



# Agenda

## Regulatory and Governance Committee

Wednesday, 10 October 2018 at 7.00 pm

Brentwood County High School, Shenfield Common, Seven Arches Road,  
Brentwood CM14 4JF

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### Membership (Quorum – 3)

Cllrs Ms Rowlands (Chair), Tumbridge (Vice-Chair), Barrett, Cloke, Mrs Hones, Kendall, McCheyne, Mrs Middlehurst and Mynott

### Substitute Members

Cllrs Hirst, Naylor, Nolan, Morrissey, Mrs Murphy and Tierney

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### Agenda

Item	Item	Wards(s) Affected	Page No
1.	Apologies for absence		
2.	Minutes of the Previous Meeting		5 - 10
3.	Chair's Update Report	All Wards	11 - 12
4.	Review issues referred to the committee by a statutory officer of the Council or any Council Body	All Wards	13 - 14
5.	Draft Corporate Complaints Policy and Persistent and Unreasonable Behaviour Policy	All Wards	15 - 42

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|----|---|-----------|-----------|
| 6. | <b>Anti-Fraud Policy (incorporating Bribery, Corruption and Money Laundering)</b> | All Wards | 43 - 102  |
| 7. | <b>Insurance and Risk Management Strategy</b>                                     | All Wards | 103 - 132 |
| 8. | <b>Strategic and Operational Risk Update</b>                                      | All Wards | 133 - 144 |
| 9. | <b>Urgent Business</b>  |           |           |

A handwritten signature in black ink, appearing to read 'P. L. Russell', with a large, sweeping underline.

Chief Executive

Town Hall  
Brentwood, Essex  
02.10.2018

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### 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.

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#### 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.

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#### 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.

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### 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.

Dates of the meetings are available at [www.brentwood.gov.uk](http://www.brentwood.gov.uk).

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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

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these activities, in their opinion, are disrupting proceedings at the meeting.

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 **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 meeting venue from the Main Entrance. If you do wish to attend this meeting, please contact the clerk should you have specific accessibility needs. There is an induction loop in the meeting room.

 **Evacuation Procedures**

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



## Minutes

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### Regulatory and Governance Committee Wednesday, 11th July, 2018

#### Attendance

Cllr Ms Rowlands (Chair)	Cllr Mrs Hones
Cllr Tumbridge (Vice-Chair)	Cllr McCheyne
Cllr Barrett	Cllr Mynott
Cllr Cloke	

#### Apologies

Cllr Mrs Middlehurst

#### Substitute Present

Cllr Naylor (substituting for Cllr Kendall)

#### Also Present

Cllr Mrs Pound

#### Officers Present

Assaf Chaudry	-	Governance Lawyer
Zoey Foakes	-	Governance & Member Support Officer
Philip Ruck	-	Chief Executive
Jacqueline Mellaerts	Van -	Chief Financial Officer
Sue White	-	Risk and Insurance Officer

#### 82. Apologies for absence

Apologies were received from Cllr Mrs Middlehurst and Cllr Kendall with Cllr Naylor substituting.

#### 83. GDPR Update

A GDPR Update was presented to the committee from Mr Ruck.

Cllr Tumbridge stated his concerns that he felt it was not acceptable that the policies were not presented or brought to this committee and that he was unhappy.

Cllr Tumbridge proposed that this committee recommend that an individual be identified from within our authority to take on the role of Data Protection Officer (DPO) and that all of these policies be brought to this committee as soon as possible.

Mr Ruck confirmed he would send out the links to all the policies. Mr Ruck stated that the Council had previously operated successful shared roles in the three main statutory officer appointments (Chief Executive; S151 and Monitoring Officer) and also expressed his concerns for budgetary and skillset reasons on appointing an internal DPO. Mr Ruck confirmed this would need to be brought to Policy, Projects and Resources Committee.

A recommendation was **MOVED** by Cllr Tumbridge and **SECONDED** by Cllr Mynott

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

**An individual be identified as a DPO from within our authority (To be brought to the next Policy, Projects and Resources Committee).**

#### **84. Regulation of Investigatory Powers Act 2000**

The Investigatory Powers Commissioner's Office (IPCO) conducts periodic inspections of local authorities' use of their powers under the Regulation of Investigatory Powers Act 2000 (**RIPA**). The purpose of these inspections was to examine the Council's policies, procedures, operations and administration in relation to directed surveillance and covert human intelligence sources (**CHIS**) under RIPA.

The last inspection took place on 16<sup>th</sup> August 2017 and although it was noted that there had been no directed surveillance or CHIS been requested since 21<sup>st</sup> July 2014 the inspector made one recommendation which required a number of parts of Corporate RIPA policy to be updated and amended. In addition, the Inspector, while not a subject of a Recommendation, pointed out that the issue of the dual role of Senior Responsible Officer (SRO)/ Authorising Officer (AO) being exercised by one officer should be avoided. The roles should be separated. The purpose of the SRO was to maintain general oversight of RIPA compliance, including the integrity of the authorisation process, while the AO's role was solely to authorise requested activity. There were some minor changes as set out in 4.2 iii & iv . The report would enable members to generally review the RIPA activity since the last report and implement the recommendation as contained in attached Corporate RIPA policy document.

Cllr Tumbridge **MOVED** and Cllr Cloke **SECONDED** an additional recommendation:

**3. That Appendix 4 (of the Regulation of Investigatory Powers Act 2000 (RIPA) Corporate Policy – June 2018 – Appendix A of the report) be brought back for review with the data protection compliance report at the next meeting.**

A vote was taken by a show of hands for the additional recommendation which was **RESOLVED UNANIMOUSLY**.

On the original recommendations, a motion was **MOVED** by Cllr Ms Rowlands and **SECONDED** by Cllr Cloke to approve the recommendations in the report.

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

- 1. That the Committee approves the amendments to the Corporate RIPA policy set out in Appendix A in accordance with the recommendation of the Surveillance Inspector.**
- 2. That the Committee note the statistical information relating to the use of RIPA since September 2017.**
- 3. That Appendix 4 (of the Regulation of Investigatory Powers Act 2000 (RIPA) Corporate Policy – June 2018 – Appendix A of the report) be brought back for review with the data protection compliance report at the next meeting.**

#### **Reasons for Recommendation**

To implement the recommendation made by the Surveillance Inspector and changes in law and to assist with Members' oversight and decision making in relation to the attached RIPA Policy.

#### **85. Adoption of Revised Members Planning Code of Good Practice into the Constitution**

This item was deferred to a later committee meeting.

Cllr Rowlands and Cllr Tumbridge requested that if members had questions on this item to send them to the Chair or Vice Chair in advance so that officers had time to prepare a response.

#### **86. Strategic and Operational Risk**

The report updated members of the Regulatory & Governance Committee on the status of the Council's 2018/19 Strategic Risk Register and the progress being made across Services in delivering Operational Risk Registers.

The strategic risk register had been reviewed by senior officers and risk scores had been adjusted accordingly.

Members suggested that all risks had associated target dates to monitor progress.

Cllr Tumbridge **MOVED** and Cllr Ms Rowlands **SECONDED** to approve the recommendation in the report subject to the following amendment:

1. *To agree the amendments to the Strategic Risk Register, as shown in Appendix A (of the report), and that the risk scores recorded for each risk accurately represents the current status of each risk with the exception of risks 5 and 11 which should be raised to “red”.*

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

1. **To agree the amendments to the Strategic Risk Register, as shown in Appendix A (of the report), and that the risk scores recorded for each risk accurately represents the current status of each risk with the exception of risks 5 and 11 which should be raised to “red”.**
2. **To agree the risk exposure changes, as shown in Appendix B (of the report), to the Operational Risks.**

#### **Reasons for Recommendation**

Risk Management continued to be embedded quarterly within the Senior Management Team reports, where Service Heads discussed 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 consistent application of risk management considerations across all operations of the Council.

#### **87. Member's Training Programme**

The report before Member's was to adopt the Member's Training Programme for the new municipal year 2018/19.

Overall, Members welcomed the training programme.

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

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



**That the Committee adopts the Member's Training Programme (Appendix A of the report) for 2018/2019.**

**Reasons for Recommendation**

To provide a Member's Training Programme in line with best practice.

**88. Urgent Business**

There were no items of urgent business and the meeting concluded at 20:05.

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**10<sup>th</sup> October 2018**

## **Regulatory & Governance Committee**

### **Chair's Update Report**

**Report of:** *Cllr Louise Rowlands – Chair of the Regulatory & Governance*

**Wards Affected:** *All Wards*

**This report is:** *Public*

### **GDPR Update**

A GDPR Update will be made to the November Regulatory & Governance meeting. At the July meeting the Committee agreed that an individual be identified as a Data Protection Officer from within the Council and a report made to the next Policy, Projects and Resources Committee.

At the Policy, Projects and Resources Committee on the 18 September 2018, Min 137 refers, it was agreed that:

1. Shared arrangements that are currently in place with Thurrock Council to continue and are to be reviewed in September 2019.
2. That performance continues to be monitored to ensure that the obligations of the Council, under the control and management of the DPO, are being met by the shared management agreement in place.

### **Regulation of Investigatory Powers Act 2000**

At the previous meeting the Committee were advised that the Investigatory Powers Commissioner's Office (IPCO) 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.

The last inspection took place on 16th August 2017 and although it was noted that there has been no directed surveillance or CHIS been requested since 21st July 2014 the inspector made one recommendation requiring a number of parts of Corporate RIPA policy to be updated and amended.

Subsequently the Committee approved the amendments to the Corporate RIPA Policy with the recommendation of the Surveillance Inspector. In addition the Committee agreed that Appendix 4 (of the Regulation of Investigatory Powers Act 2000 (RIPA) Corporate Policy – June 2018 – Appendix A of the report) be brought back for review with the data protection compliance report at the next meeting.

As stated above in the GDPR Update a report will be provided to the November Regulatory & Governance meeting, this will include the review of Appendix 4 (of the Regulation of Investigatory Powers Act 2000 (RIPA) Corporate Policy – June 2018 – Appendix A of the report) as previously agreed.

**Report Author Contact Details:**

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10 October 2018

## Regulatory & Governance Committee

### Review issues referred to the committee by a statutory officer of the Council or any Council Body

**Report of:** Claire Mayhew – Corporate and Democratic Services Manager

**Wards Affected:** All

**This report is:** Public

#### 1. Executive Summary

- 1.1 The Terms of Reference for the Regulatory & Governance Committee requires it to review issues referred to the committee by a statutory officer of the Council or any Council Body.
- 1.2 This will now be a standing item for the Committee with Officers providing any matters for the committee to consider including a nil response.
- 1.3 There are no current matters to be referred to the committee.

#### 2. Recommendation(s)

- 2.1 **That the Committee agrees that there no issues to be referred by the Councils Statutory Officers at this stage.**

#### 3. Introduction and Background

- 3.1 The Council's Constitution provides the framework within which we conduct our business. It describes who is responsible for making decisions and how decisions are made.
- 3.2 The Terms of Reference for the Regulatory & Governance Committee requires it to review issues referred to the committee by a statutory officer of the Council or any Council Body.

#### 4 Reasons for Recommendation

- 4.1 The Constitution requires that the Regulatory & Governance Committee to review issues referred to the committee by a statutory officer of the Council or any Council Body.

## **5 Consultation**

5.1 None.

## **6 References to Corporate Plan**

6.1 The vision of Transformation includes an action to improve the Council's governance arrangements, leading to faster, more effective decision-making.

## **7 Implications**

### **Financial Implications**

**Name & Title: Jacqueline Van Mellaerts, Interim Chief Finance Office/S151 Officer**

**Tel & Email: 01277 312829 /jacqueline.vanmellaerts@brentwood.gov.uk**

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

### **Legal Implications**

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

**Tel & Email: 01277 312860/daniel.toohey@brentwood.gov.uk**

7.2 There are no direct legal implications arising directly from this report.

## **8 Background Papers**

8.1 None

## **9 Appendices to this report**

None

### **Report Author Contact Details:**

**Name:** Claire Mayhew, Corporate and Democratic Services Manager

**Telephone:** 01277 312500

**E-mail:** claire.mayhew@brentwood.gov.uk

10<sup>th</sup> October 2018

## Regulatory and Governance Committee

### Draft Corporate Complaints Policy and Persistent and Unreasonable Behaviour Policy

**Report of:** Steve Summers, Chief Operating Officer

**Wards Affected:** None

**This report is:** Public

#### 1. Executive Summary

- 1.1 This report asks Members to consider and adopt a revised Corporate Complaints Policy and the introduction of a Persistent and Unreasonable Behaviour Policy.

#### 2. Recommendation(s)

**2.1 That the committee approves the Draft Complaints Policy (Appendix A).**

**2.2 That the committee approves the Draft Persistent and Unreasonable Behaviour Policy (Appendix B)**

#### 3. Introduction and Background

3.1 The Councils current Complaints Policy was implemented in December 2015. The current policy has proved successful in allowing Officers to effectively handle complaints, but improvements have been identified to streamline the process further for the benefit of the complainant.

3.2 The Council has not previously maintained a policy to manage the relatively few cases where people pursue complaints or enquiries in a way that is unreasonable. Whilst reviewing the Complaints Policy, it has been identified that a supporting policy to manage such complainants would be of benefit to both other customers and to the demands placed on Officers. The Draft Persistent and Unreasonable Behaviour Policy outlines options for how we would manage these minority of cases and has been written using Local Government Ombudsman (LGO) guidance.

3.3 The purpose of a complaints system is to put right what has gone wrong and learn from it. The LGO defines the following principles as being key to effective complaint handling:

- Accessibility – it is well publicised and easily accessed
- Communication – early and continued contact throughout the process
- Timeliness – it takes no longer than 12 weeks from receipt to resolution
- Fairness – staff are clear about roles and responsibilities and deal with complaints impartially. Responses are proportionate.
- Credibility – it is managed by someone who can take an overview and can implement changes
- Accountability – information is provided in a clear and open way and is properly managed.

#### **4. Issue, Options and Analysis of Options**

4.1 Following a review of the current complaints procedure, and in line with the most recent LGO guidance, the Council is proposing to reduce the current three stage process down to two stages. In the first instance, the complaint will be investigated by a service investigator for a meaningful and informed review. If the complainant is not satisfied with the response, it will be forwarded to a Senior Manager to conduct a Stage 2 review.

4.2 The revised policy reduces the timeframe for responses down to 10 working days at Stage 1, and 15 working days at Stage 2. The current policy allows 20 working days at each of the three stages, and it is felt that this is unreasonably lengthy for the complainant.

4.3 Once the complaint has been through our process, or it is felt that no further remedy can be offered, the complainant will be informed of their rights to refer the complaint to the LGO or Housing Ombudsman.

4.4 All considerations identified during the review are outlined in Appendix C.

4.5 The Draft Persistent and Unreasonable Behaviour Policy details options that the Council could utilise to restrict the contact customers can have with the Council if their behaviour is found to be unreasonable or unreasonably persistent.



- 4.6 Monitoring of complaints and the outcomes is undertaken by Service Managers and the Chief Operating Officer on a quarterly basis and is presented to the Audit and Scrutiny Committee each quarter.
- 4.7 Monitoring of customers managed under the Persistent and Unreasonable Behaviour Policy will take place on a quarterly basis by a panel of Senior Officers.

## **5. Reasons for Recommendation**

- 5.1 The Council is keen to ensure that the Complaints Policy is kept as effective and efficient as possible, and the revised policy sees multiple improvements for the experience of the complainant.
- 5.2 In the absence of a defined policy, the Council has experienced difficulty dealing with customers whose behaviour is deemed to be unreasonable. The introduction of a Persistent and Unreasonable Behaviour Policy will empower staff to deal confidently and effectively with these instances, and benefit service delivery for other customers.

## **6. Consultation**

- 6.1 No consultation is required in advance of submission of this report to Committee.

## **7. References to Corporate Plan**

- 7.1 The vision of Transformation includes providing modern and effective customer services. An effective complaints policy is key to this.

## **8. Implications**

### **Financial Implications**

**Name & Title: Jacqueline Van Mellaerts, Interim Chief Finance Officer**  
**Tel & Email: 01277 212829/jacqueline.vanmellaerts@brentwood.gov.uk**

- 8.1 There are no direct financial implications arising from this report. However the report does make reference to guidance on levels of compensation. These compensations levels remain unchanged and are monitored within the Council's Medium Term Financial Plan.

## **Legal Implications**

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

**Tel & Email:** 01277 312860/daniel.toohey@brentwood.gov.uk

- 8.1 A robust and regularly reviewed complaints procedure will assist the Council in monitoring processes, managing risks and meeting its statutory and governance obligations.

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

- 8.2 None

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

- 9.1 None

## **10. Appendices to this report**

- Appendix A – Draft Complaints Policy 2018
- Appendix B – Draft Persistent and Unreasonable Behaviour Policy 2018
- Appendix C – Review of Complaints Policy 2015
- Appendix D – Guidance on Levels of Compensation 2015

## **Report Author Contact Details:**

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**BRENTWOOD BOROUGH COUNCIL**  
**COMPLAINTS POLICY**  
**September 2018**

DRAFT



## 1. Introduction

Brentwood Borough Council aims to provide excellent services and deliver those services right first time for our customers. Where we fail to do so we expect officers to take ownership and work with customers to resolve any issues. There may be times, however, when customers feel we have let them down and wish to make a complaint.

