.gov.uk

- 6.2 All relevant legal considerations have been taken fully into account in compiling this report.

7. Appendices to this report

Appendix A – Statement of Accounts

Report Author Contact Details:

Name: Jo-Anne Ireland, Acting Chief Executive

Telephone: 01277 312712

E-mail: jo-anne.ireland@brentwood.gov.uk

30 September 2014

Audit and Scrutiny Committee

Audit Results Report 2013/14

Report of: *Ernst & Young
Jo-Anne Ireland, Acting Chief Executive*

Wards Affected: *None*

This report is: *Public*

1. Executive Summary

- 1.1 This report updates the Committee on the work undertaken by the External Auditors in respect of the audit of the Council's Statement of Accounts for 2013/14; and proposes the Council's response to some reported adjustments to the accounts.

2. Recommendation(s)

- 2.1 **To receive and note the contents of the Audit Results Report 2013/14.**
- 2.2 **To endorse the decision not to adjust the accounts for the uncorrected audit misstatements reported as Appendix A to the Audit Results Report, for the reasons set out in this report.**

3. Introduction and Background

- 3.1 The Council's External Auditors; Ernst & Young have substantially completed their audit of the Council's Statement of Accounts for 2013/14 and their findings are included within the Audit Results Report attached as Appendix A to this report.

4. Issue, Options and Analysis of Options

- 4.1 Appendix A to the Annual Audit Report details 5 uncorrected audit misstatements. It is proposed not to adjust the accounts for these for the following reasons:

- 4.2 Late valuation report received which identified 7 assets - the accounts have been amended for the 3 assets the values of which changed materially. The amounts in respect of the remaining assets are not material and will automatically be reflected in their value as at 31 March 2015.
- 4.3 Issue brought forward from 2012/13 - the amount involved is not material. Work continues on this issue and the agreed adjustment will be actioned in 2014/15.
- 4.4 Adjustments to the carrying amount of the Pension Reserve and Pension Liability - the change arising from the actuary's revised report is not material and will automatically be reflected in the position as at 31 March 2015.
- 4.5 Double-counting of Council Tax benefit - although this affects the Collection Fund surplus and General Fund balance, the amount is not material and will be adjusted and recognised in 2014/15.
- 4.6 Testing of HRA expenditure - the amount of £910 is adjusted in 2014/15. It is not proposed to amend for the amount of £94,000 which is extrapolated and, in any event, not material.

5. Reasons for Recommendation

- 5.1 A system of sound financial control and governance arrangements underpins all of the services and priorities of the Council.

6. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive

Tel & Email 01277 312712 / jo-anne.ireland@brentwood.gov.uk

- 6.1 These are contained within the Audit Results Report. One of the uncorrected audit misstatements contained in the Audit Results Report increases the reported General Fund balance as at 31 March 2014 by £138,000. This will be corrected in the current year and taken into account in budget setting.

Legal Implications

Name & Title: Chris Potter, Monitoring Officer
Tel & Email 01277 312860 / christopher.potter@brentwood.gov.uk

6.2 All relevant legal considerations have been taken fully into account in compiling this report.

7. Appendices to this report

Appendix A – Audit Results Report
Appendix B – Letter, Audit Results Report

Report Author Contact Details:

Name: Debbie Hanson, Ernst & Young
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E-mail: dhanson@uk.ey.com

Name: Jo-Anne Ireland, Acting Chief Executive
Telephone: 01277 312712
E-mail: jo-anne.ireland@brentwood.gov.uk

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Brentwood Borough Council

Audit and Scrutiny Committee Summary

For the year ended 31 March 2014

Audit Results Report – ISA (UK & Ireland) 260

30 September 2014

Debbie Hanson, Director
dhanson@uk.ey.com

Christine Connolly, Senior Manager
cconnolly@uk.ey.com



Building a better
working world

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- ▶ Addressing audit risk
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- ▶ Arrangements to secure economy, efficiency and effectiveness
- ▶ Independence and audit fees
- ▶ Appendices

Executive summary

Key findings

■ Audit results and other key matters

The Audit Commission's Code of Audit Practice (the Code) requires us to report to those charged with governance – the Audit and Scrutiny Committee - on the work we have carried out to discharge our statutory audit responsibilities together with any governance issues identified.

This report summarises the findings from the 2013/14 audit which is substantially complete. It includes the messages arising from our audit of your financial statements and the results of the work we have undertaken to assess your arrangements to secure value for money in your use of resources.

Financial statements

- ▶ As at 19 September 2014, subject to the completion of the outstanding work detailed on page 6, we expect to issue an unqualified opinion on the financial statements. Our audit results demonstrate, through the few matters we have to communicate, that the Council has prepared its financial statements adequately.

Value for money

- ▶ We expect to conclude that you have made appropriate arrangements to secure economy, efficiency and effectiveness in your use of resources.

Whole of Government Accounts

- ▶ We expect to issue an unqualified confirmation to the National Audit Office (NAO) regarding the Whole of Government Accounts submission.

Audit certificate

- ▶ The audit certificate is issued to demonstrate that the full requirements of the Audit Commission's Code of Audit Practice have been discharged for the relevant audit year. We expect to issue the audit certificate at the same time as the audit opinion.

Extent and purpose of our work

The Council's responsibilities

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

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

Purpose of our work

Our audit was designed to:

- Express an opinion on the 2013/14 financial statements
- Report on any exception on the governance statement or other information included in the foreword
- Consider and report any matters that prevent us being satisfied that the Council had put in place proper arrangements for securing economy, efficiency and effectiveness in the use of resources (the Value for Money conclusion)

In addition, this report contains our findings related to the areas of audit emphasis, our views on the Council's accounting policies and judgments and significant deficiencies in internal control.

As a component auditor, we also follow the group instructions and send to the National Audit Office our group assurance certificate, audit results report and auditor's report on the consolidation schedule.

This report is intended solely for the information and use of the Council. It is not intended to be and should not be used by anyone other than the specified party.

Addressing audit risks

Significant audit risks

I We identified the following audit risks during the planning phase of our audit, and reported these to you in our Audit Plan. Here, we set out how we have gained audit assurance over those issues.

Audit risk identified within our Audit Plan	Audit procedures performed	Assurance gained and issues arising
<p>Significant audit risks (including fraud risks)</p> <p>Localisation of business rates There have been significant changes in the arrangements for business rate arrangements from April 2013. The detailed accounting arrangements for the new arrangement are not yet clear and this therefore presents a risk in terms of the financial statements. One of the main changes is that individual councils now need to provide for rating appeals. This includes not only claims from 1 April 2013 but claims that relate to earlier periods. As appeals are made to the Valuation Office, Councils may not be aware of the level of claims. Council's may also find it difficult to obtain sufficient information to establish a reliable estimate.</p>	<p>We reviewed</p> <ul style="list-style-type: none"> the detailed accounting for business rates to ensure the Council's accounts are materially accurate and compliant with the CIPFA Code of practice. the Councils provision for business rate appeals to ensure it has been calculated on a reasonable basis in line with IAS37. As part of this we ensured the provision is supported by appropriate evidence and that the level of estimation uncertainty is adequately disclosed in the accounts. 	<ul style="list-style-type: none"> Our audit work confirmed that the accounting treatment adopted by the Council for business rates was appropriate and in compliance with the CIPFA Code of Practice. Our work on the provision is substantially complete. On the basis of the work completed to date, we are satisfied that the provision has been calculated on a reasonable basis in line with the requirements of IAS 37.
<p>Accounting for fixed assets Fixed assets represent a significant balance in the Council's accounts and are an area that has been subject to material misstatements in the past. Poor record keeping and accounting processes have contributed to these errors. In 2012/13, the Council implemented a new Integrated Asset Management System (IAMS), which highlighted further issues when preparing the figures for the financial statements. The changes in the asset system and valuer in 2012/13, along with the history of errors in accounting for fixed assets, contributed to the errors identified in the 2012/13 accounts. The Council is appointing a new valuer again for 2013/14. The Council has outsourced the capital accounting function which it hopes will address these issues.</p>	<p>Our approach focused on:</p> <ul style="list-style-type: none"> Management's arrangements to address the issues identified in prior years The controls operating in the IAMS. The completeness, accuracy and quality of the financial information produced from the IAMS to support balances in the accounts. The compliance of the accounting entries in relation to fixed assets with recommended accounting practice. The Council's instructions to the valuer and review of the information produced by the valuer. Detailed testing of fixed asset balances to ensure they are correctly stated 	<ul style="list-style-type: none"> The majority of work has been completed in these areas. We are still resolving the prior year issues and, in discussion with Capita, we are coming close to a resolution. A new valuer was appointed this year. Late information received from the valuer resulted in material changes being made to the accounts to reflect movements in the values of a seven assets. The Council has amended the accounts for the three largest of these.

Addressing audit risks (continued)

Significant audit risks

I We identified the following audit risks during the planning phase of our audit, and reported these to you in our Audit Plan. Here, we set out how we have gained audit assurance over those issues.

Audit risk identified within our Audit Plan	Audit procedures performed	Assurance gained and issues arising
<p>Significant audit risks (including fraud risks)</p>		
<p>General ledger system change The Council has changes its general ledger system from 1 April 2013 with a new reporting package and a new chart of accounts</p>	<p>Our approach focussed on:</p> <ul style="list-style-type: none"> Ensuring all balances have been brought forward correctly at 1 April 2013. Testing the controls operating over the new system. Testing to ensure the new chart of accounts feeds through properly in to the financial statements. 	<ul style="list-style-type: none"> Our audit work did not identify any issues and we were able to place reliance on the controls operating within the new system.
<p>Management override As identified in ISA (UK & Ireland) 240, management is in a unique position to perpetrate fraud because of their ability to directly or indirectly manipulate accounting records and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. We identify and respond to this fraud risk on every audit engagement. For local authorities the potential for the incorrect classification of revenue spend as capital is a particular area where there is a risk of management override.</p>	<ul style="list-style-type: none"> Tested the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements; Reviewed accounting estimates for evidence of management bias; Evaluated the business rationale for any significant unusual transactions; and We reviewed capital expenditure on property, plant and equipment to ensure it met the relevant accounting requirements to be capitalised. 	<ul style="list-style-type: none"> We did not identify any material instances of fraud or error.

Addressing audit risks

Other audit risks

I We identified the following audit risks during the planning phase of our audit, and reported these to you in our Audit Plan. Here, we set out how we have gained audit assurance over those issues.

Audit risk identified within our Audit Plan	Audit procedures performed	Assurance gained and issues arising
<p>Other audit risks</p> <p>The Council's single status review is complete and was effective from 1 October 2013. The Council is currently working through its remaining appeals and liabilities may continue to arise as a result of individual appeals. The Council has set aside reserves for these future costs. There is a risk that any provision or reserve may be materially misstated.</p>	<p>Our approach will focus on:</p> <ul style="list-style-type: none"> Review of the Council's management of the single status review. The accounting treatment of any liabilities identified. Reviewing the reasonableness of any provisions made. 	<ul style="list-style-type: none"> The Council have completed their review of the single status and all necessary accounting entries and provisions have been correctly made.

Financial statements audit

Issues and misstatements arising from the audit

Progress of our audit

- ▶ The following areas of our work programme remain to be completed as at 19 September. We will provide an update of progress at the Audit and Scrutiny Committee meeting:
 - ▶ PPE – valuations and allocations to unusable reserves
 - ▶ Completeness of the NNDR appeals provision
 - ▶ Payroll and housing rents control account reconciliations
 - ▶ Review of housing benefits testing and predictive analytical review
 - ▶ Receipt of a Letter of Representation
 - ▶ Director final review of audit work and financial statements

- ▶ Subject to the satisfactory resolution of the above items, we propose to issue an unqualified audit report on the financial statements.

Uncorrected misstatements

- ▶ We have identified five misstatements within the draft financial statements, which management has chosen not to adjust

- ▶ We request that these uncorrected misstatements be corrected or a rationale as to why they are not corrected be considered and approved by the Audit and Scrutiny Committee and provided within the Letter or Representation.
- ▶ Appendix 1 to this report sets out the uncorrected misstatements.
- ▶ In addition there has been a change in accounting policy in respect of defined benefit pension schemes with effect from 1 April 2013. The changes are presentational and comparative amounts of £660k have not been restated in the accounts.
- ▶ The Council have included a disclosure note relating to a contingent liability for future NNDR appeals. The Council has provided for these items, and there is therefore no requirement for a contingent liability to be included within the financial statements as there is no significant level of uncertainty over obligation as a result of a past event, probability of outflow of economic benefits or the probable value of this.

Corrected misstatements

- ▶ Our audit identified a number of further misstatements which our team have highlighted to management for amendment. All of these have been corrected during the course of our work. We consider a number of these misstatements to be significant and we set out the context and nature of them in Appendix 2 to this report.

Financial statements audit (continued)

Issues and misstatements arising from the audit

Other matters

- As required by ISA (UK&I) 260 and other ISAs specifying communication requirements, we are required to communicate to you significant findings from the audit and other matters that are significant to your oversight of the Council's financial reporting process including the following:
 - Qualitative aspects of your accounting practices; estimates and disclosures;
 - Matters specifically required by other auditing standards to be communicated to those charged with governance. For example, issues about fraud, compliance with laws and regulations, external confirmations and related party transactions; and,
 - Any significant difficulties encountered during the audit; and
 - Other audit matters of governance interest.

- We have no matters we wish to report.

Financial statements audit (continued)

Internal Control, Written Representations & Whole of Government Accounts

Internal control

- It is the responsibility of the Council to develop and implement systems of internal financial control and to put in place proper arrangements to monitor their adequacy and effectiveness in practice. Our responsibility as your auditor is to consider whether the Council has put adequate arrangements in place to satisfy itself that the systems of internal financial control are both adequate and effective in practice.
- We have tested the controls of the Council only to the extent necessary for us to complete our audit. We are not expressing an opinion on the overall effectiveness of internal control.
- We have reviewed the Annual Governance Statement and can confirm that:
 - ▶ It complies with the requirements of CIPFA/SOLACE Delivering Good Governance in Local Government Framework; and
 - ▶ It is consistent with other information that we are aware of from our audit of the financial statements.
- We have not identified any significant deficiencies in the design or operation of an internal control that might result in a material misstatement in your financial statements of which you are not aware.

Request for written representations

- We have requested a management representation letter to gain management's confirmation in relation to a number of matters.
- In addition to the standard representations, we have requested the following specific representations:
 - ▶ **Use of the work of an expert:** Due to the significant change in values of a number of assets, we have asked management to confirm they agree with the findings of the valuer.

Whole of Government Accounts

- Alongside our work on the financial statements, we also review and report to the National Audit Office on your Whole of Government Accounts return. The extent of our review and the nature of our report are specified by the National Audit Office.
- Brentwood are below the threshold and consequently we do not need to undertake detailed work. We are currently concluding on our review.

Arrangements to secure economy, efficiency and effectiveness

The Code of Audit Practice (2010) sets out our responsibility to satisfy ourselves that Brentwood Borough Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. In examining the Council's corporate performance management and financial management arrangements, we have regard to the following criteria and focus specified by the Audit Commission.

Criteria 1 - Arrangements for securing financial resilience

- ▶ *“Whether the Council has robust systems and processes to manage financial risks and opportunities effectively, and to secure a stable financial position that enables it to continue to operate for the foreseeable future”*
- ▶ We did not identify any significant risks in relation to this criteria.
- ▶ We have completed our work in this area and plan to issue an unqualified value for money conclusion in relation to the Council's financial resilience. We do have some issues to report to those charged with Governance, as set out on the next page

Criteria 2 - Arrangements for securing economy, efficiency and effectiveness

- ▶ *“Whether the Council is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.”*
- ▶ We did not identify any significant risks in relation to this criteria.
- ▶ We have completed our work in this area and we have no issues to report in relation to this criteria.

Arrangements to secure economy, efficiency and effectiveness (continued)

Financial resilience

- Along with many other Council's, Brentwood is facing significant financial challenges over the next three to four years.
- The Council's external funding sources are reducing and are subject to change and uncertainty in future years. Some of the main areas of uncertainty relate to:
 - ▲ Future levels of business rates income
 - ▲ Future funding through the New Homes Bonus
 - ▲ Level of Government funding through the Revenue Support Grant (RSG) and Baseline Funding (business rates)
- The Council is clearly aware of the challenges it faces and is continuing with its Transformation Programme. As part of the New Ways of Working approved in February 2013, a new Service Delivery Model was recognised, which underpins the Transformation Programme.
- The Council and officers recognise the need to explore key opportunities in:
 - Invest to save options
 - Commercialisation and entrepreneurial activities
 - Transformation
- The Council has a strong track record of delivering savings and meeting its budget. Good progress has already been made on identifying savings to bridge the budget gap of around £0.86 million in 2016-17.
- The Council's financial forecasts that have been reported to Members make clear the scale of the challenge being faced. Some of the key issues reported include:
 - ▲ The Council has a cumulative budget gap of around £1.7 million over the next 3 years (to 2016-17) which will need to be bridged through savings and efficiencies or increased income.
 - ▲ The Council has included up to £1.8 million of its New Homes Bonus funding as general financial support for the overall General Fund budget. However, this funding stream has not been confirmed beyond 2016-17. If this source of funding was removed, or significantly reduced from 2017-18, the Council would have an additional budget gap to address from 2017-18.
 - ▲ In recent years, the Council has frozen its council tax and since 2011-12 has received an annual council tax freeze grant as a result. The Council is planning a 1.5% Council Tax reduction for 2014/15. Decisions relating to council tax increases, or decreases, have an ongoing impact on the Council's ability to raise revenue in future years due to the annual restrictions on the level of annual increases
- In light of the future financial pressures the Council is facing, Members need to consider carefully the impact of any decisions regarding council tax levels or use reserves to support the Council's finances, on the ongoing sustainability of the Council's financial position and its ability to maintain service levels in future years.

Independence and audit fees

Independence

- ▶ We confirm there are no changes in our assessment of independence since our confirmation in our Audit Plan dated 17 February 2014.
- ▶ We complied with the Auditing Practices Board's Ethical Standards for Auditors and the requirements of the Audit Commission's Code of Audit Practice and Standing Guidance. In our professional judgement the firm is independent and the objectivity of the audit engagement partner and audit staff has not been compromised within the meaning of regulatory and professional requirements.
- ▶ We confirm that we are not aware of any relationships that may affect the independence and objectivity of the firm that we are required by auditing and ethical standards to report to you.
- ▶ We consider that our independence in this context is a matter that should be reviewed by both you and ourselves. It is therefore important that you consider the facts of which you are aware and come to a view.

If you wish to discuss any matters concerning our independence, we will be pleased to do so at the forthcoming meeting of the Audit and Scrutiny Committee on 30 September 2014.

- ▶ We confirm that we have met the reporting requirements to the Audit and Scrutiny Committee, as 'those charged with governance' under International Standards on Auditing (UK&I) 260. Our communication plan to meet these requirements were set out in our Audit Plan of 17 February 2014.

Audit fees

The table below sets out the scale fee and our final proposed audit fees.

	Proposed final fee 2013-14	Scale fee 2013-14
	£s	£s
Total audit fee - Code work	89,775	89,775
Certification of claims and returns*	15,794	17,800
Non-audit work	0	0

- ▶ Our actual fee is in line with the agreed fee at this point in time, subject to the satisfactory clearance of the outstanding audit work.
- ▶ Our grants fee has reduced to reflect the removal of council tax Benefit from the housing benefit subsidy claim.
- ▶ We confirm that we have not undertaken any non-audit work outside of the Audit Commission's Audit Code requirements.

Appendix 1 - Uncorrected audit misstatements

- The following misstatements, which are greater than £50,000 have been identified during the course of our audit.
- These items have not been corrected by management.

■ Balance Sheet and Statement of Comprehensive Income and Expenditure

Item of Account	Nature	Type	Balance Sheet	Statement of Comprehensive Income & Expenditure
PPE	Description	F, P, J	Debit/(Credit)	Debit/(Credit)
Revaluation Reserve	Late valuation report received which identified 7 assets with changes in valuations. The Accounts were not amended for 4 of these assets.	F	£23,000	
Capital Adjustment - Account			(£227,000)	
CIES - various service headings			£204,000	£204,000
MIRS				(204,000)
Revaluation Reserve	Issue brought forward from 2012/13	J	503,000	
Capital Adjustment - Account	accounts of unadjusted position in respect of the differential starting positions for fixed assets in Technology Forge and the 11/12 accounts resulting in unsupported adjusting positions being taken through the accounts.		(£503,000)	
Pensions Reserve	Adjustment to the carrying amount of the Pension Reserve and Pension Liability accounts as a consequence of a revision to the IAS 19 statement provided by the Pension Fund administrator after the accounts had been prepared.	F	£309,000	£309,000
Pensions Liability			(£309,000)	(£309,000)
CIES - net defined benefit liability				
MIRS				

■ Key

- ▲ F – Factual misstatement
- ▲ P – Projected misstatement based on audit sample error and population extrapolation
- ▲ J – Judgemental misstatement

Appendix 1 - Uncorrected audit misstatements (continued)

Balance Sheet and Statement of Comprehensive Income and Expenditure

Item of Account	Nature	Type	Balance Sheet	Statement of Comprehensive Income & Expenditure
Collection Fund: Council Tax receivable	Description Double-counting of Council Tax benefit within the collection fund relating to prior year which should be included in the general fund. Therefore council tax receivable has been overstated. To be adjusted in 2014/15. Brentwood share of the surplus reduction is £16,000.	F, P, J	Debit/(Credit)	Debit/(Credit) 138,000
Collection Fund: Surplus for the year		F		(£138,000)
Creditors HRA Expenditure	Testing of HRA expenditure identified one invoice of £910 which had been included twice. We have extrapolated across the entire population to calculate the potential total error.	P	94,000	(£94,000)
Cumulative effect of uncorrected misstatement			£94,000	(£94,000)

Key

- ▶ F – Factual misstatement
- ▶ P – Projected misstatement based on audit sample error and population extrapolation
- ▶ J – Judgemental misstatement

Appendix 2 - Corrected audit misstatements

- The following corrected misstatements, have been identified during the course of our audit and warrant communicating to you.
- These items have been corrected by management within the revised financial statements.

