



Agenda

Audit Committee

Wednesday, 27 September 2017 at 7.00 pm

Membership (Quorum – 3)

Cllrs McCheyne (Chair), Ms Rowlands (Vice-Chair), Chilvers, Mrs Fulcher, Hirst, Mrs Hones, Keeble, Reed and Russell

Agenda Item	Item	Wards(s) Affected	Page No
1.	Apologies for Absence		
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3.	Regulation of Investigatory Powers Act 2000	All Wards	11 - 42
4.	Internal Audit Progress Report 2017/18	All Wards	43 - 74
5.	Final Statement of Accounts 2016/17 To Follow		
6.	Strategic & Operational Risk Review	All Wards	75 - 98
7.	Urgent Business		

A handwritten signature in black ink, appearing to read "P. L. Russell". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Chief Executive

Town Hall
Brentwood, Essex
19.09.2017

Information for Members

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.

Where substitution is permitted, substitutes for quasi judicial/regulatory committees must be drawn from Members who have received training in quasi- judicial/regulatory decision making. If a casual vacancy occurs on a quasi judicial/regulatory committee it will not be filled until the nominated member has been trained.

Rights to Attend and Speak

Any Members may attend any Committee to which these procedure rules apply.

A Member who is not a member of the Committee may speak at the meeting. 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.

Members requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting.

Point of Order/ Personal explanation/ Point of Information

Point of Order

A member may raise a point of order at any time. The Mayor 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 Mayor on the point of order will be final.

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 Mayor on the admissibility of a personal explanation will be final.

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 Mayor. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate, If the Mayor 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 Mayor 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 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.

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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.

Private Session

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 Committee does so, you will be asked to leave the meeting.

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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.



Minutes

Audit Committee Wednesday, 5th July, 2017

Attendance

Cllr McCheyne (Chair)	Cllr Hirst
Cllr Ms Rowlands (Vice-Chair)	Cllr Keeble
Cllr Chilvers	Cllr Reed
Cllr Mrs Fulcher	Cllr Russell

Apologies

Cllr Mrs Hones
Substitute Present

Cllr Mrs Middlehurst (substituting for Cllr Mrs Hones)

Also Present

Cllr Bridge
Cllr Mrs Pound

Officers Present

Andrew Barnes	-	BDO, Internal Audit
John Chance	-	Finance Director (Section 151 Officer)
Zoey Foakes	-	Governance & Member Support Officer
Greg Rubins	-	BDO, Internal Audit
Jacqueline Mellaerts	Van	Financial Services Manager
Sue White	-	Risk and Insurance Officer

61. Apologies for Absence

Apologies were received from Cllr Mrs Hones with Cllr Mrs Middlehurst as a substitute.

62. Minutes of the Previous Meeting

Cllr Chilvers questioned what method of recording was taking place and if it was to be made public. It was noted that audio recording were taking place

and the minutes would be published online. Cllr Chilvers believed that other methods of recording should be used to publish online other than webcasting.

The minutes of the previous Audit and Scrutiny Committee meeting held on 13 March 2017 were approved as a true record.

63. Draft Statement of Accounts (including AGS)

The report presented the Council's Statement of Accounts for 2016/17. The accounts were presented to the External Auditors (Ernst & Young) on 23 June 2017 and signed by the Finance Director.

The Committee formally approved the financial statements after the completion of the external auditors.

A motion was **MOVED** by Cllr McCheyne and **SECONDED** by Cllr Hirst to approve the recommendations in the report with the addition of the following words:

2.2: Delegated authority was given to the Finance Director in consultation with the Chair of Audit Committee to agree any changes to the Draft Statement of Accounts 2016/17 by external audit and sign the final audited statements to be approved by the committee.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY** that:

2.1 The Draft Statement of Accounts for 2016/17 and Annual Governance Statement were reviewed.

2.2 Delegated authority was given to the Finance Director in consultation with the Chair of Audit Committee to agree any changes to the Draft Statement of Accounts 2016/17 by external audit and sign the final audited statements to be approved by the committee.

Reason for recommendations

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

64. Internal Audit Progress Report 2016/17

The report detailed the progress to date against the 2016/17 internal audit plan that was agreed by the Audit and Scrutiny Committee in March 2016.

The following reports had been completed since the last Committee and a summary of the findings were included in the progress report:

- Local Development Plan (moderate assurance)
- Revenues and Benefits (limited assurance)
- Housing (limited assurance)

A discussion took place regarding compliance checks on housing properties, and Cllr Chilvers spoke about a document that was shared at the Community, Health and Housing Committee on 19 June 2017 that she wanted to be made available for Councillors and residents. Cllr Chilvers believed that a cross party group should be set up to look and learn from the recent Grenfell Tower incident. Cllr Pound was present and confirmed that a working party had been put in situ as part of the Corporate Projects Scrutiny Committee to consider emergency response and for scrutiny to take place of what was in place.

A motion was **MOVED** by Cllr McCheyne and **SECONDED** by Cllr Rowlands to approve the recommendation in the report with the addition of the following words:

The Committee recovered and notes the contents of the reports *and review of action plan at the next committee meeting.*

A vote was taken by a show of hands and it was **RESOLVED UNANIMOSLY** that:

The Committee recovered and notes the contents of the reports *and review of action plan at the next committee meeting.*

Reason for Recommendation

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

65. Internal Audit Annual Report

The report was the Internal Audit Annual Report 2016/17. The report gave a summary of the work performed for the 2016/17 Annual Audit Plan.

A motion was **MOVED** by Cllr McCheyne and **SECONDED** by Cllr Rowlands to approve the recommendation in the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY** that:

The Committee approved the Internal Audit annual Report for 2016/17.

Reason for recommendation

To approve the Internal Audit Annual Report for 2016/17.

66. Updated Internal Audit Charter

The Charter was a requirement of the Public Sector Internal Audit Standards (PSIAS). It formally defined internal audits mission, purpose, authority and responsibility. It also established internal auditors position within Brentwood Borough Council and defined the scope of internal audit activities.

The PSIAS were revised with effect from April 2017, and the changes had been reflected in the updated charter.

A motion was **MOVED** by Cllr McCheyne and **SECONDED** by Cllr Rowlands to approve the recommendation in the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY** that:

The committee note and approve the Updated Internal Audit Charter for 2017/18.

Reason for recommendation

The Charter was a requirements of the Public Sector Internal Audit Standards (PSIAS). The charter had been updated to reflect changes to the PSIAS.

67. Strategic & Operational Risk Review

The report updated Members of the Audit Committee on the status of the Council's 2017/18 Strategic Risk Register and the progress being made across services in delivering Operational Risk registers.

Cllr Hirst noted that with regards to Housing, compliance checks for contractors ought to be on the risk register in light of recent events.

A motion was **MOVED** by Cllr McCheyne and **SECONDED** by Cllr Rowlands to approve the recommendations in the report.

A vote was taken by a show of hands and it was **RESOLVED** that:

- 1. Members agree amendments to the Strategic Risk Register and that the risk scores recorded for each risk accurately represents the current status of each risk.**
- 2. Members agree the risk exposure changes to the Operational Risks.**

Reason for recommendations

Risk Management continued to be embedded quarterly within the Senior Management Team reports, where Service Heads discuss the top level risks for their service areas to ensure that the risks were updated to reflect the ongoing changes.

In addition the Risk & Insurance Officer would continue to work with risk managers to maintain the good progress to date and further develop a consultant application of risk management considerations across all operations of the Council.

68. Urgent Business

There were no items of urgent business to discuss and the meeting concluded at 20:00.

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27th September 2017

Audit Committee

Regulation of Investigatory Powers Act 2000

Report of: *Daniel Toohey, Monitoring Officer and Head of Legal Services*

Wards Affected: *All*

This report is: *public*

1. Executive Summary

1.1 The Office of Surveillance Commissioners (OSC) conducts periodic inspections of local authorities' use of their powers under the Regulation of Investigatory Powers Act 2000 (**RIPA**). The purpose of these inspections 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 The last inspection took place on 21 July 2014 and resulted in one recommendation: Paragraph 3.30 of the Covert Surveillance and Property Interference Code requires elected members to periodically review the use of RIPA. This report will enable members to achieve this objective by reviewing any RIPA activity in the preceding period and to consider the attached revised RIPA policy document which incorporates guidance on use by local authorities of social networking sites.

2. Recommendation(s)

2.1 **That the Committee approves the amendments to the Corporate RIPA policy in order to address use of social networking sites by local authorities;**

2.2 **That the Committee note the statistical information relating to the use of RIPA over the preceding 3 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

Training:

- 4.1 Training of relevant personnel took place during Summer 2017. This focused on reminding staff of their ongoing obligations under RIPA with emphasis on the appropriate use of social networking sites so as to avoid inadvertent covert surveillance operations for which RIPA Authorisation would be required.

Amended RIPA Policy:

- 4.2 The draft RIPA Policy has been amended to reflect supplementary guidance issued by the OSC on 20 March 2017 in relation to use of social networking sites (OSC Procedures and Guidance Note 289 refers). This guidance is contained within the draft Policy as new item number 4 entitled "Covert Surveillance of Social Networking Sites". A copy of the draft RIPA Policy is attached at **Appendix A**.

Statistical Information:

- 4.3 The Committee is asked to note the following statistical information relating to the use of RIPA over the period between August 2014 and September 2017.
- 4.4 **August 2014 - September 2017 Total No. Of RIPA authorisations 0**
- 4.5 **August 2014- September 2017 Total No. Of CHIS authorisations 0**
- 4.6 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.

4.7 National Anti-Fraud Network (NAFN)

Occasionally 'data matching' (for example, matching a telephone number to a specific individual) is necessary to identify those engaging in criminal activity. The Council is a member of NAFN through whom requests for such data are regulated and, where legitimately applied for, processed. Members should note that one such data matching exercise was conducted during the last year.

5. Reasons for Recommendation

5.1 To comply with RIPA and to assist with Members' oversight and decision making on the attached draft RIPA Policy.

6. Consultation

n/a

7. References to Corporate Plan

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

8. Implications

Financial Implications

Name & Title: John Chance, Director of Finance and S.151 Officer

Tel & Email: 01277 312542; John.Chance@Brentwood.gov.uk

8.1 There are no financial implications directly related to this report

Legal Implications

Name & Title: Daniel Toohey, Head of Legal Services and Monitoring Officer

Tel & Email: 01277 312860; Daniel.Toohy@brentwood.gov.uk

8.2 Legal implication comments are contained within this report above.

9. Appendices to this report

Appendix A – Draft RIPA Policy

Report Author Contact Details:

Name: Daniel Toohey, Head of Legal Services
Telephone: 01277 312860
E-mail: Daniel.Toohy@brentwood.gov.uk

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

DRAFT JULY 2017

**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;
- Investigating council tax support and business rates fraud; 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 Chief Executive, or Head of Paid Service, together with all Senior Officers 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 Chief Executive, 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 **will not** 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 Chief Executive 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 Chief Executive, 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. Social Networking Sites (SNS)

NB This section should be read in conjunction with the Council's Fraud Policy. Please ensure any concern or uncertainty about use of SNS's is directed to the Council's Corporate Fraud Investigator in the first instance.

In March 2017 the OSC issued a guidance note on the use of social networking sites by public authorities when conducting investigations or otherwise acting on official business. Relevant update training has been provided by the Council to those officers most likely to be affected. There is a risk that staff acting in good faith when accessing "open source" material "can drift into covert surveillance which falls within the (RIPA) legislation". All staff should note carefully the following guidance issued by the OSC and seek Authorisation if they are or think they may be about to conduct covert surveillance through accessing social media sites:

4.1 The fact that digital investigation is routine or easy to conduct does not reduce the need for authorisation. Care must be taken to understand how the SNS being used works. Authorising Officers must not be tempted to assume that one service provider is the same as another or that the services provided by a single provider are the same.