Brentwood Borough Council recognises the value of customer complaints and welcomes them as an important form of feedback on our services. We will learn from and use the information from complaints to drive forward improvements and respond positively to our customer's needs and expectations. We will put a strong emphasis on making personal contact with complainants and finding out from them what we need to do to put things right. We want to resolve all complaints quickly and effectively, resolving them straight away where possible.

Where possible, the Council would like to receive complaints in writing via the online complaint form found on our website. This allows the Council to obtain the correct information required to fully investigate and respond accordingly to the complaint. We do, however, accept complaints in other formats, including:

Visiting our website – [www.brentwood.gov.uk](http://www.brentwood.gov.uk)

Emailing us at [enquiries@brentwood.gov.uk](mailto:enquiries@brentwood.gov.uk)

Ringling us (a Customer Service Advisor will complete an e-form on complainants behalf)

Writing to us at Town Hall, Ingrave Road, Brentwood, CM15 8AY

***Please note:*** Complaints against a member of staff must be made in writing.

## 2. Our Aims

We believe that all our service users have the right to:

- Have their views heard
- Receive a good quality service
- Expect prompt action when our performance is below standard, balanced by the resources we have available

Our staff and contractors will be:

- Efficient and sensitive to the needs of the service users
- Accessible and clearly identified
- Aware of the day-to-day concerns of our service user



Our procedure will:

- Be easy to access and widely advertised
- Advise service users of the standard of service they should expect, a time limit for replying to their complaint and their right to appeal
- Provide a code of practice for handling complaints
- Ensure we monitor complaints
- Ensure we meet our standards

### **3. How we handle a complaint**

We define a complaint in the following way:

“Any expression of dissatisfaction about any of our services requiring a response.”

#### **Who can make a complaint?**

We accept complaints from residents, local businesses, visitors to the borough, suppliers of services, community groups and any other groups or individuals that use or are affected by our services. We also accept complaints from people acting on behalf of someone else such as councillors, members of parliament (MPs) and representatives.

#### **Stage 0 Complaints**

The majority of complaints can be successfully resolved at the point of service delivery. We, therefore, encourage customers to contact the service concerned before submitting a formal complaint. This may enable the service to quickly put right or resolve an issue for customers who simply want the matter swiftly resolved. Where the complaints team are aware, Stage 0 complaints will be logged to ensure this feeds learning and improvement in relation to services. A customer does not have to have submitted a Stage 0 complaint before submitting a formal complaint.

#### **Formal Complaints**

A customer can request that their issue is dealt with as a formal complaint by email, letter or by using the on-line form available on the Council website. In order for the Council to deal effectively with a customer's complaint it would be helpful and assist the process for the complainant to provide information on any initial complaints made to the service, name of officer who handled the complaint, copies of correspondence and any other useful background information. After submission, a customer will be sent an acknowledgement confirming that the complaint has been received, who the matter has been referred to and when a response can be expected.



### **Stage 1: Resolution**

A formal complaint should be resolved as close as possible to where the problem has occurred. A Senior Officer will complete a meaningful and informed investigation and a response will be sent to the complainant within 10 working days. It is not appropriate for an officer who has been named in a complaint to respond to the complaint as it will raise questions regarding impartiality and independence of the complaints process.

### **Stage 2: Review**

If your complaint is not resolved to your satisfaction you can request a Stage 2 Review. Requests for reviews must be made within 10 working days of receiving the Stage 1 response. You must explain why you are dissatisfied with the outcome of the Stage 1 investigation and what you think the Council can do to put matters right. Your complaint will be reviewed by a Senior Manager who was not involved in the original complaint. The Senior Manager will not reinvestigate the complaint but will focus on understanding the continuing concerns and whether the Stage 1 Resolution process was undertaken fairly and that the conclusions reached were reasonable. We aim to notify you of the outcome of the review within 15 working days.

If the Senior Manager reviews the complaint and decides that nothing further is to be gained from a Stage 2 review, you will be informed and advised of the next options available to you.

**Please note:** if it is not possible to complete Stage 1 or 2 within the specified timescales, the complainant will be contacted and informed when they should expect a response.

Note: where a complaint needs to be given priority, for example, where there is a clear and continuing detrimental effect on the complainant, the Council will adjust timescales appropriately.

### **What happens if the complainant is still dissatisfied once they have been through our complaints process?**

Once the complaint has been through our complaints process they will be informed of their rights to refer the complaint to the Local Government Ombudsman or Housing Ombudsman.

Complaints against local authorities in their role as social landlords and, in some instances, in respect of their management of leasehold properties will be considered by the Housing Ombudsman.



The Local Government Ombudsman deals with complaints with most council services, including planning, housing benefit, environment and waste, transport and highways, council tax and some education matters.

### **Is there a time limit for making a complaint?**

We will not normally consider a complaint that is made more than six months after the individual first became aware of the issue they want to complain about. There are exceptions to this where the Council accepts that such a delay was reasonable.

### **How do we learn from complaints?**

We learn from complaints by offering timely and effective remedies. This gives us the best outcome in terms of cost effectiveness and customer service. Where a complaint highlights the need for changes in working practice, systems, staff training or procedure the officer is required to highlight this and other learning points to the complaints team. They will work with the service manager(s) concerned to make sure the necessary actions to bring about the changes are carried out.

Lessons learned will be highlighted in quarterly complaints reports so that learning and good practice can be shared across the council.

### **What complaints aren't covered by this policy?**

There are certain types of complaints that may not be dealt with under this policy. Where complaints fall into one of these categories, complainants will be informed and, where possible, directed to the correct responsible body or entity:

- Matters for which there is a statutory right of appeal, for example, an appeal to a Council Tax tribunal, an ongoing Housing Review decision, or a Planning decision.
- Complaints relating to matters outside of the Council's jurisdiction
- Complaints under the Data Protection and Freedom of Information Act
- Complaints where legal proceedings, court or tribunal action is being taken (although related issues that are not subject to legal proceedings may be considered)
- Employee complaints about terms and conditions of employment, working conditions or personnel issues which come under the employee complaint procedure
- Matters which are subject to an insurance claim
- Complaints that are submitted anonymously (although we may still investigate)
- Reasonableness of service charges for leaseholders

Further details can be found at [www.brentwood.gov.uk](http://www.brentwood.gov.uk)



## **Complaints Regarding Agreed Council Policies**

The Council has a range of adopted policies which prescribe and guide the business of the Council. The Council must ensure that all its policies comply with relevant legislation. Careful consideration is given to how policies impact on staff, residents and groups with protected characteristics. Such policies are approved by Elected Members through the Council's decision-making processes and officers are required to operate in accordance with agreed policies. It is recognised and accepted that policies can have what individuals might perceive as positive or negative impacts for them, based on their circumstances.

The Council will deal with complaints through its normal complaint procedure that allege that relevant council policy has not been complied with or alleging the policy does not comply with relevant legislation. The Council will also investigate complaints where it is alleged that actions have been taken in the absence of a policy or where an individual believes a Council policy should exist but is absent.

Where a complaint relates to how a person has been affected as a result of a Council policy, there is very limited scope to investigate that complaint, however, feedback and comments on the impact of policies will be taken into account (as appropriate) and considered as part of future reviews of the policy. Residents are also encouraged to provide feedback to their Ward Councillors (details of which can be found at [www.brentwood.gov.uk](http://www.brentwood.gov.uk)) who has options to make representations regarding the appropriateness of the policy through the decision-making process.

## **Managing persistent or unreasonable complainants**

The majority of individuals who contact the Council communicate in a polite and reasonable manner. The Persistent or Unreasonable Behaviour Policy outlines how we manage the relatively few individuals whose actions we consider unreasonable. The Council may not progress complaints or comments from customers managed under this policy.

## **Maintaining confidentiality**

The Data Protection Act 2018 regulates the way in which organisations can use personal information. The Council will maintain the confidentiality of all personal information and not disclose it outside of the Council without your permission unless the Council is legally obliged to do so. More information on how Brentwood Borough Council protects personal data can be found at [www.brentwood.gov.uk/privacy](http://www.brentwood.gov.uk/privacy).





#### **4. Complaints resolution**

Brentwood Borough Council aims to resolve complaints by putting things right where there has been a failure in service. Our approach will be fair and consistent across all the complaints we uphold.

#### **What we will do when answering a complaint**

When answering a complaint, we will:

- Address the issues raised and the outcome of the investigation or review
- Explain the basic policy/procedure or level of service we provide

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- Say what we have done to address the matter (if the Council is found to be at fault)
- Give a clear outcome as to whether we uphold the complaint
- Provide details of what the complainant should do if they are not satisfied with the outcome of the complaint.

Where our service has not met our standards we will:

- Apologise for the failure in service
- Explain what went wrong
- Say what we have done to put things right
- Where appropriate, say how we have learned from the complaint

## **5. Putting things right**

There are a number of actions we can take to put things right.

### Providing the service

Where we have failed to provide a service that we agree a customer is entitled to, we should ensure that the service is provided in line with an agreed timetable, explaining any delay.

### Backdating the service

Where we have not provided a service that we should have, it may be appropriate to backdate the service to when it should have been provided in the first instance. For example, a benefits application that needs to be backdated to the original claim date.

### Stopping enforcement action

Where the complainant disputes the reasons for the enforcement action it may be appropriate to stop the action or postpone the action pending further investigation.

## **6. Financial Compensation**

Our first priority is to resolve failures and put them right. Unless we agree that the Council is liable for material loss, we will usually only consider compensation when we review if the complaint has been adequately resolved.

Compensation should be appropriate and proportionate. It is not automatic payment when the Council makes a mistake. Compensation should only be considered where the complaint investigation has identified maladministration (a mistake or delay that has caused a customer to suffer injustice) and the Council, or those working on behalf of the Council are

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wholly or partially at fault.



### **Under what circumstances will financial compensation be considered?**

If we cannot put a complainant back in the position that they would have been in but for our mistake/delay then we would consider financial compensation as a substitute. This may be because of the passage of time or the nature of events.

We will not consider financial compensation in the following circumstances:

- Any matter settled via an insurance claim
- Any settlement agreed via court proceedings
- Where there is a specific statutory process of remedy open to the complainant, such as parking appeals process

Exceptions to these circumstances:

- We may pay compensation to settle complaint where it is cost effective for the Council to do so
- If a tenant is not covered by insurance we will use our discretion to compensate them in the case of especially vulnerable tenants

### **Further information**

For details on the levels of compensation and who has the authority to authorise payments see the appendix to this document.

For further information on complaints you can:

Visit our website: [www.brentwood.gov.uk](http://www.brentwood.gov.uk)

Email: [enquiries@brentwood.gov.uk](mailto:enquiries@brentwood.gov.uk)

Telephone: 01277 312500

Contact details for the Local Government Ombudsman are as follows:

Website: [www.lgo.org.uk](http://www.lgo.org.uk)

Telephone: 0300 061 0614



Contact details for the Housing Ombudsman are as follows:

Website: [www.housing-ombudsman.org.uk](http://www.housing-ombudsman.org.uk)

Address: Housing Ombudsman Service  
PO Box 152  
Liverpool  
L33 7WQ

Telephone: 0300 111 3000

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Cross referencing policies  
Investigation stage 2  
Cost money – how we learn from complaints  
Agreed policies – wording  
Append guidance on compensation

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# **BRENTWOOD BOROUGH COUNCIL PERSISTENT AND UNREASONABLE BEHAVIOUR POLICY**

**Dealing with abusive, vexatious or persistent  
complaints, complainants and customers**

September 2018



## **Introduction**

The majority of individuals who contact Brentwood Borough Council communicate with us in a polite and courteous manner. This policy underpins the Council Complaints Policy September 2018 and outlines how we manage the relatively few individuals whose actions we consider unreasonable.

The Council has an obligation under the Health and Safety at Work etc. Act and the Management of Health and Safety at Work Regulations 1999 to, where practicable, protect the safety and well-being of its employees. When a member of the public contacts Brentwood Borough Council they should be treated with courtesy and respect by the Council and its staff, and Council staff must have the same rights as customers in return. We expect our customers to treat our staff with courtesy and respect at all times.

The Council also has a duty to responsibly protect its public fund; persistent and/or unreasonable contact or complaints can drain officer time and ultimately impact on service delivery for other customers.

## **Purpose of the policy**

Our objectives under this policy are:

- to define the behaviours that are not acceptable to the Council
- to ensure our staff have a safe working environment without being adversely affected by those who behave in an unreasonable manner
- to empower Council staff to deal confidently and effectively with persistent and/or unreasonable behaviour
- identify what action can be taken to restrict this behaviour

## **Who does this policy apply to?**

This policy applies to all members of the public and all those who deal with the Council.

## **What behaviour is unreasonable?**

Some behaviours that may be considered unreasonable are listed below. This list is not exhaustive but aims to identify the types of behaviour the Council may deem to be unreasonable.

Aggressive and/or abusive behaviour, including:

- threats
- verbal abuse





- intimidation
- racist or sexist language
- derogatory remarks
- offensive language
- rudeness
- unsubstantiated allegations

Unreasonably persistent or vexatious behaviour i.e:

- refusal to co-operate with the complaints investigation process
- refusal to specify grounds of a complaint
- refusal to accept that issues are not within the power of the Council to investigate
- excessive demands on the time and resource of staff whilst an enquiry or complaint is being investigated
- malicious or unfounded allegations about staff
- refusal to accept the outcome of an enquiry or complaint
- repeated issuing of the same enquiry or complaint, perhaps with minor variations, after a conclusion has been reached or repeatedly arguing points with no new evidence
- adopting a 'scatter gun' approach; excessively pursue the same issue or complaint with the Council and other third parties i.e, MP, Councillors, LGO, police etc.

### **How we will manage unreasonable and/or persistent behaviour**

The Council takes a zero-tolerance approach to threats or abuse against its employees. This behaviour may be reported to the police. The Council may restrict communication with customers whose behaviour is unacceptable, providing we have asked them to amend their behaviour. If this warning does not resolve in acceptable behaviour, we may take steps to restrict the communication we have with them. All staff have the authority to terminate a service (i.e. a phone call) when dealing with unreasonable behaviour.

Where behaviour is deemed to be persistent or vexatious, the Council may decide to place measures that limit how and when a customer contacts us.

We will ensure we are clear on our expectations of a customer when implementing restrictions and will explain our reasons for doing so. We will also ensure the level of restriction is proportionate, taking into account customers individual circumstances, such as disability, mental health, age, race or religion and other factors set out in the Equality Act.

(Some of the) Options the Council may consider are set out below:



- place limits on the number and duration of contacts with staff per week or month
- offer a restricted time slot for necessary calls
- terminate telephone calls where a customer is aggressive, abusive or offensive (we will always provide a warning before terminating the call)
- terminate telephone calls where issues that have been responded to are persistently raised (we will always provide a warning before terminating the call)
- limit contact to only one form (telephone, letter, email etc)
- require communication with only one named member of staff (single point of contact)
- require any personal contacts to take place in the presence of a witness and in a suitable location
- refuse to register or process further enquiries or complaints about the same matter
- ban access to Council premises
- refer to relevant Ombudsman/regulator
- consider legal action if appropriate

### **Implementing this policy**

Using evidence provided by the relevant service, the Chief Operating Officer will take responsibility for deciding whether to implement this policy.

If a decision is taken to limit contact, we will write to explain why the decision has been taken, what limits have been put in place, how long the limits will last and how the decision can be reviewed.

### **Appealing a decision**

Appeals must be requested within 10 working days of the decision to limit contact. While the appeal is considered, the restricted contact arrangements will remain in force. An appeal can be made in writing, by email or telephone, depending on if methods of contact have been restricted. Appeals should be sent to: Complaints Co-ordinator, Town Hall, Ingrave Road, Brentwood, CM15 8AY

A relevant Senior Officer (independent to the original decision) will consider the appeal within 10 working days and will write to the customer with the outcome.



### **Reviewing a decision**

Decisions to restrict contact will be reviewed on a quarterly basis by a panel of Senior Officers. Following this review, the panel can decide whether to remove the restrictions or extend them. Customers will be written to informing them of the outcome of the review. A review of this decision can be requested by following the appeals procedure set out above.

### **Maintaining confidentiality**

The Data Protection Act 2018 regulates the way in which organisations can use personal information. The Council will maintain the confidentiality of all personal information and not disclose it outside of the Council without your permission unless the Council is legally obliged to do so.

More information on how Brentwood Borough Council protects personal data can be found at [www.brentwood.gov.uk/privacy](http://www.brentwood.gov.uk/privacy).