Balance Sheet and Statement of Comprehensive Income and Expenditure

Item of Account	Nature	Type	Balance Sheet	Statement of Comprehensive Income & Expenditure
PPE Revaluation Reserve Capital Adjustment Account CIES - various service headings MIRS	Description Late valuation report received which identified 7 assets with changes in valuations. The accounts were amended for 3 of these assets.	F, P, J F	Debit/(Credit) (£3,686,000) £901,000 £2,785,000	Debit/(Credit) £2,785,000 (£2,785,000)
Creditors Cash	Amount cleared through the bank in March 2014, but not processed in the ledger until April 14. Timing error resulting in overstatement of creditors figure in the accounts	F	£1,325,000 (£1,325,000)	
Cumulative effect of uncorrected misstatement			£0	£0

■ Key

- ▲ F – Factual misstatement
- ▲ P – Projected misstatement based on audit sample error and population extrapolation
- ▲ J – Judgemental misstatement

In March 2010 the Audit Commission issued a revised version of the 'Statement of responsibilities of auditors and audited bodies' (Statement of responsibilities). It is available from the Chief Executive of each audited body and via the [Audit Commission's website](#).

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

The Standing Guidance serves as our terms of appointment as auditors appointed by the Audit Commission. The Standing Guidance sets out additional requirements that auditors must comply with, over and above those set out in the Code of Audit Practice 2010 (the Code) and statute, and covers matters of practice and procedure which are of a recurring nature.

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

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

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Date: 30 September 2014

Debbie Hanson
Ernst & Young
400 Capability Green
Luton
Bedfordshire
LU1 3LU

This representation letter is provided in connection with your audit of the financial statements of Brentwood Borough Council ("the Council") for the year ended 31 March 2014. We recognise that obtaining representations from us concerning the information contained in this letter is a significant procedure in enabling you to form an opinion as to whether the financial statements give a true and fair view of the financial position of Brentwood Borough Council as of 31 March 2014 and of its expenditure and income for the year then ended in accordance with the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2013/14.

We understand that the purpose of your audit of our financial statements is to express an opinion thereon and that your audit was conducted in accordance with International Standards on Auditing (UK and Ireland), which involves an examination of the accounting system, internal control and related data to the extent you considered necessary in the circumstances, and is not designed to identify - nor necessarily be expected to disclose – all fraud, shortages, errors and other irregularities, should any exist.

Accordingly, we make the following representations, which are true to the best of our knowledge and belief, having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves:

A. Financial Statements and Financial Records

1. We have fulfilled our responsibilities, under the relevant statutory authorities, for the preparation of the financial statements in accordance with the Accounts and Audit Regulations (England) 2011 and CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2013/14.
2. We acknowledge, our responsibility for the fair presentation of the financial statements. We believe the financial statements referred to above give a true and fair view of the financial position, and of its expenditure and income of the Council in accordance with the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2013/14 and are free of material misstatements, including omissions. We have approved the financial statements.

3. The significant accounting policies adopted in the preparation of the financial statements are appropriately described in the financial statements.
4. We believe that the Council has a system of internal controls adequate to enable the preparation of accurate financial statements in accordance with the CIPFA LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2013/14 that are free from material misstatement, whether due to fraud or error.
5. We believe that the effects of any unadjusted audit differences, summarised in the accompanying schedule, accumulated by you during the current audit and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole. We have not corrected these differences identified by and brought to the attention from the auditor because of this fact.

B. Fraud

1. We acknowledge that we are responsible for the design, implementation and maintenance of internal controls to prevent and detect fraud
2. We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.
3. We have disclosed to you all significant facts relating to any frauds, suspected frauds or allegations of fraud known to us that may have affected the Council (regardless of the source or form and including, without limitation, allegations by "whistle-blowers"), whether involving management or employees who have significant roles in internal control. Similarly, we have disclosed to you our knowledge of frauds or suspected frauds affecting the entity involving others where the fraud could have a material effect on the financial statements. We have also disclosed to you all information in relation to any allegations of fraud or suspected fraud communicated by employees, former employees, analysts, regulators or others, that could affect the financial statements.

OR

3. We have no knowledge of any fraud or suspected fraud involving management or other employees who have a significant role in the Council's internal controls over financial reporting. In addition, we have no knowledge of any fraud or suspected fraud involving other employees in which the fraud could have a material effect on the financial statements. We have no knowledge of any allegations of financial improprieties, including fraud or suspected fraud, (regardless of the source or form and including without limitation, any allegations by "whistleblowers") which could result in a misstatement of the financial statements or otherwise affect the financial reporting of the Council.

C. Compliance with Laws and Regulations

1. We have disclosed to you all known actual or suspected noncompliance with laws and regulations whose effects should be considered when preparing the financial statements.

D. Information Provided and Completeness of Information and Transactions

1. We have provided you with:

- Access to all information of which we are aware that is relevant to the preparation of the financial statements such as records, documentation and other matters as agreed in terms of the audit engagement.
 - Additional information that you have requested from us for the purpose of the audit and
 - Unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence.
2. All material transactions have been recorded in the accounting records and are reflected in the financial statements.
 3. We have made available to you all minutes of the meetings of the Council, Finance and Resources, and Audit and Scrutiny committees held through the year (or summaries of actions of recent meetings for which minutes have not yet been prepared) to the most recent meeting on 30 September 2014.
 4. We confirm the completeness of information provided regarding the identification of related parties. We have disclosed to you the identity of the Council's related parties and all related party relationships and transactions of which we are aware, including sales, purchases, loans, transfers of assets, liabilities and services, leasing arrangements, guarantees, non-monetary transactions and transactions for no consideration for the period ended, as well as related balances due to or from such parties at the year end. These transactions have been appropriately accounted for and disclosed in the financial statements.
 5. We have disclosed to you, and the Council has complied with, all aspects of contractual agreements that could have a material effect on the financial statements in the event of non-compliance, including all covenants, conditions or other requirements of all outstanding debt.

E. Liabilities and Contingencies

1. All liabilities and contingencies, including those associated with guarantees, whether written or oral, have been disclosed to you and are appropriately reflected in the financial statements.
2. We have informed you of all outstanding and possible litigation and claims, whether or not they have been discussed with legal counsel.
3. We have recorded and/or disclosed, as appropriate, all liabilities related litigation and claims, both actual and contingent.

F. Subsequent Events

1. There have been no events subsequent to period end which require adjustment of or disclosure in the financial statements or notes thereto.

G. Accounting Estimates

1. We believe that the significant assumptions we used in making accounting estimates, including those measured at fair value, are reasonable.
2. Accounting estimates recognised or disclosed in the financial statements:

- We believe the measurement processes, including related assumptions and models, we used in determining accounting estimates is appropriate and the application of these processes is consistent.
- The disclosures relating to accounting estimates are complete and appropriate in accordance with the applicable financial reporting framework.
- The assumptions we used in making accounting estimates appropriately reflects our intent and ability to carry out specific courses of action on behalf of the entity, where relevant to the accounting estimates and disclosures.
- No subsequent event requires an adjustment to the accounting estimates and disclosures included in the financial statements.

H Retirement benefits

1. On the basis of the process established by us and having made appropriate enquiries, we are satisfied that the actuarial assumptions underlying the scheme liabilities are consistent with our knowledge of the business. All significant retirement benefits and all settlements and curtailments have been identified and properly accounted for.

Use of the Work of an Expert

1. We agree with the findings of the experts engaged to evaluate the value of assets and have adequately considered the qualifications of the experts in determining the amounts and disclosures included in the financial statements and the underlying accounting records. We did not give or cause any instructions to be given to the experts with respect to the values or amounts derived in an attempt to bias their work, and we are not otherwise aware of any matters that have had an effect on the independence or objectivity of the experts.

Yours Faithfully,

Acting Chief Executive

I confirm that this letter has been discussed and agreed at the Audit Committee on 30 September 2014

Chairman of Audit and Scrutiny Committee

30 September 2014

Audit and Scrutiny Committee

Internal Audit Progress Report

Report of: *Greg Rubins – Head of Internal Audit*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 This report details the progress to date against the internal audit plan that was agreed with in the Audit Committee in March 2014.
- 1.2 The report also includes an update on the progress of the implementation of the recommendations raised by the previous internal auditors.

2. Recommendation(s)

- 2.1 To receive and note the contents of the report.**

3. Introduction and Background

- 3.1 The Audit Committee approved the 2014/15 annual audit plan on 11 March 2014. Progress reports on the delivery of the plan are presented at each Committee meeting.

4. Issue, Options and Analysis of Options

- 4.1 Not applicable.

5. Reasons for Recommendation

- 5.1 To monitor the progress of work against the internal audit plan.

6. Consultation

- 6.1 Not applicable.

7. References to Corporate Plan

- 7.1 Good financial management underpins all priorities within the Corporate Plan.

8. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive

Tel & Email: 01277 312712 / jo-anne.ireland@brentwood.gov.uk

- 8.1 There are no direct financial implications arising from this report.

Legal Implications

Name & Title: Chris Potter, Monitoring Officer and Head of Support Services

Tel & Email: 01277 312860 / christopher.potter@brentwood.gov.uk

- 8.2 There are no direct legal implications arising from this report

9. Appendices to this report

Appendix A – Internal Audit Progress Report

Report Author Contact Details:

Name: Greg Rubins, Head of Internal Audit

Telephone: 023 8088 1892

E-mail: greg.rubins@bdo.co.uk

Brentwood Borough Council

INTERNAL AUDIT PROGRESS REPORT

September 2014

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Appendix A

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PROGRESS AGAINST PLAN

Internal Audit

This report is intended to inform the Audit and Scrutiny Committee of progress made against the 2014/15 internal audit plan which was approved by this Committee in March 2014. It summarises the work we have done, together with our assessment of the systems reviewed and the recommendations we have raised. Our work complies with Public Sector Internal Audit Standards. As part of our audit approach, we have agreed terms of reference for each piece of work with the risk owner, identifying the headline and sub-risks which have been covered as part of the assignment. This approach is designed to enable us to give assurance on the risk management and internal control processes in place to mitigate the risks identified.

Internal Audit Methodology

Our methodology is based on four assurance levels in respect of our overall conclusion as to the design and operational effectiveness of controls within the system reviewed. The assurance levels are set out in section 2 of this report, and are based on us giving either "substantial", "moderate", "limited" or "no". The four assurance levels are designed to ensure that the opinion given does not gravitate to a "satisfactory" or middle band grading. Under any system we are required to make a judgement when making our overall assessment.

Overview of 2014/15 work to date

We have completed our review on Customer Services and the report has been finalised.

The following reviews are underway and the final reports will be brought to the Audit and Scrutiny Committee in November:

- Partnership Arrangements
- Performance Management

We have experienced some delays with current work due to staff turnover and absence of key staff.

Work outside of the Internal Audit Plan

No additional work has taken place.

PROGRESS AGAINST PLAN

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Area	2014/15 days	Date work to be undertaken	Progress Update	Assurance - System Design	Assurance - Operating Effectiveness
A Modern Council					
Customer Service	20	Q1	Complete	Moderate	Moderate
Transformation Programme	20	Q2	Planning - delayed due to Head of Transformation post being vacant.		
Performance Management	20	Q2	In progress		
Financial systems	95	Q3/4			
Risk and Governance	20	Q4			
IT strategy, governance and data security	40	Q2	Planning - delayed due to external review currently being undertaken in this service area.		
Counter Fraud	15	Q4			
Car Parking and Golf Income	15	Q4			
245					
Area	2014/15 days	Date work to be undertaken	Progress Update	Assurance - System Design	Assurance - Operating Effectiveness
A Safe Borough					
Partnership Working	20	Q1/Q2	In progress		
20					

PROGRESS AGAINST PLAN

Area	2014/15 days	Date work to be undertaken	Progress Update	Assurance - System Design	Assurance - Operating Effectiveness
A Prosperous Borough					
Capital developments	25	Q3			
	25				

Area	2014/15 days	Date work to be undertaken	Progress Update	Assurance - System Design	Assurance - Operating Effectiveness
Housing, Health and Wellbeing					
Housing systems	30	Q3/4			
Affordable Housing	20	Q3	Planning		
Property management	20	Q3	Planning		
	70				

PROGRESS AGAINST PLAN

Area	2014/15	Description of the Review
Planning/ liaison/ management	20	
Recommendation follow up	10	We will follow up high and medium priority recommendations raised by the previous internal auditors.
Audit Committee		
Contingency	10	
Total	40	
Total	400	

SUMMARY AUDIT REPORT: Customer Services

COUNCIL STRATEGIC RISKS		
Risk	RR Reference: 4	Transformation Agenda <ul style="list-style-type: none"> • Failure to deliver an effective Customer Services project, therefore resulting in poor customer services. • Failure to create successful streamlined back office services.
LEVEL OF ASSURANCE (SEE APPENDIX II FOR DEFINITIONS)		
Design	Moderate	Generally a sound system of internal control designed to achieve system objectives with some exceptions.
Effectiveness	Moderate	A small number of exceptions found in testing of the procedures and controls.

OVERVIEW

In April 2014 Brentwood Council soft launched their new corporate contact centre. The centre consolidated staff who deal with service specific customer enquiries into one central hub. This hub will field phone and face to face customer enquiries on behalf of all services across the Council and aims to achieve 80% contact resolution at the first point of contact as well as £250k savings in the first year of operation. The purpose of our review was to look at the strategic direction of the customer services department at Brentwood Council to review whether the new centralised contact centre will support the Council to achieve savings whilst continuing to deliver high quality service provision.

Our review found the following areas of good practice.:

- There is a strong leadership team in Customer Services which has resulted in the contact centre being launched on time with a smooth transition. The contact centre is now successfully managing customer enquiries on behalf of services across the Council.
- The Customer Services leadership team have a clear vision for the type of customer contact centre which they want to deliver to services across the Council and the technological requirements which they will require to support the new infrastructure.
- The business process mapping exercise successfully centralised transactions within the contact centre and succeeded in streamlining processes, where possible.
- The contact centre staff are receiving training and support to be able to manage their increased responsibilities.
- Lastly, there is a coherent assimilation plan for reviewing and improving the service over the next twelve months.

We also found a number of areas for improvement or development:

- Our research and interviews did not identify specific evidence or rationale for the savings target of £250k which was set out in the November 2013 business case for the contact centre. The business case sets out a 'prudent' annual savings target of c£350K and an 'optimistic' savings target of £588K based on shifting customers from higher cost channels such as phone and face to face to the cheaper channel of online. The savings target of £250K set out in the business case appears to be based on a top down target based on what the Council expects customer services to save from its budget.

SUMMARY AUDIT REPORT: Customer Services

OVERVIEW

- The new contact centre will provide the Council with a certain amount of efficiency savings based on moving staff into the centralised hub and not replacing their original posts, however there is no customer access strategy in place to ensure benefits are realised from channel shift.
 - Additional savings can be achieved through redesigning customer transactions. When transactions were brought over to the central contact centre, a business process mapping exercise was carried out to make transactions more streamlined. This exercise improved processes but did not redesign transactions to integrate them with back office systems, thereby enabling the Council to save money through reducing staff workload.
 - A key component of securing financial savings from channel shift is an effective contact monitoring framework. The new contact centre has the functionality to record and log accurate records of incoming phone volumes, however our discussions with contact centre staff revealed that this data is not currently set up to record reasons for contact. This information is key to helping the Council to remove avoidable contact in the future.
 - Over the next six months, the customer services team will carry out a second business process mapping exercise for high volume customers. In order to realise £250K worth of savings from the contact centre, the customer services team will need to ensure that they have an effective monitoring framework in place, so that they can record and monitor the financial benefits of this exercise.
- A strategy for customer access needs to be developed so that the Council can ensure that the new contact centre does not increase demand for phone contact. A customer access strategy will also ensure that any further process redesign or investment in technology will tie into the Council's savings targets, which are based on increasing demand for online customer access and removing demand for expensive face to face and phone access. This strategy should be developed before the Council embarks on the second round of business process mapping and before any decisions are made about investments in technology.

Overall, we have provided moderate assurance, which reflects that the Council has made some progress to date but is still in the early stages of development of the customer services centre.

Management have responded positively to the report and an action plan has been agreed to address the recommendations.

FOLLOW UP ON RECOMMENDATIONS

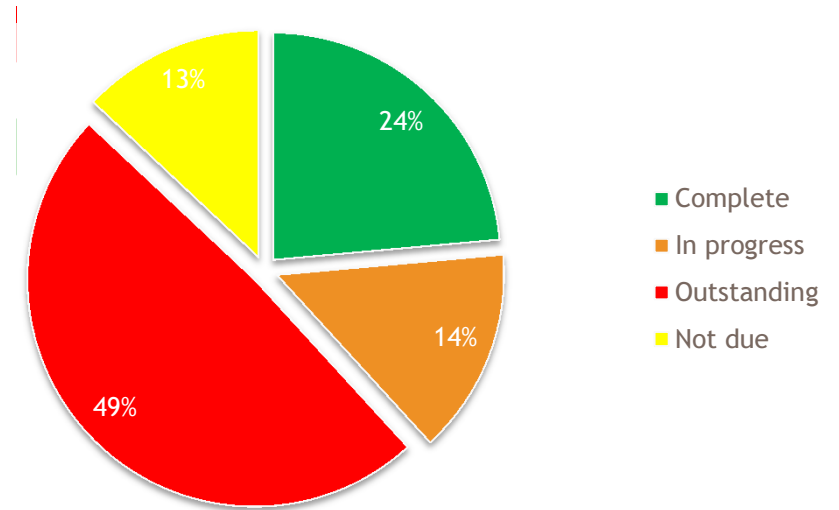
Follow up of prior year recommendations

We have followed up and gained evidence on the progress made against the high and medium recommendations raised during 2013/14 by the previous internal auditors, which are due to be completed before this Audit and Scrutiny Committee.

The diagram on the right shows the percentage of recommendations in progress and implemented. Of the 60 recommendations that have not been implemented we have been unable to verify the implementation for 53 of these as we have been unable to contact the responsible officers. We will continue to chase these officers for responses and will provide an update on the status of these recommendations at the next Audit and Scrutiny Committee. There are 10 high priority recommendations either in progress or outstanding. We have been unable to verify 7 of these.

Below is a list of the prior year reports where we have been unable to verify whether the recommendations have been implemented:

- IT Assets and IT Governance & Controls
- Building Compliance
- Bereavement Services
- Engagement of interims and agency staff
- Contracts & Procurement
- Health & Safety
- Cash Handling
- Procurement Cards
- Refuse
- Payroll
- Cash & Bank
- Business Continuity



	Number	Percentage
Complete	29	24%
In progress	18	14%
Outstanding	60	49%
Not yet due	16	13%
Total prior year recommendations	123	100%

FOLLOW UP ON RECOMMENDATIONS

Listed below are the **high priority recommendations** where we have been able to verify the status and have confirmed that the recommendation is outstanding or in progress, but is overdue:

Audit	Recommendation made	Priority Level	Manager Responsible	Progress to Date
Planning Applications & Enforcement	<p>Procedures (1) - The Planning Charters should be reviewed and updated in line with current legislation and the latest planning procedures. An up to date Validation Checklist should be produced and used by all staff responsible for validating and processing a planning application. The checklist should be signed and dated when the application has been assessed as valid. The procedures should be periodically reviewed and updated if necessary with the date of review recorded on the document.</p> <p><i>Date due: 30 April 2013</i></p>	High	Tony Pierce	In progress: The Planning Charters are being reviewed in November 2014. Due to a change in national regulations new administrative processes have been implemented and therefore a validation checklist is not required. However this is being revisited as a one size fits all checklist is not appropriate.
Planning Applications & Enforcement	<p>Procedures (2) - The Council should continue the efforts to fill the vacant posts and prioritise existing resources appropriately.</p> <p><i>Date due: 30 August 2012</i></p>	High	Tony Pierce	In progress: Staffing vacancies in planning officers have been filled and some temporary vacancies in planning administration are in the process of being filled.
Risk Management	<p>Control Design - Operational Risk Register - The Risk Register should be checked periodically to ensure that assigned Risk Owners remain accurate on the register. The leavers' checklist could incorporate a question around ensuring that any recorded risks are appropriately handed over before a Risk Owner leaves the Council or changes roles. The history (audit trail) of each risk should be retained, including when a risk is removed from the Register and the reason for its removal. The date the next update is required for each risk should be specified and management information should be regularly provided on the extent to which risk review is overdue. Mitigating actions assigned to each risk should be specific, measurable and time related with a named officer for each action identified (if not the risk owner). Include a column to indicate whether for each risk the decision is to tolerate, eliminate, transfer or treat the risk (as referred to in the I&RM Strategy). Ensure that the integrity of the Risk Register is secured, particularly because it is now maintained on a spreadsheet, by reviewing access rights.</p> <p><i>Date due: 30 May 2014</i></p>	High	Sue White	In progress: The risk registers have been amended with the title of the risk owner. The other recommendations will be dealt with in the on-going training from Zurich for the Finance Assistant.