4.2 Whilst it is the responsibility of an individual to set privacy settings to protect unsolicited access to private information, and even though data may be deemed published and no longer under the control of the author, it is unwise to regard it as "open source" or publicly available; the author has a reasonable expectation of privacy if access controls are applied. In some cases data may be deemed private communication still in transmission (instant messages for example). Where privacy settings are available but not applied the data may be considered open source and an authorisation is not usually required. Repeat viewing of "open source" sites may constitute directed surveillance on a case by case basis and this should be borne in mind.

4.3 Providing there is no warrant authorising interception in accordance with section 48(4) of the 2000 Act, if it is necessary and proportionate for a public authority to breach covertly access controls, the minimum requirement is an authorisation for directed surveillance (subject to the 'crime threshold' referred to elsewhere in this Policy). An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a member of a public authority or by a person acting on its behalf (i.e. the activity is more than mere reading of the site's content).

4.4 It is not unlawful for a member of a public authority to set up a false identity but it is inadvisable for a member of a public authority to do so for a covert purpose without an authorisation for directed surveillance when private information is likely to be obtained. The SRO should be satisfied that there is a process in place to ensure compliance with the legislation. Using photographs of other persons without their permission to support the false identity infringes other laws.

4.5 A member of a public authority should not adopt the identity of a person known, or likely to be known, the the subject of interest or users of the site without authorisation, and without the consent of the person whose identity is used, and without considering the protection of that person. The consent must be explicit (i.e. the person from whom consent is sought must agree (preferably in writing) what is and is not to be done).

5. 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, 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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 Senior Officer, Chief Executive 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.

11. 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.

12. 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 **Chief Executive** 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.

13. Surveillance Equipment

Any 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.

14. 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 Chief Executive of the outcome of such audits.

15. 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.

16. Resources

OSC Procedures and Guidance

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

Daniel Toohey Head of Legal Services	Senior Responsible Officer (SRO)	
Gary Cordes, Information Governance Solicitor	RIPA Co-ordinating Officer	

Authorising Officers

Phil Ruck, Chief Executive	Authorising Officer	
Daniel Toohey, Monitoring Officer and Head of Legal Services	Authorising Officer	
John Chance, Director of Finance and S.151 Officer	Authorising Officer	

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27 September 2017

Audit Committee

Internal Audit Progress Report

Report of: *Greg Rubins, Head of Internal Audit (BDO)*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

1.1 This report is intended to inform the Audit Committee of progress made against the approved internal audit plans for 2016/17 (now completed) and 2017/18, which was approved by the Audit and Scrutiny Committee in March 2017.

1.2 The following reports have been finalised since the last Committee, and a summary of our findings is included in the progress report:

- Housing Services (now with completed action plan) (2016/17)
- Main Financial Systems (2016/17)
- Insurance (2017/18)
- Community Halls Viability (2017/18)

The full reports are available on request.

2. Recommendation

2.1 That the Committee receives and notes the contents of the reports.

3. Introduction and Background

3.1 The Audit and Scrutiny Committee approved the 2017/18 annual audit plan. The progress against plan will be reported to every Audit Committee.

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, and highlight recommendations arising from the work of internal audit and management's actions in response to those recommendations.

6. Consultation

- 6.1 Not applicable.

7. References to Corporate Plan

- 7.1 Good financial management, risk management and internal control underpin all priorities within the Corporate Plan.

8. Implications

Financial Implications

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

Legal Implications

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

Other Implications.

- 8.3 Not applicable

9. Background Papers

- 9.1 Not applicable

10. Appendices to this report

- Appendix A – Internal Audit Progress Report September 2017

Report Author Contact Details:

Name: Greg Rubins, Head of Internal Audit (BDO)
Telephone: 02380 881892
E-mail: greg.rubins@bdo.co.uk

Name: Angela Mason-Bell, Internal Audit Manager (BDO)
Telephone: 07813 000 319
E-mail: angela.mason-bell@bdo.co.uk

Brentwood Borough Council

INTERNAL AUDIT PROGRESS REPORT

September 2017

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INTRODUCTION

Internal Audit

This report is intended to inform the Audit Committee of progress made against the approved internal audit plans for 2016/17 (now completed) and 2017/18, which was approved by the Audit and Scrutiny Committee in March 2017. 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 work completed

In respect of 2016/17, all reports have been finalised. The executive summaries, recommendations (high and medium) and agreed management actions for the following audits are included in this report:

- Main Financial Systems
- Housing Services

The executive summary of this report was presented at the July meeting of the Audit Committee. At the request of the Committee we now also include the recommendations and action plan, the majority of actions fall due in the period from October 2017 to April 2018.

In respect of 2017/18 the plan is in progress, no amendments to the plan has been made to date. The executive summaries and agreed management actions for the following audits are included in this report:

- Insurance
- Community Halls Viability

The status of the plan for 2017/18 is summarised on pages 5 to 7.

Follow up

We are currently in the process of following up all recommendations made by BDO and the former internal auditors. A follow up report will be included in the papers presented to the Audit Committee on 13 December 2017.

Work outside of the Internal Audit Plan

No additional work has taken place.

REPORTS FINALISED SINCE JULY 2017 AUDIT COMMITTEE

Area	No. of days	Head of Service Responsible	Assurance - System Design	Assurance - Operating Effectiveness	No. of High priority recommendations	No. of Medium priority recommendations	No. of Low priority recommendations	Ref to Executive Summary
2016/17 - Housing Services	20	Angela Williams	Limited	Limited	3	7	2	Appendix II
2016/17 - Main Financial Systems	40	Jacqueline Vanmellaerts	Moderate	Moderate	0	6	1	Appendix III
2017/18 - Insurance	10	Sue White/ Jacqueline Vanmellaerts	Moderate	Moderate	0	3	3	Appendix IV
2017/18 - Community Halls Viability	15	John Chance / Kim Anderson	Limited	Limited	2	3	2	Appendix V

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PROGRESS AGAINST 2017/18 PLAN

Area	2017/18 days	Date work to be undertaken	Progress Update	Assurance - System Design	Assurance - Operating Effectiveness
Transformation					
Main Financial Systems	40	Q4			
Risk Management and Governance Arrangements	10	Q4			
Housing Benefits - shared service	10	Q3	Planning		
Financial planning and budget monitoring	15	Q2 - July 2017	Reporting in progress		
Customer service	10	Q4			
Minimum Reserve Levels	10	Q2 - August 2017	Reporting in progress		
Insurance	10	Q1 - June 2017	FINAL REPORT	Moderate	Moderate
Disaster recovery, business continuity & IT Transformation	25	Q4			
Cyber Security	15	Q3	Planning	-	-
IT Security and Governance	20	Q3	Planning	-	-
Counter fraud	20	Q3	Planning		
	185				

PROGRESS AGAINST 2017/18 PLAN

Area	2017/18 days	Date work to be undertaken	Progress Update	Assurance - System Design	Assurance - Operating Effectiveness
Community and Health					
Partnerships	20	Q2 - August 2017	Reporting in progress		
Parking strategy & Payment Collection	20	Q4			
Community Halls Viability	15	Q2 - August / September 2017	FINAL REPORT	Limited	Limited
	55				

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Area	2017/18 days	Date work to be undertaken	Progress Update	Assurance - System Design	Assurance - Operating Effectiveness
Environment and Housing					
Housing	20	Q1/Q2	Fieldwork		
Environment	15	Q2	Planning		
	35				

Area	2017/18 days	Date work to be undertaken	Progress Update	Assurance - System Design	Assurance - Operating Effectiveness
Economic Development					
Capital Projects	15	Q3	Planning		
	15				

PROGRESS AGAINST 2017/18 PLAN

Area	2017/18 days	Date work to be undertaken	Progress Update	Assurance - System Design	Assurance - Operating Effectiveness
Planning, Reporting, Follow-up and Contingency					
Follow up work	10	Follow up currently in progress			
Audit Management	20	Ongoing arrangement of audits and liaison with management			
Contingency	10	Not used to date			
Total	40				
Total	330*				

* The original total approved plan was for 295 days, this revised total includes 35 days for the deferred audits of Cyber Security and IT Security and Governance

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.

APPENDIX II - HOUSING SERVICES

BRENTWOOD BOROUGH COUNCIL VISION

Work to ensure our Housing stock is managed so that it delivers comfortable and safe homes for our tenants that are efficient and sustainable

LEVEL OF ASSURANCE (SEE APPENDIX II FOR DEFINITIONS)

Design	Limited	System of internal controls is weakened with system objectives at risk of not being achieved
Effectiveness	Limited	Non-compliance with key procedures and controls places the system objectives at risk

SUMMARY OF RECOMMENDATIONS (SEE APPENDIX II FOR DEFINITIONS)

High		3
Medium		7
Low		2

Total number of recommendations: 12

OVERVIEW

Background:

Council Housing stock, as at the 31 March 2016, was: 1,159 flats, 1,320 houses and bungalows, and 7 equity share properties, and the Council has recognised an increasing demand for social housing. In 2015/16 the Council spent £5.3m on Housing of which £2.9m was expenditure on repairs and maintenance.

Our review considered the adequacy of arrangements relating to Housing stock (due diligence checks and fraud prevention, debt recovery and compliance checks), Right to Buy (governance, checks on qualifying criteria, valuations and tenant advice) Housing maintenance contractual arrangements and Leaseholder Service Charge accounts (apportionment and billing).

From our review, we noted the following areas of good practice:

- Pre-tenancy, home seeker and transfer applicant checklists are used to ensure required due diligence checks are made on applicants, and photographs of applicants are obtained as part of the application process and retained with the tenant files
- There is a fraud referral process, with online forms being directed to the Council's Fraud Officer
- The Housing Team maintain oversight of current tenant arrears, and have made adjustments expected to improve recovery.

However, we also noted the following areas of improvement:

- Fraud risk awareness varied amongst staff. Staff did not make best use of the information available to them to detect potential fraud and the copying of documents provided by tenants was not made with consideration of fraud risks (Finding 1 - High)
- Although Compliance checks were undertaken by the contractor providing remedial works, the Council has not had access to Compliance certificates for the majority of its housing stock. There were no protocols for ensuring the contractor ceased to provide checks on sold properties, or that these checks were recharged for leaseholder properties, and some compliance checks were reported to have not been carried out at all, or performed less frequently than required (Finding 2 - High)
- Contract management has not been effective through the life of the Housing Contracts, and contractors have not complied with key requirements (Finding 3 - High)
- Tenancy checks and audits are not regularly undertaken on all tenants (Finding 4 - Medium)
- Former tenant arrears are not subject to current recovery action, and management information for arrears and aged debts could be improved (Finding 5 - Medium)

OVERVIEW

Continued:

(Areas of improvement):

- There were inconsistencies in records of Right to Buy applications (between a spreadsheet record and the Housing Management system) (Finding 6 - Medium)
- Evidence of appropriate checks on Right to Buy applications did not exist for all applications (Finding 7 - Medium)
- Valuations for Right to Buy sales do not include identity checks on tenants (Finding 8 - Medium)
- Tenancy agreements could not be located for some tenancies, there were discrepancies in the upload of information on charging for leaseholder properties and records did not enable reconciliation of total service charges and allocation of those charges (Finding 9 - Medium)
- Records are not maintained of details of surveys and inspections carried out to review contractor inspection reports and work requirements, or of tests conducted by Council staff and there is no system for ensuring queries are resolved (Finding 10 - Medium)

Conclusion

We have raised 3 High, 7 Medium and 2 Low priority recommendations, and have issued an opinion of Limited for both the design and the effectiveness of the Housing systems, reflecting that whilst there are some areas of good practice, there were also areas of weakness and opportunities for improvement to be developed, such as fraud prevention and detection (in various areas), contract management, arrears recovery, leasehold charges and records of inspections and surveys.