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<b>Consideration</b>	<b>Proposal</b>
<p><b>Three stage process</b></p> <ul style="list-style-type: none"> <li>The full 3 stages total 80 working days if exhausted, which Officers generally do.</li> <li>Stage 2 is often not used effectively.</li> </ul>	<ul style="list-style-type: none"> <li>Reduce number of stages to 2 (recommended by the LGO) – reduced Officer hours and expedited process for complainant</li> <li>Reduce response time – for example, 10 working days. Max time from report to resolution should be 12 weeks (as stated in LGO guidance).</li> </ul>
<p><b>Untimely responses</b></p> <ul style="list-style-type: none"> <li>For 2017/18 – 10 requests for extensions, 23 sent on the 20<sup>th</sup> working day = 45% of complaints.</li> </ul>	<ul style="list-style-type: none"> <li>Reduce response time –10 working days? Officers are encouraged to investigate the complaint more urgently. <i>RISK</i> – potential lack of thorough investigation, however, extensions could be requested.</li> <li>Extensions of time must be requested within 3 working days of receiving the complaint so that the complainant can be informed. This would also ensure that Officer’s review the complaint at the earliest opportunity.</li> </ul>
<p><b>Urgent responses</b></p> <ul style="list-style-type: none"> <li>Some complaints need to be prioritised and may require a quicker response where there is a serious risk or effect on the complainant.</li> </ul>	<ul style="list-style-type: none"> <li>This should be identified by the complaints administrators and investigating Officer and a response issued quickly and accordingly.</li> </ul>
<p><b>Use of templates</b></p> <ul style="list-style-type: none"> <li>Templates are sometimes not used which results in loss of clarity, particularly of the outcome, for the complainant and complaints administrators.</li> </ul>	<ul style="list-style-type: none"> <li>All responses are sent to complaints administrators to review before sending to ensure compliance with the policy. This would also be an opportunity to proof read for errors etc.</li> </ul>
<p><b>Complaints Co-ordinators</b></p> <ul style="list-style-type: none"> <li>Use of complaints co-ordinators within each service has proved ineffective. They often have little vested interest in the complaint and add a ‘middle man’ to the process. The complaints administrators are finding themselves chasing both co-ordinators and investigating Officers.</li> </ul>	<ul style="list-style-type: none"> <li>Complaints administrators takes responsibility for sending acknowledgements and updating the complaints system.</li> <li>Create single point of contact for complaints for all services.</li> </ul>
<p><b>Vexatious/unreasonable complaints</b></p> <ul style="list-style-type: none"> <li>The Council have had difficulty dealing with vexatious complainants as the policy does not refer to how we define or handle these complaints.</li> </ul>	<ul style="list-style-type: none"> <li>An additional policy to address unreasonable complainants is required. Definition on how we ascertain if a complaint is unreasonable/vexatious, and how we manage this needs to be included. Guidance on this can be found <a href="https://www.lgo.org.uk/information-centre/reports/advice-and-guidance/guidance-notes/guidance-on-managing-unreasonable-complainant-behaviour">https://www.lgo.org.uk/information-centre/reports/advice-and-guidance/guidance-notes/guidance-on-managing-unreasonable-complainant-behaviour</a>.</li> </ul>

<p><b>Training</b></p> <ul style="list-style-type: none"> <li>• New staff, with a responsibility for investigating complaints, have not been receiving training on the complaints policy or process.</li> </ul>	<ul style="list-style-type: none"> <li>• If a new member of staff is required to respond to complaints, the complaints administrators must be informed, and adequate training arranged.</li> <li>• Regular (annual) refresher training should be conducted with all responsible Officers and front-line staff.</li> </ul>
<p><b>Informal complaints</b></p> <ul style="list-style-type: none"> <li>• LGO guidance does not differentiate between formal and informal complaints</li> </ul>	<ul style="list-style-type: none"> <li>• Consider Stage 0 complaints, rather than 'informal'. This may be effective when things can quickly be put right or if written correspondence isn't required.</li> <li>• Complaints administrators should register Stage 0 complaints (if aware).</li> </ul>
<p><b>Complaints about policies</b></p>	<ul style="list-style-type: none"> <li>• Add a point to the 'What complaints aren't covered by this policy?'. There is little scope to investigate a complaint regarding how a person has been affected by Council policy.</li> <li>• Complaints will be investigated if there is a believed breach of a policy, or where it is believed actions have been taken in the absence of a policy.</li> </ul>

## Guidance on Level of Compensation

### Introduction

When dealing with claims for compensation we will:

- Investigate all complaints fully and fairly;
- Apologise for poor service;
- Provide a remedy based, where possible, on what the customer wants;
- Restore the customer's confidence in us for the future;
- View claims for compensation positively and see them as an opportunity to listen to our customers;
- Deal with claims consistently, learn from them, with the emphasis on learning not blaming;
- Widely publicise our policy and make it accessible offering customers a range of options when making a claim including in person, by phone, in writing and over the internet.

### Factors to be considered in deciding the level of compensation

#### a) The effects of the complainant's own action. e.g:

- Where delay in dealing with the matter was partly the fault of the complainant and partly the fault of Brentwood Borough Council;
- Where the complainant has not taken action to mitigate the effect of the failure and could reasonably have been expected to do so;
- Where the complainant has not taken advantage of an available benefit;
- Where the actions of the complainant were unreasonable for example by pursuing a complaint in unnecessary and excessive detail.

**b) Any money due to the complainant that has not been paid**

In which case a sum will be included in the calculation representing the unpaid money.

**c) Incurred costs**

If the complainant has incurred costs, which would not have been necessary, but for the fault, it will usually be appropriate to reimburse the complainant. For example, cost of contractor's use of the complainant's gas and electricity.

**d) Loss of a non monetary benefit**

Where the access to a service or facility has been restricted or denied. For example, loss of a room because of a major leak that has not been rectified in line with our own performance standards.

**e) Loss of value**

We do not normally pay for valuable items if they have been paid (or could have been) insured. We only pay in exceptional circumstances and any award is paid without accepting liability that may compromise an insurance claim. We seek advice from our insurance section before making any awards.

**f) Lost opportunity**

Sometimes the injustice may be that the complainant was deprived of an opportunity. For example, the complainant may have been deprived of a right of appeal because the authority did not inform him or her of that right. This may be a relatively small sum as in most cases it is only the loss of the opportunity which is certain and the actual outcome which would have occurred cannot be known.

**g) Delay and Distress**

Compensation may be considered for the delay in delivering a service and for what might generally be characterised as 'distress' (including stress, anxiety, frustration, uncertainty, worry, inconvenience or outrage).

This needs to have regard to all the circumstances including:

- the severity of the distress;
- the length of time involved;
- the number of people affected (for example, members of the complainant's family as well as the complainant);
- whether the person affected is vulnerable and affected by distress more



- severely than most people; and
- any available professional opinion about the effects on the individual.

#### **h) Time and Trouble**

Consideration should be given to the question of whether a payment should be included for the time taken and the trouble the complainant has incurred in pursuing the complaint. This should not be confused with the issue of delay and distress identified above.

#### **i) Offsetting Compensation**

In circumstances where the complainant owes money (for example, for rent arrears), it would usually be appropriate to take that point into account. So if the compensation is the lower of the two amounts it would be offset against the debt. If the compensation is greater than the debt it could be used partly to pay the debt with any balance paid to the complainant.

#### **j) Interest**

Brentwood Borough Council will not normally consider an interest calculation in the calculating of compensation payments.

#### **k) Professional fees**

In normal circumstances a solicitor is not required to lodge a complaint. Therefore if a complainant chooses to engage one the fees will not be reimbursed.

In some cases, where the complexity of the issue or the vulnerability of the complainant leads to a professional being required then consideration should be given to the reimbursement of professional fees.

#### **How much compensation?**

We determine the levels of compensation by the particular facts of the case, for example the amount of time the complainant has had to wait for a decision and the nature of the injustice.

The level of compensation listed in the table below is for guidance only as each complaint needs to be considered individually and judgment made with regards to the issue caused.

*Please note: Any financial compensation given to customers will need to be covered by service budgets.*

<b>Delay and Distress</b>	
<b>Low Impact</b> The complainant has just cause but has not suffered significant inconvenience or distress as a result of the events. Low impact means the manager accepts the service has not achieved the expected standards. However, the impact is not greater than a reasonably tolerant person could be expected to accept and therefore the compensation constitutes a token in acknowledgment of the failure to perform.	Up to £100
<b>Medium Impact</b> The events are clearly an injustice to the complainant and the service has failed to meet the required standards. A repeated failure by us to address the shortcoming, even of a low impact event, could give rise to consideration of medium level of compensation.	Up to £500
<b>Major Impact</b> A serious failure in service standards. It could either be the severity of the event or a persistent failure over a protracted time or an unacceptable number of attempts to resolve and address the complaint. Major impact could also apply to expenses incurred by the complainant. We will only consider expenses appropriate to the event.	Up to £1000
<b>Time and trouble</b>	Up to £50
<b>Loss of opportunity</b>	Up to £100

In most cases of Low Impact delay and distress the Local Authority will provide an apology to the complainant.

#### **Authorisation of compensation payments**

Authorisation levels for compensation are as follows:-

<b>Payment Amount</b>	<b>Authorisation</b>
Up to £500	Head of Service
Up to £1,000	Chief Executive

**10 October 2018**

## **Regulatory & Governance Committee**

### **Anti-Fraud Policy (Incorporating Bribery, Corruption and Money Laundering)**

**Report of:** *Jacqueline Van Mellaerts, Interim Chief Finance Officer*

**Wards Affected:** *All*

**This report is:** *Public*

#### **1. Executive Summary**

- 1.1 The revised Anti-Fraud Policy incorporates previously approved policies covering Fraud, Corruption, Bribery and Money Laundering into one single Policy.
- 1.2 The Policy helps to provide clear statement of the Council's position and investigating allegations helps to provide clarity around working practices and mitigates financial risk to the Council.

#### **2. Recommendation(s)**

- 2.1 To approve and adopt the Anti-Fraud Policy (Incorporating Bribery, Corruption and Money Laundering) (Appendix A).**
- 2.2 The Anti-Fraud Policy supersedes previously approved Policies; Anti-Fraud and Corruption Policy and Guidance; Anti Bribery Policy and; Proceeds of Crime (Anti-Money Laundering) (Appendix B, C & D).**

#### **3. Introduction and Background**

- 3.1 Documents entitled Anti-Fraud and Corruption Policy and Guidance, and the Anti-Bribery Policy and Proceeds of Crime (Anti-Money Laundering) Policy were approved at Audit Committee on 27 November 2012 and Ordinary Council on 18 July 2012 and Audit Committee on 25 September 2012 respectively. They are attached in Appendix B, C & D for members reference but can be found on the Council's website.

- 3.2 Anti-Fraud and Corruption Policy and Guidance has since been reviewed in 2016, by our Corporate Fraud Service. A revised “Fraud Policy” was established and internally approved by the appropriate senior officer.
- 3.3 Upon discussions with Internal Audit, they have since advised, that the Policy should be adopted by the appropriate Committee.

#### **4. Issue, Options and Analysis of Options**

- 4.1 It is widely recognised that the offences of fraud, corruption, bribery and money laundering particularly within a corporate environment (whether in the public or private sector) are very closely linked together. Very often, one of these actions will give rise to another and will facilitate a second offence, or as is commonly the case, all four.
- 4.2 The authority has previously maintained separate policies on fraud, corruption, bribery and money laundering. Due to their close connection as highlighted above, and the creation of a Corporate Fraud Service who is responsible for the handling of the four subject matters, it has now been considered prudent to revise this approach. This has led to the advent of one single document encompassing all previous policies.
- 4.3 The components found within the initial revised Internal ‘Fraud policy - 2016’ will now form a single overarching approach to how the authority prevents, detects and investigates fraud, bribery, corruption and money laundering.
- 4.4 This revised combined policy, seeks to provide guidance on all four subject areas. Most importantly it will enable the Officer of Brentwood Borough Council, to source information on what to do if any incidence of fraud, bribery, corruption or money laundering is suspected, with ease.
- 4.5 Anti-Fraud and Corruption Policy and Guidance, and the Anti-Bribery Policy and Proceeds of Crime (Anti-Money Laundering) Policy were approved at Audit Committee on 27 November 2012 and Ordinary Council on 18 July 2012 and Audit Committee on 25 September 2012 respectively.
- 4.6 The new Anti-Fraud Policy, attached in Appendix A, supersedes these documents and due to the substantial changes, the previously approved Policies are attached in Appendix B, C & D for members ease of reference.

## **5. Reasons for Recommendation**

- 5.1 To maintain and strengthen the Council's governance arrangements and to improve financial management across the Council.
- 5.2 Having a Policy helps to provide clear statement of the Council's position and investigating allegations helps to clarify around working practices to mitigate financial Risk to the Council

## **6. Consultation**

- 6.1 Circulated to Corporate Leadership Board for Feedback.

## **7. References to Corporate Plan**

- 7.1 Reviewing the Council Corporate Policies underpins all aspects of the Corporate Plan.

## **8. Implications**

### **Financial Implications**

**Name & Title: Jacqueline Van Mellaerts, Interim Chief Finance Officer**  
**Tel & Email: 01277 312829/jacqueline.vanmellaerts@brentwood.gov.uk**

- 8.1 No direct financial implications, however reviewing the Council Anti-Fraud, Bribery and Money Laundering Policies, gives assurance that the Council is conducting itself in the appropriate manner and Internal Controls are in place.

### **Legal Implications**

**Name & Title: Daniel Toohey, Head of Legal Services and Monitoring Officer**  
**Tel & Email: 01277 312860/daniel.toohey@brentwood.gov.uk**

- 8.2 Legal Implications are contained in the body of this report and its attachments.

## **9. Background Papers**

- 9.1 Reference Documentation
  - The Fraud Act 2006
  - The Bribery Act 2010

## **10. Appendices to this report**

- Appendix A – Anti-Fraud Policy (Incorporating Bribery, Corruption and Money Laundering)
- Appendix B - Anti-Fraud & Corruption Policy and Guidance (Previously approved Nov 2012 – now superseded)
- Appendix C – Anti-Bribery Policy (Previously Approved June 2012 – now superseded)
- Appendix D – Proceeds of Crime (Anti-Money Laundering) (Previously Approved September 2012 – now superseded)

### **Report Author Contact Details:**

**Name:** Jacqueline Van Mellaerts  
**Telephone:** 01277 312829  
**E-mail:** [Jacqueline.vanmellaerts@brentwood.gov.uk](mailto:Jacqueline.vanmellaerts@brentwood.gov.uk)

# Brentwood Borough Council

## Anti-Fraud Policy

(Incorporating Bribery, Corruption and Money Laundering)

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### Document Control

Purpose:	Policy to incorporate information and guidance on Fraud, Bribery, Corruption and Money Laundering within Brentwood Borough Council. The policy outlines and includes the culture, deterrence, roles and responsibilities and the response plan for Officers and Members of The Council.
Author & Title:	Victoria Banerji Corporate Fraud Manager
Supersedes document:	Anti-Fraud and Corruption Policy and Guidance, November 2012, Anti-Bribery Policy 2012, Proceeds of Crime Policy and Guidance 2012.
Cross reference with:	'Whistleblowing Policy and Procedures', 'Disciplinary Policy', 'Staff code of conduct'
Responsible Director:	Jacqueline Van Mellaerts Chief Finance Officer
Target Audience:	Brentwood Borough Council Employees and Members

### Revision History

Revision date	Author	Version	Main Summary of Changes	Changes marked
29/02/2016	V. Banerji	0.1	Initial draft	N/A
04/05/2016	V. Banerji	0.2	Associated and Reference Documentation	No
19/09/2018	V. Banerji	0.3	Incorporating Money Laundering	No

### Approvals

Name	Title	Date	Version
Chris Leslie	Finance Director	04/05/2016 (Internally Approval)	0.2
Jacqueline Van Mellaerts	Interim Chief Finance Officer	TBC (Committee Date)	0.3

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## **1. Introduction**

It is widely recognised that the offences of fraud, bribery, corruption and money laundering particularly within a corporate environment (whether in the public or private sector) are very closely linked together. Very often, one of these actions will give rise to another and will facilitate a second offence, or as is commonly the case, all four.

The authority has previously maintained separate policies on fraud, bribery, corruption, and money laundering. Due to their close connection as highlighted above, and the creation of a Corporate Fraud Service who is responsible for the handling of the four subject matters, it has now been considered prudent to revise this approach. This has led to the advent of one single document encompassing all previous policies.

The components found within the initial 'Fraud policy' will now form a single overarching approach to how the authority prevents, detects and investigates fraud, bribery and corruption and money laundering.

This revised combined Anti-Fraud Policy; seeks to provide guidance on all four subject areas. Most importantly it will enable the Officer of Brentwood Borough Council, to source information on what to do if any incidence of fraud, bribery, corruption money laundering is suspected, with ease.

## **2. Fraud Policy**

### **2.1 Policy Statement**

Brentwood Borough Council takes its duty to ensure proper stewardship of public money very seriously. The Council is therefore committed to the prevention, detection and investigation of all forms of fraud and corruption, whether these are attempted from within or outside the organization.

The Council expects the highest standards of conduct and integrity from all who deals with it including staff, members, contractors, volunteers and the public. It is committed to the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly and to the highest possible standard of openness and accountability in order to protect public safety and public money.

All suspicions or concerns of fraudulent or corrupt practice will be investigated.

There will be no distinction made in investigation and action between cases that generate financial benefits and those that do not.

### **2.2 Aims and Objectives**

The aim of this policy is to provide a guide to Brentwood Borough Council Officers, Members and associates, on what fraud is, the roles and responsibilities of the individual in preventing fraud, and how to report it fraud if suspected. This policy provides an overview of the measures designed to combat any attempted fraudulent or corrupt act.

For ease of understanding it is separated into six key areas:

- Culture
- Prevention, Roles and Responsibilities
- Deterrence
- Detection
- Awareness and Monitoring
- The Response Plan

### **2.3 Scope**

This policy applies to all Brentwood's operations and activities and covers both internal and external fraud issues which are committed against the Council.

The policy applies to all Brentwood Borough Council employees (permanent and temporary), at all levels and grades, as well as contractors, partners, agency staff, agents, volunteers, consultants and Members (including independent members).

It is recommended that any partners, providers and suppliers either adopt this policy, or, ensure they adhere to a policy consistent with the principles outlined in this document.

## **2.4 Fraud Definition**

The Fraud Act 2006 introduced the first legal definitions of fraud. These legal definitions are used for the criminal prosecution of fraud offences. For the purposes of this policy fraud is considered to be any action taken by an individual, group or organisation which is designed to facilitate dishonest gain at the expense of the council, the residents of Brentwood or the wider national community.

