



Agenda

Regulatory and Governance Committee

Wednesday, 6 March 2019 at 7.00 pm

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

Membership (Quorum – 3)

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

Substitute Members

Cllrs Hirst, Naylor, Nolan, Morrissey and Mrs Murphy

Agenda

Item	Item	Wards(s) Affected	Page No
1.	Apologies for absence		
2.	Minutes of the Previous Meeting		5 - 12
3.	Chair's Update Report	All Wards	13 - 16
4.	Review issues referred to the committee by a statutory officer of the Council or any Council Body	All Wards	17 - 18
5.	Data Protection Act 2018 Progress Report	All Wards	19 - 24
6.	Whistleblowing Policy	All Wards	25 - 42

7. **Strategic and Operational Risk**

All Wards 43 - 54

8. **Urgent Business**

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

Chief Executive

Town Hall
Brentwood, Essex
26.02.2019

Information for Members

Substitutes

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

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

Rights to Attend and Speak

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

A Member who is not a member of the Committee may speak at the meeting. The Member may speak at the Chair's discretion, it being the expectation that a Member will be allowed to speak on a ward matter.

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

Point of Order/ Personal explanation/ Point of Information

Point of Order

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

Personal Explanation

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

Point of Information or clarification

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

Information for Members of the Public

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

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

The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of

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

 **Private Session**

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 **Evacuation Procedures**

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



Minutes

Regulatory and Governance Committee Wednesday, 28th November 2018

Attendance

Cllr Ms Rowlands (Chair)
Cllr Mrs Tierney (Vice Chair)
Cllr Barrett
Cllr Cloke

Cllr Mrs Hones
Cllr McCheyne
Cllr Mynott

Apologies

Cllr Barrett
Cllr Mrs Middlehurst

Substitute Present

Cllr Morrissey
Cllr Nolan

Also Present

Cllr Mrs Pound
Cllr Naylor

Officers Present

Steve Summers	-	Chief Operating Officer
Claire Mayhew	-	Corporate and Democratic Services Manager
Jacqueline Van Mellaerts	-	Chief Financial Officer
Sue White	-	Risk and Insurance Officer
Gina Clarke	-	Deputy Monitoring Officer
Lee Henley	-	Data Protection Officer

218. Appointment of Vice Chair

In accordance with Rule 20 of the constitution the Leader has nominated Cllr Mrs Tierney as Vice-Chair of the Regulatory and Governance Committee for the rest of the Municipal Year 2018/2019.

Cllr Ms Rowlands **MOVED** and Cllr Nolan **SECONDED** to appointment Cllr Mrs Tierney as Vice Chair of the Regulatory and Governance Committee.

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

219. Apologies for absence

Apologies were received from Cllr Barrett with Cllr Morrissey substituting and Cllr Mrs Middlehurst with Cllr Nolan substituting.

220. Minutes of the previous meeting

The Minutes of the meeting held on 10th October were agreed as a true record, subject to amendment from Cllr Mynott to minute 158 – Insurance and Risk Management Strategy 2018. Cllr Mynott advised the committee that he didn't vote for the recommendation and therefore the vote was not UNANIMOUSLY RESOLVED. The recommendation on this item was RESOLVED.

Minute 158 - Insurance and Risk Management Strategy 2018 to be renumbered to stated 159.

221. Chair's Update Report

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.

In addition, I have met with the Councils DPO Officer, Lee Henley, and discussed arrangements for going forward.

Regulation of Investigatory Powers Act 2000

The report advised members 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.

Strategic and Operational Risk

The governance arrangements set out in the 'Insurance & Risk Management Strategy' and terms of reference of committees from the Council's constitution require the Regulatory & Governance Committee to review the strategic risks every quarter and confirm they are confident that the risks associated within the register are those which are strategic and relevant to the organisation at this point in time and the considered future.

The report updated the 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. In addition, the committee requested that risks were added for Brexit and also Interest Rates.

Members Training Programme 2018/19

The committee received a report on the Members Training Programme for 2018/19 which was adopted. This information included sessions which are mandatory as follows:

- New Members Induction Session
- Planning and Licensing Training as required under Chapter 5.5 paragraph 2, 2.1 & Chapter 5.5 paragraph 4, 4.1 of the Constitution.