KEY PERFORMANCE INDICATORS

Performance measures for internal audit

<i>Coverage</i>	
Audits completed against the Annual Audit Plan.	We expect to complete the audit plan by the end of the financial year, however we have experienced some delays with current work due to staff turnover and absence of key staff.
Actual days input compared with Annual Audit Plan.	All days are in line with the plan.
<i>Reporting</i>	
Issuance of draft report within 3 weeks of fieldwork `closing` meeting.	The draft Customer Services report was issued within 3 weeks of the end of fieldwork.
Finalise internal audit report 1 week after management responses to report are received.	The Customer Services report was finalised 1 week after management responses were received.
<i>Relationships and customer satisfaction</i>	
Customer satisfaction reports - overall score at least 70% for surveys issued at the end of each audit.	Good feedback received for our work completed on Customer Services. No other reports finalised to date.
Annual survey to Audit Committee to achieve score of at least 70%.	A year end customer satisfaction questionnaire will be issued to key stakeholders, the results of which will be included in our year end plan.
<i>Staffing & training</i>	
At least 60% input from qualified staff.	100% of staff working on the Customer Services review have been qualified. 60% of qualified staff have been used on the audits.
<i>Audit Quality</i>	
Reliance on work by EY where appropriate.	Not applicable at this stage.
Positive result from any external review.	Not applicable at this stage.

KEY PERFORMANCE INDICATORS

Performance measures for management and staff

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<i>Response to reports</i>	
<p>Audit sponsor to respond to terms of reference within one week of receipt and to draft reports within two weeks of receipt.</p>	<ul style="list-style-type: none"> • Customer Services: Terms of reference and draft report were agreed within timescale. • Partnership Review: Terms of reference was agreed by the audit sponsor within two weeks of receipt. Draft report not yet issued as audit work is in progress. • Performance Management: Terms of reference agreed within timescale. Draft report not yet issued as audit work is in progress.
<i>Implementation of recommendations</i>	
<p>Audit sponsor to implement all audit recommendations within the agreed timeframe.</p>	<p>Not applicable at this stage.</p>
<i>Co-operation with internal audit</i>	
<p>Internal audit to confirm to each meeting of the Audit Committee whether appropriate co-operation has been provided by management and staff.</p>	<p>Appropriate co-operation has been provided by management and staff to date.</p>

SECTOR UPDATE

Publications and articles

- **Government published response on local authority parking strategies:** The government launched a consultation paper on local authority parking enforcement in 2013. The consultation closed in February 2014 and the government has now responded with a number of proposals, including:
 - Amending guidance to make it clear that motorists parking at an out-of-order meter should not be issued a penalty charge where there are no alternative ways to pay;
 - Banning the use of CCTV cameras to enforce parking contraventions in the vast majority of cases, but with some exceptions (eg restricted areas outside of schools);
 - Widening the powers of parking adjudicators. This could include, for example, measures to protect drivers where adjudicators have repeatedly identified a problem at a specific location (such as inadequate signage) and parking tickets have repeatedly been issued; and
 - Introducing a mandatory 10 minute free period at the end of paid-for on-street parking either through amendments to statutory guidance or regulations.
- **Consultation on Local Government Pension Scheme:** The government is consulting on new governance arrangements, and seeks responses from interested parties on the draft regulations which are to come into force from October 2014 onwards. The main provisions, include a requirement for the Secretary of State to establish a national scheme advisory board to advise him on the desirability of changes to the scheme. Provision is also made for administering authorities to establish local pension boards to assist them with the effective and efficient management and administration of the scheme. Further information can be found at:

<https://www.gov.uk/government/consultations/the-local-government-pension-scheme-amendment-regulations-2014-draft-regulations-on-scheme-governance>

- **Tool launched to help councils compare care performance on social care:** The DoH has launched a new tool to help councils compare their performance on social care with similar areas across England. The tool groups upper tier and unitary authorities by their spending on the over-65s and working age adults with learning disabilities. The aim is to help local authorities see how they are meeting various indicators, and to identify areas for improvement by viewing the performance of their peers. The tool can be found at:

<https://www.gov.uk/government/publications/adult-social-care-efficiency-tool>

- New radical approach to social care unveiled:

<http://www.localgov.co.uk/Commission-unveils-radical-vision-for-social-care/37126>

- Councils with fortnightly bin collections may not qualify for new £5m funding available to promote recycling:

<http://www.localgov.co.uk/Pickles-punishes-councils-that-ignore-rubbish-recommendation/37083>

- BDO are completing a survey on how local government uses social media. If you would like to take part please visit:

<https://www.surveymonkey.com/s/9RT32TK>

For more information on what our Local Government Advisory team are working on please visit:

Twitter: <https://twitter.com/bdolocalgov>

blog: <http://bdolocalgov.wordpress.com/>

APPENDIX I - DEFINITIONS

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

Recommendation Significance	
High	A weakness where there is substantial risk of loss, fraud, impropriety, poor value for money, or failure to achieve organisational objectives. Such risk could lead to an adverse impact on the business. Remedial action must be taken urgently.
Medium	A weakness in control which, although not fundamental, relates to shortcomings which expose individual business systems to a less immediate level of threatening risk or poor value for money. Such a risk could impact on operational objectives and should be of concern to senior management and requires prompt specific action.
Low	Areas that individually have no significant impact, but where management would benefit from improved controls and/or have the opportunity to achieve greater effectiveness and/or efficiency.

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30 September 2014

Audit & Scrutiny Committee

Strategic & Operational Risk Review

Report of: *Jo-Anne Ireland, Acting Chief Executive*

Wards Affected: *None*

This report is: *Public*

1. Executive Summary

- 1.1 The Strategic Risk Register has been reviewed and is submitted to the Committee for approval.
- 1.2 The report updates members of the Audit & Scrutiny Committee on new, closed or changes to the strategic and operational risks in accordance with the agreed strategy.
- 1.3 The report updates the Committee on recent risk management activity undertaken by the Council.

2. Recommendation(s)

- 2.1 To agree the revised Strategic Risk Register and that the risk scores recorded for each risk accurately represents the current status of each risk.**
- 2.2 To agree the amendments to the Council's Operational Risk Register and that the risk scores recorded for each risk accurately represents the current status of each risk.**

3. Introduction and Background

- 3.1 The governance arrangements set out in the 'Insurance & Risk Management Strategy' require the Audit Committee to review the strategic risks every quarter and the operational risks every six months.
- 3.2 The revised strategic risk register is attached at Appendix B and the operational risks attached as Appendix C. The strategic risk register is monitored quarterly and the operational risks every six months by the

Corporate Leadership Board who consider the risks, the mitigations and agree the content. It will be the responsibility of the Audit Committee to review the strategic risks and confirm they are confident that the risks associated within this register are those which are strategic and relevant to the organisation at this point in time and the considered future.

- 3.3 Two training sessions were held on 'Strategic Risk Management' for operational/middle managers on the 4th and 9th July, which were well received. During part of the general discussion areas for improvement were identified, which will be included when reviewing and amending the risk framework to ensure it is fit for purpose moving forward and meets the needs of the organisation.
- 3.4 Member development and a progress report on work carried out on Risk Management has been arranged for 30 October 2014.
- 3.5 A strategic risk register refresh workshop for the Corporate Leadership Board to review and update the strategic risk register to ensure that it accurately reflects the key risks facing the Council moving has been arranged for 30 October 2014.
- 3.6 Quarterly insurance reports are presented to the Corporate Leadership Board to identify areas for future risk control, leading to risk improvements in the areas of training, systems of working and security.

4. Issue, Options and Analysis of Options

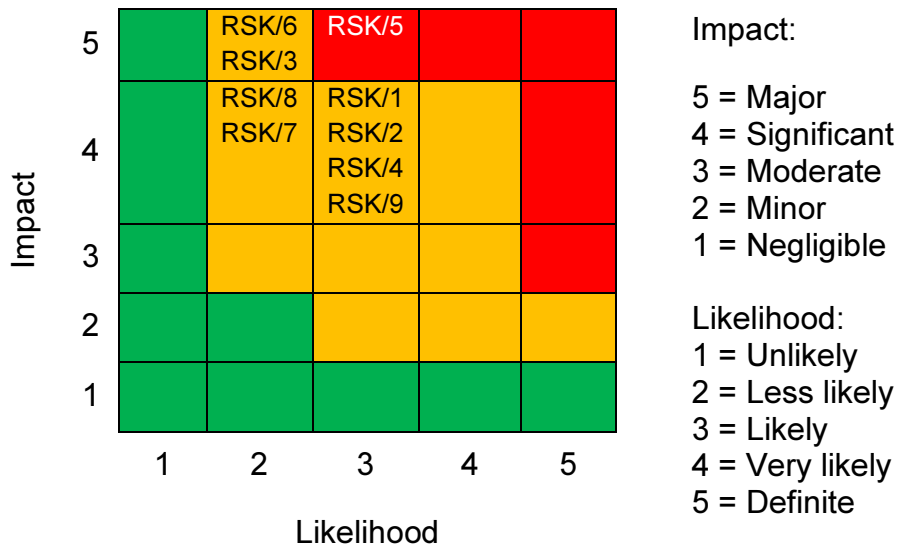
Strategic Risks

- 4.1 The August meeting of the Corporate Leadership Board worked through the Strategic Risk Register to consider and review the key risks to the Council. Attached at Appendix A is the original strategic risk register and the revised strategic risk register is attached at Appendix B. The risks are summarised below for ease of reference.
 - RSK1 consolidates the many threats to the Council's income and brings together risks 8, 9, 10 and 11 from the old register. This risk was given the score of 12.
 - RSK2 covers the Local Plan and related issues and replaces the old risk 15. This risk was given the score of 12.
 - RSK3 replaces the old risk 21 and deals with the business continuity management aspect. This risk was given the score of 10.
 - RSK 4 is a new risk that was created to capture the issues around operational instability. This risk was given the score of 12.

- RSK5 – replaces the old risk 21 and covers issues around data and information use and security. This risk was given the score of 15.
- RSK6 replaces the old risk 12 and deals with the Customer Access Strategy. This risk was given the score of 10.
- RSK7 is a new risk that was created to capture the issues around the Council’s proposed commercial activities. This risk was given the score of 8.
- RSK8 is a new risk and considers the issues to do with partnerships and shared services. This risk was given the score of 8.
- RSK9 is a new risk that was created to address the issues around the lack of strategic direction. This risk was given the score of 12.

Risk Matrix

4.2 The nine risks are plotted on the risk matrix below. The current assessment identifies that one risk will remain in the red area of the risk matrix.



Operational Risks

4.3 The Operational Risks, attached at Appendix C, have been updated and amended where necessary to reflect the actions being taken to manage the risks. At the time of writing this report there were 38 operational risks.

Risk Group	No. of open risks on register	Low Risk	Medium Risk	High Risk
Environmental Health	5		3	2
Governance	1	1		
ICT	1		1	
Localism	5	2	3	
Planning	5		2	3
Street Scene	7	6		1
Business Transformation	3		3	
Finance	8	2	4	2
Housing	2	1	1	

5. Reasons for Recommendation

- 5.1 Risk Management continues to be embedded quarterly within the Corporate Leadership Board reports, where Directors and Heads of Service discuss the top level risks for their service areas to ensure that the risks are updated to reflect the ongoing changes.
- 5.2 In addition the Risk & Insurance Officer will work with managers to ensure that any new or emerging risks are identified, assessed and managed appropriately.

6. Consultation

- 6.1 None.

7. References to Corporate Plan

- 7.1 Effective risk management arrangements will support the Council to achieve its corporate priorities. The process will enable identification of risks and issues enabling informed decision making to removed or reduce them in order for the priorities to be achieved.

8. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive

Telephone: 01277 312712

Email: jo-anne.ireland@brentwood.gov.uk

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

Legal Implications

Name & Title: Chris Potter, Monitoring Officer and Head of Support Services

Telephone: 01277 312860

Email: christopher.potter@brentwood.gov.uk

- 8.2 The Council has insurance cover against the range of risks to which it is exposed, in particular, public liability, employer liability, property, computer risks, local land charges, public health, professional indemnity, fidelity guarantee, motor insurances, libel and slander, engineering inspections and terrorism. These are maintained annually.

9. Appendices to this report

Appendix A – Original Strategic Risk Register

Appendix B – Revised Strategic Risk Register

Appendix C – Operational Risk Register

Report Author Contact Details:

Name: Sue White, Risk and Insurance Manager

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Last Updated: 03/05/2014

Risk = an uncertain event or set of circumstances which, should it occur, will have an effect on the achievement of the projects objectives.

Item	Service Area	Project Name (if applicable)	Risk Category	Risk Description	Probability [1 to 5]	Impact [1 to 5]	Ranking as at 19.11.13	Proximity	Risk Response Categories	Risk Response (what is the Risk Owner doing to mitigate the risks)	Probability	Impact	Ranking	Risk Owner
RSK1	Corporate	Failure to Deliver Corporate Plan	Organisational / management / human factors	Failure to deliver the key actions and priorities as set out in the Corporate Plan, therefore resulting in potential reputational damage to both residents and staff	4	4	16	Year 1	Reduce	Clear Business Cases and Work Plans to ensure that the programme of work is delivered. This will be subject to regular monitoring by Senior Officers and Members. All new funding requests must demonstrate a clear linkage to the delivery of the Corporate Plan prior to approval. 19/05/14 No change.	2	4	8	Jo-Anne Ireland
RSK5	Project	William Hunter Way	Organisational / management / human factors	Legal Challenge- there is the potential for a legal challenge to the previous decision to terminate the Development Agreement	4	5	20	Year 1	Reduce	Due to extensive documentation and legal and professional independent advice taken, the risk has reduced substantially. 30/04/14 Termination of the DA took place 6th Feb 2014. Due to the time that has passed since then, it is now unlikely that Stockland will mount a legal challenge.	1	3	3	Jo-Anne Ireland
RSK8	Finance	Financial Uncertainty	Economic / financial / market	Continued funding reductions and uncertainty about medium - long term funding levels.	3	4	12	Year 2-3	Reduce	Medium Term Financial Planning is undertaken on an annual basis with monitoring arrangements in place throughout the year. 16/05/14 No change.	3	3	9	Jo-Anne Ireland
RSK9	Finance	Financial Uncertainty	Economic / financial / market	Target levels for Fees and Charges Income are not achieved	3	4	12	Year 1	Avoid	Monthly budget monitoring. 16/05/14 No change.	1	3	3	Jo-Anne Ireland
RSK10	Finance	Financial Uncertainty	Economic / financial / market	Local Council Tax Support: further reductions in the current level of grant funding and/or increase in the number of claimants.	3	4	12	Year 1	Avoid	The Council will review its scheme on an annual basis in order to validate its financial viability and to reflect any demographic or other changes required. Quarterly monitoring arrangements are also in place to consider the impact of the scheme on collection targets and residents. A Funding Volatility Reserve has been created to mitigate against the financial uncertainty. 16/05/14 No change.	1	4	4	Jo-Anne Ireland
RSK11	Finance	Financial Uncertainty	Economic / financial / market	Localisation of Business Rates: relocation or closure of major businesses will reduce the amount of collectable business rates. In addition to this, there are still a significant number of appeals outstanding which, if successful, will be backdated.	3	4	12	Year 1	Reduce	Localisation of Business Rates: The Government have included a "Safety Net" scheme which will be triggered on any loss in income greater than 7.5%. Quarterly monitoring arrangements are in place to monitor the economic activity and VOA progress with the appeals. A Funding Volatility Reserve has been created to mitigate against the financial uncertainty. 16/05/14 No change.	2	4	8	Jo-Anne Ireland

Appendix A

Last Updated: 03/05/2014														
Risk = an uncertain event or set of circumstances which, should it occur, will have an effect on the achievement of the projects objectives.														
Item	Service Area	Project Name (if applicable)	Risk Category	Risk Description	Probability [1 to 5]	Impact [1 to 5]	Ranking as at 19.11.13	Proximity	Risk Response Categories	Risk Response (what is the Risk Owner doing to mitigate the risks)	Probability	Impact	Ranking	Risk Owner
RSK12	Project	Transformation Agenda	Organisational / management / human factors	Failure to deliver an effective Customer Services Project, therefore resulting in poor customer service.	4	4	16	Year 1	Reduce	Clear Business Cases and Work Plans to ensure that the programme of work is delivered. This will be subject to regular monitoring by Senior Officers and Members. Comprehensive recruitment exercise will be undertaken, supported by a regular training programme. Continued identification and development of e-Forms to support the on-line facility. 19/05/14 No change.	2	3	6	Philip Ruck
RSK13	Project	Transformation Agenda	Organisational / management / human factors	Failure to create successful streamlined back office services.	4	4	16	Year 1	Reduce	Regular and informed communications. Robust consultation processes with staff directly affected by the proposed changes. 19/05/14 No change.	2	3	6	Philip Ruck
RSK15	Planning	Implementation of LDP	Legal and regulatory	Failure to deliver LDP on target - failure to have an adopted LDP in place as soon as possible and no later than April 2015 will result in developers submitting planning applications for speculative development contrary to local aspirations and Council policies. This could lead to a series of unplanned developments without the timely provision of infrastructure to support them.	3	4	12	Year 2-3	Reduce	A team is in place with a project plan and the necessary resources to deliver the draft LDP and supporting documents. This includes a series of member workshops. 14/05/14 Following member discussions, a revised programme and work allocation is currently being prepared. This is likely to show a revised date for the Examination in Public of June 2015, although every effort is being made to prevent any programme slippage.	2	3	6	Tony Pierce
RSK16	Project	Town Hall Remodelling	Organisational / management / human factors	Council budgets are not eased due to the delay or failure of the project, or increase in cost or challenge to capital nature of project	2	4	8	Year 1	Avoid	Town Hall Delivery Working Group set up and continuing to monitor progress. A full design team has been appointed, and are on standby pending approval of the project, to manage the project through to a successful completion. 30/04/14 The Council has now joined the Scope framework agreement which involves a reappraisal of the project finances.	2	3	6	Philip Ruck
RSK17	Project	Town Hall Remodelling	Organisational / management / human factors	Loss of reputation if the project failed	2	4	8	Year 2-3	Avoid	Heads of Terms stage with two potential tenants. Project Manager engaged. 30/04/14 HOT with Chromex have been signed. Communications and stakeholder engagement at a good level.	2	2	4	Philip Ruck
RSK18	Project	Town Hall Remodelling	Organisational / management / human factors	Failure of commercial tenant	2	4	8	Over Partnership	Avoid	Parent company guarantee. Phased approach. Full due diligence undertaken. 30/04/14 No change.	2	2	4	Philip Ruck

Last Updated: 03/05/2014 Risk = an uncertain event or set of circumstances which, should it occur, will have an effect on the achievement of the projects objectives.														
Item	Service Area	Project Name (if applicable)	Risk Category	Risk Description	Probability [1 to 5]	Impact [1 to 5]	Ranking as at 19.11.13	Proximity	Risk Response Categories	Risk Response (what is the Risk Owner doing to mitigate the risks)	Probability	Impact	Ranking	Risk Owner
RSK19	Project	Town Hall Remodelling	Organisational / management / human factors	Impact on service delivery	2	4	8	Year 1	Reduce	Full design team appointed to manage project. 30/04/14 No change	2	2	4	Philip Ruck
RSK20	Project	Town Hall Remodelling	Organisational / management / human factors	BBC officer numbers cannot be verified	2	4	8	Year 1	Avoid	Establish correct officers numbers that support the MITFP 30/04/14 Full staffing numbers and associated assumptions incorporated into Design Brief. This does rely upon ICT being robust and resilient	2	2	4	Philip Ruck
RSK21	ICT		Organisational / management / human factors	Prolonged failure of key ICT infrastructure and/pr software (total or in part), leading to service disruption, resulting in poor customer service, reputational damage, non-compliance with legislation, additional financial costs/penalties.	4	4	16	Year 1	Reduce	Additional dedicated strategic and operational support has been procured to develop a co-ordinated forward plan of priority activity. In addition, these resources will immediately address any issues with disaster recovery arrangements, the resilience of network infrastructure, and team capacity. This arrangement is in its infancy and the benefits are expected to be seen within 1-3 months.	4	3	12	Philip Ruck

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Strategic Risk Register and Action Plan

Risk Number 1	Risk Owner: Jo-Anne Ireland	DATE: August 2014
Business Risk Description: Finance Pressures		

Trigger	Consequences	Existing Controls	Likelihood	Impact	Risk Rating to date
<ul style="list-style-type: none"> Failure or significant reduction of income streams and external funding Significant change in priorities – influenced by either demand, political vision or legislation Unplanned expenditure as a result of urgent works Expenditure incurred where no budgetary provision exists Target levels for income are not achieved Target efficiency savings are not achieved 	<ul style="list-style-type: none"> Council unable to meet budget requirements Staffing and service level reductions Greater use of reserves to maintain a balanced budget Working balance levels fall below the risk assessed level Increase Council Tax Increase in charges 	<ul style="list-style-type: none"> Medium Term Financial Planning is undertaken on an annual basis Monthly Budget Monitoring Half year reports to Members A Funding Volatility Reserve has been created to specifically address the uncertainty of Government funding levels Healthy reserves and working balance levels held 	3	4	12 Retain