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility and implementation date
Risk: Front line staff are not trained to identify fake or forged documents, or fraud warning signs, or they do not refer potential fraud for investigation				
1	<ul style="list-style-type: none"> a) Training is provided to relevant staff on Housing Fraud risk identification b) Protocols for in-tenancy audit checks on tenants are determined, to include secure tenants c) Photographs are obtained to identify all tenants d) Consideration is given to using photographs held for periodic verification of all tenants. This may require consideration of the scope of contracts and data sharing protocols (see also page 19 regarding Fair Processing Notices) e) The Housing Team and Fraud officer agree protocols for investigation which ensure potential fraud investigations are overseen by a suitably trained person f) Housing staff are reminded of the requirements of the Regulation of Investigatory Powers Act in relation to surveillance and investigation activity g) Protocols for checking and copying identity documents are established. 	H	<ul style="list-style-type: none"> (a) Mandatory Fraud Identification risk training on the 26th September has been arranged for all Housing Staff and will be circulated to other front-line officers, such as the Contact Centre staff and the Council's Fraud Officer. (b) A Housing Audit working group has been created to consider options to implement to a tenancy audit protocol (c) Currently, photographs are obtained of all applicants that apply for the Housing and transfer registers & tenants, tenants that apply for mutual exchanges and apply for any other type of amendment to their existing tenancy. The Housing Audit working group will consider options to widen this to include within any regular tenancy audit. (d) As B & C (e) Mandatory Preventing and Detecting Housing Fraud training on the 19th September has been arranged for all Housing Staff and will be circulated to other front-line Officers, such as the Contact Centre staff and the Council's Fraud Officer. (f) Staff that are required to undertake investigations as part of their duties have been advised of activities that fall within RIPA and that the Council's Fraud Officer would only have the powers to undertake them. Staff are advised to request management authorisation in advance and refer to the Council's Fraud Officer. This includes the use of electronic data sources. (g) The implementation of a protocol around the checking of documentation will be agreed by the Housing Audit working group following both planned training session. 	<p>Nicola Marsh, Stuart Morris December 2017</p>

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility / implementation
Risk: Health and safety checks, such as gas compliance, electrical safety and fire safety, are not carried out as required, or evidence of checks is not maintained				
2	<ul style="list-style-type: none"> a) Written procedures are prepared to define protocols and procedures for Compliance checks b) Contractual arrangements for provision of gas and electrical checks are reviewed to establish independence between provision of checks and remedial works c) In the absence of direct access to contractor systems by the Council, Contractors are required to provide copies of all current gas and electrical safety certificates d) Effective contract management is undertaken to ensure the contractors provide interfaces enabling Council access to systems and certificates as required by the contract (see also page 8) e) The housing management system is used for recording information relating to Compliance checks f) Training is provided as required to ensure officers are able to maximise use of the Housing management system g) Consideration is given to the inclusion of requirements for contractor provision of exception reporting on pending and overdue Compliance checks in future contracts h) The Council determines arrangements for notifying the contractor of any sold properties for which Compliance checks are no longer the Council's responsibility and for charging leaseholders where the Council retains any residual responsibility for these checks i) Risk assessments are carried out and recorded to ensure fire safety checks on blocks are scheduled at appropriate intervals j) Asbestos checks are carried out on all properties and records retained of the checks k) The Council ensures that water risk assessments are carried out as required and that records are maintained of these checks for all housing types. 	H	<p>a) to h) We had already identified that there likely were a number of long-standing service issues within the repairs service, which included a lack of contract management, written policies/procedures which had only recently come to light following staffing changes within the repairs service. We have been proactively addressing these issues in advance off this Audit report. We are in the process of agreeing a managed service provision with Basildon Borough Council. In addition, Basildon have provided us with a Project Manager on a secondment basis to review the areas of deficiency within the Service and provide recommendations for improvement together with responsibility for the overall for all operational management on a day to day basis. Changes have been made to the repairs team, which has resulted in the replacement of the compliancy manager with a Contracts Administrator, who has a significant experience of working in Local Authorities and managing Contractors. We have also begun the re-procurement process for the existing Wates/Oakray contract which are due to expire in 2019.</p> <p>i) Risk assessments have been carried out on all high rise accommodation which is being rolled out to include all flatted accommodation. We are in the process of agreeing a rolling programme for risk assessments</p> <p>(j) Currently, asbestos surveys are carried out on void properties only, we are currently reviewing our existing processes to ensure that we can create an asbestos register by implementing the Asset management system (keystone).</p> <p>(k) Water risk assessments are currently carried out on sheltered housing as part of the main Oakray Contract. We are reviewing our existing processes to enable this to be held centrally via the Asset Management System</p>	<p>Nicola Marsh, Rob Burton</p> <p>April 2018</p>

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility / implementation
3	<p>a) Methods used to ensure contractor compliance with contract performance requirements, including completion and submission of information, should be strengthened. Such arrangements should also include penalty clauses for non-compliance</p> <p>b) Effective, robust contract management arrangements are determined for Housing contracts, to include:</p> <ul style="list-style-type: none"> • Retention of documentation of contract management activity • Contractor performance and provision of performance information in accordance with the contract, including records of agreed action to resolve performance issues • Contractor provision of IT interfaces and other contractual requirements in accordance with the contract • Where changes in contract provision are agreed by the Council, these are formally approved via the issue of Variation Orders • Submission to the housing team of evidence of checks where they are required to be made by the contractor • Requirements for the contractor to provide evidence of compliance with key contract requirements • Contract pricing protocols applied <p>c) Payments to contractors should reflect the extent of provision of service against the agreed contract terms</p> <p>d) Benchmarking of rates and uplifts is undertaken and where appropriate consideration is given to contract options (including negotiation or termination).</p>	H	<p>We had already identified that there likely were a number of long-standing service issues within the repairs service, which included a lack of contract management, written policies/procedures which had only recently come to light following staffing changes within the repairs service.</p> <p>We have been proactively addressing these issues in advance of this Audit report. We are in the process of agreeing a managed service provision with Basildon Borough Council.</p> <p>In addition, Basildon have provided us with a Project Manager on a secondment basis to review the areas of deficiency within the Service and provide recommendations for immediate improvement together with responsibility for the overall for all operational management on a day to day basis.</p> <p>Changes have been made to the repairs team, which has resulted in the replacement of the compliancy manager with a Contracts Administrator, who has a significant experience of working in Local Authorities and managing Contractors.</p> <p>We have also begun the re-procurement process for the existing Wates/Oakray contract which are due to expire in 2019, which will address all of the recommendations.</p>	<p>Rob Burton, Nicola Marsh</p> <p>On going - April 2018</p>

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility and implementation date
Risk: Due diligence checks are not made on tenants prior to the commencement of the tenancy, and Due diligence checks are not undertaken periodically during the tenancy, including tenancy audits				
4	<ul style="list-style-type: none"> a) Pre-tenancy and in-tenancy check policies are established which include protocols to address tenancy fraud risks (covering application, subletting, succession, key selling, right to buy and right to acquire fraud), and which ensure compliance with Data Protection Act requirements b) Policies are communicated to staff, tenants and any delivery partners. 	M	<ul style="list-style-type: none"> (a) Pre-tenancy checks are already in place and has recently been revised to include additional I.D checks. These new protocols have also been incorporated into other tenancy areas. (b) Existing policies & procedures have been re-drafted and circulated to all staff 	Angela Abbott, Nicola Marsh July 2017
Risk: Debt collection and recovery procedures are inadequate to ensure that delays in receipt of rent payments and loss of income is minimised				
5	<ul style="list-style-type: none"> a) Arrears reporting is developed to include the age of debts, the cases at each key stage of recovery and additional management information is provided accordingly b) Management determine recovery protocols (to recover or write off former tenant arrears). This decision should be supported by additional management information on age of debts and action already taken and consideration could also be given to checks against Council tax records or credit checks to enable tracing of former tenants. c) The impact of delays in processing benefit claims and changes in circumstances is identified and where appropriate raised with the service provider 	M	(a) (b) We are currently recruiting for a full time debt recovery officer who will have responsibility for developing and implementing processes around former tenant debts.	Nicola Marsh October 2017
Risk: Governance arrangements, including authorisation routes and clarity of procedures and processes for dealing with Right to Buy applications, are inadequate				
6	<ul style="list-style-type: none"> a) Right to Buy Information is input to and managed via the Housing Management system, removing the need for duplication of input to a spreadsheet b) Access permissions to the Housing Management system are reviewed to enable appropriate staff to identify the status of applications. 	M	(a) (b) Existing RTB procedures are currently being reviewed in accordance with the audit report.	Nicola Marsh October 2017

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility and implementation date
Risk: Tenancy audits, including checks on identity, residency and tenancy history / qualifying period, are not carried out on applicants to ensure the applicant qualifies for Right to Buy				
7	Consideration is given to performing checks on previous Right to Buy applications to verify the applicant's entitlement to the Right to Buy discount. (Any queries arising from these checks should be referred to the Council's Fraud Officer).	M	Checks in process as recommended. All RTB applications are referred to the Council's Fraud Officer when submitted in order to assist in the prevention of fraudulent applications.	Angela Abbott, Nicola Marsh October 2017
Risk: Property valuations are not carried out by qualified property surveyors, who have an understanding of tenancy fraud risks, prior to the Right to Buy being agreed				
8	Update the contract with the contracted surveyor visiting the property to record improvements made by the tenant, so that they undertake initial identity checks as part of this visit and report back their findings to the housing team.	M	In progress, currently in the process of appointing external surveyors to carry out RTB property surveys.	Nicola Marsh September 2017

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility / implementation
Risk: Tenants are not billed for leaseholder service charges in accordance with approved protocols				
9	<ul style="list-style-type: none"> a) Leaseholder agreement storage is reviewed to ensure records including leaseholder agreements are retained for all properties b) Errors in data upload of estimated service charges to the Housing Management system are corrected and tenants reimbursed where overpayments have occurred c) Where adjustments are made to leaseholder service charges, these are identified clearly in all records to ensure transparency and enable reconciliation (see (d) below) d) The spreadsheet maintained to determine apportionment of service charges to be invoiced to leaseholders is extended to include all properties to enable confirmation that tenants and leaseholders recharges are equivalent and that recharges equate to actual costs, and these reconciliations are performed on a regular basis e) Costs relating to responsive repairs which would not be permitted to be recharged to leaseholders are removed from the calculation determining the total to be apportioned across properties f) A policy is maintained to enable determination of appropriate management service charges for apportionment g) Any adjustments required to service charges should be applied promptly to ensure accuracy of records and transparency of charging. 	M	<p>We have recently taken a Service Charge Strategy to Housing Committee that highlights the Council's intentions to implement a Service Charge Policy. The Policy itself will be going for final Committee approval In September 2017 with a view to action it at the start of the new financial year 2018/2019. This Policy outlines the items which will be charged to both Tenants and leaseholders.</p> <p>As part of the final implementation process date the Council will be reviewing its processes on calculating Service Charges to ensure it is done effectively without the need for manual adjustments. We intend to have transparent calculations specific to Tenants and Leaseholders.</p>	<p>Nicola Marsh April 2018</p>

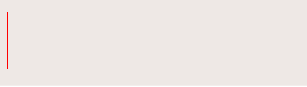


RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility and implementation date
10	<p>a) The Council reviews the scope of the Compliance Manager role and essential qualifications required to perform this role</p> <p>b) Clear records are maintained of all surveys and inspections carried out, and these are retained in an accessible form (such as on the Housing Management system)</p> <p>c) Where queries are raised for entries made on an EICR, a process is developed to ensure they are followed up (and either the work or alternative work is commissioned, or the item is recorded as determined to be not required).</p> <p>See also Pages 6 & 7 regarding conflicts of interest.</p>	M	<p>The BBC Contracts Administrator of the electrical contractor reviews all requests for day to day repairs works exceeding the self-authorisation level of £250, checking costs and consideration on whether to authorise the work. With regards to electrical Inspection Condition reports (ECIR's), which are undertaken by a qualified engineer. There is currently no programme to undertake these and therefore EICR's are on the main undertaken on void properties and occasionally to occasionally to occupied dwellings and landlords supplies to blocks. The relevant BBC manager questions and challenges all reports and only authorises works that are necessary to proceed. As a general rule, Code 1's (danger present) and C2's (potentially dangerous) and works to smoke and detection proceed, whilst Code 3's (improvement recommended) are considered for action by the BBC contracts administrator.</p>	<p>Rob Burton, Nicola Marsh</p> <p>April 2018</p>

APPENDIX III - MAIN FINANCIAL SYSTEMS

BRENTWOOD BOROUGH COUNCIL STRATEGIC OBJECTIVE THIS AUDIT RELATES TO
To ensure the provision of efficient and effective services

LEVEL OF ASSURANCE (SEE APPENDIX II FOR DEFINITIONS)		
Design	Moderate	sound system of internal control designed to achieve system objectives, some exceptions
Effectiveness	Moderate	Non compliance with some controls, that may put some system objectives at risk.