Members will be given an opportunity to give feedback and comment on any further training that might help by completing the feedback form in the Members Training Programme.

The Member's training programme will improve knowledge and awareness of Council processes and procedures and where appropriate, statutory requirements, therefore improving the Council's overall compliance with governance requirements.

Insurance and Risk Management Strategy 2018

The committee received a report on a revised Insurance & Risk Management Strategy which is reviewed annually.

The following changes have been made to the Strategy:

- Roles & Responsibilities
- Risk Analysis
- Risk Ranking Table
- Risk Appetite/Risk Tolerance

The Committee agreed to approve and adopt the revised Insurance & Risk Management Strategy 2018.

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

The committee were advised that the revised Anti-Fraud Policy incorporated previously approved policies covering Fraud, Corruption, Bribery and Money Laundering into one single Policy. The Policy helps to provide a clear statement of the Council's position and investigating allegation helps to provided clarify around working practices and mitigates financial risk to the Council.

The Committee agreed to approve and adopt the Anti-Fraud Policy (Incorporating Bribery, Corruption and Money Laundering).

Draft Corporate Complaints Policy and Persistent and Unreasonable Behaviour Policy

Following a review of the current policies and arrangements Members were asked to consider and adopt a revised Corporate Complaints Policy and the introduction of a Persistent and Unreasonable Behaviour Policy.

The committee approved the Draft Corporate Complaints Policy and the Draft Persistent and Unreasonable Behaviour Policy.

Cllr Mynott, commented that no definitive guidance has been given to Members on GDPR. Chair advised for this to be discussed under item 5.

He also requested an update on the membership on the CWG and when the next meeting will take place.

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

The terms of references for the Regulatory and Governance Committee requires it to review issues referred to the committee by a statutory officer of the council or any council body.

This will be a standing item for the committee with officers' provision any matters for the committee to consider including a nil response.

There were no current matters to be referred to the committee.

Cllr Ms Rowlands **MOVED** and Cllr Mrs Tierney **SECONDED** to approve the recommendation in the report, subject to an amendment to the recommendation to state.

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

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

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

REASON FOR RECOMMEDATION

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

223. General Data Protection Regulation (GDPR)

The council are making good progress in improving and embedding its processes in relation to the GDPR. This report sets out work undertaken and details further work to embed compliance throughout the council.

Lee Henley was introduced to Members by the Chair. He presented the report and update the Committee of the key changes.

Cllr Kendall, asked for clarity for Member's on GDPR Guidance to help them while undertaking their role as a Member of the Council.

Cllr Ms Rowlands **MOVED** and Cllr Mrs Tierney **SECONDED** 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 note the actions being taken by the Council in relation to the GDPR.**

REASON FOR RECOMMENDATION

To ensure compliance with the Data Protection Act 2018 and General Data Protection Regulation.

224. The Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018

This report is to update Members on The Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018 and the proposed actions that the Council will be taking to meet the regulations.

Cllr Ms Rowlands **MOVED** and Cllr Mrs Tierney **SECONDED** 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 notes The Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018 and agrees the proposed actions of the Council as set out in 4.6. of the report in the agenda.**

REASON FOR RECOMMENDATION

To ensure the Council's website conforms with legislation.

225. Business Continuity Policy and Strategy

Brentwood Borough Council's Business Continuity Policy and Strategy documents will form the cornerstone to permanently establish and embed business continuity management, to ensure that the Council can continue to operate and deliver essential services to the community.

Cllr Ms Rowlands **MOVED** and Cllr Mrs Tierney **SECONDED** to approve the recommendations in the report.

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

- 1. That Regulatory & Governance Committee approve the proposed Business Continuity Policy (Appendix A) and Strategy (Appendix B).**

REASON FOR RECOMMENDATION

The Council will improve its resilience to and ability to recovery from business continuity incidents.

225. Strategic & Operational Risk

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.

Cllr Ms Rowlands **MOVED** and Cllr Mrs Tierney **SECONDED** to approve the recommendation in the report.

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 B, and that the risk scores recorded for each risk accurately represents the current status of each risk.**

REASON FOR RECOMMENDATION

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

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.