Effectiveness of controls	Further Action Required	Target Date for completion	Officer(s) Responsible
<ul style="list-style-type: none"> In year savings are proving to be a challenge for 2014/15. 	<ul style="list-style-type: none"> Additional work required in the following areas: <ol style="list-style-type: none"> Revenues and Benefits Customer Contact Centre Longer term MTFP to be developed 	31/03/2015	Steve Summers, Head of Customer Services Jo-Anne Ireland, Acting Chief Executive

Risk Number 2	Risk Owner: Tony Pierce	DATE: August 2014
Business Risk Description: Local Development Plan		

Trigger	Consequences	Existing Controls	Likelihood	Impact	Risk Rating to date
<ul style="list-style-type: none"> Failure of Council to adopt a Plan in line with National Planning Policy Framework (NPPF) Lack of formal agreement through Duty to Cooperate Failure to adopt Community Infrastructure Levy (CIL) Loss/long term absence of staff Recruitment difficulties 	<ul style="list-style-type: none"> Planning applications judged against NPPF 'in favour of sustainable development' Development permitted in locations on an ad-hoc basis Potential appeal costs Staff resource implications to deal with increased applications Lack of necessary infrastructure funding Delay to Plan preparation and lack of necessary expertise & experience 	<ul style="list-style-type: none"> Meeting targets set out in the Plan timetable (Local Development Scheme) Ongoing discussion with neighbouring Local Planning Authorities Recruitment of permanent staff to fill posts in Planning Policy Team (August 2014), reduced reliance on agency & temp staff 	3	4	12 Reduce

Effectiveness of controls	Further Action Required	Target Date for completion	Officer(s) Responsible
<p>Current adopted Plan timetable now out of date, CIL Preliminary Charging Rates agreed by Strategy & Policy Board (19.03.14) but consultation has yet to take place</p>	<ul style="list-style-type: none"> Agreement of a new Plan timetable Agreement through Duty to Cooperate with neighbouring Local Planning Authorities regarding cross-boundary issues Agreement of key issues to inform proposed spatial strategy for quantum and locations of new development Completion of technical evidence to inform emerging Plan policies Consultation on CIL Preliminary Draft Charging Schedule and further work to enable CIL adoption by April 2015 deadline 	<p>LDP – Dec 2015</p> <p>CIL – April 2015</p>	<p>Tony Pierce, Interim Head of Planning</p> <p>Gordon Glenday, Head of Planning</p> <p>Phil Drane, Planning Policy Team Leader</p> <p>Alex Bird, Senior Planning Policy Officer</p>

Risk Number 3	Risk Owner: Ashley Culverwell	DATE: August 2014
Business Risk Description: Disaster Recovery/Continuity Planning		

Trigger	Consequences	Existing Controls	Likelihood	Impact	Risk Rating to date
<ul style="list-style-type: none"> Failure to respond effectively to an incident/event (e.g IT loss, virus/flu pandemic) Failure to provide critical services Failure to identify critical suppliers Lack of resilience of local businesses 	<ul style="list-style-type: none"> Ineffective response to an incident causes service disruption Unable to deliver key services Possible loss of income Staff absence Vulnerable residents at risk through lack of service delivery 	<ul style="list-style-type: none"> Most services already have Business Continuity Plans in place Civil Contingency Act Insurance cover Alternative fuel stocks/supplies Pandemic flu plan 	2	5	10 Reduce

Effectiveness of controls	Further Action Required	Target Date for completion	Officer(s) Responsible
Plans in place have not been updated regularly and testing infrequent.	<ul style="list-style-type: none"> Corporate and service Business Continuity Plans to be updated Update IT Disaster Recovery Plan Exercises to test the adequacy of Business Continuity Plan and capacity to deliver the Plan Intranet development for Business Continuity and Emergency Planning information Need to test resilience of Gold Command & Emergency Planning/Business Continuity measures that are in place 	March 2015	Mark Stanbury, Senior Environmental Health Officer Sue White, Risk & Insurance Officer Departmental managers Risk Management/CLB

Risk Number 4	Risk Owner: Jo-Anne Ireland	DATE: August 2014
Business Risk Description: Organisational Capacity		

Trigger	Consequences	Existing Controls	Likelihood	Impact	Risk Rating to date
<ul style="list-style-type: none"> Lack of capacity to effectively govern the organisation Loss/sickness of key staff Failure to focus on staff wellbeing and development Failure to build relationships with residents and business communities 	<ul style="list-style-type: none"> Poor staff morale Poor communications Inability to deliver effective and efficient services Poor delivery of aspirations and priorities Inefficient use of resources Breakdown of Officer and Member relations 	<ul style="list-style-type: none"> MTFP Communications Protocol and Strategy Workforce Strategy Staff Survey (and Action Plan) Peer Review (and Action Plan) Regular meetings between Senior Members and Officers Staff Bulletins and Briefings 	3	4	12 Reduce

Effectiveness of controls	Further Action Required	Target Date for completion	Officer(s) Responsible
As a small Authority – changes in priorities will always present a challenge in terms of flexibility and capacity to deliver	<ul style="list-style-type: none"> Develop a clear and concrete vision for the Council in order that resource requirements can be scoped 	31/03/2015	Jo-Anne Ireland, Acting Chief Executive

Risk Number 5	Risk Owner: Chris Potter	DATE: August 2014
Business Risk Description: Information Management and Security		

Trigger	Consequences	Existing Controls	Likelihood	Impact	Risk Rating to date
<ul style="list-style-type: none"> Data held by the Council ends up in inappropriate hands Little or no awareness of data collected internally – poor information sharing Lack of resources for IT integration 	<ul style="list-style-type: none"> Breach of corporate governance Increased costs and legal implications Reputation damaged 	<ul style="list-style-type: none"> Data Protection Policy 	3	5	15 Reduce

Effectiveness of controls	Further Action Required	Target Date for completion	Officer(s) Responsible
Weak, arising from a lack of an integrated approach to information management across the Council.	<ul style="list-style-type: none"> Review existing Data Protection Policy Raise awareness of the importance of information to the Council and the individual Produce a co-ordinated approach to information management and security Deliver training and embed within the culture of the organisation 	31/03/2015	Christopher Potter, Monitoring Officer and Head of Support Services

Risk Number 6	Risk Owner: Steve Summers	DATE: August 2014
Business Risk Description: Customer Access Strategy		

Trigger	Consequences	Existing Controls	Likelihood	Impact	Risk Rating to date
<ul style="list-style-type: none"> No Customer Access Strategy produced and approved by end Dec 2014 Target efficiency savings are not achieved Unable to provide/meet customer service performance levels 	<ul style="list-style-type: none"> Non realization of savings/benefits if this is not in place £250K of savings at risk by 31 March 2015 Failure to provide effective Customer Service Lack of integration with other Council services Failure to align ICT and Customer Access Strategies will inhibit ability to transform Customer Services 	<ul style="list-style-type: none"> Not in place as Customer Access Strategy not produced 	2	5	10 Reduce

Effectiveness of controls	Further Action Required	Target Date for completion	Officer(s) Responsible
Not applicable until Customer Access Strategy approved	<ul style="list-style-type: none"> Awaiting resource to commence Develop and approve Customer Access Strategy Develop and introduce robust performance monitoring process 	31/12/2014	Steve Summers, Head of Customer Services

Risk Number 7	Risk Owner: Jo-Anne Ireland	DATE: August 2014
Business Risk Description: Commercial Activities		

Trigger	Consequences	Existing Controls	Likelihood	Impact	Risk Rating to date
<ul style="list-style-type: none"> Business plans not agreed Individual service income not realised or income generation below projections Business models reveal poor market prospects or fail Income not realized due to weak commercial company arrangements (including poor Governance) 	<ul style="list-style-type: none"> Council unable to meet budget requirements Staffing and service level reductions Spending/service cutbacks Greater use of reserves if required net savings are not achieved Increased Council Tax Increase in charges Ineffective application of business model and company fails (services move back in-house) 	<ul style="list-style-type: none"> Medium Term Financial Planning is undertaken on an annual basis with monitoring arrangements Monthly Budget Monitoring Quarterly monitoring arrangements Regular reports to Asset and Enterprise committee to provide close monitoring Robust business modeling and financial projections 	2	4	8 Reduce

Effectiveness of controls	Further Action Required	Target Date for completion	Officer(s) Responsible
In early stages but all aspects of this are being closely monitored by all parties (senior officers and Members)	<ul style="list-style-type: none"> More reporting on progress Services to include updates within their service plans Sound legal and financial advice to support the creation of a commercial company 	April 2015	Brett Regan, Commercial Programme Manager Phil Ruck, Contract & Corporate Projects Manager

Risk Number 8	Risk Owner: Phil Ruck	DATE: August 2014
Business Risk Description: Contract/Partnership Failure		

Trigger	Consequences	Existing Controls	Likelihood	Impact	Risk Rating to date
<ul style="list-style-type: none"> Key partnership fails or services provided via arrangements lacking adequate governance 	<ul style="list-style-type: none"> Lack of accountability Resources wasted Financial losses Objectives not met 	<ul style="list-style-type: none"> SLA's embedded within contract and penalties in place for non performance Regular reporting on contract performance Escalation and governance in place 	2	4	8 Reduce

Effectiveness of controls	Further Action Required	Target Date for completion	Officer(s) Responsible
Controls are governed by contract and are in a good situation	<ul style="list-style-type: none"> Continue to fine tune reporting Hold regular meetings with suppliers Engage relevant HoS (where applicable) 	30/11/2014	Phil Ruck, Contract & Corporate Projects Manager

Risk Number 9	Risk Owner: Jo-Anne Ireland	DATE: August 2014
Business Risk Description: Lack of Strategic Direction		

Trigger	Consequences	Existing Controls	Likelihood	Impact	Risk Rating to date
<ul style="list-style-type: none"> Lack of long term strategic planning Lack of relationship with residents, business communities and partners 	<ul style="list-style-type: none"> Failure to adapt to policy/legislative changes Poor performance management Poor morale Poor delivery of priorities/aspirations Inefficient use of resources Reputation undermined Failure to communicate effectively Lack of community engagement 	<ul style="list-style-type: none"> Corporate Plan Training and Development for Officers and Members Code of Conduct Consultation/Surveys Project and Performance Management Framework 	3	4	12 Reduce

Effectiveness of controls	Further Action Required	Target Date for completion	Officer(s) Responsible
Some improvements required	<ul style="list-style-type: none"> Develop a clear and concrete vision for the Council in order that resource requirements can be scoped and the vision can be communicated internally and externally 	31/03/2015	Jo-Anne Ireland, Acting Chief Executive

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OPERATIONAL RISK REGISTER

SERVICE: Business Transformation

Risk Ref	Description of Risk	Risk Owner	Potential Impact	Initial Risk Score	Further required actions / controls	Revised Risk Score	Last Review Date	Further required actions/controls	Revised Risk Score	Last Review Date
RSK/1	Key objectives not delivered due to capacity issue (e.g. Insufficient HR)	Contract & Corporate Project Manager	<ul style="list-style-type: none"> > Slippage on key projects/initiatives > Deadlines and targets not met > Lack of focus > Workloads increase > staff de-motivated 	10	No further action required	10	Jan-14	No further action required	10	Jun-14
RSK/2	Loss or theft of data >Data held by the Council ends up in inappropriate hands	Contract & Corporate Project Manager	<ul style="list-style-type: none"> > Breach of corporate governance > Increased costs and legal implications > Reputation damage 	20	No further action required	12	Jan-14	No further action required	12	Jun-14
RSK/3	ICT Strategy cannot be implemented due to lack of funding	Contract & Corporate Project Manager	<ul style="list-style-type: none"> > System fails > Lack of service delivery 						12	Sep-14

OPERATIONAL RISK REGISTER

SERVICE: ENVIRONMENTAL HEALTH

Risk Ref	Description of Risk	Risk Owner	Potential Impact	Initial Risk Score	Further required actions / controls	Revised Risk Score	Last Review Date	Further required actions / controls	Revised Risk Score	Last Review Date
RSK/1	Protection of Front Line staff	Corporate Health & Safety Advisor	Injury to member of staff in or outside the Council offices	20	Lone working/Personal safety training for staff is currently being organised.	20	Jan-14	Lone Working & Personal Safety training now completed. Trial of electronic devices to improve controls for designated staff being planned.	12	Sep-14
RSK/2	Health and Safety at the Town Hall and Depot Buildings	Corporate Health & Safety Advisor	Injury to member of staff, customer or visitor at a Council Building	16	The production of risk assessments for service area activities across the Council needs to be completed.	16	Jan-14	Engage with HoS and Line Managers in Service Areas to identify, complete and publish risk assessments on the H&S Microsite.	16	Jun-14
RSK/3	Ability to act upon 24/7 basis to serious foreseen noise complaints	Senior Environmental Health Officer	Residents may need to wait until normal office hours until officers can respond	10	Out of hours noise service is provided on a planned basis. Gold Command will take control in any emergency	10	Jan-14	No further action required.	10	Sep-14
RSK/4	Business Continuity Management > Unable to respond effectively to a business continuity incident (e.g. IT, virus/flu pandemic)	Senior Environmental Health Officer	> Services disrupted/loss of service > Possible loss of income > staff absence > Hardship for some of the community > Council criticised for not responding effectively	8	Business Continuity Service is presently being Audited and all outcomes will be actioned	8	Jan-14	Business Continuity Service has been audited and a full action plan has been completed	8	Sep-14
RSK/5	Loss of life from an event identified as an emergency (where the Council has a legal responsibility)	Senior Environmental Health Officer	>Reputational damage >Financial penalties > Failure to comply with the civil contingencies Act 2004 > Impact on staff and services	15	No further action required (subject to regular review).	10	Jan-14	No further action required (subject to regular review).	10	Jun-14

OPERATIONAL RISK REGISTER

SERVICE: FINANCE

Risk Ref	Description of Risk	Risk Owner	Potential Impact	Initial Risk Score	Further required actions / controls	Revised Risk Score	Last Review Date	Further required actions/controls	Revised Risk Score	Last Review Date
RSK/1	Treasury Management > Loss of funds due to bank collapse > Reduction in investment interest > Transactions undertaken which are outside the terms of the Treasury Management Policy	Financial Services Manager	Up to £12m can be invested at any one time Negative impact on the budget Higher risk transactions e.g. Unapproved Counterparty	16	No further action required	9	Jan-14	Arrangements have been made for a new Bank Account contract	4	Jun-14
RSK/2	Changes in legislation which jeopardize the Council's financial reporting position	Financial Services Manager	> Failure to produce accounts > Accounts not signed off by the External Auditors > Staff time and costs > Reputational damage	15	No further action required	8	Jan-14	No change	8	Jun-14
RSK/3	Insufficient development of the Financial Management System	Financial Services Manager	> Delay to realising system benefits resulting in inefficient use of staff time and lack of realised savings	12	> Recruitment of Systems Accountant - responsibilities include developing the financial system	4	Jan-14	No change	4	Jun-14
RSK/4	Loss of key staff	Financial Services Manager	> Reduced quality of output > Errors/omissions > Additional costs incurred for Interim cover > Negative impact on remaining staff	8	> Ensuring staff are multiskilled and knowledge is shared and not with just one person	4	Jan-14	> Recruitment in progress for replacement Financial Services Manager > Interim resources in place for Maternity Cover	16	Jun-14
								No change - money on call accounts.	4	Sep-14
					The risk is less about changes in legislation now but having the knowledge and resources to prepare the SoA. Closure plan to be put in place	8	Sep-14	CP is now operational	4	Sep-14

OPERATIONAL RISK REGISTER

SERVICE: FINANCE

Risk Ref	Description of Risk	Risk Owner	Potential Impact	Initial Risk Score	Further required actions / controls	Revised Risk Score	Last Review Date	Further required actions/controls	Revised Risk Score	Last Review Date
RSK/5	Uninsured properties/risks	Financial Services Manager	> Financial and reputational implications in the event of any loss/damages	12	No further action required	12	Jan-14	Valuation for insurance reinstatement purposes carried out on general properties. Risk Mgt training given to Manager.	8	Jun-14
RSK/6	Failure to maintain adequate internal controls	Financial Services Manager	> Increased risk of fraud activity > Inappropriate use of Council resources	8	No further action required	6	Jan-14	No change	6	Jun-14
RSK/7	Failure to implement changes to Benefit rules and regulations in a timely manner	Revenues & Benefits Manager	> Incorrect levels of Benefits paid to customers > Subsidy claims not signed off > Reputational damage > Claimants could suffer financial hardship/loss	15	No further action required	15	Jan-14	Additional resources into the Systems & Technical Team	10	Jun-14
RSK/8	Failure to meet income collection targets in respect of Council Tax & Business Rates	Revenues & Benefits Manager	> Lower than anticipated income will impact on the Council's Medium Term Financial Plan	12	ICT that supports accurate and speedy processing. Enhanced income management to enable maximisation of collection	6	Jan-14	Additional temporary ICT and Financial Management Support in place to address areas of concern	16	Jun-14

OPERATIONAL RISK REGISTER

SERVICE: GOVERNANCE

Risk Ref	Description of Risk	Risk Owner	Potential Impact	Initial Risk Score	Further required actions / controls	Revised Risk Score	Last Review Date	Further required actions/controls	Revised Risk Score	Last Review Date
RSK/1	Failure to manage contracts effectively	Head of Legal Services	<ul style="list-style-type: none"> > Contract Fails to deliver > Loss of revenue > Financial impact on Council > Loss of reputation 	12	Training provided & monitored by BDT legal services.	3	Jan-14	No further action required	3	Jul-14
RSK/2	Illegal encampments	Head of Legal Services	<ul style="list-style-type: none"> > Financial cost to the Council legally > Reputational impact > Clear up costs 	10	Revised clear processes in place with Gold Command.	3	Jan-14	No further action required	3	Jul-14
RSK/3	Failure to manage data security	Head of Legal Services	<ul style="list-style-type: none"> > Reputational impact > Financial impact from fines 	15	Data policies are presently being reviewed. Further & updated training is being provided & to be implemented to all staff.	4	Jan-14	No further action required	4	Jul-14

OPERATIONAL RISK REGISTER

SERVICE: HOUSING

Risk Ref	Description of Risk	Risk Owner	Potential Impact	Initial Risk Score	Further required actions / controls	Revised Risk Score	Last Review Date	Further required actions/controls	Revised Risk Score	Last Review Date
RSK/1	Contractor Failure	Head of Housing	Contract Fails to deliver, loss of revenue, financial impact on Council, loss of reputation	6	Contracts reproposed on similar basis. Consolidation of contracts slightly increases risk	5	Jan-14	No further action required	5	Jun-14
RSK/2	Emergency with significant homeless implications	Head of Housing	Costs to the Council should families require re-homing Reputational Risk	12	No further action required	4	Jan-14	Training for Rest Centre Volunteers and an Out of Hours notification test were held in Feb and April 2014. A live exercise is to be arranged for sometime in the near future.	4	Jun-14
RSK/3	Defective gas installations	Head of Housing	Gas leaks, explosions Reputational impact Financial impact	10	Key PI in revised contracts.	5	Jan-14	Access issues monitored weekly to ensure escalation as necessary	5	Jun-14
RSK/4	Fire in residential or community areas	Head of Housing	Possible death or injury. Residents would have to be relocated Re-homing costs Reputational impact	15	Risk assessment programme ongoing	10	Jan-14	Weekly inspections by caretakers reporting issues and breaches to housing officers. Instigate estate inspection regime to include fire risk. Develop policy in conjunction with Fire Officer to deal with the management of common parts, including issuing of notices and removal of goods likely to pose a risk.	10	Jun-14
								Continued monitoring of delivery against PI's.	5	Sep-14
								Bi-monthly estate inspections commenced 21/8/14 noting fire risks & taking action on breaches & recording conditions of site. Additional checks are to be introduced	10	Sep-14

OPERATIONAL RISK REGISTER

SERVICE: ICT

Risk Ref	Description of Risk	Risk Owner	Potential Impact	Initial Risk Score	Further required actions / controls	Revised Risk Score	Last Review Date	Further required actions/controls	Revised Risk Score	Last Review Date
RSK/1	Failure of ICT Infrastructure	Head of Business Transformation	<ul style="list-style-type: none"> > Unable to provide services to the customer > Staff unable to carry out their functions properly > Financial Impact to the Council 	15	No further action required	5	Jan-14	No further action required. Due to recent events this risk has now been escalated to the Strategic Risk Register.	5	Jun-14 Jul-14
RSK/2	Breach of security by members	Head of Business Transformation	<ul style="list-style-type: none"> > Loss of data > Financial fines to the Council > Reputational loss 	12	No further action required	8	Jan-14	No further action required	8	Jun-14
								No further action required	8	Sep-14