SUMMARY OF RECOMMENDATIONS (SEE APPENDIX II)		
High		0
Medium		6
Low		1
Total number of recommendations: 7		

OVERVIEW

The Council is required to operate a sound system of control over their financial processes to prevent and detect error or fraud. The purpose of our review was to ensure there were sufficient levels of control within core financial processes. We considered controls relating to the financial system reconciliations, the Collaborative Planning system, financial process procedures, debt recovery, expenditure authorisation, treasury management and previous internal audit findings.

Our review found the following areas of good practice:

- Quarterly budget challenge meetings are held quarterly between the Chief Executive, S151 Officer and significant budget holders to review income and expenditure against budget for the period
- The Finance team monitor completion and review of reconciliations
- The Treasury Management and Investment strategy is subject to formal annual approval

We also noted some areas for improvement or development:

- Recovery action for Sundry Debtor arrears was not pursued beyond the issue of final reminders (Finding 1 - Medium)
- Aged debt monitoring is not undertaken for Council Tax and NDR debts to ensure effective progression of recovery and there was potential to increase the frequency of issue of reminder notices (Finding 2 - Medium)
- Investments were not always authorised prior to completion of the deal (Finding 3 - Medium)
- Reconciliations were not always performed in the month following the reconciliation period (Finding 4 - Medium)
- Explanations for delays in completion of Purchase Orders were not always forthcoming (Finding 5 - Medium)
- There is no properly functioning Asset Management system, with records currently stored on a spreadsheet (Finding 6 - Medium)
- Procedures for the collection and retention of rent deposits had not been determined (Finding 7 - Low)

Conclusion

We have issued 6 medium and 1 low priority recommendations. The Council has a generally sound system of internal controls for the main financial systems, although there were weaknesses and risks relating to debt recovery, authorisation of investments and timely completion of reconciliations which have led us to conclude moderate assurance on both the design and effectiveness of the controls.

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility and implementation date
Risk: Accounts Receivable are not properly monitored resulting in irrecoverable debt				
1	<p>a) Legal and/or further action as appropriate should be taken with debtors who have not paid their sundry debtors invoices after the final reminder is sent. To ensure that the Council is not financially impacted, legal and any other costs should be added to the debt and ultimately claimed through appropriate Court action</p> <p>b) The Sundry Debtors procedures are updated to reflect obtaining judgement and consideration of options for recovery following judgement by a court being provided. This is to ensure that debtors are proactively pursued for payment and that debt write off is considered only as the last resort following due consideration of the anticipated costs and potential success by pursuing further methods of recovery</p> <p>c) The procedures should also reflect that write off of a debt should not lead to an assumption that the debt will not continue to be actively pursued (and that a write off may be reversed if the payment continues to be pursued and is received).</p>	M	<p>Corporate Debt has been Finance responsibility since August 2016. Prior to this date no action on debt had been taken since 2013. Finance are therefore aware of the improvements that are required in this service, and accept some of the recommendations.</p> <p>a) Accept further action should be undertaken. We have signed SLA with enforcement agency for recovery, with legal action process to follow if necessary.</p> <p>b) Accept procedures are updated as well as incorporating debt recovery.</p> <p>c) Debt is only written off at the point it is agreed that there is no realistic or legitimate prospect of the money being recovered. We therefore feel it is <i>not</i> necessary to actively pursue this debt once it has been written off, although accept it may be reversed if written off debt is received.</p>	<p>Jacqueline Van Mellaerts (Financial Service Manager) Chris Houghton (Systems Accountant)</p> <p>31 August 2017</p>
2	<p>a) Aged debt reports are produced for Council Tax and NDR which identify the cases at each stage of recovery, (including age of debt with no action)</p> <p>b) The above report is reviewed to ensure the effectiveness and appropriate progression of recovery action</p> <p>c) The schedule of reminder runs is reviewed and consideration given to increasing the frequency of reminder and final notice runs.</p>	M	<p>a) Aged debt analysis reports have been scheduled within Civica to run quarterly</p> <p>b) The Recovery Team will review these quarterly reports to ensure monitoring of debt and effectiveness of recovery processes</p> <p>c) We have increased the recovery notices issued from when the service merged with Basildon. We now have court hearings on a monthly basis, and the Recovery timetable has been updated to reflect a monthly schedule of reminders, Final Reminders, Summonses and Court Hearings.</p>	<p>Mandy Major and Kerry Pittick</p> <p>20 September 2017</p>

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility and implementation date
Risk: The Council's Treasury Management Policy is not complied with, resulting in inappropriate investment and mismanagement of cash				
3	<p>a) An appropriate person (such as the Financial Services Manager) approves details of each new investment (including the amount, maturity date, counterparty, term and interest rate) before the investment is finalised and payment is made to the broker</p> <p>b) The Council checks credit ratings of financial institutions with which it holds investments on a regular basis to ensure they remain within ratings set out in the Treasury Management Practices and documents this check as part of the procedures associated with Treasury Management.</p>	M	We agree these recommendations in principle, upon taking a review of the processes and procedures of Treasury management to make sure it is practical to do so. But accept Senior management should be involved at an earlier stage of the investment.	<p>Jacqueline Van Mellaerts (Financial Services Manager)</p> <p>Alistair Greer (Principal Accountant)</p> <p>31 August 2017</p>
Risk: Collaborative planning controls have not been implemented resulting in inappropriate costing and efficiencies				
4	Reconciliations should be completed in the month following the period of the reconciliation.	M	<p>Manager accepts there is always a delay at the beginning of the year, due to the final account process. This has already been improved upon for 2017/18.</p> <p>Where there is capacity, we will aim to complete the reconciliation in the following month, otherwise a note will be made on the monitor with a reason.</p>	<p>Jacqueline Van Mellaerts (Financial Services Manager)</p> <p>Phoebe Barnes (Principal Accountant)</p> <p>31 March 2018</p>
Risk: Expenditure recorded does not exist, is incomplete, fraudulent or has been inaccurately recorded; particularly in relation to the purchase orders raised within EFin				
5	Officers are instructed to respond to requests for explanation of outstanding purchase orders. Details are collated for purchase orders identified to have been outstanding for an excessive time without justification and discussed by Service Accountants with Departments to pursue reasoning and resolution.	M	Manager accepts recommendation.	<p>Jacqueline Van Mellaerts (Financial Services Manager)</p> <p>Jane Mitchell (Payments & Procurement Manager)</p> <p>31 August 2017</p>

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility and implementation date
Risk: Asset records are not adequate to ensure that there is a full understanding of the assets held, their value and maintenance requirements				
6	Officers should undertake a cost / benefit analysis of the implementation of an Asset Management systems to improve the records and management of the Council's assets.	M	At present, there are at least two disparate systems; Financial Asset Register from a spreadsheet and the Argus system that Assets use, plus any other ad-hoc systems. We accept the recommendation which should be a joint venture between Finance & Asset Services.	Jacqueline Van Mellaerts (Financial Services Manager) 31 March 2018

APPENDIX IV - INSURANCE

CLIENT STRATEGIC RISKS			SUMMARY OF RECOMMENDATIONS (SEE APPENDIX II FOR DEFINITIONS)	
Risk	To ensure the provision of efficient and effective services		High	-
LEVEL OF ASSURANCE (SEE APPENDIX II FOR DEFINITIONS)			Medium	3
Design	Moderate	Generally a sound system of internal control designed to achieve system objectives with some exceptions.	Low	3
Effectiveness	Moderate	Evidence of non compliance with some controls, that may put some of the system objectives at risk.	Total number of recommendations: 6	

OVERVIEW

Background

Insurance at Brentwood Borough Council is managed by the Risk and Insurance Officer, who processes all claims via the ClaimControl system. In 2016-7 the Council took out insurance premiums totalling £648,576 (including Insurance Premium Tax) with Zurich Municipal. This covers risks related to property; casualty (including public and employers' liability and professional negligence); motor vehicles; engineering; additional covers and terrorism (commercial and non-commercial). The Council also has an Injury and Travel policy with ACE Europe of £1,803.16, brokered by an intermediary (Marsh Limited).

The purpose of our review was to provide assurance that appropriate arrangements are in place and operating effectively in relation to managing the risks relating to insurance claims and to highlight any areas where the controls might be improved.

Scope and Approach

We interviewed the Risk and Insurance Officer and Corporate Health and Safety Advisor. We benchmarked the insurance provision at the Council using CIPFA's 'Nearest Neighbours' tool to ascertain similar sized Local Authorities to Brentwood (East Hampshire and Hart District Councils, and Waverley Borough Council). Finally, we selected a sample of 10 claims from the past year and tested them against the conditions of their insurance policy and general best practice.

Good Practice

- During our testing we found no exceptions with regard to the timeliness of initial claim forms sent to the insurer
- The Risk and Insurance Officer works closely with the Corporate Health and Safety Advisor to identify trends in claims, and devise solutions to mitigate the risk of such claims
- The Council has thorough insurance covering all relevant areas including newer risks such as terrorism and cyber related risks
- A corporate risk register and departmental risk registers are maintained, and risks are reported quarterly to the Corporate Leadership Board.

OVERVIEW (cont)

Key Findings

- During our testing we found one claim where a Council employee had accepted liability without first checking that it related to a Council owned property, at a potential additional cost of £350. (Finding 1 - Medium)
- There had been no training given to staff in relation to the Insurance Act 2015 over the past two years (Finding 1 - Medium)
- We found some weaknesses in the use of the ClaimControl system, such as delays in reporting information (Finding 2 - Medium)
- During our testing we found two examples of a delay in providing the insurer with requested information, and one instance where no settlement letter was evidenced. (Finding 3 - Low)

Conclusion

During our review we have raised three medium and three low recommendations. The Council generally has a sound system of internal controls, derived from an Insurance Strategy, procedural flowcharts, and the ClaimControl system for recording, updating and monitoring claims. However there were some weaknesses in relation to the operational effectiveness of some of the controls in relation to record keeping and timeliness. During our review we also found indications that the Council may not be receiving the best value for money, as it is paying £230,000 per more annum in insurance premiums than its peers. However, some of this amount is recharged and some Councils do not own tenanted housing, therefore an independent actuary would be required in order to confirm whether the policy offers value for money.