Fraud offences can vary in nature, and often involve other criminality. This can include theft, deception, misappropriation, embezzlement, forgery, corruption, bribery, extortion, false accounting, false representation, concealment of material facts and acts of conspiracy, collusion and aiding and abetting any act of dishonesty.

## **2.5 Fraud and Corruption risks**

It is important that the Council recognises and manages the risks relating to fraud and corruption in order to prevent them from occurring. Furthermore, it is imperative that these risks are routinely considered as part of the Council's overall approach to risk management. To understand the nature of these risks, the following have been identified as key issues that are relevant to Brentwood Borough Council:

- Social Housing Tenancy Fraud – this includes risks such as fraudulent housing applications, mutual exchanges, illegal subletting etc.
- The Right to Buy scheme – fraudulent applications and suspected money laundering
- Money Laundering – Exposure to suspect transactions
- Council Tax – fraudulently claimed discounts (including Local Council Tax Support), refund scams
- Non-Domestic Rates – fraudulent applications for exemptions, unlisted properties
- Grants (including Disabled Facilities Grants) – false eligibility and applications, diverted funds, works not carried out.
- Insurance Fraud – suspected false claims particularly those relating to personal injury
- No recourse to public funds – fraudulent eligibility for Council services such as Social Housing
- Payroll Fraud – false and “ghost” employees, overtime and mileage claims, expenses.
- Internal Frauds – such as fund diversion, accepting bribes, stealing monies and / or Council property, social housing misallocations for personal gain,

working elsewhere whilst off sick, abuse of position such as misuse of assets / resources.

- Procurement Fraud – tendering issues, split contracts, double invoicing
- Cyber Crime / Fraud – frauds such as false applications for services, fund diversion.

It is important to note that the above represents the key fraud risk areas and examples of each. It is not intended to be an exhaustive list.

### **3. Culture**

The prevention/detection of fraud/corruption and the protection of public money are responsibilities of everyone, both internal and external to the organisation. The Council's elected members and employees play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud and corruption, immaterial of seniority, rank or status, in the knowledge that such concerns will, wherever possible, be treated in confidence. The public also has a role to play in this process and should inform the Council if they feel that fraud/corruption may have occurred.

Concerns must be raised when members, employees or the public reasonably believe that one or more of the following has occurred, is in the process of occurring, or is likely to occur:

- A criminal offence
- A failure to comply with a statutory or legal obligation
- Improper or unauthorised use of public or other official funds
- A miscarriage of justice
- Maladministration, misconduct or malpractice
- Endangering an individual's health and/or safety
- Damage to the environment
- Deliberate concealment of any of the above

The Corporate Fraud Team have the remit to investigate all matters of suspected fraud, theft and corruption within Brentwood Borough Council, both internally and externally (with the exception of Housing Benefit fraud investigation which transferred to the Department for Work and Pensions). The Team will ensure that any allegations received in any way, including by online form, anonymous letter or telephone call, will be taken seriously and investigated in an appropriate manner.

The Council will deal firmly with those who defraud the Council or who are corrupt, or where there has been financial malpractice. There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees/members raising malicious allegations) may be dealt with as a disciplinary matter (employees) or through Group procedures (members).

When fraud or corruption has occurred due to a breakdown in the Council's systems or procedures, Directors will ensure that appropriate improvements in systems of control are implemented in order to prevent a re-occurrence.

#### 4. Prevention

Brentwood Borough Council recognises that fraud and corruption are costly, both in terms of reputational risk, and financial losses. The prevention of fraud is therefore a key objective of the authority and the fundamental roles and responsibilities are detailed in the chart below.

Role	Responsibilities
Audit & Scrutiny Committee; Regulatory & Governance Committee (or equivalent)	To monitor the Council's policies, recommend their application across the Council and to consider the effectiveness of the arrangements for countering fraud.
Contractors and Partners	Contractors and partners are expected to create an environment in which their staff feel able to approach them (or the Council directly) with any concerns they may have about suspected irregularities. Where they are unsure of the procedures, they must refer to the Whistleblowing Policy, or may contact the Corporate Fraud Team directly.
Corporate Leadership Board / Managers	<p>The Corporate Leadership Board, and Managers at all levels are responsible for the communication and implementation of this policy. They are also responsible for ensuring that their employees are aware of the Council's HR policies and procedures, the Council's Financial Regulations and Standing Orders and that the requirements of each are being met.</p> <p>Managers are expected to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. They must provide leadership by example in demonstrating the highest standards of probity and conduct so as to create the correct anti-fraud/zero tolerance culture throughout Brentwood Borough Council.</p> <p>The Council recognises that a key preventative measure in dealing</p>



Role	Responsibilities
	<p>with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or agency staff. The Council's formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history. As in other public bodies Criminal Records Bureau (CRB) checks are undertaken for employees working with or who may have contact with children or vulnerable adults.</p> <p>The Corporate Leadership Board and Managers have a responsibility to ensure that effective systems of control are in place corporately and within their service area, to both prevent and detect fraud, and that those systems operate properly. Risk assessments should take place on a regular basis to monitor the effectiveness of the current systems.</p> <p>Managers and the Corporate Leadership Board have a duty to inform the Corporate Fraud Team immediately, of any suspected cases of fraud. They must not endeavour to undertake any form of investigating themselves.</p>
Elected Members	<p>As elected representatives, all members of the Council have a duty to protect the Council and public money from any acts of fraud and corruption. This is done through existing practice, compliance with the National and Local Code of Conduct for Members, the Council's Constitution including Financial Regulations, Standing Orders, the Anti-Bribery Policy and relevant legislation. Conduct and ethical matters are specifically brought to the attention of members during induction and include the declaration and registration of interests. Officers advise members of new legislative or procedural requirements.</p>
External Audit	<p>Independent external audit is an essential safeguard of the stewardship of public money. This is currently carried out by Ernst and Young through specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems and arrangements for preventing and detecting fraud and corruption. It is not the external auditors function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud and irregularity and will act without undue delay if grounds for suspicion come to their notice.</p>



Role	Responsibilities
External Bodies	Brentwood Borough Council will ensure that the exchange of information on national and local fraud activities will take place with external bodies such as Police, county, unitary and district Council groups, Department for Work and Pensions and other government departments.
Chief Finance Officer	<p>The statutory responsibilities of the Chief Finance Officer as defined by S151 of the Local Government Act 1972 outlines that every local authority in England &amp; Wales should:</p> <p>'make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has the responsibility or the administration of those affairs'</p> <p>'Proper administration' encompasses all aspects of local authority financial management including:</p> <ul style="list-style-type: none"> <li>- Compliance with the statutory requirements for accounting and internal audit;</li> <li>- Managing the financial affairs of the Council;</li> <li>- The proper exercise of a wide range of delegated powers both formal and informal;</li> <li>- The recognition of the fiduciary responsibility owed to local tax payers.</li> </ul> <p>Under these statutory responsibilities, the Finance Director contributes to the anti-fraud and corruption framework of the Council.</p>
Corporate Fraud Team	<p><b>All suspected instances of fraud or corruption should be reported to the Council's Corporate Fraud Team.</b></p> <p>The Corporate Fraud Team will investigate all matters of suspected fraud, theft and corruption (with the exception of Housing Benefit Fraud which has been transferred to the Department for Work and Pensions) within Brentwood Borough Council.</p> <p>Following investigation, the Corporate Fraud Team may seek to prosecute as per section 5.2. or, where appropriate, seek guidance from the relevant services such as Human Resources, or Legal Services.</p> <p>The Corporate fraud team will ensure employees are provided with fraud awareness training to assist in the prevention of fraud.</p>
Internal Audit	<p>It is management's responsibility to develop and maintain sound systems of risk management, internal control and governance and for the prevention and detection of irregularities and fraud. As such, Internal Audit work should not be seen as a substitute for management's responsibilities for the design and operation of these systems. However, Internal Audit do endeavour to plan their work so that they have a reasonable expectation of detecting significant control weaknesses and, if detected, will carry out additional work directed towards identification of consequent fraud or other irregularities. Internal Audit liaises with management to recommend changes in procedures to reduce risks and help to prevent losses to the authority.</p>

Role	Responsibilities
Monitoring Officer	<p>The Monitoring Officer is responsible for ensuring that all decisions made by the Council are within the law. The Monitoring Officer's key role is to promote and maintain high standards of conduct throughout the Council by developing, enforcing and reporting appropriate governance arrangements including codes of conduct and other standards policies.</p> <p>The Council also has a Whistleblowing Policy and process in place to protect such a process.</p>
Staff	<p>Each employee is governed in their work by the Council's Standing Orders and Financial Regulations, and other policies on conduct and IT usage. Included in the Council policies are guidelines on Gifts and Hospitality, and codes of conduct associated with professional and personal conduct and conflict of interest. In addition, employees are responsible for ensuring that they follow any instructions given to them, particularly in relation to the safekeeping of the assets of the Council. Employees are expected always to be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with the Corporate Fraud Team.</p>
Stakeholders and customers	<p>This policy is primarily aimed at implementing the necessary culture and processes within the Council. It's stakeholders and customers may become aware of issues that they feel might indicate fraud. They should refer to the Council's Whistleblowing Policy, or they can contact the Section 151 Officer directly.</p>
The Public	<p>To be aware of the possibility of fraud and corruption against the Council and report any concerns or suspicions.</p>
The Chief Executive	<p>The Chief Executive is accountable for the Council's overall governance arrangements including the procedures and effectiveness of the Council's arrangements for countering fraud and corruption.</p>

## 5. Deterrence

### 5.1 Disciplinary Action

The Council's Disciplinary Procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees. Theft and dishonesty are serious matters which may constitute gross misconduct against the Council. Employees will face disciplinary action if there is evidence that they have been involved in these activities, including benefit fraud. Disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each individual case.



Members will face appropriate action under this policy if they are found to have been involved in theft, fraud and corruption against the Council. Action will be taken in addition to, or instead of criminal proceedings, depending on the circumstances of each individual case but in a consistent manner. If the matter is a breach of the Code of Conduct for Members, then it will also be referred for investigation and appropriate sanction through the Council's due process.

Employees or Members involved in fraud, theft, or corruption, that does not involve the Council or its finances, may still be subject to the above action if it is considered to undermine the Council and its reputation.

Please refer to the link within appendix 12.1 for the Council's Code of Conduct

## **5.2 Prosecution**

Utilising the provisions of Section 222 of The Local Government Act 1972, the Corporate Fraud Team in conjunction with Legal Services are appropriately authorised to undertake investigations and criminal prosecutions into cases of fraud and corruption that involve the Council.

Brentwood Borough Council will evaluate each case on its own merits, and, in certain circumstances, the prosecution of offenders may be deemed necessary. Where appropriate, the Proceeds of Crime Act will be used to maximize the penalty suffered by the fraudster, and the level of financial recovery by Brentwood Borough Council.

## **5.3 Publicity**

Brentwood Borough Council recognizes the key role publicity plays, in the deterrence of fraud. Communications will try to ensure that actions taken including prosecutions will be reported in the media.

## **6. Detection**

All staff, Members and any other stakeholders in Council Services, play an important role the identifying potential fraud and corruption. It is however, not the responsibility of those groups to investigate suspicions themselves. The investigating of suspected fraud by an unqualified person, may undermine the ability for a case to be pursued.

The Council has endeavoured to develop systems and procedures that include effective and efficient controls. These are designed to achieve clarity and accountability. One important control is giving people separate duties. This prevents any one person having too great an influence over any transaction.

The Council's controls are designed so that even if a fraud happens, it will be found quickly, and the responsible person will be identified. The effectiveness and appropriateness of these controls are reviewed regularly by management including an independent review by Internal Audit.

## **7. Awareness and Training**

The Council recognises that the continuing success of this policy and its general credibility will depend in part on the effectiveness of training and awareness for members and employees and will therefore take appropriate action to raise awareness levels.

Fraud Awareness training will be available to all staff via attendance at training sessions, or via our e-learning system.

Specific fraud training will be offered to those employees in higher risk roles such as those working within finance.

## **8. The Response Plan**

### **8.1 Reporting Fraud or Corruption**

Should you have a concern, or suspect fraudulent activity taking place, there are various channels to help you raise your concern.

In the first instance, you must complete an online fraud reporting form (Appendix 13.2). This form will be directed to the Council's Corporate Fraud Team to investigate. Please refer to the Appendices 13.1, to ensure you are following correct procedures when reporting your concern.

Should you have concerns about a member of senior management, please refer to the Whistleblowing policy for guidance found in the HR microsite on the staff intranet.

We aim to encourage openness and will support anyone who raises a genuine concern. There will be no recriminations against staff that report reasonably held suspicions, and victimising or deterring staff from reporting concerns will be treated as a serious disciplinary matter.

### **8.2 Housing Benefit and Council Tax Issues**

The Revenues and Benefits Service, currently works as part of a shared service, along with our neighbouring council; Basildon Borough Council. The fraud team within

Brentwood Borough Council will however still investigate and referrals which are related to the Borough of Brentwood.

The response plan for fraudulent activity suspected within the Revenues and Benefits Service, alters depending on which type of fraud is suspected;

- **Housing Benefit fraud** is investigated by the Department for Work and Pensions. If you have information on suspected Housing Benefit fraud, you must complete relevant form found in section 13.2. This will be received by the Department for Work and Pensions who will investigate accordingly.
- **Council Tax Support, Discount and Business Rate fraud** will be investigated by the Fraud team within Brentwood Borough Council. In the first instance, you must complete an online fraud reporting form which is located on the staff intranet or found in section 13.2. The fraud team will receive the referral and investigate as appropriate.

### 8.3 Investigations

Once in receipt of a referral regarding suspected fraud, bribery or money laundering, initial enquiries will take place in order to:

- Determine any facts that gave rise to the suspicion
- Examine any factors to determine whether there has been a genuine mistake made, or whether an irregularity has occurred

Following the findings of the initial enquiries, a formal investigation may be deemed necessary. The nature of the investigation, lines of enquiry followed and evidence obtained will vary depending on the irregularity being investigated and will, for the most part be fluid and reactive. The investigating officer will be seeking to gather evidence by way of interviews, the taking of written witness statements and the obtaining of evidence.

The investigating officer will consult and take advice from Human Resources particularly on matters regarding employment law, policies and procedural matters where required. It is imperative in these circumstances, that a clear distinction must be made between those advising the investigating officer and those advising the staff member.

Legal Services may also be consulted as appropriate, to advise or seek external advice in order to support any investigation.

Any investigation will be conducted with full compliance with The Criminal Procedures and Investigations Act 1996 which governs the conduct of a criminal investigation (such as obtaining and recording evidence) as well as any other legislation that may apply such as The Police and Criminal Evidence Act 1984 (PACE), The Regulation of Investigatory Powers Act 2000 (RIPA), The Human Rights Act 1998 and Data Protection Act 2018 (this is not an exhaustive list).

In general terms however, the following principles will apply to the investigation:

- Any investigation will be conducted promptly (subject to evidence gathering activities) with periodic updates given as appropriate to the Chief Finance Officer
- All actions and evidence will be recorded either by written or electronic means and stored securely with access given purely on a “need to know” basis.
- Enquiries and evidence gathering activities will be undertaken as discreetly as possible with sensitivities observed where appropriate.
- Confidentiality will be maintained throughout with information only shared where circumstances and the law allows.

Where it is considered appropriate, the investigation may involve the input of other agencies such as local authorities as well as other law enforcement agencies such as the Police and HM Revenue & Customs. Liaison and / or joint working will be conducted in accordance with established guidelines and protocols.

The investigating officer must not and will not accept any offer of repayment of monies or resignation at any stage during the investigation, however any such offers will be noted and recorded on the investigation file and reported to the Chief Finance Officer.

The Council has a right to suspend any employee involved pending the outcome of an investigation. Any such suspension, is, in the opinion of the Council, a neutral act and does not imply any guilt on behalf of the suspended employee. The suspension of an employee can, in some circumstances aid the speed in which an investigation can be conducted and serve to preserve vital evidence.

When suspects are not suspended, supervision of the employee will usually need to be increased and any manager should seek the advice of Human Resources and ICT on how this can best be accomplished.

## **8.4 Outcomes of an Investigation**

It should be noted that due to Data Protection Regulations, it may not always be possible for the Corporate Fraud team to provide an update to the referrer on the outcomes of any investigations undertaken.

Should any control weaknesses be identified, the Chief Finance Officer and relevant manager will be informed and remedies be actioned immediately.

Should there be disciplinary issues identified as part of the investigation, a full report will be made to Human Resources who will work with the relevant manager to decide what happens next. Should any course of action result in a disciplinary hearing, the investigating officer will (if required) make themselves available to give evidence at the hearing.

If taking criminal action presents itself as an option, this decision will be fully explored and should fraud be proven, the Council will make every effort to recover any monetary losses. The method of doing so may vary depending on the type of loss and relevant legislation, however all options will be explored including civil court proceedings and in the case of criminal prosecution, proceedings brought under The Proceeds of Crime Act 2002.

## 9. Bribery Act Policy

### 9.1 Policy statement

Bribery is a criminal offence. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we, accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

We are committed to the prevention, deterrence and detection of bribery. We have zero-tolerance towards bribery. We aim to maintain anti-bribery compliance as a “business as usual” attitude rather than as a one-off exercise.

### 9.2 Objective

This policy provides a coherent and consistent framework to enable the Council’s Members and employees to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable both Members and employees to identify and effectively report a potential breach.