OPERATIONAL RISK REGISTER

SERVICE: LOCALISM

Risk Ref	Description of Risk	Risk Owner	Potential Impact	Initial Risk Score	Further required actions / controls	Revised Risk Score	Last Review Date	Further required actions/controls	Revised Risk Score	Last Review Date
RSK/1	Failure to deliver BBC Events	Partnership, Leisure & Funding Manager	> Reputational Impact > Financial impact > Loss of life or injury	20	Event Management Plans are updated for each event - no further action.	12	Jan-14	No further action required as event management are updated for each event	12	Jul-14
RSK/2	Failure to meet safeguarding requirements; staff unaware of their responsibilities	Partnership, Leisure & Funding Manager	Single point of failure	4	Safeguarding Strategy & Policy currently under review with revised Strategy and Policy to be agreed by members in June 2014. Face to face / e-learning safeguarding training to be delivered to all staff/members June/July 2014	2	Jan-14	Training has been postponed to December/Jan 2015 to all staff/members	2	Jul-14
RSK/3	Failure to manage and deliver partnership opportunities	Partnership, Leisure & Funding Manager	Partnerships not managed, not deliver what they were intended to do and resulting in loss of service and reputational damage	8	Funding Strategy agreed at S & P on 8 November - implementation starts April 2014 for completion April 2014	4	Jan-14	One to one meetings undertaken and on target for completion April 2015	4	Jul-14
RSK/4	Failure to manage non housing building assets	Strategic Asset Manager	Reduction in asset value, Injuries to staff, customers, visitors Financial impact Council unaware of future costs and impacts	12	No further action required	8	Jan-14	No further action required	6	Jul-14
RSK/5	Hutton Community Centre	Partnership, Leisure & Funding Manager	Reputational and financial risk due to lack of use of the centre	12	No further action required	6	Jan-14	Renovation of building has been completed.	6	Jul-14

OPERATIONAL RISK REGISTER

SERVICE: PLANNING

Risk Ref	Description of Risk	Risk Owner	Potential Impact	Initial Risk Score	Further required actions / controls	Revised Risk Score	Last Review Date	Further required actions/controls	Revised Risk Score	Last Review Date
RSK/1	Error in making a Planning decision	Development Management Team Leader	> Financial implications - judicial review, legal costs & compensation > Reputation undermined	15	Reviewed by peer authority	8	Jan-14	No further action required	8	Jun-14
RSK/2	Lose Planning Appeal decision	Development Management Team Leader	If costs awarded maybe financial implications	15	Implement revised planning protocols	15	Jan-14	Member training to identify consequences of decisions	15	Jun-14
RSK/3	Error or delay in undertaking planning enforcement	Development Management Team Leader	> Reputation undermined > Financial compensation	15	No further action required	8	Jan-14	No further action required	8	Jun-14
RSK/4	Increased workload due to:- > increase in applications > changes in legislation > failure to have files sorted & uploaded	Head of Planning	> Inability to do the work	20		20		Development management staff now more effective and much improved performance	8	Jun-14
RSK/5	Loss of key staff	Head of Planning	> Inability to do the work	20		20		Reduction in use of agency staff	15	Jun-14
								No further action required other than that already identified.	15	Sep-14

OPERATIONAL RISK REGISTER

SERVICE: STREET SCENE

Risk Ref	Description of Risk	Risk Owner	Potential Impact	Initial Risk Score	Further required actions / controls	Revised Risk Score	Last Review Date	Further required actions/controls	Revised Risk Score	Last Review Date
RSK/1	Unable to collect waste due to: > shortage of vehicles > weather > strike action > pandemic > Theft or vandalism of vehicle fleet at the Depot	Operations Manager	> Piles of rubbish on street > Health risks > Financial impact > Reputation undermined > Delivery of services affected	5	Good relationship with local vehicle hire company established. Vehicle tracking systems and onboard CCTV installed on RCV's.	3	Jan-14	No further action required	3	Sep-14
RSK/2	Depot's diesel/petrol supply suspended	Operations Manager	> Delivery of services affected > Reputation undermined	4	Account with local fuel supplier by use of fuel cards	3	Jan-14	No further action required	3	Sep-14
RSK/3	Total loss of the Vehicle Maintenance workshop	Operations Manager	> Delivery of services affected > Reputation undermined	4	No further action required	2	Jan-14	No further action required	3	Sep-14
RSK/4	Public injury/death whilst using Council Services > Playgrounds > Sports Pitches > Public Open Spaces > Golf	Service Co-ordinator Parks & Open Spaces	> Financial loss > Reputation > Corporate Manslaughter charge	3	No further action required	2	Jan-14	No further action required	2	Sep-14
RSK/5	Deficiencies in Health & Safety Policies/Procedures > injury or death to employee	Operations Manager	> Financial loss > Reputation	3	Regular H&S meetings	2	Jan-14	No further action required	2	Sep-14
RSK/6	Risk of unmaintained trees wholly or partly falling on persons/property and other infrastructure	Service Co-ordinator Parks & Open Spaces	> Harm or injury to member of public > Reputational damage > Corporate Manslaughter charge	15	The implementation of a Tree Management Strategy	15	Jan-14	In the process of introducing Tree Mgt System. Also management plans being drawn up for several of the woodlands.	15	Sep-14
RSK/7	Inability to provide statutory burial service	Service Co-ordinator Parks & Open Spaces	> Build up of burials waiting to take place > Reputational risk and damage > Loss of income > Failure to provide statutory service	4	No further action required	4	Jun-14	No further action required	4	Sep-14

30 September 2014

Audit Committee

Corporate Complaints Monitoring and Freedom of Information Requests

Report of: *Steve Summers, Head of Customer Services*

Wards Affected: *None*

This report is *Public*

1. Executive Summary

This report is before Members to monitor and review the complaints received through the Council's formal complaints process and provide information on the number of Freedom of Information requests received to date. It is intended through the introduction of a Customer Relationship Management (CRM) system the council will be able to understand, monitor and manage better customer's complaints and requests.

2. Recommendation(s)

2.1 That the Committee notes the complaints received through the Council's formal complaints process and the number of Freedom of Information Requests received.

3. Introduction and Background – Corporate Complaints

3.1 The Council has a two stage complaints process which has provided a very successful route for customers to take issue with any perceived failure to provide a service, failure to respond to requests or failure to adhere to standards on the part of the Council and its officers.

3.2 The process itself has two stages. In the first instance, the complaint is forwarded to the Head of Service for the department concerned for a full investigation into the complaint. If the complainant is not satisfied with the response from the Head of Service they can request the Complaints Co-ordinator to conduct a second stage investigation into the matter. At both stages, the Council aims to respond fully following the investigation within 20 working days.

4. Issue, Options and Analysis of Options

4.1 During 2013/14 financial year there were 33 complaints for first stage investigation, 10 complaints have been received so far this year.

4.2 The table below shows the breakdown for the financial year 2012/13 to 2013/14. Since the last report to the Audit & Scrutiny Committee on 1st July 2014 there has been a further 2 Stage One complaints received.

Stage One

Department	2012/13	2013/14	2014/15 (Apr-Sep)
Housing	10	10	6
Planning	8	10	3
Revenues and Benefits	6	9	1
Countryside, Parks and Cemeteries	3	-	-
Governance	2	-	-
Legal and Debt Recovery	2	3	-
Environmental Health	1	-	-
Community Safety	1	-	-
Street Scene	1	1	-
Total	34	33	10

4.3 Details of the 10 complaints included

- Works to trees
- Housing repair issues
- General housing issues
- Non payment of business rates

4.4 Nine complaints have progressed to the second stage for the financial year 2013/14. The table below shows a comparison for the previous year. Since the last report to the Audit & Scrutiny Committee on 1st July 2014, 2 Housing complaints have moved to Stage Two.

Stage Two

Department	2012/13	2013/14	2014/15 (Apr-Sep)
Housing	1	2	2
Planning	3	3	-
Revenues and Benefits	2	3	-
Governance	2	-	-
Legal	-	1	-
Total	8	9	2

- 4.5 There continue to be no particular trends or themes to the complaints made so far this year which would result in concern about a process failure or service delivery breakdown in any service areas.
- 4.6 However, it is inevitable that there will be a proportion of cases where the complainant is unhappy with the outcome. If the complainant remains dissatisfied following the Stage 2 response, it would be appropriate for them to approach the Local Government Ombudsman should they choose to do so.
- 4.7 At the time of the last report, 7 complaints had progressed to the Local Government Ombudsman. A comparison with last year is included in the table below.

Department	2012/13	2013/14	2014/15 (Apr/Jun)
Housing	1	2	-
Planning	2	3	-
Revenues and Benefits	-	2	-
Building Control	1	-	-
Total	4	7	0

5. Freedom of Information Requests

- 5.1 The Freedom of Information Act 2000 provides public access to information held by public authorities. It does this in two ways:
- Public authorities are obliged to publish certain information about their activities; and
 - Members of the public are entitled to request information from public authorities.

Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings. The Act does not cover access to individual's own personal data, such request need to be made under the Data protection Act 1998.

- 5.2 Set out in the table below is a breakdown by department of the number of Freedom of information Requests received since 1st April 2014 to date. This information is available for public viewing on the Council's website. As set out in the Executive Summary of this report future monitoring of requests through a CRM will enable the Council to review and offer appropriate access to resident's and businesses.

Department	2014/15 (Apr-Sep)
Revenues and Benefits	77
ICT	19
Corporate Services	50
Environmental Health	38
Housing	27
Streetscene	47
Finance Services	23
Built Environment	17
Community Services	10
Democratic Services	3
Total	311

6. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive
Tel & Email 01277 312712/jo-anne.Ireland@brentwood.gov.uk

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

Legal Implications

Name & Title: ChrisPotter, Monitoring Officer and Head of Support Services
Tel & Email: 01277 212743/christopher.potter@brentwood.gov.uk

- 6.2 None - although a robust complaints mechanism contributes towards good governance.

7. Background Papers (include their location and identify whether any are exempt or protected by copyright)

- 7.1 None.

8. Appendices to this report

8.1 None.

Report Author Contact Details:

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30 September 2014

Audit & Scrutiny Committee

Fraud Statistics

Report of: *Rick Steels, Revenues & Benefits Manager*

Wards Affected: *None*

This report is: *Public*

1. Executive Summary

- 1.1 This report provides Members with details of the work of the Fraud Investigation team for the period June 2014 through to August 2014. The number of completed investigations and the subsequent sanctions applied to offenders bears no relation to the number of investigations opened during the same period.
- 1.2 215 referrals of potential fraud were reported between June 2014 and August 2014. With the exception of 1 potential housing tenancy fraud, 214 of the referrals were for suspected Housing Benefit (HB) and/or Local Council Tax Support (LCTS) fraud.
- 1.3 7 cases were successfully investigated during this period, all for benefit fraud. The Fraud Investigation team applied sanctions to all 7 cases, 2 of which were successful prosecutions.

2. Recommendation(s)

- 2.1 That Members note the contents of this report.**

3. Introduction and Background

- 3.1 The Council is committed to providing a proactive approach to the prevention and detection of Housing Benefit, Local Council Tax Support and Housing Tenancy fraud.
- 3.2 The Fraud Investigation team will also investigate potential cases of fraud that are referred to it from a variety of sources, to ensure public funds are protected.

- 3.3 Not all referrals however are investigated as the information provided may not be sufficient or robust enough for an investigation to be opened
- 3.4 The following table provides Members with details of the number of referrals of potential Housing Benefit and/or Local Council Tax Support fraud and potential Housing Tenancy Fraud received for the period 1st June 2014 to 31st August 2014 as well as the number of those referrals that were opened for investigation.

Description	Jun14/Aug14
Number of HB/LCTS referrals received	214
Number of Housing Tenancy referrals received	1
Total number of referrals received	215
Number of cases closed during the period	142
Number of referrals opened for investigation	193
Number of opened investigations referred by the DWP data matching exercise	127
Number of opened investigations referred by an internal source e.g. staff/members	50
Number of opened investigations referred by an external source e.g. the public	16

- 3.5 The length of a fraud investigation can vary significantly depending upon the type of alleged fraud that is being committed. A case where a single claimant is suspected of having a partner resident in their household they have not told us about could take many months.
- 3.6 The process of evidence gathering, interviewing the claimant/tenant and preparing a case for Court has to follow strict legal guidelines and any failure to follow these guidelines will almost certainly render the case useless.
- 3.7 Where an investigation concludes that a fraud has been committed the Fraud Investigation team will apply a sanction. The type of sanction will depend on the seriousness of the crime, the level of benefit overpaid and also whether the claimant has committed an offence for the first time.

3.8 The following table provides Members with details of cases that were opened some months ago but have successfully been completed with a sanction applied during the period 1st June 2014 to 31st August 2014.

Description	Jun14/Aug14
Number of HB/CTB sanctions applied during the period	7
Number of Housing Tenancy sanctions applied during the period	0
Total number of sanctions applied during the period	7

3.9 There are three types of sanction that the Fraud Investigation team can impose on the claimant.

- a) Local Authority Caution
- b) Administrative Penalty
- c) Prosecution

3.10 A Local Authority Caution is usually applied to first time offenders and where the offence is not deemed to be of sufficient seriousness to go straight for a prosecution and providing they have not been cautioned by another body such as the police for a separate crime.

3.11 An Administrative Penalty which is equal to 30% of the value of the overpaid benefit is usually applied to first time offenders who have failed to disclose savings or the commencement of employment in a well paid job. Only those offenders who could reasonably be expected to repay any overpaid benefit promptly would be offered this sanction.

3.12 In all other cases the Fraud Investigation team would seek to prosecute offenders in a Court of Law. Additionally if an offender refuses to accept the offer of a Local Authority caution or an administrative penalty the offender will be considered for prosecution.

3.13 The following table provides Members with a list of the sanctions applied during the period 1st June 2014 to 31st August 2014 and the amount of benefit identified which the claimants had fraudulently claimed.

No.	Description	Amount
C34059261	This case was opened on 30 th September 2013 and closed on 10 th June 2014. A Local Authority Caution was offered under Section 112 (1A) of the Social Security Administration Act 1992 after the claimant's failure to declare an increase in her income. The claimant was overpaid Housing	£893.77

	Benefit of £893.77 to which she was not entitled. She accepted the caution.	
50025075	This case was opened on 30 th April 2014 and closed on 23 rd June 2014. A Local Authority caution was offered under Section 112 (1A) of the Social Security Administration Act 1992 after the claimant's failure to declare his income. The claimant was overpaid £4,383.03 Housing Benefit and £248.99 Local Council Tax Support. He accepted the caution.	£4,632.02
50026502	This case was opened on 27 th March 2014 and closed on 27 th June 2014. A Local Authority caution was offered under Section 112 (1A) of the Social Security Administration Act 1992 after the claimant's failure to declare her capital. The claimant was overpaid £3,697.49 Housing Benefit and £245.80 Local Council Tax Support to which she was not entitled. She accepted the caution.	£3,943.29
50026383	This case was opened on 16 th December 2013 and closed on 1 st July 2014. The claimant was successfully prosecuted under Section 112 (1A) of the Social Security Administration Act 1992 for failing to declare that his Job Seekers Allowance had ended. The claimant was overpaid £6,585.75 Housing Benefit and £436.23 Local Council Tax Support to which he was not entitled. He was found guilty and ordered to pay a £220 fine plus £300 costs and a £22 victim surcharge.	£7,021.98
50022907	This case was opened on 27 th March 2014 and closed on 1 st July 2014. The claimant was successfully prosecuted under Section 112 (1A) of the Social Security Administration Act 1992 for failing to declare an increase in her income. The claimant was overpaid £6,801.34 Housing Benefit and £1,606.10 Local Council Tax Support to which she was not entitled. She was found guilty and ordered to pay a £160 fine plus £300 costs and a £20 victim surcharge.	£8,407.44
50004671	This case was opened on 1 st May 2014 and closed on 7 th July 2014. A Local Authority caution was offered under Section 112 (1A) of the Social Security Administration Act 1992 after the claimant's failure to declare an increase in her income and that of her non dependants. The claimant was overpaid £9,221.91 Housing Benefit to which she was not entitled. She accepted the caution.	£9,221.91
C13249169	This case was opened on 25 th June 2014 and closed on 14 th August 2014. A Local Authority caution was offered under Section 112 (1A) of the	£865.45

	Social Security Administration Act 1992 after the claimant's failure to declare income for her non dependant. The claimant was overpaid £865.45 Housing Benefit to which she was not entitled. She accepted the caution.	
	Total amount of benefit fraudulently claimed and identified during the period 1st June 2014 to 31st August 2014.	£34,985.86

- 3.14 At the previous meeting of this Committee, Members requested more information about the recovery of overpayments that had occurred as a result of the application of sanctions.
- 3.15 A table of the overpayments from 1st April 2013 that have been identified at the time the sanction was applied can be found at Appendix A to this report.
- 3.16 Members will recall that fraudulent overpayments receive a 40% subsidy from the Department for Work & Pensions. Any recovery of an overpayment in excess of 60% therefore is treated as additional income for the authority.

4. Staffing

- 4.1 Members will be pleased to know that the Fraud Investigation team is now fully staffed following the appointment of a fully qualified investigator in July 2014.

5. Reasons for Recommendation

- 5.1 To provide Members with an up date of the work of the Fraud Investigation Team

6. Consultation

- 6.1 Not applicable

7. References to Corporate Plan

- 7.1 None

Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive

Tel & Email: 01277 312712 / jo-anne.ireland@brentwood.gov.uk

- 8.1 The financial implications are set out in the report.

Legal Implications

Name & Title: Chris Potter, Monitoring Officer and Head of Support Services

Tel & Email: 01277 312860 / christopher.potter@brentwood.gov.uk

- 8.2 Whether a person is prosecuted will depend upon whether or not there is sufficient evidence for a realistic prospect of conviction ('the evidential test') and if so whether or not it is in the public interest to prosecute ('the public interest test') and the report should be read accordingly.

9. **Background Papers** (include their location and identify whether any are exempt or protected by copyright)

- 9.1 Background papers are held by the Revenues & Benefits service.

10. Appendices to this report

Appendix A – Overpayments from 1st April 2013

Report Author Contact Details:

Name: Rick Steels, Revenues & Benefits Manager

Telephone: 01277 312855

E-mail: rick.steels@brentwood.gov.uk

Appendix A

Case	Date	Sanction	Overpayment	Ad pen	Total	Paid	Outstanding	% recovered
1	1st May 13	Admin Pen	£1,132.04	£443.89	£1,575.93	£849.32	£726.61	54%
2	1st Apr 13	Prosecution	£3,300.00		£3,300.00	£0.00	£3,300.00	0%
3	1st Apr 13	Prosecution	£1,661.40		£1,661.40	£1,661.40	£0.00	100%
4	25th Apr 13	Caution	£982.60		£982.60	£982.60	£0.00	100%
5	1st May 13	Caution	£1,566.67		£1,566.67	£603.39	£963.28	39%
6	14th May 13	Caution	£609.00		£609.00	£609.00	£0.00	100%
7	14th Jun 13	Caution	£2,758.70		£2,758.70	£0.00	£2,758.70	0%
8	3rd Jul 13	Caution	£2,720.45		£2,720.45	£2,720.45	£0.00	100%
9	21st Jun 13	Caution	£6,166.96		£6,166.96	£936.36	£5,230.00	15%
10	20th Jun 13	Caution	£3,190.50		£3,190.50	£1,570.50	£1,620.00	49%
11	8th Jul 13	Caution	£632.32		£632.32	£362.32	£270.00	57%
12	12th Jul 13	Caution	£1,608.48		£1,608.48	£519.53	£1,088.95	32%
13	1st Aug 13	Admin Pen	£2,354.51	£903.44	£3,257.95	£703.28	£2,554.67	22%
14	9th Sep 13	Caution	£1,269.20		£1,269.20	£0.00	£1,269.20	0%
15	9th Sep 13	Caution	£2,458.10		£2,458.10	£974.68	£1,483.42	40%
16	9th Sep 13	Caution	£3,606.28		£3,606.28	£3,606.28	£0.00	100%
17	16th Sep 13	Caution	£9,797.84		£9,797.84	£0.00	£9,797.84	0%
18	19th Sep 13	Caution	£3,538.07		£3,538.07	£539.71	£2,998.36	15%
19	4th Oct 13	Caution	£6,092.46		£6,092.46	£443.00	£5,649.46	7%
20	25th Oct 13	Caution	£1,996.45		£1,996.45	£1,792.05	£204.40	90%
21	15th Nov 13	Caution	£10,327.71		£10,327.71	£1,995.91	£8,331.80	19%
22	28th Nov 13	Caution	£2,273.89		£2,273.89	£0.00	£2,273.89	0%
23	5th Dec 13	Caution	£786.46		£786.46	£786.46	£0.00	100%
24	5th Dec 13	Caution	£1,969.24		£1,969.24	£909.30	£1,059.94	46%
25	6th Dec 13	Caution	£634.15		£634.15	£634.15	£0.00	100%
26	6th Jan 14	Caution	£3,801.10		£3,801.10	£245.80	£3,555.30	6%
27	20th Jan 14	Prosecution	£2,336.71		£2,336.71	£630.00	£1,706.71	27%
28	22nd Jan 14	Caution	£1,291.17		£1,291.17	£434.15	£857.02	34%
29	23rd Jan 14	Caution	£1,338.68		£1,338.68	£115.00	£1,223.68	9%
30	23rd Jan 14	Prosecution	£5,274.86		£5,274.86	£0.00	£5,274.86	0%
31	7th Feb 14	Caution	£715.00		£715.00	£65.00	£650.00	9%
32	19th Feb 14	Caution	£1,956.87		£1,956.87	£806.15	£1,150.72	41%
33	11th Mar 14	Caution	£2,998.17		£2,998.17	£644.31	£2,353.86	21%
34	17th Feb 14	Admin Pen	£2,077.90	£772.48	£2,850.38	£2,850.38	£0.00	100%
35	17th Feb 14	Admin Pen	£7,695.92	£2,022.09	£9,718.01	£1,952.03	£7,765.98	20%
36	28th May 14	Caution	£1,421.19		£1,421.19	£0.00	£1,421.19	0%
37	23rd Apr 14	Prosecution	£2,066.98		£2,066.98	£0.00	£2,066.98	0%
38	1st Apr 14	Admin Pen	£1,940.58	£582.17	£2,522.75	£473.42	£2,049.33	19%
39	10th Jun 14	Caution	£893.77		£893.77	£170.37	£723.40	19%
40	23rd Jun 14	Caution	£4,383.03		£4,383.03	£231.70	£4,151.33	5%
41	27th Jun 14	Caution	£3,697.49		£3,697.49	£3,697.49	£0.00	100%
42	1st Jul 14	Prosecution	£6,585.75		£6,585.75	£0.00	£6,585.75	0%
43	1st Jul 14	Prosecution	£6,801.34		£6,801.34	£0.00	£6,801.34	0%
44	7th Jul 14	Caution	£9,221.91		£9,221.91	£0.00	£9,221.91	0%
45	14th Aug 14	Caution	£865.45		£865.45	£81.55	£783.90	9%

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30th September 2014

Audit & Scrutiny Committee

REGULATION OF INVESTIGATORY POWERS ACT 2000

Report of: *Chris Potter, Monitoring Officer and Head of Support Services*

Wards Affected: *N/A*

This report is: *Public*

1. Executive Summary

- 1.1 The Office of Surveillance Commission conducts periodic inspections of local authorities' use of their powers under the Regulation of Investigatory Powers Act 2000 (**RIPA**). The purpose of these inspections – usually conducted by a High Court judge – is to examine the Council's policies, procedures, operations and administration in relation to directed surveillance and covert human intelligence sources (**CHIS**) under RIPA.
- 1.2 Prior to the current OSC inspection, which took place on 21 July 2014, the previous inspection was in 2010. This report provides an update as to: the positive outcome of the current OSC inspection; a revised RIPA policy for the Committee's consideration (which addresses the 2010 recommendations as well as the intervening changes in the law); and finally an annual report of the Council's use of RIPA over the previous 4 years.