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RISKS REVIEWED GIVING RISE TO NO FINDINGS OF A HIGH OR MEDIUM SIGNIFICANCE

- The Council has inadequate insurance cover to meet its defined insurable risks.
- Claims information is not recorded or is inaccurate, or management information is not produced and reported to the Corporate Leadership Board, resulting in a failure to identify trends and uninformed decisions being made

LOOKING FORWARD: SUPPORTING THE COUNCIL'S JOURNEY FROM MODERATE TO SUBSTANTIAL ASSURANCE

Design	Moderate	Substantial	<ul style="list-style-type: none"> • Update the Insurance and Risk Management Strategy • Include fraud indicator checklist prompts in ClaimControl • Add a 'date reported to the Council' field in ClaimControl • Create a system for logging calls making insurance claims • Seek advice from an independent actuary to ensure the Council is achieving value for money
Effectiveness	Moderate	Substantial	<ul style="list-style-type: none"> • Implement training to ensure staff liaising with the public are aware of the importance of not admitting liability without full information • Improve the timeliness of information provided to the Risk and Insurance Officer by the departments in the event that a staff member involved in a claim is absent • Strengthening existing controls related to the identification of recurring incidents

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility and implementation date
Risk: The Council has inadequate processes to enable compliance with Insurance Policy Conditions				
1	Annual refresher training should be implemented for all departments and induction training and guidance for new starters should be provided to ensure all staff are aware of the Conditions Insurance Act. This should include informing staff that liability should not be admitted, as this may undermine the council's defence in any claim, and awareness around any related nuances in communications that might be interpreted as an admission of liability.	M	The Risk and Insurance officer will arrange for Zurich to hold training sessions with those who work regularly with insurance claims and create a quick guide for an all-staff communications bulletin.	Sue White (Risk and Insurance Office) 31 March 2018
Risk: Claims are not processed in a timely manner as a result of delays in submission of required information by Council departments				
2	<p>a) There should be a distinction in ClaimControl between the date of the incident; the date actually reported to the Council; and the date the Risk and Insurance team receive the claim.</p> <p>b) The Council should log calls received relating to the making of an insurance claim.</p> <p>c) Compliance with anti-fraud checklists should be added to ClaimControl for public liability claims and there should be regular reviews of claims to check that the fraud checklists have been completed.</p>	M	<p>Management feel that the recording of too many dates could be unnecessary but will check with Zurich as to which dates are the most important to record. The Risk and Insurance Officer and Corporate Health and Safety Advisor are already in the process of developing an online incident form, which would/could be adapted to address the recommendations raised here. All incidents would be completed on an e-form, and with an interface designed by the ClaimControl developers, Alphatec, that information could be populated into ClaimControl. The Financial Services Manager is working with the new Digital Service Team -they could also help implement this.</p> <p>It should be noted that the Fraud Indicator checklist only came into force from 1/4/17 and the strategy is currently being updated to reflect this. In the interim, most claims are forwarded to Zurich and they have their own system in place for checking fraud.</p>	<p>Sue White (Risk and Insurance Officer) and Jacqueline Van Mellaerts (Financial Services Manager)</p> <ul style="list-style-type: none"> • Fraud checkboxes added to the system by 31 August 2017 • Discussion between the Financial Services Manager, Risk and Insurance Officer, Digital Service Team and Alphatec by December 2017 • Implementation of the new system April 2018

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility and implementation date
Risk: Claims are not processed in a timely manner as a result of delays in submission of required information by Council departments				
3	<p>a) If a claim is made against a staff member while they are on holiday, the Risk and Insurance Officer should ensure that the insurer is made aware of the anticipated date of return of the employee as soon as possible. Individual departments should provide as much information as possible to the Risk and Insurance Officer as soon as reasonably possible.</p> <p>b) The Risk and Insurance Officer should investigate whether ClaimControl could produce an alert if a settlement letter or final correspondence has not been uploaded to the system after a given period of time (to be decided by the Risk and Insurance Officer).</p> <p>c) All departments should keep clear records of incidents occurring within their teams and store this on a shared drive so that it is accessible in the event of a staff member's absence.</p>	M	<p>The online incident form as described in the previous finding would also address this, as all information would be stored online. New Council ICT systems, could embed an Insurance Group ethos into the Council. This will continue to be work in progress upon a more thorough review.</p>	<p>Sue White (Risk and Insurance Officer) and Jacqueline Van Mellaerts (Financial Services Manager)</p> <p>See management response in Finding 2.</p>

APPENDIX V - COMMUNITY HALLS VIABILITY

LEVEL OF ASSURANCE (SEE APPENDIX II FOR DEFINITIONS)			SUMMARY OF RECOMMENDATIONS (SEE APPENDIX II FOR DEFINITIONS)	
Design	Limited	System of internal controls is weakened with system objectives at risk of not being achieved.	High	2
			Medium	3
Effectiveness	Limited	Non-compliance with key procedures and controls places the system objectives at risk.	Low	2
			Total number of recommendations: 7	

OVERVIEW

Background

In March 2015, the Council commissioned support for the development of a Leisure Strategy for the Borough to support the Local Development Plan. A cross party Member working group was established to identify key priorities and develop a work plan. The group identified the need to establish the income streams and levels of income and expenditure of leisure facilities to inform the next stages of the strategy.

The Council is considering the adoption of the six Community Halls, currently managed by Brentwood Leisure Trust and is assessing financial viability of the halls based on income and expenditure levels. The lease with Brentwood Leisure Trust, who currently manage the running of the Community Halls, has been extended to December 2017. Our audit considered the adequacy of the financial information obtained by the Council in enabling this decision making process.

Key Areas for Improvement

- The Council needs to undertake further work to ensure that the financial information on running the Community Halls is adequate enough for members to be able to make an informed decision. Our audit found significant variances between income and expenditure totals reported in the statutory accounts, reported to the Charity Commission, and the management accounts supplied by Brentwood Leisure Trust (BLT) to the Council.
- Until a decision is made on the future management of the halls, further monitoring is required of the financial performance of BLT and ensuring that information required as part of the Service Level Agreement is received and reviewed on the agreed basis.
- The Council should Introduce more formality into the community halls project for establishing the future management of community halls including compiling a project plan to cover all aspects of the project, with clear outcomes, set deadlines and a risk register, all of which should be monitored and updated on a regular basis.
- Monitoring of the condition of the six community halls on a regular basis is necessary to ensure that BLT is meeting the requirements of its lease to ensure that the halls are maintained to a good standard.

OVERVIEW

Conclusion

We have raised seven recommendations on the design and operational effectiveness of controls in place relating to the Community Halls Viability - two high level, three medium level and two low level recommendations. Our review found that the Council does not have sufficient information to enable members to make a decision on the future management of the halls and additional work is required to confirm the current financial position of BLT , the actual running costs of the halls and potential impact on both parties dependent on the option selected. The project needs more formalisation including compiling a project plan with clearly stated objectives, time lines and project risks. Officers are aware that more work is required and commissioned our audit to provide guidance on the next steps.

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility and implementation date
Risk: The Council has not obtained adequate financial information to enable a decision to be made on the future operation of the Community Halls.				
1	The Council needs to obtain the full supporting documentation for the management accounts information it was sent. The differences between statutory accounts and management accounts should be investigated to ensure the Council has a clear picture of BLT's financial position and the full costings involved in running the community halls. This can then be used to accurately determine the impact on both parties dependent on what route the Council decides to select for the future. The Council cannot make a decision on the future of the management of the Community Halls until it has resolved the issues highlighted including whether BLT owes the Council a share of the operating profits.	H	Differences raised noted, agree the need to establish what the reasons are. BLT will be contacted and arrangements made for the interim project accountant to liaise with appropriate BLT staff to seek explanations about the information sent and potential differences found and obtain the necessary supporting documentation and additional information sought such as staff TUPE numbers.	John Chance (Director of Finance) September 2017
Risk: There is a lack of clarity around the scope of Brentwood Leisure Trust (BLT) responsibility and the impact of proposed changes on both the Council and BLT (including the ongoing viability of other BLT areas of operation and the impact of Community Halls dilapidations on BLT)				
2	<p>a) The Council should introduce the requirement that BLT supply monthly financial performance reports, with supporting evidence, which need to be reviewed by the responsible accountant and any variances or potential issues investigated. Dependent on the option selected the Council should ensure financial performance of the halls contract is monitored on a regular basis.</p> <p>b) As part of the current arrangements, or for the future monitoring of the halls, the Council should ensure that, as a minimum, an annual condition survey is undertaken to ensure the continual upkeep of the properties.</p> <p>c) The Council need to establish the financial position of BLT and whether they would be able to pay for the internal repairs if the halls stay under BLT management or if they are returned to the Council.</p>	H	Agree that the sections in the SLA and leases need to be monitored and controls introduced. Dependent on the future option decided upon there will be targets set on performance and financial performance which will be monitored.	John Chance (Director of Finance) Kim Anderson (Partnership, Funding and Leisure Manager) October 2017 and as part of new arrangements.

RECOMMENDATIONS AND MANAGEMENT ACTIONS

Ref.	Recommendation	Sig.	Agreed management action	Responsibility and implementation date
Risk: Failure to identify project risks and mitigating actions.				
3	<p>A project plan covering the community halls should be developed covering all the steps required to enable a comprehensive report to be produced for members to make their decision on the future management of the community halls. The plan should include nominated officers and set time lines for completion.</p> <p>The plan should include the options to be considered, what information is required to support options, i.e. due diligence exercise on finances and contracts currently in place, and the risks to the Council in delays, not doing anything and any mitigating actions already in place.</p>	M	Agreed the need to record the risks already highlighted especially concerning the risk to the Council and BLT dependent on financial position.	Kim Anderson (Partnership, Funding and Leisure Manager) October 2017
Risk: Failure to produce implementation plans. including financial and budgets and a timeline for implementing the project.				
4	As part of the project plan the Council should include implementation plans clearly outlining the steps required and target dates. This needs to be monitored on a regular basis by the project lead and reported to the appropriate committees and management.	M	Agree an implementation plan covering the project steps to ensure all issues are covered needs to be developed.	Kim Anderson (Partnership, Funding and Leisure Manager) November 2017
Risk: No development and distribution of a Leisure Strategy.				
5	The Council needs to complete and seek approval through the decision making route for the Leisure Strategy which should include, once all information has been obtained, a clear plan for the future use and management of the Community Halls.	M	Leisure Strategy is currently being developed and to be complete will need to include how the community halls will be managed. Until a formal decision on Community Halls is taken the strategy will still be in draft format.	Kim Anderson (Partnership, Funding and Leisure Manager) March 2018

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27 September 2017

Audit Committee

Strategic & Operational Risk Review

Report of: *John Chance, Finance Director*

Wards Affected: *None*

This report is: *Public*

1. Executive Summary

- 1.1 The report updates members of the Audit Committee on the status of the Council's 2017/18 Strategic Risk Register and the progress being made across Services in delivering Operational Risk Registers.

2. Recommendations

- 2.1 To agree the revised Insurance & Risk Management Strategy**
- 2.2 To agree the amendments to the Strategic Risk Register, as shown in Appendix B, and that the risk scores recorded for each risk accurately represents the current status of each risk.**
- 2.3 To agree the risk exposure changes and the new risks, as shown in Appendix C, to the Operational Risks**

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 strategic and operational risk registers are monitored quarterly by the Corporate Leadership Board (CLB) who consider the risks, the mitigations and agrees the content. It is 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.

4. Issue, Options and Analysis of Options

Insurance & Risk Management Strategy

- 4.1 The annual review of the Insurance and Risk Management Strategy has been carried out and is attached at Appendix A. It now includes guidance on self-funding for insurance purposes.

Strategic Risks

- 4.2 In accordance with the Council's Insurance and Risk Management Strategy, risk owners have reviewed their risks and risk scores and updated them for the coming financial year 2017-18. These were discussed and agreed by CLB on 11 September 2017.
- 4.3 Attached to this report at Appendix B is a summary showing the current status of each risk and any movement in risk score compared with previous monitoring periods, together with explanatory commentary on the key issues for each risk.
- 4.4 As a result of the current risk review one risk has decreased and twelve risk scores have remained unchanged.
- 4.5 The risk where the risk score has reduced is as follows:
- Yellow risk RSK5 – Information Management and Security (Row No. 10)
This risk has reduced following the PPR Committee formally adopting the policies. The newly adopted policies will be rolled out along with DPA training to all staff by the end of September 2017.
- 4.6 There has been one new risk added to the Strategic Risk Register:
- Amber risk RSK15 – Non-compliance by existing third party contractors to the council with the principles of the Data Protection Act 1998. (row 5)
This has been given a risk score of 15; 3 = likelihood, 5 = Impact

Risk Matrix

- 4.7 The fourteen risks are plotted on the risk matrix in Table 1. The current assessment identifies that two risks will remain in the red area of the risk matrix.