227. Urgent Business

There were no items of urgent business and the meeting concluded at 19:25

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6 March 2019

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 was made to the November Regulatory & Governance meeting setting out in detail the works undertaken to date and the future work planned to embed compliance throughout the council. The Committee agreed to the actions identified in the report.

Mr Lee Henley, the Council's Data protection Officer, attended the meeting and answered members questions.

Advice has been sought regarding indemnity insurance for members following previous requests from the Chair and other members that they would be covered during the course of undertaking council business. The Council's Insurers have advised that they would be covered as the Council are the data controllers but would need to be considered on a 'case by case' basis. The cover is for legal expenses but not for any possible fine in the case of a breach.

General Data Bodies – Website Accessibility Regulations 2018

Members received a report which updates them on the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018 which came into effect on the 23 September 2018. The report provided detail on the key dates of the new regulations and the list proposed actions at this stage to assist with ensuring compliance.

Business Continuity Policy/Strategy

Members were advised that as the Council was a Category 1 Responder under the Civil Contingencies Act 2004 it had responsibility to put business continuity management arrangements into place.

Work had been undertaken to review and develop a new Business Continuity Policy and Strategy which was intended to ensure that the Council's services can continue to operate and deliver essential services to the community as required.

The Business Continuity Strategy outlines a 3-year programme of key actions for the continual development of business continuity plans, through the ongoing review and exercising of all plans.

Strategic and Operational Risk

The governance arrangements set out in the 'Insurance & Risk Management Strategy' and terms of reference of committees from the Council's constitution require the Regulatory & Governance Committee to review the strategic risks every quarter and confirm they are confident that the risks associated within the register are those which are strategic and relevant to the organisation at this point in time and the considered future.

As previously agreed by the committee as part of the revised Insurance & Risk Management Strategy 2018 a new risk ranking table had been developed. Due to this change only the Strategic Risks would be presented to this committee, as further work was required on the Operational risks.

The report updated the committee on the status of the Council's 2018/19 Strategic Risk Register. As previously requested by the committee risks were added to the Strategic register for Brexit and Treasury Management.

Monitoring of Council – Freedom of Information and Members requests

Members requests

Members will be aware that a new members request system was introduced in October last year. Following the introduction a review has begun with a report made to the Audit & Scrutiny Committee in January identifying initial comments from members regarding the new system.

An update report will be made to the Audit & Scrutiny Committee in March 2019. It is considered that it would be appropriate that following any further changes that are made to the system that a report is made to the Regulatory Committee regarding the process for Members requests.

Freedom of Information requests

The Council is due to change to a new software system for Freedom of Information requests which will provide a more efficient and effective process for both users and the council. As above it is considered that it would be more appropriate that a report is made to the Regulatory & Governance Committee regarding the process under the proposed new system.

Report Author Contact Details:

Name: Claire Mayhew, Corporate and Democratic Services Manager

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

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6th March 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 are 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 312741

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

6 March 2019

Regulatory and Governance Committee

Data Protection Act 2018 Progress Report

Report of: *Lee Henley - Data Protection Officer*

Wards Affected: *No wards specifically*

This report is: *Public*

1. Executive Summary

- 1.1 The Council are making good progress in improving and embedding its processes in relation to the Data Protection Act 2018. This report sets out work undertaken and details further work to embed compliance going forward.

2. Recommendation

- 2.1 That the Committee note the actions being taken by the Council in relation to the Data Protection Act 2018.**

3. Introduction and Background

- 3.1 The Data Protection Act 2018 and the General Data Protection Regulation (GDPR) came into effect in May 2018 and introduced a range of new requirements regarding the processing of personal data.
- 3.2 Organisations will always have on-going work to achieve compliance with Data Protection Legislation and work programmes will be fluid due to this. The Information Commissioner's Office has recognised this and will want an assurance that action plans are in place to move Data Protection best practice forward.
- 3.3 Under the new Data Protection Act 2018, the fines available have been significantly increased and may be imposed for **any** infringement of the Regulation, not just data security breaches.
- 3.4 The Information Management Team at Thurrock Council has been commissioned to provide support to Brentwood in relation to Data

Protection. Thurrock commenced work at Brentwood in June 2018 and begun by carrying out a review of the existing processes.