2. Recommendation(s)

- 2.1 **That the Committee note the outcome of the 2014 OSC Inspection report;**
- 2.2 **That the Committee approves the amendments to the Corporate RIPA policy in order to address the 2010 Inspection recommendations and intervening changes in the law;**
- 2.3 **That the Committee note the statistical information relating to the use of RIPA over the preceding 4 years.**

3. Introduction and Background

- 3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) legislates for the use by local authorities of covert methods of surveillance and information gathering to assist in the detection and prevention of crime in relation to an authorities core functions.
- 3.2 The Council's use of these powers is subject to regular inspection and audit by the Office of the Surveillance Commissioner (**OSC**) in respect of covert surveillance authorisations under RIPA, and the Interception of Communications Commissioner (**IOCCO**) in respect of communications data. During these inspections, authorisations and procedures are closely examined and Authorising Officers are interviewed by the inspectors.

4. Issue, Options and Analysis of Options

Inspection Report:

- 4.1 The last OSC inspection was undertaken by His Honour Dr Colin Kolbert in November 2010 which made 3 recommendations. The current Head of Legal (former Monitoring Officer) identified a need in 2014 to update the Council's RIPA policy to address these recommendations and in the light of the changes made by new Protection of Freedoms Act 2012.
- 4.2 Attached at **Appendix A** is a copy of the current OSC Inspection undertaken by Mr Kevin Davis who visited the Council on 21 July 2014 and issued his report on 14 August 2014.
- 4.3 The inspector made several observations in relation to the Council's RIPA procedures and policies. The inspector noted that the draft RIPA policy document fully addressed and discharged the recommendations of His Honour Dr Colin Kolbert's report of 2010.
- 4.4 The inspector examined the draft RIPA policy and found it to be comprehensive and easy to understand for both applicants and authorising officers.

Training:

- 4.5 The Inspector noted that training of 18 relevant personnel had been undertaken in February 2014, that the Council is not a regular user of the powers vested under RIPA but is not afraid to use covert investigative

techniques when required and that the Central Record of Authorisations is compliant with paragraph 8.1 of the Covert Surveillance and Property Interference Code of Practice.

Amended RIPA Code:

- 4.6 The draft RIPA Code has been amended to reflect Mr Davis' suggestion on the role of the Senior Responsible Officer and is now brought to the Committee for its consideration and approval as (to quote the inspector) "a good structure to ensure RIPA compliance". A copy of the draft RIPA Policy is attached at **Appendix B**.

Statistical Information:

- 4.7 The Committee is asked to note the following statistical information relating to the use of RIPA over the intervening period between November 2010 and to August 2014.

4.8 **November 2010 – August 2014 Total No. Of RIPA authorisations 0**

4.9 **November 2010 – August 2014 Total No. Of CHIS authorisations 0**

- 4.10 Officers are encouraged to use overt surveillance wherever possible, and use RIPA as a last resort. Often necessary evidence can be obtained overtly, and if an officer makes his or her investigation visible, this alone can have the desired effect of compliance.

Transparency:

- 4.11 In, addition, in order to facilitate Freedom of Information Act 2000 requests, it is intended that a redacted version of the Central RIPA Matrix will be uploaded on to the Council's website. Although the Council will be constrained in so far as releasing all the information in relation to RIPA requests, broad details such as the number and dates of the authorisations will be able to be released in order to inform the public as to the volume and nature of RIPA activity in the borough.

5. Reasons for Recommendation

- 5.1 To comply with legislative changes and to assist with Members' oversight and decision making on draft RIPA Code.

6. Consultation

- 6.1 Consultation is with the Chair and Members of the Audit and Scrutiny Committee.

7. References to Corporate Plan

- 7.1 These actions should assist with the work towards a safer borough.

8. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive

Tel & Email 01277 312712 / jo-anne.ireland@brentwood.gov.uk

- 8.1 There are no financial implications directly related to this report

Legal Implications

Name & Title: David Lawson, Head of Legal Services

Tel & Email 01375 652087 / david.lawson@bdtlegal.org.uk

- 8.2 Legal implications comments are contained within this report above.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 8.3 Contained within the body of the report

9. Background Papers (include their location and identify whether any are exempt or protected by copyright)

- 9.1 None

10. Appendices to this report

Appendix A – OSC Inspection Report 2014

Appendix B – Draft RIPA Policy

Report Author Contact Details:

Name: David Lawson, Head of Legal Services

Telephone: 01375 652087

E-mail: david.lawson@bdtlegal.org.uk



Chief
Surveillance
Commissioner

OFFICIAL-SENSITIVE

14th August 2014

Sean M/s Ireland,

Covert Surveillance

On 21st July 2014, one of my Inspectors, Mr Kevin Davis, visited your Council on my behalf to review your management of covert activities. I am grateful to you for the facilities afforded for the inspection.

I enclose a copy of Mr Davis's report which I endorse. I am pleased to see that the recommendations made following the last inspection in 2010 have been discharged. Through the efforts of Mr David Lawson and M/s Alison Stewart you have in place a good structure to ensure RIPA compliance.

The single recommendation is that, as a matter of urgency, you ensure compliance with paragraph 3.30 of the Covert Surveillance and Property Interference Code of Practice in relation to elected members' review of the use of RIPA

I shall be glad to learn that your Council accepts the recommendation and will see that it is implemented.

One of the main functions of review is to enable public authorities to improve their understanding and conduct of covert activities. I hope your Council finds this process constructive. Please let this office know if it can help at any time.

*Yours sincerely
Christopher Rose*

M/s Jo-Anne Ireland
Head of Paid Service
Brentwood Borough Council
Town Hall
Ingrave Road
Brentwood
Essex CM15 8AY

OFFICIAL - SENSITIVE



OFFICE OF SURVEILLANCE COMMISSIONERS
INSPECTION REPORT

Brentwood Borough Council

21st July 2014

Surveillance Inspector:
Mr Kevin Davis.

OFFICIAL - SENSITIVE

OFFICIAL- SENSITIVE

DISCLAIMER

This report contains the observations and recommendations identified by an individual surveillance inspector, or team of surveillance inspectors, during an inspection of the specified public authority conducted on behalf of the Chief Surveillance Commissioner.

The inspection was limited by time and could only sample a small proportion of covert activity in order to make a subjective assessment of compliance. Failure to raise issues in this report should not automatically be construed as endorsement of the unreported practices.

The advice and guidance provided by the inspector(s) during the inspection could only reflect the inspectors' subjective opinion and does not constitute an endorsed judicial interpretation of the legislation. Fundamental changes to practices or procedures should not be implemented unless and until the recommendations in this report are endorsed by the Chief Surveillance Commissioner.

The report is sent only to the recipient of the Chief Surveillance Commissioner's letter (normally the Chief Officer of the authority inspected). Copies of the report, or extracts of it, may be distributed at the recipient's discretion but the version received under the covering letter should remain intact as the master version.

The Office of Surveillance Commissioners is not a public body listed under the Freedom of Information Act 2000, however, requests for the disclosure of the report, or any part of it, or any distribution of the report beyond the recipients own authority is permissible at the discretion of the Chief Officer of the relevant public authority without the permission of the Chief Surveillance Commissioner. Any references to the report, or extracts from it, must be placed in the correct context.

OFFICIAL – SENSITIVE

OSC INSP/075

The Rt. Hon. Sir Christopher Rose
Chief Surveillance Commissioner
PO Box 29105
London SW1V 1ZU

27 July 2014.

OSC INSPECTION REPORT- BRENTWOOD BOROUGH COUNCIL

The inspection took place on Monday 21 July 2014.

Inspector

Mr Kevin Davis.

General Description

- 1 The Borough is named after the town of Brentwood which is the main development in the area. There are still large areas of woodland including Shenfield Common, Hartswood, Weald Country Park and Thorndon Country Park. The original district council was formed in 1974 from the former area of Brentwood Urban District, part of Epping and Ongar Rural District and part of Chelmsford Rural District. By royal charter, the district became a borough on 27 April 1973.
- 2 The Council describes in its Corporate Plan the following six priority areas:
 - Street Scene and Environment
 - Localism
 - A prosperous Borough
 - Housing, Health and Wellbeing
 - A safe Borough
 - A modern Council.
- 3 The Council provides a range of services to a population of 70,000 and employs approximately 300 staff.
- 4 The Managing Director of the Council stood down from the position on 6 July 2014. The Council has appointed Ms Jo-Anne Ireland to the position of Head of Paid Service, pending the recruitment of a Chief Executive.
- 5 The address for correspondence is, Brentwood Borough Council, Town Hall, Ingrave Road, Brentwood, Essex, CM15 8AY.

Official

1

Inspection Approach

- 6 The purpose of the inspection was to examine policies, procedures, operations and administration in relation to directed surveillance and covert human intelligence sources (CHIS) under the Regulation of Investigatory Powers Act 2000 (RIPA).
- 7 During the inspection I had discussions with the following members of staff:
- Ms Alison Stewart (Acting Head of Legal)
 - Mr David Lawson (Monitoring Officer)
 - Mr Rick Steels (Revenue and Benefits Manager).

Review of Progress

- 8 HH Dr Colin Kolbert in his inspection report in November 2010 made three recommendations.
- 1) *The Council's 'Corporate Policy and Procedures on RIPA' should be amended as was discussed and outlined in paragraph 7*

Action

Paragraph 7 of Dr Kolbert's report concerned the use of CHIS. The appropriate amendments have been made and are included in the draft RIPA policy document.

Discharged

- 2) *Care must be taken to ensure that any directed surveillance undertaken is "necessary" in accordance with S.I.2003, No 3171(see paragraph 12).*

Action

This issue is explained in the draft RIPA policy document.

Discharged

- 3) *All authorisations should be rigorously reviewed to ensure that the issues outlined in paragraph 10 are demonstrated to have been fully considered and documented.*

Action

Advice and guidance to authorising officers is included in the draft RIPA policy document.

Discharged

Official

2

Policies and procedures

- 9 The Council has entered into a shared legal service arrangement with the Barking Dagenham and Thurrock (BDT) Legal Service. BDT covers the same locations in terms of courts and the arrangement brings together approximately 70 lawyers across the three councils.
- 10 Ms Alison Stewart who is a BDT employee is the Senior Responsible Officer (SRO) for the Council. Although Ms Stewart is an employee of BDT Legal Services and Thurrock Council, she is also a member of the Brentwood Council Corporate Leadership Team. The Council does not as yet comply with paragraph 3.30 of the Covert Surveillance and Property Interference Code of Practice. I raised the issue with Mr Lawson and Ms Stewart who stated that the reporting process would begin in September 2014. All relevant reports are to be submitted to the Audit and Scrutiny Committee.
- 11 The Council's existing 'Corporate Policy and Procedures' document on RIPA dates from 2010. Mr Lawson identified the need to update the document in light of the new Protection of Freedoms Act 2012. The revised document is in draft form and is due to be presented to the Council in the near future.
- 12 I examined the draft document and found it to be comprehensive and easy to understand for both applicants and authorising officers. My only observation is that in paragraph 10, the SRO is given the role as the final arbiter, and is shown to be responsible for approving an authorisation already signed by an authorising officer.
- 13 I would suggest that this is not the role of the SRO. The Code of Practice for Covert Surveillance and Property Interference paragraph 3.28 states the following.
- 'A Senior Responsible Officer should be responsible for:*
- *the integrity of the process in place within the public authority to authorise directed and intrusive surveillance and interference with property or wireless telegraphy;*
 - *compliance with Part II of the 2000 Act, Part III of the 1997 Act and with this code;*
 - *engagement with the Commissioners and inspectors when they conduct their inspections, and*
 - *where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner.'*
- 14 The draft RIPA policy document gives details of the two authorising officers within the Council excluding the Chief Executive.
- 15 The draft RIPA policy document states that before any authorised covert activity takes place, the applicant is required to inform the Divisional Intelligence Unit at Brentwood Police station. Though this is not a legislative requirement, I believe it to be sensible and could be reduce the risk of compromise and enhance the safety of the Council surveillance operatives.

Official

3

Training

- 16 Mr Lawson arranged for training to take place in February 2014. The course was delivered by an outside contractor and was attended by 18 relevant personnel. The training was well received by those who attended and Mr Lawson has created a training record of those who attended.

Significant issues

Council ethos

- 17 The Council is not a regular user of the powers vested under RIPA but is not afraid to use covert investigative techniques when required.

Central Record of Authorisations

- 18 The Central Record of Authorisations is compliant with paragraph 8.1 of the Covert Surveillance and Property Interference Code of Practice and is maintained by Mr Lawson.

Directed Surveillance

- 19 Directed surveillance has not been authorised since the last inspection in 2010.

CHIS

- 20 There have been no authorisations for CHIS since the last inspection. This is an area of covert activity that the Council is not keen to embark upon because they do not have experience in this area of covert investigation.
- 21 The draft RIPA policy document sets out clear guidance for both applicants and authorising officers. In discussions with Mr Lawson and Ms Stewart it was evident that they would be reluctant to sanction the use of CHIS, but acknowledged that should the situation arise they would have a responsibility to act. In the first instance they would seek advice from the Brentwood Council 'Community Safety Team' that works closely with Essex police.

Social media

- 22 I interviewed Mr Rick Steels the Revenue and Benefits Manager concerning the use of social media as an investigative tool. He was of the opinion that some members of staff did access social media such as 'Facebook' but only viewed 'open source material'. Mr Steels was unaware of OSC guidance note 308. The Council may wish to circulate to relevant personnel the information contained in the OSC guidance document.

Observations

- 23 Brentwood Borough Council, through the efforts of Mr Lawson and his colleague Ms Stewart from BDT Legal Services, has put a good structure in place to ensure RIPA compliance.
- 24 Finally, I would like to thank all of those who participated so positively in the inspection process, and in particular Mr David Lawson for making all the necessary arrangements.

Recommendation

- 25 That the Council as a matter of urgency ensures compliance with paragraph 3.30 of the Covert Surveillance and Property Interference Code of Practice, which relates to the requirement of elected members of the Council to review the authority's use of the 2000 Act.

Kevin Davis

Surveillance Inspector.

**REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) CORPORATE
POLICY**

**USE OF DIRECTED SURVEILLANCE COVERT HUMAN INTELLIGENCE
SOURCES AND COMMUNICATIONS DATA ACQUISITION FOR THE
PREVENTION AND DETECTION OF CRIME OR THE PREVENTION OF
DISORDER**

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1. A BRIEF OVERVIEW OF RIPA

(For text in **bold**, see glossary of terms – Appendix 1)

The Regulation of Investigatory Powers Act (the Act) was introduced by Parliament in 2000. The Act sets out the reasons for which the use of **directed surveillance** (DS) and **covert human intelligence source** (CHIS) may be authorized.

Local Authorities' abilities to use these investigation methods are restricted in nature and may only be used for the prevention and detection of crime or the prevention of disorder. Local Authorities are not able to use **intrusive surveillance**.

Widespread, and often misinformed, reporting led to public criticism of the use of surveillance by some Local Authority enforcement officers and investigators. Concerns were also raised about the trivial nature of some of the 'crimes' being investigated. This led to a review of the legislation and ultimately the introduction of the Protection of Freedoms Act 2012 and the RIP (Directed Surveillance and CHIS)(Amendment) Order 2012 (Appendix 2).

In addition to defining the circumstances when these investigation methods may be used, the Act also directs how applications will be made and how, and by whom, they may be approved, reviewed, renewed, cancelled and retained.

The Act must be considered in tandem with associated legislation including the Human Rights Act (HRA) (Appendix 3), and the Data Protection Act (DPA) (Appendix 4).

The purpose of Part II of the Act is to protect the privacy rights of anyone in a Council's area, but only to the extent that those rights are protected by the HRA. A public authority, such as the Council, has the ability to infringe those rights provided that it does so in accordance with the rules, which are contained within Part II of the Act. Should the public authority not follow the rules, the authority loses the impunity otherwise available to it. This impunity may be a defence to a claim for damages or a complaint to supervisory bodies, or as an answer to a challenge to the admissibility of evidence in a trial.

Further, a Local Authority may only engage the Act when performing its 'core functions'. For example, a Local Authority may rely on the Act when conducting a criminal investigation as this would be considered a 'core function', whereas the disciplining of an employee would be considered a 'non-core' or 'ordinary' function.

Examples of when local authorities may use RIPA and CHIS are as follows:

- Trading standards (Note: this function is undertaken by Essex County Council) – action against loan sharks, rogue traders, consumer scams,

- deceptive advertising, counterfeit goods, unsafe toys and electrical goods;
- Enforcement of anti-social behaviour orders and legislation relating to unlawful child labour;
- Housing/planning – interventions to stop and make remedial action against unregulated and unsafe buildings, breaches of preservation orders, cases of landlord harassment;
- Benefits fraud – investigating ‘living together’ and ‘working whilst in receipt of benefit’ allegations and council tax evasion; and
- Environment protection – action to stop large-scale waste dumping, the sale of unfit food and illegal ‘raves’.

The examples do not replace the key principles of necessity and proportionality or the advice and guidance available from the relevant oversight Commissioners.

The RIPA (Communications Data) order came into force in 2004. It allows Local Authorities to acquire communications data, namely service data and subscriber details for limited purposes. This order was updated by the Regulation of Investigatory Powers (Communications Data) Order 2010.

2. Directed Surveillance

This policy relates to all staff directly employed by Brentwood Council when conducting relevant investigations for the purposes of preventing and detecting crime or preventing disorder, and to all contractors and external agencies that may be used for this purpose as well as to those members of staff tasked with the authorisation and monitoring of the use of directed surveillance, CHIS and the acquisition of communications data.

The policy will be reviewed annually and whenever changes are made to relevant legislation and codes of practice.

‘It is essential that the Managing Director , or Head of Paid Service, together with the Directors and the Heads of Units should have an awareness of the basic requirements of RIPA and also an understanding of how it might apply to the work of individual council departments. Without this knowledge at senior level, it is unlikely that any authority will be able to develop satisfactory systems to deal with the legislation. Those who need to use or conduct directed surveillance or CHIS on a regular basis will require more detailed specialised training’ (Office of Surveillance Commissioners).

The use of directed surveillance or a CHIS must be necessary and proportionate to the alleged crime or disorder. Usually, it will be considered to be a tool of last resort, to be used only when all other less intrusive means have been used or considered.

Necessary

A person granting an authorisation for directed surveillance must consider *why* it is necessary to use covert surveillance in the investigation *and* believe that the activities to be authorised are necessary on one or more statutory grounds.

If the activities are deemed necessary, the authoriser must also believe that they are proportionate to what is being sought to be achieved by carrying them out. This involves balancing the seriousness of the intrusion into the privacy of the subject of the operation (or any other person who may be affected) against the need for the activity in investigative and operational terms.

Proportionate

The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.

The following elements of proportionality should therefore be considered:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

The Council will conduct its directed surveillance operations in strict compliance with the DPA principles and limit them to the exceptions permitted by the HRA and RIPA, and solely for the purposes of preventing and detecting crime or preventing disorder.

The **Senior Responsible Officer** (SRO) (as named in Appendix 5) will be able to give advice and guidance on this legislation. The SRO will appoint a **RIPA Coordinating Officer** (RCO) (as named in Appendix 5) The RCO will be responsible for the maintenance of a **central register** that will be available for inspection by the Office of the Surveillance Commissioners (OSC). The format of the central register is set out in Appendix 7.