Table 1 – Risk Matrix

Likelihood / Probability	Definite	5	10	15	20	25
	Very Likely	4	8	12	16	20
	Likely	3	6	9	12	15
	Less Likely	2	4	6	8	10
	Unlikely	1	2	3	4	5
		Negligible	Minor	Moderate	Significant	Major
Negative Impact / Severity						

No.	Risk	No.	Risk
1	Finance Pressures	9	Lack of strategic Direction
2	Local Development Plan	10	Failure to Spend Capital Receipts
3	Disaster Recover/Continuity Planning	11	Roll out of Universal Credit
4	Organisational Capacity	12	Extension of Right to Buy to registered provider tenants
5	Information Management and Security	13	Failure to deliver key Corporate Projects
6	Risk longer required	14	Failure of Democratic Services
7	Commercial Activities	15	Data Protection Act 1998
8	Contract/Partnership Failure		

Operational Risks

- 4.8 Operational risk management is concerned with reviewing those risks that are faced in the day-to-day delivery of services, particularly where effective management of those risks could result in a reduction in insurance claims and related costs.
- 4.9 The Operational Risks have been reviewed by risk owners and updated and amended where necessary to reflect the actions being taken to manage the risks.
- 4.10 Attached to this report at Appendix C is an operational risk summary report showing significant risk exposure changes and one new risk.

5. Reasons for Recommendation

- 5.1 Risk Management continues to be embedded quarterly within the Senior Management Team reports, where Service Heads 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 continue to work with risk managers to maintain the good progress to date and further develop a consistent application of risk management considerations across all operations of the Council.

6. Consultation

- 6.1 None.

7. References to Corporate Plan

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

8. Implications

Financial Implications

Name & Title: Jacqueline Van Mellaerts, Financial Services Manager

Tel & Email: 01277 312 829

jacqueline.vanmellaerts@brentwood.gov.uk

- 8.1 None arising specifically from this report, but control measures identified in risk registers could have financial or resource implications.

Legal Implications

Name & Title: Daniel Toohey, Monitoring Officer

Tel & Email: 01277 312 860 daniel.toohey@brentwood.gov.uk

- 8.2 Effective risk management provides a means of identifying, managing and reducing the likelihood of legal claims or regulatory challenges against the Council.

9. Appendices to this report

Appendix A – Insurance and Risk Management Strategy

Appendix B – Strategic Risk Register Summary Report

Appendix C - Operational Risk Register Summary Report

Report Author Contact Details:

Name: Sue White, Risk & Insurance Officer

Telephone: 01277 312821

E-mail: sue.white@brentwood.gov.uk

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BRENTWOOD BOROUGH COUNCIL

INSURANCE AND RISK MANAGEMENT STRATEGY

Contents

1. Policy Statement
2. Introduction
3. Aims and Objectives
4. Insurance Framework
5. Risk Management Framework
6. Roles and Responsibilities
7. Risk Analysis
8. Risk Ranking Table
9. Monitoring arrangements for Key Risks
10. Indicators of Success

1. Policy Statement

Brentwood Borough Council is committed to the effective management of risk. The Council's employees, partners, stakeholders, residents, assets and ability to deliver its objectives and services are constantly affected by risk. The Council recognises that risk can be both positive and negative. The Council accepts its legal, moral and fiduciary duties in taking informed decisions about how best to control and minimise the downside of risk, whilst still maximising opportunity and benefiting from positive risks. The Council will ensure that Members and staff understand their responsibility to identify risks and their possible consequences.

2. Introduction

The Council's priority is to deliver excellent, customer focused, cost effective services by ensuring that the Council's Risk Management framework is in place and operating effectively. The Council's corporate insurance arrangements form part of the overall risk management approach.

This strategy outlines the Council's overall approach to risk retention and transfer including the procurement of corporate insurance cover through relevant policies of insurance to protect against loss or damage to the Council's assets and potential liabilities.

Risk

Risk is defined in this context as something that might have an impact on achieving the Council's objectives and its delivery of services to the community.

Risk Management can be defined as ***“the culture, processes and structures that are directed towards effective management of potential opportunities and threats to the organisation achieving its objectives”***.

We use the risk management process to identify, evaluate and control risks. Risk management need not mean risk avoidance and may involve taking steps to reduce risk to an acceptable level or transfer risk to a third party. The Council recognises that it has to deliver services in an increasingly litigious and risk-averse society. The Council will therefore use risk management to promote innovation in support of the Corporate Plan.

Insurance

Insurance is a mechanism for transferring risks to another (the insurer) for a consideration (premium). The broad principal of insurance is that the premiums collected from many policyholders pays for the claims of a few, whilst still allowing the insurer to meet their overheads, pay dividends to shareholders, purchase re-insurance to protect themselves against catastrophic losses and to build up their reserves. The Council is not required by law to purchase insurance to cover its risks, except as set out in the next paragraph.

Under the Local Government Act 1972 it is required to have Fidelity Guarantee Insurance. This protects the Council in the event of a financial loss arising out of the fraud or dishonesty by its employees. The Council also purchases insurance and inspection services where there are other statutory requirements, for example the need, under the various Health and Safety Acts, to have boilers and lifts inspected by an independent and competent person.

3. Aims and Objectives

Aim

The aim of this Strategy is to improve the Council's ability to deliver a systematic and structured approach to identifying and managing risks across the Council. To ensure that appropriate insurance arrangements are in place to protect the Council against loss or damage to the assets and potential liabilities and to obtain the broadest cover at the best terms available.

Objectives

The objectives of this Strategy are:-

- Integrate and raise awareness of risk management for all those connected with the delivery of Council services
- To provide a robust and systematic framework for identifying, managing and responding to risk
- Anticipate and respond to changing social, environmental and legislative requirements.
- Enhance the attractiveness of the Council's risk profile to underwriters.
- Comply with any statutory requirements to have in place particular policies of insurance and associated inspection systems.
- Minimise potential claims and consequently reduce the cost of insurances
- Reduce the cost of external premium spend and to consider self-funding for low level claims
- Protect the Council's assets (people and property).
- Protect the reputation of the Council.

These objectives will be achieved by:

- Establishing clear roles, responsibilities and reporting lines within the Council for identifying and managing risk.
- Embedding risk management into the Council's decision making process, service delivery, project management and partnership working.
- Providing opportunities for training and shared learning on insurance and risk management across the Council.
- Maintaining documented procedures for the control of risk and the provision of suitable information, training and supervision.
- Maintaining an appropriate incident reporting and recording system, (with investigation procedures to establish cause and prevent recurrence) to provide opportunities for improved risk management across the Council.
- Ensuring robust Business Continuity arrangements are in place.
- Robust claims handling arrangements and insurance fraud detection.
- Maintaining claims handling protocols that are in line with statutory requirements.

4. Insurance Framework

Adequate insurance cover is an essential component of effective Risk Management.

Prior to 1992 Brentwood, like the majority of local authorities, was insured with Municipal Mutual Insurance (MMI) for all its corporate insurance requirements such as employers and public liability insurance. Insurance cover during this period was 'ground up' meaning that all insurance claims were paid in full by MMI as the policies had no deductibles or excesses.

The Scheme of Arrangement began in 1992 when MMI became no longer viable financially and was no longer able to provide ongoing cover. This authority, along with others, took on responsibility for a portion of the outstanding and any future incurred claims. This council has set up a specific provision for MMI claims based on a levy that the scheme administrator imposed on all local authorities following an actuarial review of the total scheme liabilities and assets. A levy of 15% was imposed on scheme creditors in January 2014 and a further levy of 10% was imposed in April 2016. The balance of the fund now stands at £223,108.76. The levy and reserve may change depending on the outcome of future actuarial assessments of scheme assets and liabilities.

Following the demise of MMI in 1992 the council subsequently insured through Zurich Municipal and continued to insure on a 'ground-up' basis but incurred low level excesses on some of its policies.

Insurance Premium Tax (IPT) was introduced by the UK government in 1994, and means that all insurance premiums are subject to the tax which was originally set at 5%. This has increased from 6% in 2011 to 9.5% in November 2015, then 10% in November 2016, to its current rate of 12%.

The commercial insurance market for the public sector has for many years been very restricted with local authorities typically perceived by insurers as 'bad' risks, with only a handful of insurers willing to underwrite local authority business.

In basic terms, each insurer estimates the chances of a range of events happening and determines what they will need to charge to fund these potential risks, based on a fixed level of excess. If an authority wishes to increase the level of excess and suffer more potential costs should an event take place, then the insurer would be expected to reduce premiums to take account of the reduced level of risk that they are expecting.

As a general rule, the more an authority decides to self-insure, the lower the costs of insurance should be; however, self-insurance requires the authority to maintain a level of resources sufficient to meet all likely claims against the organisation. This would be managed through an insurance reserve.

One of the main drivers in deciding to self-insure is cost versus risk. An insurance company will charge a premium that it considers will cover the cost of any claims that it is likely to have to pay during the period of insurance (particularly in relation to small predictable losses), plus an amount in respect of its profit and administration costs.

Instead of paying a premium to insure against these predictable losses, the council can instead use the money to pay for any loss settlements that may arising during the year. An additional benefit of this approach is that the council retains this money should any losses be less than anticipated. In contrast, larger infrequent losses are hard to predict and to avert, and it is therefore prudent to insure against this type of loss to avoid exposing the council to any unnecessary large financial loss.

In determining its insurance programme and deciding which risk to insure against and to what degree, the council considers its appetite for risk, i.e. the amount of risk exposure or potential adverse impact (in this context cost, financial loss) from an event that the council is willing to accept.

At the present time, the council does not maintain an insurance reserve to meet the cost of claims falling under the policy excess. This cost is meet out of departmental budgets that the insurance claim falls under. If the excesses were increased it would be necessary to establish an insurance fund. To estimate the level of funds the council would require holding in the insurance reserve, the council would need to commission an independent actuary to provide a consolidated view of the

council's current and potential liabilities. This review would need to be carried periodically.

The ability of this authority to self-insure and maintain a self-insurance reserve will need to be weighed against the premium cost of insurance as well as set against the context of the overall general balances of the Council.

Insurance will be procured in accordance with external regulatory requirements applying at the time (e.g. OJEU procedures) and the Council's Financial Regulations. Following a tender exercise in 2013, a new contract was awarded for a five year period with an option to extend the contract for a further two years should it be identified that this provides best value for the Council.

Liability claims will be managed in accordance with the Civil Procedures Rules with strict adherence to the protocol timetable. The Insurance Officer will lead on all investigations and provide the liaison between employees, solicitors and insurers.

Analysis of claims will lead to risk improvements in the areas of training, security and systems of work.

The Annual Review Process

The annual review process requires the Council to provide the Insurer with information on changes to sums to be insured for the following insurance year, which runs from 1 April to 31 March. These sums include information on the value of the Council's property estate, computer equipment, vehicles, etc. On receipt of this information and the Council's claims history over the year, the Insurer will then assess the Council's risk profile and present a report detailing proposed premiums for the following insurance year categorised by policy type.

On receipt of this report the Council reviews the figures for accuracy, and assesses whether the report is a fair representation of the Council's risk profile based on claims experience. A meeting is then convened between the Council and the Insurer to discuss the report.

Thereafter, should an agreement be reached the contractual relationship between the Council and the Insurer will continue until the next annual review.