We require that **all** Members and employees, including those permanently employed, temporary agency staff and contractors:

- act honestly and with integrity at all times and to safeguard the Council’s resources for which they are responsible
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

### 9.3 Scope

This policy applies to all of the Council’s activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

Within the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all business units and corporate functions.

This policy covers all staff, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

## 9.4 Definition

Corruption is defined as the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person. This may include bribery and embezzlement.

Broadly, bribery is defined as giving or receiving a financial or other advantage in connection with the 'improper performance' of a position of trust, or a function that is expected to be performed impartially or in good faith. Bribery does not have to involve cash or an actual payment exchanging hands, and can take many forms such as a gift, lavish treatment during a business trip or tickets to an event (this is not intended to be an exhaustive list).

## 9.5 The Bribery Act

The [Bribery Act 2010](#) is came into force on 1 July 2011, and places responsibilities and powers on organizations such as local authorities. Particular attention should be paid to:

- Sections 1-4, General bribery offences, which includes 'Offences of bribing another person' and 'Offences relating to being bribed'.
- Section 7, 'Failure of commercial organizations to prevent bribery'. The statutory 'adequate procedures' defense to the failure to prevent bribery, highlights the need to have appropriate procedures in place within Brentwood Borough Council to prevent Bribery taking place.

The following six principles should be considered in order to avoid committing the offence of failing to prevent bribery, they should also be considered for the prevention of fraud:

1. Proportionality – the action taken should be proportionate to the risks we face and the size of our authority
2. Top Level Commitment – Directors, Heads of Service and Senior Managers need to create an environment of zero tolerance toward bribery
3. Risk Assessment – Ensuring risk assessments take place to understand the bribery risks we may face
4. Due Diligence – Knowing and understanding who our organization is dealing with
5. Communication – Ensuring all staff are given adequate training and are aware of policies and procedures
6. Monitoring and Review – Ensuring policies are kept up to date following changes.

## **9.6 Brentwood Borough Council's commitment to action**

This organisation commits to:

- Setting out a clear anti-bribery policy and keeping it up to date
- Making Members and employees aware of their responsibilities to adhere to this policy at all times
- Training for all Members and employees so that they can recognise and avoid the use of bribery by themselves and others
- Encouraging both its Members and employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution
- Taking firm and vigorous action against any individual(s) involved in bribery
- Provide information to all Members and employees to report breaches and suspected breaches of this policy
- Include appropriate clauses in contracts to prevent bribery

## **9.7 Unacceptable behaviours**

It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- accept payment from a third party that you know, or suspect is offered with the expectation that it will obtain a business advantage for them
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy
- engage in activity in breach of this policy



## **9.8 Facilitation payments**

Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

## **9.9 Gifts and Hospitality**

This policy does not change the requirements of the Council's Gifts and Hospitality guidance nor does it interfere with the duties on Members to disclose as set out in the Code of Conduct under the Localism Act. All staff should ensure that they are in compliance with Gifts and Hospitality procedures as set out in the Staff Code of Conduct. Similarly, Members should ensure they comply with requirements of Gifts and Hospitality as set out in the Members Code of Conduct.

## **9.10 Public contracts and failure to prevent bribery**

Under the Public Contracts Regulations 2006 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. There are no plans to amend the 2006 regulations for this to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. However, the Council has the discretion to exclude organisations convicted of this offence.

## **9.11 Member and Staff responsibilities**

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for Brentwood Borough Council or under its control. All Members and staff are required to avoid activity that breaches this policy.

You must:

- ensure that you read, understand and comply with this policy
- raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred or may occur in the future

As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct. Similarly, Members will face action through the Standards Committee for breaches of the Code of Member Conduct

## **9.12 Raising a concern**

Brentwood Borough Council is committed to ensuring that all of us have a safe, reliable and confidential way of reporting any suspicious activity. We want Members and every member of staff to know how they can raise concerns.

We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

Preferably, the disclosure will be made and resolved internally. However, where internal disclosure proves inappropriate, concerns can be raised with the regulator. Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media).

Concerns can be anonymously. In the event that an incident of bribery, corruption, or wrongdoing is reported, we will act as soon as possible to evaluate the situation. The Council has clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. This is easier and quicker if concerns raised are not raised anonymously.

Staff who refuse to accept or the offer of a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

The Council are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

Please refer to appendix 13.2 for the ways to report bribery and corruption.

## **10. Anti-Money Laundering Policy**

### **10.1 Policy Statement**

Local Authorities are not directly covered by the requirements of the Money Laundering Regulations 2007, however, guidance from CIPFA (The Chartered Institute of Public Finance and Accountancy) indicates Local Authorities should comply with the underlying spirit of the legislation and regulations.

Brentwood Borough Council is committed to the highest possible standards of conduct and has therefore, put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.

### **10.2 Objective**

Its aim is to enable employees and Members to understand the basic concepts of money laundering, how to report any concerns they may have, and how their concern will be dealt with.

### **10.3 Scope**

This policy applies to all Brentwood Borough Council employees (permanent and temporary) at all levels and grades as well as contractors, partners, agency staff, agents volunteers, consultants and Members of the Council (including independent members.)

Individuals who have a concern relating to a matter outside work should contact the Police.

### **10.4 Definition**

The most common motive for crime is financial gain or to obtain valuable property. Whenever criminals do anything with that financial gain or criminal property, they 'launder' it. Money laundering offences are serious; they carry sentences of up to 14 years' imprisonment, but criminals and their associates still commit them every day.

Money laundering is the process by which criminals try to hide the origin of the proceeds of their crimes, making it look as if those proceeds were acquired legitimately. In doing so, criminal property obtained unlawfully is turned into property or money that can be accessed via legitimate methods without arousing suspicion. In other words, 'laundering' is the process of turning 'dirty' money into 'clean' money.

Money laundering has three distinct phases. They are:

- Placement; the movement of criminally-obtained money into the wider economy;
- Layering; undertaking transactions (perhaps bogus) to conceal the origin of the money; and
- Integration; making it look as if money has come from a legitimate source.

Two distinct offences affect employees, contractors and Members of the Council

- Failure to disclose one of the offences listed above, where there are reasonable grounds for knowledge or suspicion.
- Tipping off a person(s) who is or is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation.

Although the term 'money laundering' is generally used to describe the activities of organised crime, for most people it will involve a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

Successful money laundering means criminals can enjoy the fruits of their criminality and fund further criminal activity. Stopping money laundering disrupts organised crime by removing the life-blood of the 'business' and prevents low level criminals from moving up into major level crime.

## **10.5 Requirements of the Money Laundering Legislation**

The main requirements of the legislation are:

- To appoint a money laundering reporting officer.
- Maintain client identification procedures known as know your customer (KYC) and know your business (KYB).
- Implement a procedure to enable the reporting of suspicions of money laundering.
- Maintain record keeping procedures.

## **10.6 The Money Laundering Reporting Officer (MLRO)**

The Council must appoint an MLRO to act as the focal point within the organisation for money laundering matters. The MLRO is responsible for:

- receiving disclosures from other staff; and
- deciding whether disclosures should be passed on to NCA.

The MLRO must keep copies of all disclosures received by them, notes of action taken and copies of all correspondence with NCA and other agencies.

## **10.7 Identifying and disclosing suspicious transactions**

Brentwood Borough Council will consider the threats to Council being used by money launderers and put systems in place to guard against them. Policies and procedures should be laid out clearly so that all relevant staff understand and have access to them.

The officer nominated to receive disclosures about money laundering activity is Victoria Banerji, the Council's Corporate Fraud Manager. She can be contacted as follows:

Victoria Banerji  
Brentwood Borough Council  
Town Hall  
Ingrave Road  
Brentwood  
CM15 8AY

Telephone: 01277 312 715  
Mobile: 07711 139188  
Email: [victoria.banerji@brentwood.gov.uk](mailto:victoria.banerji@brentwood.gov.uk)

All suspicions should be reported directly to the MLRO.

In the absence of the MLRO, suspicions should be raised to the Council's Chief Finance Officer (see Appendix 13.3)

## **10.8 Reporting Procedure for Suspicions of Money Laundering**

Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited act under the Act, you must disclose this as soon as practicable to the MLRO. The disclosure should be within "hours" of the information coming to your attention, not weeks or months later. Your disclosure should be made to the MLRO using the fraud reporting form, or, if preferred, via an email to the above email address.

Your referral must include as much detail as possible including:

- Full details of the people involved
- Full details of the nature of their/your involvement
- The types of money laundering activity involved
- The dates of such activities
- Whether the transactions have happened, are ongoing or are imminent;
- Where they took place;
- How they were undertaken;
- The (likely) amount of money/assets involved;
- Why, exactly, you are suspicious.

Along with any other available information to enable the MLRO to make a sound judgment as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable her to prepare her report to the National Crime Agency (NCA), where appropriate. You should also enclose copies of any relevant supporting documentation.

Once you have reported the matter to the MLRO you must follow any directions she may give you. You must NOT make any further enquiries into the matter yourself: any necessary investigation will be undertaken by the NCA. Simply report your suspicions to the MLRO who will refer the matter on to the NCA if appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.

Similarly, at no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering, even if the NCA has given consent to a particular transaction proceeding, without the specific consent of the MLRO; otherwise you may commit a criminal offence of “tipping off”.

Do not, therefore, make any reference on a client file to a report having been made to the MLRO – should the client exercise their right to see the file, then such a note will obviously tip them off to the report having been made and may render you liable to prosecution. The MLRO will keep the appropriate records in a confidential manner.

## **10.9 Consideration of the disclosure by the Money Laundering**

### **Reporting Officer**

Upon receipt of a disclosure report, the MLRO must note the date of receipt on their section of the report and acknowledge receipt of it. They should also advise you of the timescale within which she expects to respond to you.

The MLRO will consider the report and any other available internal information she thinks relevant for example:

- reviewing other transaction patterns and volumes;
- the length of any business relationship involved;
- the number of any one-off transactions and linked one-off transactions;
- any identification evidence held;

And undertake such other reasonable inquiries they think appropriate in order to ensure that all available information is considered in deciding whether a report to the NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether:

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that is the case; and
- whether he needs to seek consent from the NCA for a particular transaction to proceed.

Where the MLRO does so conclude, they must disclose the matter as soon as practicable to the NCA on their standard report form and in the prescribed manner, unless she has a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

Where the MLRO suspects money laundering but has a reasonable excuse for nondisclosure, then they must note the report accordingly; they can then immediately give their consent for any ongoing or imminent transactions to proceed.

All disclosure reports referred to the MLRO and reports made by them to the NCA must be retained by the MLRO in a secure manner, for a minimum of five years.

The MLRO commits a criminal offence if they know or suspect, or have reasonable grounds to do so, through a disclosure being made to them, that another person is engaged in money laundering and they do not disclose this as soon as practicable to the NCA.

### **10.10 Training**

Officers considered likely to be exposed to suspicious situations, will be made aware of these by their senior officer and provided with appropriate training by Brentwood Borough Council.

Notwithstanding the paragraph above, it is the duty of officers and Members to report all suspicious transactions whether they have received their training or not.



## **11. Review**

### **11.1 Monitoring and auditing of policy effectiveness**

Quarterly updates on the progress of the Corporate Fraud team and ongoing investigations, will be provided to the Chief Finance Officer.

The MLRO will provide an annual report to the Chief Finance Officer outlining any money laundering investigations undertaken during the year.

### **11.2 Review of this policy**

This policy and associated procedures will be reviewed annually by the Regulatory & Governance Committee (or equivalent) and will be made available to all employees and Members.

## **12. Associated & Reference Documentation**

### **12.1 Associated Documentation**

- Whistleblowing Policy and Procedures
- Disciplinary Policy
- Staff code of conduct

Associated documentation can be found within the [HR Microsite](#)

### **12.2 Reference Documentation**

10.2.1 [The Fraud Act 2006](#)

10.2.2 [The Bribery Act 2010](#)

10.2.3 Bribery Act 2010 Quick Start guide



## 13. Appendix

### 13.1 What should I do if I suspect a fraud is being committed?

#### **DO NOT:**

#### **✗ Confront the individual with your concerns**

*Never attempt to question the person you suspect of committing fraud. You could be accusing an innocent person, or, you could be putting at risk the chance of investigating the matter further.*

#### **✗ Discuss the matter with anyone else**

*Never discuss the matter with your friends or colleagues, please follow the correct protocol for reporting fraud.*

#### **✗ Attempt to gather evidence yourself**

*Whilst you may feel it helpful to do this, gathering evidence yourself, may hinder any further investigations if not done in the correct manner. Please leave this for the fraud investigators.*

#### **✗ Be afraid of raising your concerns**

*Brentwood Borough Council are committed to protecting employees who have reasonable concerns. You should have no fears of reprisal.*

#### **✗ Do nothing**

*Do not do nothing. You must raise any concerns you have in line with this policy.*

#### **DO:**

#### **✓ Note down your concerns**

*Record as much information as you can, to ensure it is not forgotten at a later date. Write down dates, names, times, concerns, details of conversations. Please sign, time and date your notes.*

#### **✓ Retain any evidence**

*You must not attempt to collate evidence yourself, however, if you do have evidence, please keep in a safe place.*

#### **✓ Report your Suspicion**

*You must report your suspicions as per the guide to reporting fraud.*

## 13.2 Fraud Reporting

To report any incidences of suspected fraud, bribery and corruption and money laundering, please click on the link below or access the fraud reporting form via the staff microsite.

### [Online Fraud Referral Form](#)

If you prefer, you may email any information to: [victoria.banerji@brentwood.gov.uk](mailto:victoria.banerji@brentwood.gov.uk). Please find further details of how to contact Victoria within section 13.3 'Key Contacts'.

To report an incidence of suspected Housing Benefit Fraud, please complete the below form and send to email address: [localauthorityfraudreferralinbox.centralgroup@dwp.gsi.gov.uk](mailto:localauthorityfraudreferralinbox.centralgroup@dwp.gsi.gov.uk)



Housing Benefit  
Fraud reporting form

## 13.3 Key Contacts

Name	Position	Contact Details
Victoria Banerji	Corporate Fraud Manager	Tel: 01277 3125715 Internal Extension: 72715 Mobile: 07711 139188 Email: <a href="mailto:victoria.banerji@brentwood.gov.uk">victoria.banerji@brentwood.gov.uk</a>
Jacqueline Van Mellaerts	Chief Finance Officer	Tel: 01277 312829 Email: <a href="mailto:jacqueline.vanmellaerts@brentwood.gov.uk">jacqueline.vanmellaerts@brentwood.gov.uk</a>
Martin Crowe	Corporate Fraud Investigator	Tel: 01992 564170 Email: <a href="mailto:martin.crowe@brentwood.gov.uk">martin.crowe@brentwood.gov.uk</a>
Daniel Toohey	Monitoring Officer	Tel: 01277 312860 Internal Extension: 72860 Email: <a href="mailto:daniel.toohey@brentwood.gov.uk">daniel.toohey@brentwood.gov.uk</a>
Action Fraud	N/A	Tel: 0300 123 2040 Website: <a href="http://www.actionfraud.police.uk">www.actionfraud.police.uk</a>

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**ANTI FRAUD AND CORRUPTION  
POLICY AND GUIDANCE**

**November 2012**

## **1.0 Introduction**

- 1.1 Brentwood Borough Council takes its duty to ensure proper stewardship of public money very seriously. The Council, is therefore, committed to the prevention, detection and investigation of all forms of fraud and corruption, whether these are attempted from within or outside the organization.
- 1.2 The Council expects the highest standards of conduct and integrity from all that dealings with it including staff, members, contractors, volunteers and the public. It is committed to the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly and to the highest possible standard of openness and accountability so as to protect public safety and public money.
- 1.3 All suspicions or concerns of fraudulent or corrupt practice will be investigated. There will be no distinction made in investigation and action between cases that generate financial benefits and those that do not.

## **2.0 What is Fraud and Corruption?**

- 2.1 For the purposes of this document, fraud and corruption are defined as follows:

### **Fraud**

The intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to:

- conceal the misappropriation of assets or otherwise for gain; or
- mislead or misrepresent.

### **Corruption**

The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.

- 2.2 This policy provides an overview of the measures designed to combat any attempted fraudulent or corrupt act. For ease of understanding it is separated into four key areas:-
- 1) Culture
  - 2) Responsibilities and prevention
  - 3) Detection and investigation
  - 4) Awareness and monitoring

### **3.0 Culture**

- 3.1 The prevention/detection of fraud/corruption and the protection of public money are responsibilities of everyone, both internal and external to the organisation. The Council's elected members and employees play an important role in creating and maintaining this culture. They are positively encouraged to raise concerns regarding fraud and corruption, immaterial of seniority, rank or status, in the knowledge that such concerns will wherever possible be treated in confidence. The public also has a role to play in this process and should inform the Council if they feel that fraud/corruption may have occurred.
- 3.2 Concerns must be raised when members, employees or the public reasonably believe that one or more of the following has occurred, is in the process of occurring or is likely to occur:
- A criminal offence
  - A failure to comply with a statutory or legal obligation
  - Improper or unauthorised use of public or other official funds
  - A miscarriage of justice
  - Maladministration, misconduct or malpractice
  - Endangering an individual's health and/or safety
  - Damage to the environment
  - Deliberate concealment of any of the above
- 3.3 The Council will ensure that any allegations received in any way, including by anonymous letter or telephone call, will be taken seriously and investigated in an appropriate manner. The Council has a whistle blowing policy that sets out the approach to these types of allegation in more detail.
- 3.4 The Council will deal firmly with those who defraud the Council or who are corrupt, or where there has been financial malpractice. There is, of course, a need to ensure that any investigation process is not misused and, therefore, any abuse (such as employees/members raising malicious allegations) may be dealt with as a disciplinary matter (employees) or through Group procedures (members).
- 3.5 When fraud or corruption has occurred due to a breakdown in the Council's systems or procedures, Directors will ensure that appropriate improvements in systems of control are implemented in order to prevent a re-occurrence.