The use of hand-held cameras and binoculars can greatly assist a directed surveillance operation in public places. However, if they afford the investigator a view into private premises that would not be possible with the naked eye, the surveillance becomes intrusive and is not permitted. Best practice for compliance with evidential rules relating to photographs and video/CCTV footage is contained in Appendix 9. Directed surveillance may be conducted from private premises. If they are used, the applicant must obtain the owner's permission, in writing, before authorisation is given. If a prosecution then ensues, the applicant's line manager must visit the owner to discuss the implications and obtain written authority for the evidence to be used. (See *R v Johnson (Kenneth)* 1988 1 WLR 1377 CA. Appendix 29)

The general usage of the council's CCTV system is not affected by this policy. However, if cameras are specifically targeted for the purpose of directed surveillance, a RIPA authorisation must be obtained.

Wherever knowledge of **confidential information** is likely to be acquired or if a vulnerable person or juvenile is to be used as a CHIS, the authorisation must be made by the Managing Director, who is the Head of Paid Service (or in his absence whoever deputises for him).

Directed surveillance that is carried out in relation to a **legal consultation** on certain premises will be treated as intrusive surveillance, regardless of whether legal privilege applies or not. These premises include prisons, police stations, courts, tribunals and the premises of a professional legal advisor. Local Authorities are not able to use intrusive surveillance. Operations will only be authorised when there is sufficient, documented, evidence that the alleged crime or disorder exists and when directed surveillance is considered to be a necessary and proportionate step to take in order to secure further evidence.

Low level surveillance, such as 'drive-bys' or everyday activity observed by officers in the course of their normal duties in public places, does not need RIPA authority. If surveillance activity is conducted in immediate response to an unforeseen activity, RIPA authorisation is not required. However, if repeated visits are made for a specific purpose, authorisation may be required. In cases of doubt, legal advice should be taken.

When vehicles are being used for directed surveillance purposes, drivers must at all times comply with relevant traffic legislation.

Crime Threshold

An additional barrier to authorising directed surveillance is set out in the Regulation of Investigatory Powers (Directed Surveillance and CHIS) (Amendment) Order 2012. This provides a 'Crime Threshold' whereby only crimes which are either punishable by a maximum term of at least 6 months' imprisonment (whether on summary conviction

or indictment) or are related to the underage sale of alcohol or tobacco can be investigated through Directed Surveillance.

The crime threshold applies only to the authorisation of directed surveillance by local authorities under RIPA, not to the authorisation of local authority use of CHIS or their acquisition of CD. The threshold came into effect on 1 November 2012.

Brentwood **cannot** authorise directed surveillance for the purpose of preventing disorder unless this involves a criminal offence(s) punishable (whether on summary conviction or indictment) by a maximum term of at least 6 months' imprisonment.

Brentwood may therefore continue to authorise use of directed surveillance in more serious cases as long as the other tests are met – i.e. that it is necessary and proportionate and where prior approval from a Magistrate has been granted. Examples of cases where the offence being investigated attracts a maximum custodial sentence of six months or more could include more serious criminal damage, dangerous waste dumping and serious or serial benefit fraud.

Brentwood may also continue to authorise the use of directed surveillance for the purpose of preventing or detecting specified criminal offences relating to the underage sale of alcohol and tobacco where the necessity and proportionality test is met and prior approval from a JP has been granted.

A local authority such as Brentwood **may not authorise** the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences

3. CHIS

A person who reports suspicion of an offence is not a CHIS, nor do they become a CHIS if they are asked if they can provide additional information, e.g. details of the suspect's vehicle or the time that they leave for work. It is only if they establish or maintain a personal relationship with another person for the purpose of covertly obtaining or disclosing information that they become a CHIS.

If it is deemed unnecessary to obtain RIPA authorisation in relation to the proposed use of a CHIS for test purchasing, the applicant should complete the form provided at Appendix 11e and submit to the Head of Public Protection for authorisation. Once authorised, any such forms must be kept on the relevant Trading Standards or Licensing file. (Note: the Trading Standards function is undertaken by Essex County Council)

The times when a local authority will use a CHIS are limited. The most common usage is for test-purchasing under the supervision of trading standards or licensing officers.

For some test purchases it will be necessary to use a CHIS who is, or appears to be, under the age of 16 (a juvenile). Written parental consent for the use of a juvenile CHIS must be obtained prior to authorisation, and the duration of such an authorisation is 1 month instead of the usual 12 months. The Authorising Officer must

be the Managing Director or Deputy. NOTE: A juvenile CHIS may not be used to obtain information about their parent or guardian.

Officers considering the use of a CHIS under the age of 18, and those authorising such activity must be aware of the additional safeguards identified in The Regulation of Investigatory Powers (Juveniles) Order 2000 and its Code of Practice.

A vulnerable individual should only be authorised to act as a CHIS in the most exceptional circumstances. A vulnerable individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness, and who is or may not be able to take care of himself. The Authorising Officer in such cases must be the Managing Director, who is the Head of Paid Service, or in his absence whoever deputises for him.

Any deployment of a CHIS should take into account the safety and welfare of that CHIS. Before authorising the use or conduct of a CHIS, the authorising officer should ensure that an appropriate bespoke risk assessment is carried out to determine the risk to the CHIS of any assignment and the likely consequences should the role of the CHIS become known. This risk assessment must be specific to the case in question. The ongoing security and welfare of the CHIS, after the cancellation of the authorisation, should also be considered at the outset.

A CHIS handler is responsible for bringing to the attention of a CHIS controller any concerns about the personal circumstances of the CHIS, insofar as they might affect the validity of the risk assessment, the conduct of the CHIS, and the safety and welfare of the CHIS.

The process for applications and authorisations has similarities to those for directed surveillance (see Appendices 11a-11d), but there are also significant differences, namely that the following arrangements must be in place at all times in relation to the use of a CHIS:

1. There will be an appropriate officer of the Council who has day-to-day responsibility for dealing with the CHIS, and for the security and welfare of the CHIS; and
2. There will be a second appropriate officer of the use made of the CHIS, and who will have responsibility for maintaining a record of this use. These records must also include information prescribed by the Regulation of Investigatory Powers (Source Records) Regulations 2000. Any records that disclose the identity of the CHIS must not be available to anyone who does not have a need to access these records.

An Authorising Officer's Aide-Memoire is provided at Appendix 13 to assist Authorising Officers when considering applications for directed surveillance.

4. The Authorisation Process

The processes for applications and authorisations for CHIS are similar as for directed surveillance, but note the differences set out in the CHIS section above. Directed Surveillance applications are made using forms in Appendix 6 and CHIS applications are made using forms at Appendices 11a-11d.

The authorisation process involves the following steps:

Investigation Officer

1. The Investigation Officer prepares an application. When completing the forms, Investigation Officers must fully set out details of the covert activity for which authorisation is sought to enable the Authorising Officer to make an informed judgment.
2. The Investigation Officer will obtain a unique reference number (URN) from the central register before submitting an application.
3. A risk assessment will be conducted by the Investigation Officer within 7 days of the proposed start date. This assessment will include the number of officers required for the operation; whether the area involved is suitable for directed surveillance; what equipment might be necessary, health and safety concerns and insurance issues. Particular care must be taken when considering surveillance activity close to schools or in other sensitive areas. If it is necessary to conduct surveillance around school premises, the applicant should inform the head teacher of the nature and duration of the proposed activity, in advance.
4. The Investigation Officer will submit the application form to an authorising officer for approval (see Appendix 5).
5. All applications to conduct directed surveillance (other than under urgency provisions – see below) must be made in writing in the approved format.

Authorising Officer (AO)

6. The AO considers the application and if it is considered complete the application is signed off and forwarded to the SRO for review and counter approval.
7. An Authorising Officer's Aide-Memoire is provided at Appendix 13 to assist Authorising Officers when considering applications for directed surveillance.
8. If there are any deficiencies in the application further information may be sought from the Investigation Officer, prior to sign off.

9. Once final approval has been received from the SRO (see below), the AO and the Investigation Officer will retain copies and will create an appropriate diary method to ensure that any additional documents are submitted in good time.

Senior Responsible Officer (SRO)

10. The SRO then reviews the AO's approval and countersigns it.
11. If the application requires amendment the SRO will return this to the AO for the necessary revisions to be made prior to sign off. Once the SRO is satisfied that concludes the internal authorisation procedure and he or she will countersign the application.

Application to Magistrates Court

12. The countersigned application form will form the basis of the application to the Magistrates Court (see further below)

Authorised Activity

13. Authorisation takes effect from the date and time of the approval from the Magistrates Court.
14. Where possible, private vehicles used for directed surveillance purposes should have keeper details blocked by the DVLA.
15. Notification of the operation will be made to the relevant police force intelligence units where the target of the operation is located in their force area. Contact details for each force intelligence unit is held by the Fraud Investigation Manager - Fraud Investigation Department.
16. Before directed surveillance activity commences, the Investigation Officer will brief all those taking part in the operation. The briefing will include details of the roles to be played by each officer, a summary of the alleged offence(s), the name and/or description of the subject of the directed surveillance (if known), a communications check, a plan for discontinuing the operation and an emergency rendezvous point. A copy of the briefing report (Appendix 8) will be retained by the Investigation Officer.
17. Where 3 or more officers are involved in an operation, officers conducting directed surveillance will complete a daily log of activity as at Appendix 10. Evidential notes will also be made in the pocket notebook of all officers engaged in the operation regardless of the number of officers on an operation. These documents will be kept in accordance with the appropriate retention guidelines.
18. Where a contractor or external agency is employed to undertake any investigation on behalf of the Council, the Investigation Officer will ensure that any third party is adequately informed of the extent of the authorisation and how they should exercise their duties under that authorisation.

Conclusion of Activities

19. As soon as the authorised activity has concluded the Investigation Officer will complete a Cancellation Form (Appendices 6d or 11d).
20. The original document of the complete application will be retained with the central register.

5. SRO Review and Sign Off

The SRO will review the AO approval prior to it being submitted for Magistrates/JP authorisation.

If in the SRO's opinion there are inconsistencies, errors or deficiencies, in the application such that the AO's approval requires amendments or augmentation, the SRO will return the application form to the AO with recommendation for alternative wording or further information and the AO will incorporate the same.

The form will then be returned to the SRO for countersigning.

Once the SRO has countersigned the form this will form the basis of the application to the Magistrates Court for authorisation.

6. Magistrate Authorisation

From 1 November 2012, sections 37 and 38 of the Protection of Freedoms Act 2012 are in force. This will mean that a local authority who wishes to authorise the use of directed surveillance, acquisition of CD and use of a CHIS under RIPA will need to obtain an order approving the grant or renewal of an authorisation or notice from a JP (a District Judge or lay magistrate) before it can take effect. If the JP is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate he/she will issue an order approving the grant or renewal for the use of the technique as described in the application.

The new judicial approval mechanism is in addition to the existing authorisation process under the relevant parts of RIPA as outlined above and in this section. The current process of assessing necessity and proportionality, completing the RIPA authorisation/application form and seeking approval from an authorising officer/designated person will therefore remain the same.

The appropriate officer from Brentwood will provide the JP with a copy of the original RIPA authorisation or notice and the supporting documents setting out the case. This forms the basis of the application to the JP and should contain all information that is relied upon. For communications data requests the RIPA authorisation or notice may seek to acquire consequential acquisition of specific subscriber information. The

necessity and proportionality of acquiring consequential acquisition will be assessed by the JP as part of his consideration.

The original RIPA authorisation or notice should be shown to the JP but also be retained by Brentwood Council so that it is available for inspection by the Commissioners' offices and in the event of any legal challenge or investigations by the Investigatory Powers Tribunal (IPT). The court may also wish to take a copy.

Importantly, the appropriate officer will also need to provide the JP with a partially completed judicial application/order form.

Although the officer is required to provide a brief summary of the circumstances of the case on the judicial application form, this is supplementary to and does not replace the need to supply the original RIPA authorisation as well.

The order section of the form will be completed by the JP and will be the official record of the JP's decision. The officer from Brentwood will need to obtain judicial approval for all initial RIPA authorisations/applications and renewals and will need to retain a copy of the judicial application/order form after it has been signed by the JP. There is no requirement for the JP to consider either cancellations or internal reviews.

The authorisation will take effect from the date and time of the JP granting approval and Brentwood may proceed to use the techniques approved in that case.

It will be important for each officer seeking authorisation to establish contact with HMCTS administration at the magistrates' court. HMCTS administration will be the first point of contact for the officer when seeking a JP approval. Brentwood will need to inform HMCTS administration as soon as possible to request a hearing for this stage of the authorisation.

On the rare occasions where out of hours access to a JP is required then it will be for the officer to make local arrangements with the relevant HMCTS legal staff. In these cases we will need to provide two partially completed judicial application/order forms so that one can be retained by the JP. They should provide the court with a copy of the signed judicial application/order form the next working day.

In most emergency situations where the police have power to act, then they are able to authorise activity under RIPA without prior JP approval. No RIPA authority is required in immediate response to events or situations where it is not reasonably practicable to obtain it (for instance when criminal activity is observed during routine duties and officers conceal themselves to observe what is happening).

Where renewals are timetabled to fall outside of court hours, for example during a holiday period, it is the local authority's responsibility to ensure that the renewal is completed ahead of the deadline. Out of hours procedures are for emergencies and should not be used because a renewal has not been processed in time.

The hearing is a 'legal proceeding' and therefore our officers need to be formally designated to appear, be sworn in and present evidence or provide information as required by the JP.

The hearing will be in private and heard by a single JP who will read and consider the RIPA authorisation or notice and the judicial application/order form. He/she may have questions to clarify points or require additional reassurance on particular matters.

The attending officer will need to be able to answer the JP's questions on the policy and practice of conducting covert operations and the detail of the case itself. Brentwood's officers may consider it appropriate for the SPoC (single point of contact) to attend for applications for CD RIPA authorisations. This does not, however, remove or reduce in any way the duty of the authorising officer to determine whether the tests of necessity and proportionality have been met. Similarly, it does not remove or reduce the need for the forms and supporting papers that the authorising officer has considered and which are provided to the JP to make the case (see paragraphs 47-48).

It is not Brentwood's policy that legally trained personnel are required to make the case to the JP.

The forms and supporting papers must by themselves make the case. It is not sufficient for the local authority to provide oral evidence where this is not reflected or supported in the papers provided. The JP may note on the form any additional information he or she has received during the course of the hearing but information fundamental to the case should not be submitted in this manner.

If more information is required to determine whether the authorisation or notice has met the tests then the JP will refuse the authorisation. If an application is refused the local authority should consider whether they can reapply, for example, if there was information to support the application which was available to the local authority, but not included in the papers provided at the hearing.

The JP will record his/her decision on the order section of the judicial application/order form. HMCTS administration will retain a copy of the local authority RIPA authorisation or notice and the judicial application/order form. This information will be retained securely. Magistrates' courts are not public authorities for the purposes of the Freedom of Information Act 2000.

Brentwood will need to provide a copy of the order to the communications the SPoC (Single Point of Contact) for all CD requests. SPoCs must not acquire the CD requested, either via the CSP or automated systems until the JP has signed the order approving the grant.

7. Authorisation periods

The authorisation will take effect from the date and time of the JP granting approval and Brentwood may proceed to use the techniques approved in that case.

A written authorisation (unless renewed or cancelled) will cease to have effect after 3 months. Urgent oral or written authorisations, unless renewed, cease to have effect after 72 hours, beginning with the time when the authorisation was granted.

Renewals should not normally be granted more than seven days before the original expiry date. If the circumstances described in the application alter, the applicant must submit a review document before activity continues.

As soon as the operation has obtained the information needed to prove, or disprove, the allegation, the applicant must submit a cancellation document and the authorised activity must cease.

CHIS authorisations will (unless renewed or cancelled) cease to have effect 12 months from the day on which authorisation took effect, except in the case of juvenile CHIS which will cease to have effect after 1 month. Urgent oral authorisations or authorisations will unless renewed, cease to have effect after 72 hours.

8. Urgency

The law has been changed so that urgent cases can no longer be authorised orally. Approval for directed surveillance in an emergency must now be obtained in written form. Oral approvals are no longer permitted. In cases where emergency approval is required an AO must be visited by the applicant with two completed RIPA application forms. The AO will then assess the proportionality, necessity and legality of the application. If the application is approved then the applicant must then contact the out-of-hours HMCTS representative to seek approval from a Magistrate. The applicant must then take two signed RIPA application forms and the judicial approval form to the Magistrate for the hearing to take place.

As with a standard application the test of necessity, proportionality and the crime threshold must be satisfied. A case is not normally to be regarded as urgent unless the delay would, in the judgment of the person giving the authorisation, be likely to endanger life or jeopardise the investigation or operation. Examples of situations where emergency authorisation may be sought would be where there is intelligence to suggest that there is a substantial risk that evidence may be lost, a person suspected of a crime is likely to abscond, further offences are likely to take place and/or assets are being dissipated in a criminal investigation and money laundering offences may be occurring. An authorisation is not considered urgent if the need for authorisation has been neglected or the urgency is due to the authorising officer or applicant's own doing.

9. Telecommunications Data - NAFN

The RIPA (Communications Data) Order 2003 came into law in January 2004. It allows Local Authorities to acquire limited information in respect of subscriber details and service data. It does NOT allow Local Authorities to intercept record or otherwise monitor communications data.

Applications to use this legislation must be submitted to a Home Office accredited Single Point of Contact (SPOC). The Council uses the services of NAFN (the National Anti-fraud Network) for this purpose.

Officers may make the application by accessing the NAFN website. The application will first be vetted by NAFN for consistency, before being forwarded by NAFN to the Council's Designated Persons for the purposes of approving the online application. The Council will ensure that Designated Persons receive appropriate training when becoming a Designated Person.

The Council's Designated Persons are presently the relevant Heads of Service, CEO and the Council's Monitoring Officer. NAFN will inform the Designated Persons jointly once the application is ready to be reviewed by the Designated Persons.

The relevant Designated Persons responsible for the area to which the application relates, will then access the restricted area of the NAFN website using a special code, in order to review and approve the application. When approving the application, the Designated Person must be satisfied that the acquiring of the information is necessary and proportionate. Approvals are documented by the Designated Person completing the online document and resubmitting it by following the steps outlined on the site by NAFN. This online documentation is retained by NAFN who are inspected and audited by the OSC.

When submitting an online application, the officer must also inform the relevant Designated Person, in order that they are aware that the NAFN application is pending.

10. Handling of material and use of material as evidence

Material obtained from properly authorised directed surveillance or a source may be used in other investigations. Arrangements shall be in place for the handling, storage and destruction of material obtained through the use of directed surveillance, a source or the obtaining or disclosure of communications data. Authorising Officers must ensure compliance with the appropriate data protection requirements and any relevant Corporate Procedures relating to the handling and storage of material.

Where the product of surveillance could be relevant to pending or future proceedings, it should be retained in accordance with established disclosure requirements for a suitable period and subject to review.

11. Training

Officers conducting directed surveillance operations, using a CHIS or acquiring communications data must have an appropriate accreditation or be otherwise suitably qualified or trained.

Authorising Officers (Appendix 5) will be appointed by the Managing Director and will have received training that has been approved by the Senior Responsible Officer. The Senior Responsible Officer will have appointed the RIPA Coordinating Officer who will be responsible for arranging suitable training for those conducting surveillance activity or using a CHIS.

All training will take place at reasonable intervals to be determined by the SRO or RSO, but it is envisaged that an update will usually be necessary following legislative or good practice developments or otherwise every 12 months.

12. Surveillance Equipment

All mobile surveillance equipment is kept in a secure area on the second floor of the Civic Offices. Access to the area is controlled by the Community Protection Team, who maintains a spreadsheet log of all equipment taken from and returned to the area.

13. RIPA Record Audits

To ensure directed surveillance authorisations are being conducted in accordance with Council policy, a system of internal quality assurance has been put in place. At quarterly periods throughout the year, Directors acting in their capacity of authorising officers will in turn conduct an audit of the RIPA records pertaining to the previous 3 months. The audit must be recorded on the audit record form to be found at Appendix 14, and a copy submitted to the Senior Responsible Officer to be held centrally on file. The Senior Responsible Officer will inform the Managing Director of the outcome of such audits.

14. The Inspection Process

The OSC will make periodic inspections during which the inspector will wish to interview a sample of key personnel; examine RIPA and CHIS applications and authorisations; the central register and policy documents. The inspector will also make an evaluation of processes and procedures.

15. Resources

Full Codes of Practice can be found on the Home Office website:

<http://www.homeoffice.gov.uk/>

Covert Surveillance & Property Interference:

<https://www.gov.uk/government/publications/code-of-practice-for-covert-surveillance-and-property-interference>

CHIS: <https://www.gov.uk/government/publications/code-of-practice-for-the-use-of-human-intelligence-sources>

Acquisition and Disclosure of Communications Data:

<https://www.gov.uk/government/publications/code-of-practice-for-the-acquisition-and-disclosure-of-communications-data>

Further information can also be found on The Office of Surveillance Commissioners website.

<http://www.surveillancecommissioners.gov.uk/index.html>

GLOSSARY OF TERMS
(For full definitions, refer to the Act)

Collateral intrusion

The likelihood of obtaining private information about someone who is not the subject of the directed surveillance operation.

Confidential information

This covers confidential journalistic material, matters subject to legal privilege, and information relating to a person (living or dead) relating to their physical or mental health; spiritual counselling or which has been acquired or created in the course of a trade/profession/occupation or for the purposes of any paid/unpaid office.

Covert relationship

A relationship in which one side is unaware of the purpose for which the relationship is being conducted by the other.

Directed Surveillance

Surveillance carried out in relation to a specific operation which is likely to result in obtaining private information about a person in a way that they are unaware that it is happening. It excludes surveillance of anything taking part in residential premises or in any private vehicle.