5. Risk Management Framework

Risk Management is a central part of the Council's strategic management. It is the process by which risks are identified, evaluated and controlled.

The risk management process will add value to the Council's decision making process and is key to the organisation's strategic development, playing a fundamental role in reducing the possibility of failure and increase the Council's successes.

In broad terms risks are split into three categories:

- Strategic – those risks relating to the long term goals of the Council
- Operational – risks related to the day-to-day operation of each individual service
- Project – consideration of the risks occurring as a result of the Council's involvement in specific initiatives

The Strategic Register is owned by the Corporate Leadership Board, with ownership for risks being assigned to individual officers and Operational Registers are maintained by the relevant Department.

The Council is committed to establishing a systematic and consistent approach to risk identification, analysis, control, monitoring and review and consists of five stages:-

- Identify Risks – this involves the identification of risks, describing and recording them.
- Evaluate Risks – the identified risks are each assessed in terms of their likelihood and potential impact and determined against a profiling matrix.
- Manage Risks – this involves the identification and implementation of control measures to mitigate the impact risk, the cost effectiveness of implementing these measures and the estimation and evaluation of residual risk. There are four basic ways of treating risk, which are:-

Retain	Accept the risk exposure as part of the risk appetite
Avoid	Stop undertaking the activity which gives rise to that risk
Transfer	Involves another party bearing or sharing the risk i.e. via insurance
Reduce	Control the risk and take action to reduce either likelihood of a risk occurring and/or the consequences if it does occur

- Report – progress in managing risks should be monitored and reported to ensure actions are carried out.
- Review – review the effectiveness of the control and to inform decision making.

6. Roles and Responsibilities

Everyone in the Council is involved in risk management and should be aware of their responsibilities in identifying and managing risk. However, the ultimate responsibility for managing risk lies with:

- Members of the Audit & Scrutiny Committee
- Corporate Leadership Board

To ensure the successful implementation of this policy, responsibilities for risk management are detailed below:

Members of the Audit & Scrutiny Committee

- Approve the Council's Insurance and Risk Management Strategy
- To ensure that strategic risks are being actively managed and report any concerns to full Council

Corporate Leadership Board (CLB)

- Ensure the Council implements and manages risk effectively through the delivery of the Insurance and Risk Management Strategy and consider risks affecting delivery of service.
- Ensure risk management is considered by CLB on a quarterly basis
- Be responsible for and monitor the Strategic and Operational Risk Registers
- Assign a responsible officer to each significant strategic risk.
- Receive and approve updates on the management action plan and on any new significant emerging risks.
- Support the embedding of risk management within the culture of the Council.

Senior Management Team (SMT)

- Take responsibility for the promotion of the Insurance & Risk Management Strategy within their area.
- Ensure that operational risk registers are managed, monitored, responded to and communicated effectively in their areas and reported quarterly at SMT.

Finance Director

- Ensure risk forms part of the overall performance management framework
- Contribute to the formulation and future development of the overall Insurance and Risk Management Strategy
- Provide updates to CLB and Members on significant risks identified and emerging from the risk register and other sources.

Departmental Managers

- Review and update risks quarterly, including monitoring controls and treatment progress.
- Ensure awareness of risk culture is embedded across their respective departments and services.
- Maintain risk registers in their respective areas of responsibility.
- Identify resources to address the highest priority risks and make requests to CLB for funds to avoid, transfer or reduce risk

Team Managers

- Identify, evaluate and control risks facing the Council in achieving its objectives
- Include staff without direct responsibility for owning and managing risk in quarterly risk discussions to ensure teams identify potential risks associated with service delivery as necessary.

Employees

- To ensure they are aware of the risks on the risk register for their service area and have contributed to the identification of potential risks they are aware of.

Internal Audit

- Maintain an independent role in line with guidance from the Institute of Internal Auditors and others and ensure compliance with the Public Sector Internal Audit Standards
- Ensuring that internal controls are robust and operating correctly

7. Risk Analysis

Once risks have been identified they need to be assessed systematically and accurately. The process requires managers to assess the level of risk by considering:

The probability of an event occurring – ‘likelihood’ and the potential outcome of the consequences should such an event occur – ‘impact’. Managers will assess each element of the judgement and determine the score. The table below gives the scores and indicative definitions for each element of the risk ranking process:-

Score	Likelihood	Description
1	Unlikely/rarely happens	I would be very surprised to see this happen, but cannot entirely rule out the possibility
2	Less likely/moderate	I would be mildly surprised if this occurred, but cannot entirely rule out the possibility
3	Likely/possible	I think this could maybe occur at some point, but not necessarily in the immediate future
4	Very likely/high	I think this could occur sometime in the coming year or so
5	Definite/very high	I would not be at all surprised if this happened within the next few months

Score	Impact	Description
1	Negligible Impact	<ul style="list-style-type: none"> • Very minor service disruption/little inconvenience • None injury • Financial loss under £5,000
2	Minor Impact	<ul style="list-style-type: none"> • Minor service disruption/short term inconvenience • Minor injury • Financial loss under £10,000 • Isolated service user complaints • Breach of regulations/standards
3	Moderate Impact	<ul style="list-style-type: none"> • Service disruption • Loss time injury • Financial loss under £50,000 • Adverse local media coverage/lots of service user complaints • Breach of law punishable by fines only • Failure to achieve a Service Plan objective
4	Significant Impact	<ul style="list-style-type: none"> • Significant service disruption • Major/disabling injury • Financial loss under £100,000 • Adverse national media coverage • Breach of law punishable by fines or possible imprisonment • Failure to achieve one or more Strategic Plan objective
5	Major Impact	<ul style="list-style-type: none"> • Total service loss for a significant period • Fatality to employee, service user or other • Financial loss in excess of £100,000 • Ministerial intervention in running service • Breach of law punishable by imprisonment • Failure to achieve a major corporate objective in the Strategic Plan

The risk ratings for each part of the assessment are then combined to give an overall ranking for each risk. The ratings can be plotted onto the risk matrix, see below, which assists in determining the risk priority.

8. Risk Ranking Table

Brentwood Council has introduced a best practice five stage approach to Risk Management.

Likelihood / Probability	5	10	15	20	25
	4	8	12	16	20
	3	6	9	12	15
	2	4	6	8	10
	1	2	3	4	5
		Negligible	Minor	Moderate	Significant
Negative Impact / Severity					

Risk Tolerance		
Red (High Risk)	20 – 25	Must be managed down as a priority
Amber (Medium Risk)	12 - 16	Seek to influence medium term/monitor
Yellow (Accept Risk)	6 - 10	Acceptable, but continue to monitor
Green (Low Risk)	1 - 5	Continue to monitor

9. Monitoring arrangements for Key Risks

The reason for monitoring key risks is to create an early warning system for any movement in risk. Key risks, 12 or above, will be individually reported to CLB, who will review whether it is appropriate for the risk to be escalated to the Strategic Risk Register. Any risks below 6 will be reviewed at an appropriate level as to whether it is appropriate for the risk to be removed from the risk registers or de-escalated.

Risk registers are living documents and therefore must be regularly reviewed and amended. The Insurance and Risk Management Strategy requires risks recorded on the Strategic Risk Register and Operational Risk Registers to be monitored on a quarterly basis by the relevant risk owner.

Monitoring reports are presented for approval to the Corporate Leadership Board prior to final ratification by the Audit Committee.

The questions asked during monitoring are:-

- Is the risk still relevant?
- Is there any movement in the risk score?
- Are there controls still in place and operating effectively?
- Has anything occurred which might change its impact and/or likelihood?
- Have any significant control failures or weaknesses occurred since the last monitoring exercise?
- If so, does this indicate whether the risk is increasing or decreasing?
- If the risk is increasing do I need to devise more controls or think of other ways of mitigating the risk?
- If the risk is decreasing can I relax some existing controls?
- Are controls/actions built into appropriate documented action plans?
- Are there any new or emerging risks?
- Have any of the existing risks ceased to be an issue (and can therefore be archived)?

10. Indicators of Success

- Strategic and Operational Risk Registers monitored on a quarterly basis and report presented to Audit Committee
- Annual review of the Insurance and Risk Management Strategy
- Adhoc reports provided to the Corporate Leadership Board when new, significant risk issues arise

BRENTWOOD BOROUGH COUNCIL STRATEGIC RISK REGISTER SUMMARY SHEET 2017-2018

Row No	Risk No	Risk Description	Existing Controls	Residual Risk Rating			Residual Risk Rating			Current Risk Rating			Movement	Risk Response/Update on action required	Risk Owner
				Jan-17			May-17			Aug-17					
				*L	*I		*L	*I		*L	*I				
1	RSK1	<u>Finance Pressures</u> As central government grant support to the council falls away dramatically in the next 2 years, the budget gap is a major management issue.	Medium Term Financial Planning is undertaken on an annual basis, with monthly budget monitoring and half year reports to Members. A Funding Volatility Reserve has been created to specifically address the uncertainty of Government funding levels. Currently healthy reserves and working balances held.	5	5	25	5	5	25				↔	COMMENT JAN 2017: Further bad news from the Local Government Finance Settlement, a £500k cut to the new homes bonus grant for 2017/18 with impact expected on subsequent years, gives the council even greater financial pressures. COMMENT MAY 2017: No better news has been forthcoming since December, the financial outlook still remains gloomy. Work is underway to address the 2018/19 budget deficit. COMMENT AUG 2017:	John Chance
2	RSK12	<u>Extension of Right To Buy to registered provider tenants</u> Funding to be provided by the LA from the sale of high value Council houses resulting in a reduction in housing stock.	We will continue to monitor progress and update Members.	4	5	20	4	5	20				↔	COMMENT JAN 2017: We have received no further information from DCLG, we will continue to monitor. COMMENT MAY 2017: We have received no further information from DCLG, we will continue to monitor. COMMENT AUG 2017:	Angela Williams
3	RSK11	<u>Rollout of Universal Credit</u> The direct payment of universal credit to claimants (previously Housing Benefit payments) may result in a reduction on the rent roll received, increasing the level of rent arrears.	Current tenants affected by Universal Credit are being monitored by Housing Officers on a regular basis, who can be referred for budgeting advice. Updated Income Management procedure to become more client based. Introduction of new Pre-Tenancy Service to instill a payment culture. Monthly rent arrears campaign to target high risk areas.	4	4	16	4	4	16				↔	COMMENT JAN 2017: We have seen a further impact on households that are in TA, although low numbers, who are subject to the benefit cap causing tenants to fall into unintentionally fall into arrears. Further referrals are being made to HB for DHP, however not sustainable long term, further joint working with HB to help partially fund DHP from the homeless prevention fund. At present direct payments to tenants is planned for 2019. COMMENT MAY 2017: No further update, position remains the same. COMMENT AUG 2017:	Angela Williams
4	RSK2	<u>Local Development Plan</u> Failure of the Council to adopt a Plan in line with National Planning Policy Framework resulting in planning applications judged against NPPF 'in favour of sustainable development'	Meeting targets set out in the Plan timetable, with ongoing discussion with neighbouring Local Planning Authorities. Retention of permanent staff. Risk impact is high but controls are in place to manage this and meet targets, which means likelihood is lower.	3	5	15	3	5	15	3	5	15	↔	COMMENT JAN 2017: Report taken to Policy, Finance & Resources Committee regarding implications to the LDP timetable from a number of external factors. Recommendation approved to have the LDP Member Working Group propose a revised timetable to account for these issues and present to future committee. Risk is being monitored but remains the same. COMMENT MAY 2017: Revised timetable to be taken to Special Council meeting on 21 June 2017, along with further consultation document (Focused Consultation) on Draft Plan. COMMENT AUG 2017: Aim to approve revised timetable and latest consultation in June 2017 was not met due to the need to better understand emerging evidence relating to development needs, among other things. Target is now to approve these in Autumn 2017. Risk continues to be managed in line with this process.	Phil Drane