4.0 Progress to date regarding the new Data Protection Act

4.1 This paper captures the actions taken to ensure that the Council maintains compliance with the Data Protection Act. It follows on from the previous report produced for committee on the 28 November 2018.

4.2 A summary of key changes due to the new Data Protection Act, along with the estimated timeline for the completion of the work programme is detailed within the table below. **Note** – The delivery of these timeframes will be dependent on the work of the Information Asset Owners, who are responsible for ensuring systems have robust Information Governance arrangements in place.

Key Changes due to Data Protection Act	Progress Made	Estimated Completion Timelines
<p>Authorities are now required to demonstrate that they comply with the new law (evidence based).</p>	<p>Completed work:</p> <ul style="list-style-type: none"> • Members: <ul style="list-style-type: none"> ○ All member briefing session held on 5 February 2018. ○ On line training on Data Protection was issued on 15 February 2018. ○ Further guidance and face to face training was provided on 21 and 23 May 2018. • There is an existing Data Protection Policy and a range of other policies have been put in place (e.g. Retention and Data Breach Policies). • Mandatory Information Governance training has been amended and rolled out to staff in January. The deadline for staff to complete this training was 8 February. • Individuals Rights content has been provided on the internet (public view). • Information for staff has been provided on the intranet (staff view). • An Information Risk Framework 	

Key Changes due to Data Protection Act	Progress Made	Estimated Completion Timelines
	<p>has been produced to identify risks to key information assets.</p> <ul style="list-style-type: none"> • Contracts have been reviewed to ensure they are Data Protection compliant. • Information Systems have been checked to ensure they meet the “Right to be forgotten” and “Data Portability” requirements <p>Work to be completed:</p> <ul style="list-style-type: none"> • Information Asset Owners to undertake actions in-line with the Information Risk Framework. • To finalise the review of additional Information Governance related policies. • To roll out the refreshed Data Protection Training to Members in February with a deadline for completion of 31 March 2019. • To provide a members training workshop on data protection during March 2019. 	<p>31/03/19</p> <p>31/03/19</p> <p>31/03/19</p> <p>31/03/19</p>
<p>Legal requirement for breach notification within 72 hours to the Information Commissioner’s Officer (ICO).</p>	<p>Completed work;</p> <ul style="list-style-type: none"> • A Data Protection incident reporting procedure has been produced. • The incident reporting and risk assessment process has been amended. <p>Note – There have been no incidents requiring escalation to the ICO. Where incidents were reported, investigations were undertaken with appropriate feedback provided to those reporting incidents.</p>	
<p>Significantly increased penalties possible for any breach of the legislation (not just data breaches).</p>	<p>Completed work:</p> <ul style="list-style-type: none"> • A comprehensive Data Protection action plan has been put in place. • An Information Governance Group has been set up to drive forward the work required on Data Protection. 	

Key Changes due to Data Protection Act	Progress Made	Estimated Completion Timelines
	<p>Work to be completed:</p> <ul style="list-style-type: none"> • New starters to complete Information Governance training before joining the council. • A Data Protection Compliance Programme will need to be produced (e.g. Data Protection Audits). 	<p>31/03/19</p> <p>31/03/19</p>
<p>Removal of charges for providing responses to Subject Access Requests (SARs).</p>	<p>Completed Work:</p> <ul style="list-style-type: none"> • A revised SAR procedure has been produced to reflect new timescales and the fact that most requests will be free of charge. <p>Note - Between June 2018 - January 2019, the Council received 8 SARs. All were processed within the statutory/legal timeframe.</p>	
<p>Requirement to keep records of data processing activities.</p>	<p>Completed work:</p> <ul style="list-style-type: none"> • Information Asset Owners (IAOs) for all key areas have been identified. <p>Work to be completed:</p> <ul style="list-style-type: none"> • Completion of Record of Processing Activities (ROPA) for key services. Approximately 90% of this work has been completed. 	<p>31/03/19</p>
<p>Appointment of a Data Protection Officer (DPO).</p>	<p>Completed work:</p> <ul style="list-style-type: none"> • A DPO has been appointed. 	
<p>Data Protection Impact Assessments (DPIA) are required for high risk processing and/or when using new technologies.</p>	<p>Completed work:</p> <ul style="list-style-type: none"> • A DPIA document has been produced. • The DPIA has been shared with the project team which considers new systems for the council. • The DPIA now forms part of the procurement process. 	
<p>Specific requirements for transparency and fair processing.</p>	<p>Completed work:</p> <ul style="list-style-type: none"> • A Data Protection compliant privacy notice has been produced. • A detailed guide on Information rights under the Data Protection 	

Key Changes due to Data Protection Act	Progress Made	Estimated Completion Timelines
	<p>Act has been produced.</p> <ul style="list-style-type: none"> An incident reporting procedure has been produced which will result in certain breaches reported to regulatory bodies. Mid-tier service area privacy notices have been completed and published. 	