Intrusive Surveillance

Surveillance which takes place on any residential premises or in any private vehicle. A Local Authority cannot use intrusive surveillance.

Legal Consultation

A consultation between a professional legal adviser and his client or any person representing his client, or a consultation between a professional legal adviser or his client or representative and a medical practitioner made in relation to current or future legal proceedings.

Residential premises

Any premises occupied by any person as residential or living accommodation, excluding common areas to such premises, e.g. stairwells and communal entrance halls.

Senior Responsible Officer (SRO)

The SRO is responsible for the integrity of the processes in order for the Council to ensure compliance when using Directed Surveillance or CHIS.

Service data

Data held by a communications service provider relating to a customer's use of their service, including dates of provision of service; records of activity such as calls made, recorded delivery records and top-ups for pre-paid mobile phones.

Surveillance device

Anything designed or adapted for surveillance purposes.

Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010

The Order consolidates four previous Orders relating to directed surveillance and the use or conduct of covert human intelligence sources by public authorities under Part II of the Regulation of Investigatory Powers Act 2000 (RIPA) and to reflect the outcome of a public consultation which took place between April and July 2009.

It identifies the 'relevant public authorities' authorised to conduct RIPA and CHIS activities. This list includes local authorities in England and Wales. It also gives examples of such activity, as shown on page 3 of this document.

The Human Rights Act 1998

Articles 6 and 8 of the Human Rights Act are relevant to RIPA.

If it is proposed that directed surveillance evidence is to be used in a prosecution, or other form of sanction, the subject of the surveillance should be informed during an interview under caution

The Data Protection Act 1998 (DPA)

The eight principles of the Act relating to the acquisition of personal data need to be observed when using RIPA. To ensure compliance, the information must:

- Be fairly and lawfully obtained and processed
- Be processed for specified purposes only
- Be adequate, relevant and not excessive
- Be accurate
- Not be kept for longer than is necessary
- Be processed in accordance with an individuals rights
- Be secure
- Not be transferred to non EEA countries without adequate protection.

List of Authorising Officers

6.1 The following post holders may authorise RIPA applications where there is a likelihood of obtaining Confidential Information: Managing Director or deputy.

6.2 The following post holders may authorise the use of a vulnerable person or a juvenile to be used as a Covert Human Intelligence Source: Managing Director, as Head of Paid Service or his or her deputy.

6.3 The following post holders may authorise applications, reviews, renewals and cancellations of Directed Covert Surveillance of Covert Human Intelligence Sources: Managing Director s and Directors, or in their absence, the Head of Legal and Democratic Services.

Principal RIPA Officers

Alison Stuart Head of Legal Services	Senior Responsible Officer (SRO)	
Laurie Gibbins, Legal Officer & Land Charges Manager	RIPA Co-ordinating Officer	

Authorising Officers

Jo-Anne Ireland, Acting Chief Executive & s151 Officer	Authorising Officer	
Chris Potter, Monitoring Officer and Head of Support Services	Authorising Officer	
Ashley Culverwell, Head of Borough Health, Safety & Localism	Authorising Officer	

30 September 2014

Audit and Scrutiny Committee

Scrutiny Work Programme 2014/15

Report of: *Ben Bix, Corporate and Democratic Services Manager*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 The work of the Audit and Scrutiny Committee will be delivered both by Members working in groups and through formal Committee reports. The Audit and Scrutiny Committee will make recommendations to decision making committees and Council as necessary. The Audit and Scrutiny Committee is invited to consider its 2014/15 scrutiny work programme.

2. Recommendation(s) That:

- 2.1 The Audit and Scrutiny Committee agree its scrutiny work programme 2014/15;**
- 2.2 An additional meeting of the Audit and Scrutiny Committee be scheduled for 28 October 2014.**

3. Introduction and Background

- 3.1 At the beginning of the municipal year, the Audit and Scrutiny Committee agreed its work programme.
- 3.2 Committee members are invited by the Chair and Vice-Chair to consider progress of the work programme.
- 3.3 The Audit and Scrutiny Committee will have particular regard to the Budget, Corporate Plan, Forward Plan, Council policy and significant national issues. The Committee will also seek to include the scrutiny of external facing matters that are of significant interest to local communities.

- 3.4 The work programme of the Audit and Scrutiny Committee should not include management or staffing issues which are the responsibility of the Head of Paid Service.
- 3.5 The committee noted at its meeting of 1 July 2014 that the Town Hall Delivery Group, the Local Development Plan Working Group and the Constitution Working Group were **not** scrutiny task and finish groups. The William Hunter Way Delivery Group is not a scrutiny task and finish group.¹

4. Issue, Options and Analysis of Options

4.1 The Scrutiny function works best when the committee undertakes its work both in member groups and by receiving formal committee reports. The benefits of a Task and Finish approach were outlined at the 1 July 2014 meeting of the Committee.

4.2 It was proposed and agreed at the Audit & Scrutiny Committee on 1 July 2014 that the scrutiny work programme 2014/15 include the following:

- William Hunter Way Lessons Learned
- Crossrail
- Member/Officer Communications/ Members Casework
- Local Council Tax Support Scheme
- IT Resilience and Business Continuity
- Budget Scrutiny
- Community Safety Partnership Annual Review

4.3 Post the Audit & Scrutiny Committee 1 July 2014, the work programme was updated under Overview and Scrutiny procedure rule 5.4 to include:

- Hutton Community Centre Scrutiny Review

5. Reasons for Recommendation

5.1 To enact the provisions of Part 4.4 of the Constitution that the Audit and Scrutiny Committee agrees its scrutiny work programme at each meeting of the Committee.

¹ The William Hunter Way delivery group, 7 April 2014 Extraordinary Council Agenda Item 11, 2.8 Governance

6. Consultation

- 6.1 The Chair and Vice-Chair of the Audit and Scrutiny Committee were consulted about the work programme of the Committee.
- 6.2 The Chair has opened a regular dialogue with the Shadow Chair.
- 6.3 This report seeks to consult with the Audit and Scrutiny Committee on its work programme.

7. References to Corporate Plan

- 7.1 The priority area *A Modern Council* includes an action to improve the Council's governance arrangements, leading to faster, more effective decision-making. An effective scrutiny function is an essential element of that priority.

8. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive / S151 Officer
Tel & Email: 01277 312712 / jo-anne.ireland@brentwood.gov.uk

- 8.1 There are no direct financial implications arising from this report

Legal Implications

Name & Title: Chris Potter, Monitoring Officer and Head of Support Services
Tel & Email: 01277 312860 / christopher.potter@brentwood.gov.uk

- 8.2 There are no legal implications at present.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 8.3 Risk Management: The committee need to allow enough time and resource to complete their work programme and be mindful of potential duplication of matters elsewhere within the governance structure.

9. Background Papers (include their location and identify whether any are exempt or protected by copyright)

- 9.1 All scrutiny work programmes for previous years are available at www.brentwood.gov.uk

10. Appendices to this report

Appendix A – Scrutiny Work Programme 2014/15

Report Author Contact Details:

Name: Ben Bix, Corporate and Democratic Services Manager
Telephone: 01277 312550
E-mail: ben.bix@brentwood.gov.uk

Draft Scrutiny Work Programme 2014-15

Work programme agreed at Audit & Scrutiny Committee, 1 July 2014

Topic	Committee Date	Lead Member (s)	Commentary (01/07/14)	Status and Commentary (30/09/14)
Annual Work Programme	1 July 2014	Councillors Clark and Barrett	The Chair and Vice-Chair consult the Committee on the scrutiny work programme 2014/15 at each Committee meeting.	
William Hunter Way Lessons Learned Group	1 July 2014	Councillor Clark	It has been agreed that a group should be formed to consider the lessons learned from the William Hunter Way project.	Scoping: The William Hunter Way Lessons Learned Group has been assembled, and is in the process of scoping its work using a project management methodology. The members of the group are Cllrs Clark, Kerlake and Mynott.
Crossrail Task and Finish Group	1 July 2014	Councillor Clark	To provide a reporting line for the Crossrail project.	Re-considering: There is an existing Crossrail Working Group which Councillor Clark has attended. A scrutiny group may duplicate the existing work.
Member/Officer Communications/ Members Casework Task and Finish Group	1 July 2014	Councillors Morrissey and Mynott	That Member/Officer communications and casework management be reviewed.	Evidence gathering: The group has met three times since 1 July and have reviewed the Member casework system. The remainder of the scope for the group will be completed by the November 2014 meeting of the Audit and Scrutiny Committee. The members of the group are Councillors Morrissey, Mynott and Reed.

Topic	Committee Date	Lead Member (s)	Commentary (01/07/14)	Status and Commentary (30/09/14)
Section 106 Agreements	1 July 2014	N/A	Required by 2013/14 Overview and Scrutiny Committee work programme	Complete: This was reported at the July meeting of the Audit and Scrutiny Committee.
Local Council Tax Support Scheme Task and Finish Group	30 September 2014	Councillor Morrissey	A short Task and Finish Group is required as a consultative forum on proposed changes to LCTS	Complete: This group was formed well ahead of schedule and has prepared a report for 30 September 2014, for recommendation. The group was Councillors Davies, Morrissey and Reed.
IT Resilience and Business Continuity	26 November 2014	Councillors Clark and Barrett	To understand the implications of the IT challenges faced in May 2014 and make recommendations to improve resilience	Pending: This group will convene once William Hunter Way and Hutton Community Centre reviews are complete.
Budget Training	26 November 2014	All Committee Members	Additional: The Section 151 Officer will deliver a training session on the Budget in preparation for the Budget Scrutiny meeting 27 January 2015	
Budget Scrutiny	27 January 2015	All Committee Members	The Audit and Scrutiny Committee will be consulted on the proposed budget	Pending: A report on the Budget will be considered at the January meeting of the Committee.
Community Safety Partnership Annual Review	27 January 2015	All Committee Members	To review the Annual Report of the Partnership	Pending. To meet the requirements of The Crime and Disorder (Overview and Scrutiny) Regulations 2009

Topic	Committee Date	Lead Member (s)	Commentary (01/07/14)	Status and Commentary (30/09/14)
Annual Report of the Audit and Scrutiny Committee	June 2015	Councillors Clark and Barrett	The constitution requires an annual report on the discharge of overview and scrutiny functions be prepared for Council.	Pending: On the completion of the 2014/15 municipal year.

Work programme additions post (Overview and Scrutiny procedure rule 5.4) Audit & Scrutiny Committee, 1st July 2014

Topic	Committee Date	Lead Member (s)	Commentary (01/07/14)	Commentary (30/09/14)
Hutton Community Centre Scrutiny Review	Asset and Enterprise Committee of 15 July 2014	Councillor Barrett	It was resolved that: <ol style="list-style-type: none"> 1. An investigation be taken by the Audit and Scrutiny Committee on how, why and whether the funds were allocated in the correct fashion for the refurbishment of the building 2. Report to a future Finance and Resources Committee with regard to the funding of any necessary further repairs 3. To undertake a Health and Safety inspection on Hutton Community Centre immediately and report back to either the Audit and Scrutiny or Asset and Enterprise Committee 	The Hutton Community Centre Scrutiny Review Group has been assembled, and is in the process of reviewing the project. It has met 5 times. The members of the group are Cllrs Barrett (Chair), Faragher, Hubbard and Sanders. <i>Note:</i> 3) was reported to Asset and Enterprise 17 September 2014.
Community Transport	Pending	Councillor Kerslake	Councillor Kerslake proposed this item in liaison with the Chair post Audit and Scrutiny Committee 1 July 2014.	Pending: The Chair will liaise with the Shadow chair about scheduling a review of Community Transport.

30 September 2014

Audit & Scrutiny Committee

Local Council Tax Support & Council Tax Technical Changes

Report of: *Rick Steels. Revenues & Benefits Manager*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 At the previous meeting of this Committee on 1st July 2014, it was agreed to form a Member's Task & Finish Group to consider changes to the current Local Council Tax Support (LCTS) scheme for 2015/16 and also to consider changes to the current policy regarding awards of Council Tax discounts and exemptions.
- 1.2 The Task & Finish Group met on 28th August 2014 and agreed to propose a number of technical changes to the current LCTS scheme and to propose the introduction of a 50% empty homes premium to properties that have been empty for more than two years increasing the average Council Tax on these properties from £1,465 per annum to £2,197.50.
- 1.3 These proposals are currently subject to public consultation and on completion of the consultation period; officers will submit a report to Council recommending the adoption of the agreed amendments.

2. Recommendation(s)

- 2.1 To agree that the contents of this report are presented to Ordinary Council, 10 December 2014.**

3. Introduction and Background

- 3.1 Local Council Tax Support (LCTS) replaced Council Tax Benefit in April 2013 and an LCTS scheme for 2013/14 was subsequently adopted by Ordinary Council on 19th December 2012.
- 3.2 The original scheme was revised with some minor changes for 2014/15 and this was adopted by Ordinary Council on 11th December 2013.
- 3.3 At the previous meeting of this committee held on 1st July 2014 it was agreed to form a Task & Finish group of members to consider proposals for further amendments to the scheme for 2015/16.
- 3.4 The Task & Finish group met on 28th August 2014 and considered a number of proposals for 'technical changes' to the 2014/15 scheme and agreed to recommend to Council the following:

Award Periods

To introduce a maximum specified period of 52 weeks (1 calendar year) entitlement to support for claimants within the LCTS Working Age (working) sub group to be based on the individual circumstances of the claimant or their partner.

Liability mismatches

Where LCTS is claimed by a single occupier but they have not provided sufficient evidence for the award of a Single Person Discount from their Council Tax account, LCTS will not be awarded and in cases where support is already being provided, this will be withdrawn.

Local Authority errors

In cases where the Council has made an error on an assessment for LCTS, provision should be provided within a specific fund to ensure the resident's council tax account is not affected. Funding would be found from within existing budgets.

Partners

Revise the current scheme rules which state 'or partner' to 'and or their partner'. This means that regardless of who has signed the claim for support the assessment will be treated as being made by both parties. By doing so we will ensure that should a claimant or their partner provide

false information relating to their claim, the Council can consider prosecuting or applying penalties for non disclosure to either party.

Vulnerability

The current rules for vulnerability state that claimants receiving a disability premium on their assessment qualify for placement in the LCTS Vulnerable sub group. It is proposed to extend this to include claimants qualifying for a support premium as a result of their entitlement to Employment & Support Allowance. This will bring in protections for residents who are short term sick.

3.5 Empty Homes Premium

In addition to proposals to make 'Technical Changes' to the LCTS scheme for 2015/16, members of the group were asked to consider the introduction of a 50% premium to council tax accounts for properties that have been empty for more than 2 years. This would generate additional liability for long term empty properties with an average annual increase in their council tax bill in the region of £730. The average annual charge for a Band D property in the Borough is £1,465 so by adding an Empty Homes Premium the annual bill for the same property would increase to £2197.50. At the time of writing this report there are 70 properties that have been empty for more than 2 years which would generate additional income each year of more than £50,000.

It is anticipated that the imposition of a premium would encourage owners to consider other uses for their property and if properties are subsequently brought back into occupation, the Council would receive a New Homes Bonus of £1,465 per annum for a 6 year period, a total of £8,790 per property.

4. Issue, Options and Analysis of Options

- 4.1 The Local Council Tax Support scheme is designed to provide support for as many residents as possible within external funding constraints. Wherever possible officers will seek to re-design the scheme to enhance take up and maximise income for those seeking financial support.
- 4.2 The Council have a responsibility to ensure that it makes best use of all housing stock within the Borough.

5. Reasons for Recommendation

- 5.1 To ensure the changes to both the Local Council Tax Support scheme and technical changes to Council Tax are endorsed by the appropriate committee.

6. Consultation

- 6.1 The above proposed options for change to the Local Council Tax Support scheme and technical changes to Council Tax have been the subject of consultation with members of the Task & Finish Group and are currently open to public consultation. Officers will include an analysis of customer feedback within the report to Council.

7. References to Corporate Plan

- 7.1 A Prosperous Borough

8. Implications

Financial Implications

Name & Title: Jo-Anne Ireland, Acting Chief Executive

Tel & Email: 01277 312712 /jo-anne.ireland@brentwood.gov.uk

- 8.1 The proposed technical changes outlined within the report will mean that the total scheme cost remains within budget. The potential income for Empty Homes is outlined with the report.

9. Legal Implications

Name & Title: Chris Potter, Monitoring Officer and Head of Support Services

Tel & Email: 01277 312860 / christopher.potter@brentwood.gov.uk

- 9.1 None

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 9.2 None

10. Background Papers (include their location and identify whether any are exempt or protected by copyright)

10.1 Background papers are held by the Revenues & Benefits service

Report Author Contact Details:

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Members Interests

Members of the Council must declare any pecuniary or non-pecuniary interests and the nature of the interest at the beginning of an agenda item and that, on declaring a pecuniary interest, they are required to leave the Chamber.

- **What are pecuniary interests?**

A person's pecuniary interests are their business interests (for example their employment trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and asset including land and property).

- **Do I have any disclosable pecuniary interests?**

You have a disclosable pecuniary interest if you, your spouse or civil partner, or a person you are living with as a spouse or civil partner have a disclosable pecuniary interest set out in the Council's Members' Code of Conduct.

- **What does having a disclosable pecuniary interest stop me doing?**

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not :

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business or,
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

- **Other Pecuniary Interests**

Other Pecuniary Interests are also set out in the Members' Code of Conduct and apply only to you as a Member.

If you have an Other Pecuniary Interest in an item of business on the agenda then you must disclose that interest and withdraw from the room while that business is being considered

- **Non-Pecuniary Interests**

Non –pecuniary interests are set out in the Council's Code of Conduct and apply to you as a Member and also to relevant persons where the decision might reasonably be regarded as affecting their wellbeing.

A 'relevant person' is your spouse or civil partner, or a person you are living with as a spouse or civil partner

If you have a non-pecuniary interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

Audit and Scrutiny Committee Terms of Reference

General Powers of Committees

This scheme of delegation sets out the functions of the Council to be discharged by its Committees and Sub- Committees and includes the terms of reference of statutory and non statutory bodies set up by the Council.

Each committee or sub committee will have the following general powers and duties:

- (a) To carry out the duties and powers of the Council within current legislation;
- (b) To comply with the Council's standing orders and financial regulations;
- (c) To operate within the budget allocated to the committee by the Council.
- (d) To guide the Council in setting its policy objectives and priorities including new initiatives, and where appropriate make recommendations to Council
- (e) To develop, approve and monitor the relevant policies and strategies relating to the Terms of Reference of the Committee;
- (f) To secure satisfactory standards of service provision and improvement, including monitoring of contracts, Service Level Agreements and partnership arrangements;
- (g) To consider and approve relevant service plans;
- (h) To determine fees and charges relevant to the Committee;

Audit and Scrutiny Committee

The Audit and Scrutiny Committee provides advice to the Council and the Committees on the effectiveness of the arrangements for the proper administration of the Council's financial affairs, including all relevant strategies and plans.

Audit Activity

- 1) To approve the Annual Internal Audit risk based Plan of work.
- 2) To consider the Head of Internal Audit's annual report and opinion, and a summary of Internal Audit activity and the level of assurance it can give over the Council's corporate governance, risk management and internal control arrangements.

- 3) To consider regular progress reports from Internal Audit on agreed recommendations not implemented within a reasonable timescale.
- 4) To consider the External Auditor's annual letter, relevant reports, and the report to those charged with governance.
- 5) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- 6) To consider the arrangements for the appointment of the Council's Internal and External Auditors.

Regulatory Framework

- 1) To maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.
- 2) To review any issue referred to it by a Statutory Officer of the Council or any Council body.
- 3) To monitor the effective development and operation of risk management and corporate governance in the Council.
- 4) To monitor Council policies and strategies on
 - Whistleblowing
 - Money Laundering
 - Anti-Fraud and Corruption
 - Insurance and Risk Management
 - Emergency Planning
 - Business Continuity
- 5) To monitor the corporate complaints process.
- 6) To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- 7) To consider the Council's compliance with its own and other published standards and controls.

Accounts

- 1) To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

- 2) To review the Council's Annual Governance Statement.
- 3) To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.

Scrutiny

- 1) To prepare the annual overview and scrutiny work programme taking into account items put forward by members and the Corporate Leadership Board ensuring that such items relate to the Council's functions and corporate priorities.
- 2) To propose 'place based' or local scrutiny for issues where a local investigative approach with a range of people or organisations is an appropriate way forward.
- 3) To manage scrutiny resources efficiently and effectively so that the outcomes of scrutiny are likely to lead to real improvements for the people of Brentwood.
- 4) To establish working groups (in line with agreed protocols) to undertake the work programme, including setting their terms of reference, the reporting arrangements, and to co-ordinate and review the work of the working groups.
- 5) To receive reports and other evidence from organisations, individuals and partnerships which the Committee or working groups considers relevant to their work.
- 6) To deal with those decisions that are subject to the Council's Call In Procedure for decisions made by Committees.
- 7) To deal with those issues raised through the 'Councillor Call for Action' scheme in line with agreed protocols and procedures.
- 8) To review matters of local community concern including partnerships and services provided by 'other' organisations such as the National Health Service and Essex County Council.
- 9) To make reports or recommendations to Council or the policy committees on matters which affect Brentwood or the inhabitants of Brentwood.
- 10) To be responsible for scrutiny of the Council's strategic and budgetary framework and its implementation.
- 11) To report annually to Council on the progress of the work programme and to make relevant recommendations.

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