BRENTWOOD BOROUGH COUNCIL STRATEGIC RISK REGISTER SUMMARY SHEET 2017-2018

Row No	Risk No	Risk Description	Existing Controls	Residual Risk Rating			Residual Risk Rating			Current Risk Rating			Movement	Risk Response/Update on action required	Risk Owner
				Jan-17			May-17			Aug-17					
				*L	*I		*L	*I		*L	*I				
5	RSK15	Non-compliance by existing third party contractors to the Council with the Principles of the Data Protection Act 1998 could result in contractor unlawfully disclosing personal data held on behalf of the Council as Data Controller.	Some, but not all, contracts, may lack DPA clauses. Checks being conducted to establish.							3	5	15		NEW RISK The General Data Protection Regulations (GDPR) come into effect in May 2018, which sets increases in potential fines for non-compliance. The council will conduct a comprehensive review of all extant contracts and the 'triaging' those involving data sharing/processing to ensure those contracts contain suitable DPA-compliant clauses going forward. 'auditing' of third parties' organisational compliance with DPA as part of the process, as required of us (as data controller) under DPA. Additional resoures have been employed to conduct this.	Daniel Toohey
6	RSK3	<u>Disaster Recovery/Business Continuity</u> Failure to respond effectively to an incident/event due to lack of robust Emergency Planning & Business Continuity Plans results in service disruption and inability to deliver key services.	Most services have Business Continuity Plans in place but likely to be outdated. Insurance cover. Alternative fuel stocks /supplies. Pandemic flu plan in place. A business continuity guide has been produced for businesses and an Emergency Planning Guide produced for residents.	2	4	8	3	4	12	3	4	12	↔	COMMENT JAN 2017: The overarching plan has been completed for 2017/18 but is being re-amended to reflect current understood delegations/titles. Departmental Plans format is being revisited to reflect changes in the way data is stored/retrieved thus making information more secure. The future organisation of some services is unclear which will impact upon the timely completion of Departmental Plans. COMMENT MAY 2017: The overarching plan requires further amendment due to all departments moving out from the Town Hall to new locations as yet to be finalised. The same applies to departmental plans. The risk score has been altered to reflect this. COMMENT AUG 2017: The Corporate Emergency Plan has been re-written and a draft submitted to the Chief Executive for approval. Basildon & Tendring DC have produced a generic Rest Centre Plan and training modules for staff and volunteers which is to be adopted by all Essex local authorities by 31 December 2017. A timetable has now been drawn up for the relocation of staff to various sites in Brentwood. Business Continuity Plans have still to be updated.	Phil Ruck
7	RSK13	<u>Failure to deliver key Corporate Projects</u> There are a number of projects that are vital to supporting and delivering the vision for Brentwood. Failure to implement/deliver these projects will either mean a loss to the community or a loss of income.	PF&R Committee appointed as Programme Board. Continued communication on all projects. Ownership of delivery of projects identified at all levels within the Council.	2	5	10	2	5	10	2	5	10	↔	COMMENT JAN 2017: Progress is being made on a number of areas to confirm the no change status. To substantiate this a number of presentations have been made to the PFR committee and Full Council. COMMENT MAY 2017: The newly formed Corporate Projects Scrutiny Committee will take a close look at key Corporate Projects and reflects the importance placed upon them. A paper has been prepared which will be presented to PPR committee and then forwarded to CPSC. This emphasises the importance of key projects and the close monitoring of them by members. COMMENT AUG 2017: The Corporate Project Scrutiny Board has established the majority of the working groups to ensure that benefits / actions are not lost.	Phil Ruck

BRENTWOOD BOROUGH COUNCIL STRATEGIC RISK REGISTER SUMMARY SHEET 2017-2018

Row No	Risk No	Risk Description	Existing Controls	Residual Risk Rating			Residual Risk Rating			Current Risk Rating			Movement	Risk Response/Update on action required	Risk Owner
				Jan-17			May-17			Aug-17					
				*L	*I		*L	*I		*L	*I				
8	RSK4	<u>Organisational Capacity</u> Lack of capacity to effectively govern the organisation will result in delay in delivery of business objectives	Medium Term Financial Plan Communications Protocol & Strategy Workforce Strategy Regular meetings between senior members & officers. Review options for alternative service delivery models	2	4	8	2	4	8	2	4	8	↔	COMMENT JAN 2017: We are continuing with the process in line with Corporate Procedures and policies. COMMENT MAY 2107: We continue to review all structures in light of performance supported by delivery. Any variances are being closely reviewed to ensure we have a structure that delivers both services and projects. COMMENT AUG 2107: A number of service reviews have been initiated to ensure that the organisation structure and capacity matches planned delivery. The current focus of the review is on Housing and Streetscene.	Phil Ruck
9	RSK8	<u>Contract/Partnership Failure</u> Key to delivering efficiency benefits and outcomes relating to contracts is the way in which they are delivered. Management of contract/partnership arrangements is vital to ensure that we reach and deliver the outcomes we need.	Service Level Agreements embedded within contract and penalties in place for non performance. Regular reporting on contract performance. Escalation and governance in place.	2	4	8	2	4	8	2	4	8	↔	COMMENT JAN 2017: We have held a number of training exercises re the whole area of contract management and improvements put in place. COMMENT MAY 2017: We have held a procurement review which has focused on the end to end procurement process, not just the pricing element. This has been supported by staff training and member training is scheduled for July 2017. COMMENT AUG 2017: A highly successful Member training session has been held and run by EELGA. The EELGA exercise clearly stated that whilst there was still work to be done there were many examples of best practice in Brentwood and we can be held as a model of what good looks like to similar organisations.	Phil Ruck
10	RSK5	<u>Information Management and Security</u> If a data breach occurs (e.g. Unauthorised release of personal information) the Council may be fined by the ICO and be subject to damages and loss of reputation.	Data Protection Policy Regular training	3	3	9	3	3	9	2	3	6	↓	COMMENT JAN 2017: The Council has engaged extra resources to roll out new information governance policies and procedures to be fully in place by April 2017. COMMENT MAY 2017: Information governance policies and procedures have been reviewed and concluded. A report has been published for PPR Committee approval and formal adoption of policies on 18 July 2017. COMMENT AUG 2017: PPR Committee has now formally adopted the policies. The newly adopted policies will be rolled out along with DPA training to all staff by the end of September 2017 through an all staff email from CX followed by a dedicated intranet page where the policies and training materials will be available.	Daniel Toohey
11	RSK7	<u>Commercial Activities</u>	Medium Term Financial Planning is undertaken on an annual basis, with monthly budget monitoring. Regular reports to Asset and Enterprise Cttee to provide close monitoring. Robust business modeling and financial projections.	2	4	8	2	3	6				↔	COMMENT JAN 2017: We are currently developing the business case for this, which will involve both new service arrangements and the review of assets of the organisation. COMMENT MAY 2017: With the financial outlook unfavourable it is essential we explore all opportunities for enhancing commercial activities. The Council is currently working with EELGA and other partners to develop strategies. COMMENT AUG 2017:	John Chance

BRENTWOOD BOROUGH COUNCIL STRATEGIC RISK REGISTER SUMMARY SHEET 2017-2018

Row No	Risk No	Risk Description	Existing Controls	Residual Risk Rating			Residual Risk Rating			Current Risk Rating			Movement	Risk Response/Update on action required	Risk Owner
				Jan-17			May-17			Aug-17					
				*L	*I		*L	*I		*L	*I				
12	RSK10	<u>Failure to spend Capital Receipts</u> Failure to spend capital receipts within the deadline will result in delays in delivering Affordable Housing programme	Monitoring by finance team. Affordable housing programme in place.	1	5	5	1	5	5				↔	COMMENT JAN 2017: Risk rating reduced as we have one live site and 5 x garage sites for Whittington Rd at pre-app stage. 5 further sites agreed to pursue in addition to Maple Close site. Further 2 properties are being purchased alongside development programme ahead of June 17 deadline. COMMENT MAY 2017: On track, 1 further property purchased and one more being finalised. Whittington Road sites are progressing and are currently at the Stakeholder Engagement stage. COMMENT AUG 2017:	Angela Williams
13	RSK9	<u>Lack of Strategic Direction</u> Without a clearly defined vision, the organisation is in danger of managing services only and losing the impact of much needed change supported by clear targets. If we do not follow a clear strategic path we will find ourselves falling behind and potentially failing residents	Corporate Plan. Training and Development for Officers and Members Code of Conduct. Consultation / surveys. Project and performance Management Framework.	1	4	4	1	4	4	1	4	4	↔	COMMENT JAN 2017: The Vision for Brentwood is being rolled out with adherence to the budget and key strategies are being developed supporting this. COMMENT MAY 2017: Delivery of the Vision is being controlled by strong and robust programme and project management. CLB now hold monthly P&P focused meetings. COMMENT AUG 2017: Work on the delivery of programme and project management continues to support the delivery of the Vision for Brentwood.	Phil Ruck
14	RSK14	That outsourcing/shared service arrangements result in the Council's democratic duties not being fulfilled or ignored leading to a failure in the Council's obligations.	Statutory returns will be built into contracts relating to any outsourcing/shared arrangements. The Monitoring Officer to be involved at all times in relation to contracts and monitoring of performance.	1	2	2	1	2	2	1	2	2	↔	COMMENT JAN 2017: This risk is being managed on an ongoing basis by contract management and the involvement of the Monitoring Officer. COMMENT MAY 2017: This risk continues to be managed on an ongoing basis by contract management and the involvement of the Monitoring Officer. COMMENT AUG 2017: All partnership arrangements are following client management best practice and any concerns are flagged to the Monitoring officer.	Phil Ruck
				* L = Likelihood Rating (1 = Low, 5 = High) * I = Impact Rating (1 = Low, 5 = High) Maximum Score 5 x 5 = 25											

Operational Risks Register Summary Report

Significant Risk Exposure Changes

Risk No	Risk Description	Residual Risk Rating			Current Risk Rating			Movement	Risk Response/Update on action required
		May-17			Aug-17				
		*L	*I		*L	*I			
CS3	Up-to-date Constitution that is amended for legislative changes	3	3	9	2	2	4	↓	COMMENT AUG 2017: Changes approved at full council have now been amended into the Constitution by democratic Services and copies disseminated to Members/Officers. Next round of CWG review meetings to start shortly. FOWS will be on Planning procedure. However, overall, risk is now reduced significantly and being managed in a systemic manner.
F9	Failure to attain PCI DSS compliance across all payment options	4	5	20	3	5	15	↓	COMMENT AUG 2017: Risk is slightly reduced, due to a number of projects in place to help mitigate the risk.
F10	Failure to sufficiently collect Corporate Sundry Debt monies raised via eFinancials Accounts Receivable module	2	3	6	1	3	3	↓	COMMENT AUG 2017: Proactively collecting Corporate Debt monies, so sufficiently collecting debt.

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New Risks

Risk Description	Likelihood	Impact	Owner	Impact Description
Failure to manage anti-social behaviour resulting in possible injury / death of a resident occurring and multiple complaints	4	2	Nicola Marsh	Financial implications and reputational damage

Appendix C

* L = Likelihood Rating (1 = Low, 5 = High)
* I = Impact Rating (1 = Low, 5 = High)

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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, of 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.

Terms of Reference Audit Committee

The Audit 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. Without prejudice to the generality of the above, the terms of reference include those matters set out below;

Audit Activity

- (a) To approve the Annual Internal Audit risk based plan of work.
- (b) 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.
- (c) To consider regular progress reports from Internal Audit on agreed recommendations not implemented within a reasonable timescale.
- (d) To consider the External Auditor's annual letter, relevant reports, and the report to those charged with governance.
- (e) To comment on the scope and depth of external audit work and to ensure it gives value for money.
- (f) 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.
- 8) To be responsible for the Council's strategic and budgetary framework and its implementation.

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.