5 Implications

Financial Implications

Name & Title: Jacqueline Van Mellaerts, Interim Chief Finance

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

5.1 No direct financial implications arising from this report.

Legal Implications

Name/Title: Gina Clarke, Corporate Governance Lawyer & Deputy Monitoring Officer

Tel/Email: 01277 312874/gina.clarke@brentwood.gov.uk

5.2 Non-compliance with Data Protection could lead to a range of enforcement measures imposed by the UK regulator for Data Protection (the Information Commissioner's Office). These measures can include financial penalties.

6 Background Papers

6.1 None

7 Appendices to this report

7.1 None

Report Author Contact Details:

Name: Lee Henley - Data Protection Officer

E-mail: lhenley@thurrock.gov.uk

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6 March 2018

Regulatory and Governance Committee

Review of the Council's Whistleblowing Policy

Report of: Head of Legal Services, Monitoring Officer

Wards Affected: All

This report is: Public

1. Executive Summary

- 1.1 This report provides a review of the effectiveness of the Council's current whistleblowing arrangements and sets out proposals arising from a review for ensuring that the Council's whistle blowing arrangements remains effective.

2. Recommendation(s)

- 2.1 **That the Committee consider the draft revised whistleblowing policy attached to this report (Appendix A) and to recommend to Policy, Projects and Resources Committee to approve:**

- (i) the revised Whistleblowing Policy**
- (ii) the details and on-going plans for raising awareness of the Council's whistleblowing arrangements**
- (iii) authority for the Monitoring Officer to make any minor changes to the whistleblowing policy**

3. Introduction and Background

- 3.1 Whistleblowing is the raising of a concern, either within the workplace or externally, about a suspected danger, risk, malpractice or wrongdoing which affects others, where people are encouraged to speak out in a confidential manner without adverse repercussions, confident that their concerns will be taken seriously, and that appropriate action will be taken.
- 3.2 The Public Interest Disclosure Act 1998 as amended encourages individuals to raise concerns about malpractice in the workplace, and provides protection, in certain circumstances, for whistle-blowers.

- 3.3 The Council has in place a whistle-blowing policy, its aim is to foster a culture of openness, probity and safety; and to provide an effective mechanism for council employees and others who work for the council, such as consultants, contractors, casual and agency workers to raise any genuine concerns they may have about alleged malpractice within the organisation.
- 3.4 The types of concerns that can be raised under the Whistleblowing Policy may include:
- conduct which is an offence or breach of a law
 - disclosures related to miscarriages of justice
 - health and safety risks, including risks to the public as well as other employees
 - damage to the environment
 - failure to comply with any legal obligation or regulatory requirements
 - the unauthorised use of public funds
 - breaches of policies, procedures and codes of conduct
 - possible fraud and or corruption
 - unauthorised disclosure of confidential information
 - sexual or physical abuse
 - other unethical conduct
 - the deliberate concealment of any of the above matters

This list is not intended to be exhaustive and merely illustrates the types of issue which can be the nature of concerns.

- 3.5 Under the terms of the Council Constitution the Head of Legal Services and Monitoring Officer is appointed as the Council's Whistleblowing Officer. He has day-to-day operational responsibility for the Council's whistle blowing arrangements and acts as a channel for whistle-blowers to raise their concerns.
- 3.6 During the municipal year 2017-2018 no whistleblowing concerns have been recorded as reported to the Council. There is no evidence to suggest that the Council's whistleblowing arrangements are not robust and effective. However, it is considered good practice for organisations to review the effectiveness of its whistleblowing policy and procedure on a regular basis, to ensure that their whistleblowing arrangements are robust and effective. Also, to assess whether any barriers to whistleblowing exist that may potentially prevent employees and others who work for the Council raising concerns.