### **4.0 Responsibilities and Prevention**

#### **4.1 Responsibilities of Elected Members**

As elected representatives, all members of the Council have a duty to protect the Council and public money from any acts of fraud and corruption. This is done through existing practice, compliance with the National and Local Code of

Conduct for Members, the Council's Constitution including Financial Regulations, Standing Orders, the Anti-Bribery Policy and relevant legislation. Conduct and ethical matters are specifically brought to the attention of members during induction and include the declaration and registration of interests. Officers advise members of new legislative or procedural requirements.

#### 4.2 Responsibilities of the Monitoring Officer

The Monitoring Officer is responsible for ensuring that all decisions made by the Council are within the law. The Monitoring Officer's key role is to promote and maintain high standards of conduct throughout the Council by developing, enforcing and reporting appropriate governance arrangements including codes of conduct and other standards policies.

All suspected instances of fraud or corruption (apart from benefit claim issues) should be reported to the Monitoring Officer. The Council also has a Whistleblowing Policy and process in place to protect such a process.

#### 4.3 Responsibilities of the Head of Corporate Finance

The Head of Corporate Finance has been designated the statutory responsibilities of the Chief Finance Officer as defined by s151 of the Local Government Act 1972. These responsibilities outline that every local authority in England & Wales should:

"make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has the responsibility or the administration of those affairs"

'Proper administration' encompasses all aspects of local authority financial management including:

- Compliance with the statutory requirements for accounting and internal audit;
- Managing the financial affairs of the Council;
- The proper exercise of a wide range of delegated powers both formal and informal;
- The recognition of the fiduciary responsibility owed to local tax payers.

Under these statutory responsibilities the Head of Corporate Finance contributes to the anti-fraud and corruption framework of the Council.

#### 4.4 Responsibilities of the Corporate Leadership Team

Managers at all levels are responsible for the communication and implementation of this policy. They are also responsible for ensuring that their employees are aware of the Council's personnel policies and procedures, the Council's Financial Regulations and Standing Orders and that the requirements of each are being met. Managers are expected to create an environment in which their staff feel able to approach them with any concerns they may have about suspected irregularities. Special arrangements may be applied from time to time for example where employees are responsible for cash handling or are in charge of



financial systems and systems that generate payments, for example Payroll or the Revenues & Benefits computer system. These procedures will be supported by relevant training.

The Council recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or agency staff. The Council's formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history. As in other public bodies Criminal Records Bureau (CRB) checks are undertaken for employees working with or who may have contact with children or vulnerable adults.

#### 4.5 Responsibilities of Employees

Each employee is governed in their work by the Council's Standing Orders and Financial Regulations, and other policies on conduct and IT usage. Included in the Council policies are guidelines on Gifts and Hospitality, and codes of conduct associated with professional and personal conduct and conflict of interest. In addition, employees are responsible for ensuring that they follow any instructions given to them, particularly in relation to the safekeeping of the assets of the Council. Employees are expected always to be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with management.

#### 4.6 Role of the Benefits Investigation

Due to the specialised nature of benefit fraud investigations a separate sanctions policy has been developed that covers all aspects of the benefit investigation process.

#### 4.7 Role of Internal Audit

It is management's responsibility to develop and maintain sound systems of risk management, internal control and governance and for the prevention and detection of irregularities and fraud and as such, Internal Audit work should not be seen as a substitute for management's responsibilities for the design and operation of these systems. However, Internal Audit do endeavour to plan their work so that they have a reasonable expectation of detecting significant control weaknesses and, if detected, will carry out additional work directed towards identification of consequent fraud or other irregularities. Internal Audit liaises with management to recommend changes in procedures to reduce risks and help to prevent losses to the authority.

#### 4.8 Role of the External Auditors

Independent external audit is an essential safeguard of the stewardship of public money. This is currently carried out by the Ernst and Young through specific reviews that are designed to test (amongst other things) the adequacy of the

Council's financial systems and arrangements for preventing and detecting fraud and corruption. It is not the external auditors' function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud and irregularity, and will act without undue delay if grounds for suspicion come to their notice.

The Council contributes to the bi-annual Audit Commission led National Fraud Initiative which is designed to cross match customers across authorities to highlight areas where there are potential fraudulent claims.

#### 4.9 Role of the Public

This policy, although primarily aimed at those within or associated with the Council, enables concerns raised by the public to be investigated, as appropriate, by the relevant person in a proper manner.

#### 4.10 Conflicts of Interest

Both elected members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Such situations can arise with externalisation of services, internal tendering, planning and land issues etc. Effective role separation will ensure decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information.

### **5.0 Detection and Investigation**

5.1 The Council has endeavoured to develop systems and procedures that include effective and efficient controls. These are designed to achieve clarity and accountability. One important control is giving people separate duties. This prevents any one person having too great an influence over any transaction. The Council's controls are designed so that even if a fraud happens, it will be found quickly and the responsible person will be identified. The effectiveness and appropriateness of these controls are reviewed regularly by management including an independent review by Internal Audit.

#### 5.2 Disciplinary Action

The Council's Disciplinary Procedures will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees. Theft and dishonesty are serious matters which may constitute gross misconduct against the Council and employees will face disciplinary action if there is evidence that they have been involved in these activities, including Benefit fraud. Disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each individual case.

Members will face appropriate action under this policy if they are found to have been involved in theft, fraud and corruption against the Council. Action will be taken in addition to, or instead of criminal proceedings, depending on the circumstances of each individual case but in a consistent manner. If the matter is

a breach of the Code of Conduct for Members then it will also be referred for investigation and appropriate sanction through the Council's due process.

**5.3 Prosecution**

In terms of proceedings the Council will endeavour to take action in relevant cases to deter others from committing offences against the Council.

**5.4 Publicity**

The Council will optimise the publicity opportunities associated with anti-fraud and corruption activity within the Council. Wherever possible, where the Council has suffered a financial loss action will be taken to pursue the recovery of the loss. All anti-fraud and corruption activities, including the update of this policy, will be publicised.

**6.0 Awareness and Monitoring**

6.1 The Council recognises that the continuing success of this policy and its general credibility will depend in part on the effectiveness of training and awareness for members and employees and will therefore take appropriate action to raise awareness levels.

6.2 The Monitoring Officer will provide an annual report to senior management and Members outlining investigations undertaken during the year.

6.3 This policy and associated procedures will be reviewed annually by the Audit Committee and will be made available to all employees and Members.

**7.0 Conclusion**

7.1 The Council has in place a clear network of systems and procedures to assist it in the fight against fraud and corruption. In addition to this, the Council maintains a continuous overview of such arrangements to ensure that they reflect any new or future developments in both prevention and detection techniques.

7.2 This policy will be reviewed and updated periodically to follow best practice and other legislative changes.

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# **Anti-Bribery Policy**

**June 2012**

**Version 2.0**

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## 1. Policy statement

Bribery is a criminal offence. We do not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor do we or will we, accept bribes or improper inducements.

To use a third party as a conduit to channel bribes to others is a criminal offence. We do not, and will not, engage indirectly in or otherwise encourage bribery.

We are committed to the prevention, deterrence and detection of bribery. We have zero-tolerance towards bribery. We aim to maintain anti-bribery compliance “business as usual” rather than as a one-off exercise.

### 1.1 Objective of policy

This policy provides a coherent and consistent framework to enable the Council’s Members and employees to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable both Members and employees to identify and effectively report a potential breach.

We require that **all** Members and personnel, including those permanently employed, temporary agency staff and contractors:

- act honestly and with integrity at all times and to safeguard the Council’s resources for which they are responsible
- comply with the spirit, as well as the letter, of the laws and regulations of all jurisdictions in which the Council operates, in respect of the lawful and responsible conduct of activities.

### 1.2 Scope of policy

This policy applies to all of the Council’s activities. For partners, joint ventures and suppliers, we will seek to promote the adoption of policies consistent with the principles set out in this policy.

With the Council, the responsibility to control the risk of bribery occurring resides at all levels of the organisation. It does not rest solely within assurance functions, but in all business units and corporate functions.

This policy covers all personnel, including all levels and grades, those permanently employed, temporary agency staff, contractors, non-executives, agents, Members (including independent members), volunteers and consultants.

### 1.3 Brentwood Borough Council's commitment to action

This organisation commits to:

- Setting out a clear anti-bribery policy and keeping it up to date
- Making Members aware of their of their responsibilities to adhere to this policy at all times
- Making all employees aware of their responsibilities to adhere strictly to this policy at all times
- Training for all Members and employees so that they can recognise and avoid the use of bribery by themselves and others
- Encouraging both its Members and employees to be vigilant and to report any suspicions of bribery, providing them with suitable channels of communication and ensuring sensitive information is treated appropriately
- Rigorously investigating instances of alleged bribery and assisting police and other appropriate authorities in any resultant prosecution.
- Taking firm and vigorous action against any individual(s) involved in bribery
- Provide information to all Members and employees to report breaches and suspected breaches of this policy
- Include appropriate clauses in contracts to prevent bribery.

### 1.4 What is bribery?

Bribery is an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage. The Bribery Act 2010 has been enacted to enable robust action against such activity and came into force on 1 July 2011.

### 1.5 Key points of the Bribery Act 2010

There are four key offences under the Act:

- Bribery of another person (section 1)
- Accepting a bribe (section 2)
- Bribing a foreign official (section 6)
- Failing to prevent bribery (section 7)

The Bribery Act 2010 (<http://www.legislation.gov.uk/ukpga/2010/23/contents>) makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2). Section 6 of the Act creates a separate offence of bribing a foreign public official with the intention of obtaining or retaining business or an advantage in the conduct of business. There is also a corporate offence under Section 7 of failure by a commercial organisation to prevent bribery that is intended to obtain or retain business, or an advantage in the conduct of business for the organisation. An organisation will have a defence to this corporate



offence if it can show that it had in place adequate procedures designed to prevent bribery by or of persons associated with the organisation.

## 1.6 Are we a “commercial organisation”?

The guidance states that a “commercial organisation” is any body formed in the United Kingdom and “...it does not matter if it pursues primarily charitable or educational aims or purely public function. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made”. The Council is therefore, a “commercial organisation”.

## 2. Anti Bribery Procedures

### 2.1 What are “adequate procedures”?

Whether the procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. Adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation. It is for individual organisations to determine proportionate procedures in the recommended areas of six principles. These principles are not prescriptive. They are intended to be flexible and outcome focussed, allowing for the different circumstances of organisations. Small organisations will, for example, face different challenges to those faced by large multi-national enterprises. The detail of how organisations apply these principles will vary, but the outcome should always be robust and effective anti-bribery procedures.

The six principles are:

- **Proportionate procedures:** An organisation’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation’s activities. They are also clear, practical, accessible, effectively implemented and enforced.
- **Top level commitment:** The top-level management (be it a board of directors, the owners or any other equivalent body or person) are committed to preventing bribery by persons associated with it. They foster a culture within the organisation in which bribery is never acceptable.
- **Risk Assessment:** The organisation assesses the nature and extent of its exposure to the potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.
- **Due diligence:** The organisation applies due diligence procedures, taking a proportionate and risk based approach, in respect of persons who perform or will

perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.

- **Communication (including training):** The organisation seeks to ensure that its bribery prevention policies and procedures are embedded and understood throughout the organisation through internal and external communication, including training that is proportionate to the risks it faces.
- **Monitoring and review:** The organisation monitors and reviews procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

**Brentwood Borough Council is committed to proportional implementation of these principles.**

## 2.2 Penalties

An individual guilty of an offence under sections 1, 2 or 6 is liable:

- On conviction in magistrates court, to imprisonment for a maximum term of 12 months (six months in Northern Ireland), or to a fine not exceeding £5,000 or to both
- On conviction in a crown court, to imprisonment for a maximum term of ten years, or to an unlimited fine, or both.

Organisations are liable for those fines and if guilty of an offence under section 7 are liable to an unlimited fine.

## 2.3 Bribery is not tolerated

It is unacceptable to:

- give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given
- give, promise to give, or offer a payment, gift or hospitality to a government official, agent or representative to “facilitate” or expedite a routine procedure
- accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them.
- accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by us in return
- retaliate against or threaten a person who has refused to commit a bribery offence or who has raised concerns under this policy
- engage in activity in breach of this policy

## 2.4 Facilitation payments

Facilitation payments are not tolerated and are illegal. Facilitation payments are unofficial payments made to public officials in order to secure or expedite actions.

## 2.5 Gifts and Hospitality

This policy does not change the requirements of the Council's Gifts and Hospitality guidance nor does it interfere with the duties on Members to disclose as set out in the Code of Conduct under the Localism Act. All staff should ensure that they are in compliance with Gifts and Hospitality procedures as set out in the [Staff Code of Conduct](#). Similarly, Members should ensure they comply with requirements of Gifts and Hospitality as set out in the [Members Code of Conduct](#).

## 2.6 Public contracts and failure to prevent bribery

Under the Public Contracts Regulations 2006 (which gives effect to EU law in the UK), a company is automatically and perpetually debarred from competing for public contracts where it is convicted of a corruption offence. There are no plans to amend the 2006 regulations for this to include the crime of failure to prevent bribery. Organisations that are convicted of failing to prevent bribery are not automatically barred from participating in tenders for public contracts. However, the Council has the discretion to exclude organisations convicted of this offence.

## 2.7 Staff and Members responsibilities

The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for Brentwood Borough Council or under its control. All Members and staff are required to avoid activity that breaches this policy.

You must:

- ensure that you read, understand and comply with this policy
- raise concerns as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.

As well as the possibility of civil and criminal prosecution, staff that breach this policy will face disciplinary action, which could result in dismissal for gross misconduct. Similarly Members will face action through the Standards Committee for breaches of the Code of Member Conduct.

## 2.8 How do I raise a concern?

Brentwood Borough Council is committed to ensuring that all of us have a safe, reliable and confidential way of reporting any suspicious activity. We want each and every member of staff to know how they can raise concerns.

We all have a responsibility to help detect, prevent and report instances of bribery. If you have a concern regarding a suspected instance of bribery or corruption, please speak up – your information and assistance will help. The sooner you act, the sooner it can be resolved.

There are multiple channels to help you raise concerns. The Council has a Whistleblowing Policy and it provides for reporting issues in a way which provides protection of identity. Please refer to the [Whistle Blowing Procedures](#).

Preferably, the disclosure will be made and resolved internally. However, where internal disclosure proves inappropriate, concerns can be raised with the regulator. Raising concerns in these ways may be more likely to be considered reasonable than making disclosures publicly (e.g. to the media).

Concerns can be anonymous. In the event that an incident of bribery, corruption, or wrongdoing is reported, we will act as soon as possible to evaluate the situation. The Council has clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. This is easier and quicker if concerns raised are not raised anonymously.

Staff who refuse to accept or the offer of a bribe, or those who raise concerns or report wrongdoing can understandably be worried about the repercussions. We aim to encourage openness and will support anyone who raises a genuine concern in good faith under this policy, even if they turn out to be mistaken.

The Council are committed to ensuring nobody suffers detrimental treatment through refusing to take part in bribery or corruption, or because of reporting a concern in good faith.

## 2.9 Useful links

[Bribery Act quick start guide](#)

[Joint Prosecution Guidance](#)

[National Fraud Authority](#)

[Transparency International](#)

[Public Concern at Work](#)

Department for Business Innovation and Skills (Blowing the whistle to a prescribed person)

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**PROCEEDS OF CRIME  
(ANTI-MONEY LAUNDERING)  
POLICY AND GUIDANCE**

**September 2012**

## 1.0 Introduction

- 1.1 There have been a number of significant changes to the legislation concerning money laundering contained within the Proceeds of Crime Act 2002 (POCA) and the Money Laundering Regulations 2007, which have broadened the definition of money laundering and increased the range of activities caught by the statutory framework. As a result, the new obligations now impact on certain areas of local authority business and require local authorities to establish internal procedures to prevent the use of their services for money laundering.
- 1.2 This policy applies to all Members and employees of the Council and aims to maintain the high standards of conduct, which currently exist within the Council by preventing criminal activity through money laundering. The policy sets out the procedures, which must be followed to enable the Council to comply with its legal obligations.

## 2.0 What is Money Laundering?

2.1 Money laundering means:

- Concealing, disguising, converting, transferring criminal property or removing it from the UK.  
*This covers hiding an item or its source, removing serial numbers, or changing an item for something else. For example unexplained large cash payment claimed to be from death of relative or lottery win, a person using illegally earned money to buy a house or piece of land; or*
- Entering into or becoming concerned in an arrangement which you know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person.  
*This is the actual involvement in helping to cover up an act – e.g. a Housing Officer becoming suspicious that a tenant on benefits is buying valuable items when they are on limited income and failing to report this; or*
- Acquiring, using or possessing criminal property, accepting stolen items knowingly or knowingly taking advantage of them or accepting items paid for by the proceeds of crime.  
*This could be paying significantly less than the value of an item with the suspicion or knowledge that it may be stolen; or*



- Becoming concerned in an arrangement facilitating concealment, removal from the jurisdiction, transfer to nominees or any other retention or control of terrorism property (section 18 of the Terrorist Act 2000).  
*This is about hiding income or other items which are being used to fund or carry out terrorist activities.*

These are the primary money laundering offences and are thus prohibited activities under the Proceeds of Crime Act (POCA).

2.2 There are also two 'third party' offences:-

- 1) Failure to disclose one of the primary offences, and
- 2) 'Tipping-off' – this is where someone informs a person (or people) who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated, or prejudicing an investigation.

2.3 Criminal Property is defined in Section 340 (3) of POCA as "property" that is or represents the person's benefit from illegal actions in whole or part and the person knows or suspects that it is the proceeds of a criminal act. To this end property is defined as all property wherever situated and includes:

- Money;
- All forms of property, real or personal, heritable or moveable;
- Things in action and other intangible or incorporeal property.

2.4 Potentially any employee could be caught by the money laundering provisions if he/she knows or suspect money laundering and either becomes involved with it in some way and/or does nothing about it. This policy sets out how any concerns should be raised.

### **3.0 What are the Obligations on the Council?**

3.1 The Council has responsibility to undertake the following:

- Appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from Members or employees of money laundering activity (their own or anyone else's);
- Implement a procedure to enable the reporting of suspicions of money laundering;
- Maintain client identification procedures (see Section 7.0) in certain circumstances; and
- Maintain records

#### **4.0 The Money Laundering Reporting Officer (MLRO)**

- 4.1 The Council's nominated MLRO to receive disclosures about money laundering activity within the Council is the Head of Legal and Governance. The contact details are as follows:

Head of Legal and Governance  
Brentwood Borough Council  
Town Hall  
Ingrave Road  
Brentwood  
Essex  
CM15 8AY

Tel: 01277 312703

#### **5.0 Reporting to the Money Laundering Reporting Officer (MLRO)**

- 5.1 Where you know or suspect that money laundering activity is taking/has taken place, or become concerned that your involvement in a matter may amount to a prohibited activity under POCA as defined in Section 2.1, you must disclose this as soon as practicable to the MLRO.

**DELAYS OR FAILURE TO REPORT MAY LEAVE YOU PERSONALLY LIABLE TO PROSECUTION.**

- 5.2 Your report to the MLRO must include as much detail as possible, for example: -

- Full details of the people involved (including yourself, if relevant), e.g. name, date of birth, address, company names, directorships, phone numbers, etc;
- Full details of the nature of their/your involvement;
- The types of money laundering activity involved. (The MLRO can help identify this).
- The dates of such activities, including whether the transactions have happened, are ongoing or are imminent;
- Where they took place;
- How they were undertaken;
- The (likely) amount of money/assets.

- 5.3 All available information needs to be given to the MLRO to enable them to make an informed judgement as to whether there are reasonable grounds for knowledge or suspicion of money laundering and to enable them to prepare a report to the Finance Intelligence Unit of the Serious and Organised Crime Agency (SOCA), where appropriate.

5.4 At no time and under no circumstances should you voice any suspicions to the person(s) whom you suspect of money laundering or tell them you have reported the transaction, (even if the NCIS has given consent to a particular transaction Proceeding); otherwise you may commit a criminal offence of “tipping off” which carries a maximum penalty of 5 years imprisonment and unlimited fine.

## **6.0 Consideration of the Disclosure by the Money Laundering Reporting Officer**

6.1 Upon receipt of a disclosure report, the MLRO must acknowledge receipt and confirm the timescale within which they expect to respond.

6.2 The MLRO will consider the report and any other available internal information considered relevant. For example:

- Reviewing other transaction patterns and volumes;
- The length of any business relationship involved;
- The number of any one-off transactions and linked one-off transactions;
- Any identification evidence held.

6.3 The MLRO will undertake any other reasonable enquiries deemed appropriate in order to ensure that all available information is taken into account in deciding whether a report to the SOCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved).

6.4 Once the MLRO has evaluated the disclosure report and any other relevant information, they must make a timely determination as to whether:

- There is actual or suspected money laundering taking place; or
- There are reasonable grounds to know or suspect that is the case; and
- Whether they need to seek consent from the SOCA for a particular transaction to proceed.

6.5 Where the MLRO concludes a referral is needed then they must disclose the matter as soon as possible to the SOCA.

6.6 Where the MLRO suspects either:

- Money laundering but has a reasonable excuse for nondisclosure; or
- Concludes that there are no reasonable grounds to suspect money laundering;

then they must note the report accordingly; and give immediate consent for any ongoing or imminent transactions to proceed.

6.7 Where consent is required from the SOCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until the SOCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from the SOCA.

## 7.0 Client Identification Procedures

7.1 In addition to appointing a MLRO, the legislation also concerns itself with the “relevant business” of the Council. This largely relates to Accountancy and Audit Services and land or property transactions which involve Planning and Development and Legal Services.

7.2 Where the Council is carrying out relevant business with third parties and:

- Forms an on-going relationship with a client; or
- Undertakes a one-off transaction involving payment by or to the client of 15,000 Euro (approximately £10,000) or more; or
- Undertakes a series of linked one-off transactions involving total payment by or to the client(s) of 15,000 Euro (approximately £10,000) or more; or
- It is known or suspected that a one-off transaction (or a series of them) involves money laundering;

then the Client Identification Procedure must be followed before any business is undertaken for that client.

7.3 To meet the requirements of the procedure, you must obtain satisfactory evidence of the identity as soon as practicable after instructions are received (unless evidence has already been obtained). This applies to existing and new clients, but evidence is not required for matters entered into prior to 1 April 2009. Regular monitoring is also needed to ensure that the identification information remains up-to-date and the Department’s knowledge of the client remains current.

7.4 Evidence of identity should be established as follows:

- **Individuals** – the proof of identity should identify their name, permanent address as well as date and place of birth. Examples include Passport, Driving Licence and Utility Bills.
- **Businesses** – establish the identity of the entity itself and then the people who are behind it – Owners, Directors, Partners etc. The Internal Audit Section has access to a search company who can assist with information on limited companies. Additional evidence can also be obtained in the form of written instructions on the organisation’s official letterhead or an e-mail from the organisation’s e-communication system.

7.5 Copies of all evidence of identity should be forwarded to the MLRO to be held on a central file. Any such documentation should be retained for at least five years from the end of the transaction or business relationship.

## **8.0 Conclusion**

8.1 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This policy has been written to as to enable the Council and all of its Members and employees to meet the legal requirements in such a way as to be proportionate to the low risk to the Council and the opportunity of contravening of legislation.

8.2 If you have any concerns or queries regarding any transactions, please contact the MLRO for advice and guidance.

8.3 This policy will be reviewed and updated periodically to follow best practice and other legislative changes.

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**10 October 2018**

## **Regulatory and Governance Committee**

### **Insurance and Risk Management Strategy 2018**

**Report of:** *Jacqueline Van Mellaerts, Interim Chief Finance Officer*

**Wards Affected:** *None*

**This report is:** *Public*

#### **1. Executive Summary**

1.1 The report updates members of the Regulatory & Governance Committee with a revised Insurance & Risk Management Strategy which is reviewed annually and is attached in Appendix A.

1.2 Following changes have been updated:

- Roles & Responsibilities (page 7)
- Risk Analysis (pages 8, 9 & 10)
- Risk Ranking Table (page 11)
- Risk Appetite/Risk Tolerance (page 12)

#### **2. Recommendation(s)**

**2.1 To approve and adopt the revised Insurance & Risk Management Strategy 2018 (Appendix A).**

#### **3. Introduction and Background**

3.1 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.

3.2 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.

### 3.3 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.

### 3.4 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.



#### **4. Issue, Options and Analysis of Options**

4.1 The yearly review of the Insurance and Risk Management Strategy has been carried out and is attached at Appendix A. The following changes have been made:

- Roles & Responsibilities (page 7)  
These have been amended to reflect the changes to Senior Management.
- Risk Analysis (pages 8, 9 & 10)  
Changes have been made to the impact and likelihood tables. The definitions for impact have been expanded upon and now sit under the various risk categories. This allows identification of the types of risk that might affect the service or project.
- Risk Ranking Table (page 11)  
Changes to the risk matrix have been introduced. The revised matrix is now more evenly spread between likelihood and impact. By making the matrix more neutral it allows the Council's risks, and more importantly the risk mitigation, to be more accurately captured. It allows a more credible reduction in the risk score when effective risk management controls have been implemented.

Changes have also been made to the recommended review pattern for the various levels of risk.

- Risk Appetite/Risk Tolerance (page 12)  
In line with Internal Audit recommendations, the risk appetite and risk tolerance for the council has been included in the Strategy.

#### **5. Reasons for Recommendation**

5.1 Risk Management continues to be embedded quarterly within Executive Board and Corporate Leadership Board, where Departmental Managers and Senior Officer 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, Interim Chief Financial Officer**  
**Tel & Email: 01277 312829/ 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 & Head of Legal Services**  
**Tel & Email: 01277 312860/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 & Risk Management Strategy 2018 – with comments to amendments

Appendix B – Insurance & Risk Management Strategy 2017 – Previous version

### **Report Author Contact Details:**

**Name:** Sue White, Risk & Insurance Officer  
**Telephone:** 01277 312821  
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## **BRENTWOOD BOROUGH COUNCIL**

### **INSURANCE AND RISK MANAGEMENT STRATEGY 2018**

#### 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. Risk Appetite
10. Risk Tolerance
11. Monitoring arrangements for Key Risks

## 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 met 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 Executive Board, with ownership for risks being assigned to individual officers and Operational Registers are maintained by the relevant Department and reported a Corporate Leadership Board.

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:-

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

- 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

**Commented [JVM1]:** These have been amended to reflect the changes to Senior Management.

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 Regulatory & Governance Committee (or Equivalent)
- Executive Board
- Corporate Leadership Board

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

### Members of the Regulatory & Governance Committee (or Equivalent)

- 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

### Executive Board

- Be responsible for and monitor the Strategic Risk Register
- Assign a responsible officer to each significant strategic risk

### 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 monthly basis
- Be responsible for and monitor the Operational Risk Register
- Assign a responsible officer to each significant operational 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.

### Chief Finance Officer

- 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

- Take responsibility for the promotion of the Insurance & Risk Management Strategy within their area.
- Ensure awareness of risk culture is embedded across their respective departments and services.
- Ensure that operational risk registers are managed, monitored, responded to and communicated effectively in their areas and reported at CLB.
- 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	5% likely to happen or hasn't happened within the last 5 years
2	Less likely/moderate	20% likely to happen or has happened once or twice in the last 5 years
3	Likely/possible	50% likely to happen or has happened once or twice in the last 24 months
4	Very likely/high	75% likely to happen or has happened at least once or twice in the last 12 months
5	Definite/very high	99% likely to happen or has happened on a regular basis over the last 12 months

**Commented [JVM2]:** Changes have been made to the impact and likelihood tables. The definitions for impact have been expanded upon and now sit under the various risk categories. This allows identification of the types of risk that might affect the service or project.

Score	Impact	Effect of Service	Financial & Resources	Reputation	Legal	People	Effect on project objectives
1	Negligible	<ul style="list-style-type: none"> <li>• Small impact on customer service which may result in complaints</li> <li>• Nuisance</li> </ul>	<ul style="list-style-type: none"> <li>• Small financial loss; less than £10K</li> <li>• Negligible property damage</li> </ul>	No adverse effect on perception	No legal implication	No injury	<ul style="list-style-type: none"> <li>• Minimal impact to project</li> <li>• Minor slippage</li> </ul>
2	Minor	<ul style="list-style-type: none"> <li>• Small setback</li> <li>• Disruptive impact on service</li> <li>• Localised disgruntlement</li> </ul>	<ul style="list-style-type: none"> <li>• Noticeable financial loss; £10-£100K</li> <li>• Slight damage to one property</li> </ul>	Minimal effect to perception (e.g. minor criticism of the Council)	Breach of statutory process, duty or law resulting in possibility of legal action	Minor Injury	<ul style="list-style-type: none"> <li>• Adverse effect to project.</li> <li>• Slippage requires review finances / short term programme</li> </ul>
3	Moderate	<ul style="list-style-type: none"> <li>• Widespread disgruntlement</li> <li>• Disrupted service delivery from one service area for up to 3 days</li> <li>• Can handle but with difficulty</li> </ul>	<ul style="list-style-type: none"> <li>• Moderate financial loss £100-300K</li> <li>• Inability to deliver popular policies due to budgetary constrictions</li> <li>• Substantial damage to one part of a building</li> </ul>	Negative effect on perception, e.g. <ul style="list-style-type: none"> <li>• Criticism of the council</li> <li>• Local bad press</li> </ul>	Breach of major statutory duty or law resulting in probably legal action	RIDDOR (Reporting of Injuries, Diseases & Dangerous Occurrences Regulations (1995) Reportable major injury to an individual	<ul style="list-style-type: none"> <li>• Important impact on project or most of expected benefits.</li> <li>• Considerable slippage</li> <li>• Possible impact on overall finances / programme</li> </ul>
4	Significant	<ul style="list-style-type: none"> <li>• Intervention in a key service</li> <li>• Disruption to service delivery for one or more service areas for 3-5 days</li> <li>• Failure of an operational partnership</li> </ul>	<ul style="list-style-type: none"> <li>• Sizeable financial loss up to 50% of budget or between £300K-1M</li> <li>• Extensive damage to a critical building or considerable damage to several properties from one source</li> </ul>	<ul style="list-style-type: none"> <li>• Criticism of key process</li> <li>• Large scandal</li> <li>• High level of complaints at corporate level across several service areas</li> <li>• Adverse national media coverage</li> </ul>	Breach of law resulting in legal action against the Council which would be difficult to defend	Reportable major injuries to several people or death of an individual	<ul style="list-style-type: none"> <li>• Extreme delay</li> </ul>

Score	Impact	Effect of Service	Financial & Resources	Reputation	Legal	People	Effect on project objectives
5	Major	<ul style="list-style-type: none"> <li>• Complete breakdown in service delivery with severe, prolonged impact on customer service affecting the whole organisation</li> <li>• Failure of a strategic partnership</li> </ul>	<ul style="list-style-type: none"> <li>• A substantial failure in accountability or integrity</li> <li>• A large financial loss over 50% of budget or greater than £1M</li> <li>• Total loss of a critical building</li> </ul>	<ul style="list-style-type: none"> <li>• A vote of no confidence in one service area</li> <li>• Officer(s) &amp;/or Members forced to resign &amp;/or Audit Commission enquiry</li> <li>• Substantial adverse &amp; persistent national media coverage</li> </ul>	Breach of law resulting in legal action against the Council which would be very difficult / impossible to defend	Death of several people	<ul style="list-style-type: none"> <li>• Complete failure of project</li> </ul>

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.

<b>Likelihood</b>	(5) Definite/very high	<b>Low</b>	<b>Medium</b>	<b>High</b>	<b>Very High</b>	<b>Very High</b>
	(4) Very likely	<b>Low</b>	<b>Medium</b>	<b>High</b>	<b>Very High</b>	<b>Very High</b>
	(3) Likely	<b>Low</b>	<b>Medium</b>	<b>Medium</b>	<b>High</b>	<b>Very High</b>
	(2) Unlikely	<b>Low</b>	<b>Low</b>	<b>Medium</b>	<b>Medium</b>	<b>High</b>
	(1) Highly unlikely	<b>Low</b>	<b>Low</b>	<b>Low</b>	<b>Medium</b>	<b>Medium</b>
		Negligible (1)	Minor (2)	Moderate (3)	Significant (4)	Major (5)
		<b>Impact</b>				

**Commented [JVM3]:** Changes to the risk matrix have been introduced. The revised matrix is now more evenly spread between likelihood and impact. By making the matrix more neutral it allows the Council's risks, and more importantly the risk mitigation, to be more accurately captured. It allows a more credible reduction in the risk score when effective risk management controls have been implemented.

Changes have also been made to the recommended review pattern for the various levels of risk.

Likelihood x Impact = Risk Score

Risk tolerance			
Level of Risk	Level of Concern	Recommended review pattern	Action required
Very High 15-25	Very concerned	1-2 months	These are critical risks requiring immediate attention.  This will mean that strategies need to be developed to reduce or eliminate the risk.
High Risk 10-15	Concerned	2-3 months	These risks are significant.  Consideration should be given to the development of strategies to reduce or eliminate the risks.
Medium Risk 5-10	Quite Concerned  Risk can be tolerated at this time	3-4 months	These risks are less significant but may cause upset and inconvenience in the short term.  These risks should be monitored to ensure they are being appropriately managed and they do not escalate to a higher category of risk.
Low Risk 1-5	Not concerned Risk accepted at this time	4-6 months	These risks are both unlikely to occur and not significant in their impact.  They require minimal monitoring and control unless subsequent risk assessments show subsequent change, prompting a move to another risk category.

## 9. Risk Appetite

Risk appetite is the level of risk the Council are prepared to tolerate or accept in the pursuit of its strategic objectives. The Council's aim is to consider all options to respond to risk appropriately and make informed decisions that are most likely to result in successful delivery, while also providing an acceptable level of value for money. The acceptance of risk is subject to ensuring that all potential benefits and risks are fully understood and that appropriate measures to mitigate risk are established before decisions are made.