4. Review

- 4.1 The Council's whistleblowing policy and procedure was last reviewed in 2013, when the policy was updated to reflect important changes in whistleblowing legislation introduced on 25 June 2013.
- 4.2 A review of the Council's whistleblowing has recently been undertaken, and it is considered that there is scope to improve the overall effectiveness of the Council's whistleblowing arrangements. A number of changes are proposed to the whistleblowing policy and procedure.
- 4.3 The draft whistleblowing policy appended to this report has been revised and updated from the policy and procedure which was adopted by the Council in 2013 as follows:
- a) the policy and procedure has been amalgamated into one document
 - b) details have been added in respect of types of concerns which fall outside the scope of the policy. Also, the HR helpdesk contact details have been updated
 - c) a paragraph has been added setting out the role and responsibilities of the Whistleblowing Officer
 - d) details have been added on how to contact the Whistleblowing Officer
- 4.4 Also a number of actions set out below have been identified:
- it is important to ensure that the reporting of concerns is not due to council employees and those who work for the council not being aware of the Council's whistleblowing policy and the process to be followed. It is recommended to raise awareness and ensure that levels of awareness are maintained across the Council, by regularly publicising on the front page of the staff intranet every six months the Council's whistleblowing arrangements on how to raise a concern.

- it needs to be easy as possible for employees and those who work for the council to raise concerns. The current mechanisms involve phone, paper-based reporting or employees speaking to their line manager or Head of Service. To enable staff and those who work for the Council to raise concerns at any time, it is recommended that a dedicated “whistle blowing” email inbox is established.
- All new council employees and agency workers to receive information on induction on how to raise concerns. The Managers induction checklist to be updated to ensure that the Council’s whistleblowing arrangements are covered as part of the induction process.
- Review of the Council’s e-induction programme with a view to giving greater prominence to the Council’s whistleblowing arrangements.

4.5 The Committee is asked to consider the Whistleblowing Policy, attached at Appendix A, and to recommend to Policy, Projects and Resources Committee to approve the proposed changes to the policy and procedures and also the actions set out in paragraph 4.3 above.

4.6 Following consideration and approval of the revised Policy by the Policy, Project and Resources Committee, the Policy will be made available on the Council’s website and staff interne.t

5 Issue, Options and Analysis of Options

5.1 The proposed changes to the policy and proposed actions can be revised to reflect any comments or recommendations of the Regulatory and Governance Committee.

5.2 The Council is not required by law to have a whistleblowing policy. The adoption of a whistleblowing policy is recognised as good practice. As the Council has such a policy in place, it is appropriate to review it from time to time to keep it up to date.

6 Reasons for Recommendation

6.1 Under the Council Constitution one the functions of the Regulatory Committee is to monitor the Council’s policies and strategies on Whistleblowing.

6.2 The whistleblowing policy is intended to assist Council employees, and others who work for the Council to raise concerns about the wrongdoing or malpractice within the council without fear of reprisal.

7 Consultation

7.1 No further consultation is planned.

8 References to Corporate Plan

8.1 The intention of the Council's whistleblowing arrangements is to assist in the achievement of all corporate and service objectives.

9 Implications

Financial Implications

Name & Title: Jacqueline Van Mellaerts, Interim Chief Finance

Tel & Email: 01277 312 829 / jacqueline.vanmellaerts@brentwood.gov.uk

9.1 No direct financial implications arising from this report.

Legal Implications

Name/Title: Gina Clarke, Corporate Governance Lawyer & Deputy Monitoring Officer

Tel/Email: 01277 312874/gina.clarke@brentwood.gov.uk

9.2 Although there is no legal requirement for the Council to have a whistleblowing policy, it is standard practice for local authorities to have such a policy. The adoption of a whistleblowing policy represents good practice as recommended by the charity Public Concern at Work. The policy is intended to help reduce risk for the Council by avoiding accidents, litigation and possible damage to the Council's reputation. Encouraging staff to raise concerns should enable the Council to take corrective or preventative action where needed.

9.3 There is no general legal duty on employees to disclose wrongdoing, although the courts have in a number of cases developed the implied term of fidelity so as to impose a duty on employees with a managerial or supervisory status to report the wrongdoing of others.