Methods of controlling risks must be balanced in order to support innovation and the imaginative use of resources when it is to achieve substantial benefit. In addition, the Council may accept some high risks because of the cost of controlling them. The Council will not accept and will therefore seek to control all risks which have the potential to:

- Jeopardise significantly the Council's ability to carry out its normal operational activities
- Have severe financial consequences which could jeopardise the Council's viability
- Have a damaging impact on our reputation
- Lead to breaches of law and regulations
- Cause significant harm to staff, visitors, contractors and other stakeholders

## 10. Risk Tolerance

The Council has determined that some risks are acceptable / tolerable. This is in line with the stated risk appetite and is reflected in the green area of the risk heat map. All risks within a rating of 5 or less are deemed to be acceptable or tolerable. Some risks with a rating higher than 5 may also be accepted/tolerated. This would most probably be because of the potential benefit of taking the risk or the cost of controlling the risk. Acceptance or tolerance of any risk with a rating higher than 5 must be approved by the Corporate Leadership Board.

## 11. Monitoring arrangements for Key Risks

The reason for monitoring key risks is to create an early warning system for any movement in risk. It will also ensure our treatment of risk remains effective and the benefits of implementing risk control measures outweigh the costs of doing so.

The Insurance and Risk Management Strategy requires risks recorded on the Strategic Risk Register and Operational Risk Registers to be monitored in line with the recommendations set out on page 11 above.

The management of any very high and high risks will be monitored and reported to the Corporate Leadership Board.

**Commented [JVM4]:** In line with Internal Audit recommendations, the risk appetite and risk tolerance for the council has been included in the Strategy.

**Commented [JVM5]:** In line with Internal Audit recommendations, the risk appetite and risk tolerance for the council has been included in the Strategy.

Monitoring reports are presented for approval to the Corporate Leadership Board prior to final ratification by the Regulatory & Governance 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)?



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

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 / Close risk

## **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

10 October 2018

## Regulatory and Governance Committee

### Strategic & Operational Risk Register

**Report of:** *Jacqueline Van Mellaerts, Interim Chief Finance Officer*

**Wards Affected:** *None*

**This report is:** *Public*

#### 1. Executive Summary

- 1.1 The report updates members of the Regulatory & Governance Committee on the status of the Council's 2018/19 Strategic Risk Register and the progress being made across Services in delivering Operational Risk Registers.

#### 2. Recommendation(s)

- 2.1 **To agree the amendments to the Strategic Risk Register, as shown in Appendix A, and that the risk scores recorded for each risk accurately represents the current status of each risk.**
- 2.2 **To agree the risk exposure changes, as shown in Appendix B, to the Operational Risks.**

#### 3. Introduction and Background

- 3.1 The governance arrangements set out in the 'Insurance & Risk Management Strategy 2017' and terms of reference of committees from our constitution require the Regulatory & Governance Committee to review the strategic and operational risks every quarter.
- 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 Regulatory & Governance 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

### Strategic Risks

- 4.1 Attached to this report at Appendix A 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.
- 4.2 At the previous Regulatory and Governance meeting on 11<sup>th</sup> July 2018, it was RESOLVED:  
***To agree the amendments to the Strategic Risk Register, as shown in Appendix A (of the report), and that the risk scores recorded for each risk accurately represents the current status of each risk with the exception of risks 5 and 11 which should be raised to “red”.***
- 4.3 Strategic risk register is regularly reviewed at the weekly Executive Board. Each strategic risk owner reviews the risk and scores it appropriately against the Risk Analysis criteria outlined in the Insurance & Risk Management Strategy.
- 4.4 Risks need to be scored and assessed as opposed to entered into a category.
- 4.5 Officers have therefore carefully considered the Risk score and have made the following amendments.
- RSK5 – Information Management Security – Increased score to 10 – Yellow Risk

This is by evaluating the score based on:

Likelihood - Score 2 - Less Likely/moderate - Would be mildly surprised if this occurred, but cannot entirely rule out the possibility.

Impact - Score 5 – Major Impact – Financial Losses could be in excess of £100,000k and therefore a major Impact.

- RSK11 – Rollout of Universal Credit – Score remained the same.

This is by evaluating the score based on:

Likelihood – Score 4 – Very Likely/high – This could occur sometime in the coming year or so.

Impact – Score 4 – Significant Impact – Financial Loss is likely to be under £100,000k

4.6 As a result of the total current strategic risk review one risk scores have decreased, one risk score has increased, and one risk has been closed. The remaining scores have remained unchanged, totaling 13 Strategic Risks on the register.

4.7 The risk where the risk scores have decreased are as follows:

- Yellow risk RSK10 – Failure to spend Capital Receipts (Row No.7)  
The Council are actively purchasing properties to ensure spend while the housing strategy is being developed. The Government have also published a green paper around existing receipts which gives us longer time to spend.

4.8 The risk where the risk scores have increased are as follows:

- Yellow Risk RSK5 – Information Management Security (Row No.5)  
In light of the significant financial penalties that can be issued for data breaches the impact score has been increase to 5 in accordance with the Council's Strategy.

4.9 The risk which has been closed is as follows:

- RSK12 – Extension of Right to Buy to registered provider tenants (Row No.13)  
Government have now confirmed in the Green Paper that they will not bring the Higher Value Asset provisions of the Housing and Planning Act 2016 into effect. They are looking to repeal the legislation when Parliamentary time allows. Following this announcement this is no longer a risk to the Council and can therefore be closed.

## **Brexit**

4.10 The Council has considered including Brexit on its strategic register, however due to the uncertainty of the type of BREXIT we will enter into. It has been decided not to include on the register until this is known. The Council is aware of the importance of the potential risks that could impact our borough. Therefore it is under frequent review and monitored closely.

## Risk Matrix

4.11 The thirteen risks are plotted on the risk matrix in Table 1. The current assessment identifies that three risks will remain in the red area of the risk matrix.

**Table 1 – Risk Matrix**

Likelihood / Probability	Definite	5	10	15	20	25 RSK1
	Very Likely	4	8	12	16 RSK 11	20
	Likely	3	6	9	12 RSK3	15 RSK2
	Less Likely	2	4	6	8 RSK10 RSK8 RSK7	10 RSK 5 RSK13
	Unlikely	1	2 RSK14	3	4 RSK4 RSK9	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	Closed
5	Information Management and Security	13	Failure to deliver key Corporate Projects
7	Commercial Activities	14	Failure of Democratic Services
8	Contract/Partnership Failure		



## Operational Risks

- 4.12 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.
- 4.13 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.
- 4.14 The table below shows the total number of risks identified in operational risk registers across the Council.

Risk Group	No. of open risks on register	Low Risk	Medium Risk	High Risk
Assets	6	5	1	
Community Services	4		4	
Corporate Services	5		5	
Environment & Licensing	4		3	1
Finance	8	4	4	
Housing	11	3	5	3
Parking	1		1	
Planning	6	1	5	
Street Care	8	1	6	1

- 4.15 Attached to this report at Appendix B is an operational risk summary report showing risk exposure changes.

## 5. Reasons for Recommendation

- 5.1 Risk Management continues to be embedded quarterly within Executive Board and Corporate leadership Team, where Departmental Managers and Senior Officers discuss the operational and strategic 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, Interim Chief Finance Officer**

**Tel & Email: 01277 312829/ 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/Head of Legal Services**

**Tel & Email: 01277 312860/daniel.toohey@brentwood.gov.uk**

8.2 The maintenance of regularly updated risk registers setting out an assessment of risks, and actions to manage same, will assist the Council in meeting its statutory and governance obligations.

## **9. Appendices to this report**

Appendix A – Strategic Risk Register Summary Report 2018-19

Appendix B – Operational Risk Exposure Changes

### **Report Author Contact Details:**

**Name:** Sue White, Risk & Insurance Officer

**Telephone:** 01277 312821

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

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
				Feb-18			Jun-18			Sep-18					
				*L	*I		*L	*I		*L	*I				
1	RSK1	<u>Finance Pressures</u> As Revenue Support Grant from Central Government has ceased from 2018/19, 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	5	5	25	↔	COMMENT FEB 2018: Revenue Support Grant Income is confirmed as Nil for 2018/19 and subsequent years. Although The Council has set a breakeven Budget for 2018-19 utilising commercial activity as the driving force, the Council still faces financial pressures from the lack of Central Government funding. COMMENT JUNE 2018: The MTFP still foresees future funding gaps, due to the current pressures on reduced funding. The Council has saving targets in place to reduce this funding gap, which is predominantly related to commercial activity. The Council still sees this financial pressure as its biggest risk. <b>COMMENT SEPT 2018: The Council continues to monitor its MTFP. £83k pressure was reported at the latest P,P&amp;R Committee. The Council is addressing this pressure and monitoring the funding position.</b>	Jacqueline Van Mellaerts
2	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. FTA Debt Recover Policy was agreed to control rent arrears.	4	4	16	4	4	16	4	4	16	↔	COMMENT FEB 2018: There has been an issue with payments not being received due to a requirement for a creditor reference, which BBC did not have. This is still being looked into by Finance. COMMENT MAY 2018: Regular communication with UC has now been set up. SRS forms are helping with the processing of claims. Orchard is set up to flag UC making it easier to support tenants. COMMENT JUNE 2018: We are in regular communication with UC and receive the DWP updates to assist the monitoring. We are still reviewing the full impact of UC on our residents, particularly on the delay in claims being processed. We have seen a rise in arrears which is partially due to delays in claim processing. The Housing Manager is reviewing regularly and is still considered a high risk area. <b>COMMENT SEPT 2018: The delay in claims processing has reduced slightly. Housing have also introduced a FTA debt recovery policy which was approved at Sept C, H &amp; H committee. Brentwood are a priority to receive the UC portal, which should help increase control. The Council will monitor this risk again once this has been implemented.</b>	Steve Summers
3	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.	4	5	20	3	5	15	3	5	15	↔	COMMENT FEB 2018: Revised Local Plan timetable approved at Ordinary Council (Jan 2018). Decision from Secretary of State regarding intervention still awaited. COMMENT JUNE 2018: Secretary of State response received in March 2018 stating that the Brentwood Local Plan would not be subject to government intervention, provided the Council's approved timetable was met. Work remains on course to deliver the Plan according to approved timescales. <b>COMMENT SEPT 2018: Revised NPPF published by Government July 2018 and review of the Brentwood LDP undertaken to comply with new requirements resulting in revised LDP timetable set in consultation with MHCLG.</b>	Phil Drane

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
				Feb-18			Jun-18			Sep-18					
				*L	*I		*L	*I		*L	*I				
4	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.	3	4	12	3	4	12	3	4	12	↔	COMMENT FEB 2018: The Health check has indicated that additional short-term resource is required to ensure we are fully covered (as much as we can be) and arrangements are in place to put this into effect. COMMENT JUNE 2018: We are currently implementing recommendations of the Healthcheck. In addition senior employees have been, and are planned to be on a specialist Emergency Planning course. <b>COMMENT SEPT 2018: Business Continuity Plans have now been completed for the majority of services. These service level plans will feed into an overarching corporate business continuity plan, which is the next phase of the process for completion.</b>	Jacqueline Van Mellaerts
5	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 Policies Training DPO with Thurrock Information Asset Owners (IAO) within Council	2	3	6	2	4	8	2	5	10	↑	COMMENT FEB 2018: Compulsory training has occurred for officers regarding the DPA, with further update training to follow. GDPR Action plan has been approved by PPR committee, and data mapping exercise is underway. Project is on target according to schedule. COMMENT JUNE 2018: The project plan is now completed for GDPR, data mapping has occurred and privacy notices reviewed, as well as training undertaken. Thurrock Council have been engaged to undertake the DPO role to add capacity and capability. They are undertaking a gap analysis to address any existing or anticipated issues. The Risk has increased due to the significant potential financial impact on the Council, if there was a data breach. <b>COMMENT SEPT 2018: Processes are being reviewed and embedded as access requests from the public start to be received. Regular meetings of Information Asset Owners, Chaired by the Chief Executive, take place.</b>	Chris Leslie
6	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 FEB 2018: A recent BDO (internal audit) report resulted in the highest surety rating that can be provided,. This clearly indicates the confidence and assurance that has been generated by our project and programme control systems. COMMENT JUNE 2018: Regular reports are made internally (via CLB) and also at Committe (PPR) to ensure the organisation continues to track its main aims. <b>COMMENT SEPT 2018: Regular reports are presented and discussed by CLB to ensure that projects and progammes remain on track and on budget., and deliver the outcomes fo rthe Council and residents</b>	Phil Ruck
7	RSK10	<u>Failure to spend Capital Receipts</u> Faiure 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	3	5	15	2	4	8	↓	COMMENT FEB 2018: Further properties are being purchased to ensure the capital receipts are spent whilst a wider piece of work is carried out as part of asset review/JV. There has been a delay in the planning submission for Whittington Rd which should be resolved in the next couple of weeks. COMMENT JUNE 2018: Further properties are being purchased to ensure the capital receipt spend, while the wider piece of work is carried out as part of the asset review/JV. We are currently working with the planning team regarding the Whittington Rd plans. The risk rating has increased as we have an increased capital receipts for 19/20. <b>COMMENT SEPT 2018: The government issued the Social Housing Green Paper consultation on proposals to changes for use of right to buy receipts, the</b>	Steve Summers

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
				Feb-18			Jun-18			Sep-18					
				*L	*I		*L	*I		*L	*I				
8	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 FEB 2018: We continue to progress our work particularly on contract management. COMMENT JUNE 2018: The organisations capability in this area is reflected in two major procurement exercises we are undertaking (The J/V partner and Housing R&M). this has introduced substantial training and increased knowledge and application of good procurement practice. <b>COMMENT SEPT 2018: learning and development opportunities referred to in June 2018, continue to benefit the Council.</b>	Phil Ruck
9	RSK7	<u>Commerical Activities - Failure of Asset Development Programme</u> in identifying areas of sustainable development and revenue savings for the Council.	Medium Term Financial Planning is undertaken on an annual basis, with monthly budget monitoring. Regular reports to Policy, Projects & Resources Cttee to provide close monitoring. Robust business modeling and financial projections.	2	3	6	2	4	8	2	4	8	↔	COMMENT FEB 2018: Good progress has been made in procuring a development partner to assist with the Council's Asset Development Programme. Additionally arrangements to establish a wholly owned company early next financial year are nearly finalised. COMMENT JUNE 2018: The JV is progressing in accordance with the approved timeframe, with a shortlist of 5 bidders having been selected. SAIL property investment advisors have been appointed and are actively advising on investments. The Risk has increased due to the Council approving to Borrow up to £30m, to invest in SAIL and the potential financial impact that could effect the Council. <b>COMMENT SEPT 2018: SAIL has acquired its first investment property inline with the approved business plan. The JV procurement process remains on schedule.</b>	Chris Leslie

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
				Feb-18			Jun-18			Sep-18					
				*L	*I		*L	*I		*L	*I				
10	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	1	4	4	1	4	4	↔	COMMENT FEB 2018: Work on this continues as we review the organisations structure, recognising the impact of the commercialisation workstream. COMMENT JUNE 2018: The organisation now reflects goals of the organisation, following two additional senior appointments, (Director of Operations and Director of Strategic Planning). <b>COMMENT SEPT 2018: Key objectives of the Council are in line with expectations and new structures are now proving to be beneficial. An example of this is that teh Council is a finalist in three categories of teh Essex Business Excellence awards</b>	Phil Ruck
11	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 FEB 2018: No change for the last comment (Nov 17) COMMENT JUNE 2018: Work continues on ensuring delivery through the strong programme management ethos we have instigated and embedded within the organisation. <b>COMMENT SEPT 2018: The comment made in June 2018 still applies.</b>	Phil Ruck
12	RSK14	<u>Failure of Democratic Services</u> - 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 FEB 2018: No change from the Nov 17 comment. COMMENT JUNE 2018: Work continues to implement best practice. <b>COMMENT SEPT 2018: Work continues to implement best practice</b>	Phil Ruck
13	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			0	↓	COMMENT FEB 2018: We have received no further information from DCLG, we will continue to monitor. COMMENT JUNE 2018: There has been no regulation to bring into force the primary legislation. Whilst it remains on the statute books, there is no indication from government that it will be brought into effect. From a risk respect this will remain neutral, whilst high risk if in the event regulation came in. The risk rating will be reviewed in Sept to determine if still appropriate. <b>COMMENT SEPT 2018: Government have now confirmed in the Green Paper that they will not bring the Higher Value Asset provisions of the Housing and Planning Act 2016 into effect. They are looking to repeal the legislation when Parliamentary time allows. Following this announcement this is no longer a risk to the Council and can therefore be closed.</b>	Steve Summers
		<p>* L = Likelihood Rating (1 = Low, 5 = High) * I = Impact Rating (1 = Low, 5 = High) Maximum Score 5 x 5 = 25</p>													

**Operational Risks**

**Risk Exposure Changes**

Risk No	Risk Description	Existing Controls	Residual Risk Rating			Current Risk Rating			Movement	Risk Response/Update on action required
			Jun-18			Sep-18				
			*L	*I		*L	*I			
F9	Failure to attain PCI DSS compliance across all payment options		4	5	20	3	5	15	↓	COMMENT SEPT 2018: CallSecure has been implemented therefore the Council is now compliant with telephone payments as these payments are now descoped. Next phase is to work alongside ICT to look at PCI compliance for all the over payment channels.
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										Appendix B

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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.

## **Regulatory and Governance Committee**

- 1) To maintain an overview of the Council's Constitution including 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
  - Corporate Complaints
- 5) To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- 6) To consider the Council's compliance with its own and other published standards and controls.
- 7) To monitor and maintain an overview of the Council's requirements and duties under the General Data protection Regulations.
- 8) To monitor the Council's processes in relation to
  - Freedom of Information Requests
  - Members Enquiries
- 9) Data quality

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