9.4 However, there are some specific statutory whistleblowing obligations: for example, the obligation for workers to notify management of any risk to health and safety under regulation 14 of the Management of Health and Safety at Work Regulations 1999.

9.5 The Council has in place a staff Code of Conduct which sets out standards of conduct that employees should adhere to when carrying out their work and duties. The Code provides that employees should not divulge confidential information obtained in their employment. However, the Code expressly states that this

provision is not intended to preclude or discourage employees from communicating to the Council's Whistleblowing Officer.

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

9.6 None.

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

10.1 Audit Committee 13 January 2013 & 12 March 2013

11 Appendices to this report

Appendix A - Revised whistleblowing policy and procedure.

Report Author Contact Details:

Name/Title: Gina Clarke, Corporate Governance Lawyer & Deputy Monitoring Officer

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BRENTWOOD BOROUGH COUNCIL

WHISTLEBLOWING POLICY

&

PROCEDURE

Organisational Aim

Brentwood Borough Council is committed to conducting its business with openness, integrity and accountability for the benefit of the local community. BBC expects all staff to maintain the highest possible standard of conduct. However, BBC understands that any organisation faces the risk of unknowingly harbouring unethical or illegal practices.

This policy is adopted as a clear statement that BBC is not prepared to tolerate any malpractice, and will be supportive of those who disclose information in respect of such wrongdoing. BBC strongly affirms that no individual should fear any form of reprisal from disclosing wrongdoing within the organisation.

BBC believes that the greatest deterrent to wrongdoing is the probability that such malpractice will be reported and investigated vigorously, that those who are responsible for it will, in appropriate cases, be dealt with, and that the matter will be promptly remedied.

Policy Objectives

- To encourage all staff and other individuals to report any concerns they have as soon as possible, safe in the knowledge that those concerns will be taken seriously, and confidentiality will, where appropriate, be respected.
- To provide individuals with avenues to raise concerns in confidence, and provide guidance on how such concerns should be raised.
- To ensure that those raising concerns receive a response to those concerns, and that they are aware of how to pursue any concerns further if they are not satisfied with the outcome.
- To reassure all individuals who have raised concerns that they will be protected from possible reprisals or victimisation, provided that they have a reasonable belief that the information they have disclosed is both true and in the public interest.

We therefore expect employees, and others that we deal with, who have serious concerns about any aspect of the Council's work, to come forward and voice those concerns without fear.

Adoption Statement

The adoption of this policy is a clear and unequivocal statement by the Council that, whenever and wherever any such malpractice is identified by the Council or any of its employees, or by any of its contractors or suppliers, or reported to the Council, it will be swiftly and thoroughly investigated and rectified.

This policy does not form part of any employee's contract of employment and it may be amended at any time.

Who is covered by this Policy?

This policy applies to all individuals working at all levels of the organisation, including senior managers, managers, Heads of Service, other employees, consultants, contractors, trainees, part-time and fixed-term workers, casual and agency workers. These individuals are collectively referred to as staff in this policy. This policy may also be utilised by individuals who do not fall within the meaning of staff. This includes both Councillors and members of the public.

What is Whistleblowing?

Whistleblowing is a name used to describe the disclosure of information that has a tendency to show that wrongdoing or malpractice is taking place. There is UK legislation (The Public Interest Disclosures Act 1998) that protects workers from experiencing victimisation when they make these types of disclosures; this is provided that the disclosure made falls within the legal definition of a 'protected disclosures'.

There are some complexities to the legislation in respect of the criteria required for a disclosure to be deemed a protected disclosure. A basic overview of the criteria is as follows:

1. Information, or facts, must be disclosed, either orally or in writing.
2. The information must raise an allegation in respect of one of the relevant types of wrong doing (as detailed below).
3. The worker disclosing the information must reasonably believe that the information disclosed is both true, and has a tendency to show that one of the relevant types of wrongdoing either has occurred, is occurring, or is likely to occur

4. The worker must reasonably believe that such a disclosure is in the public interest.
5. The disclosure must be made to one of a set class of people, or organisations, as defined in the legislation. These include the worker's employer, specific prescribed persons or bodies, and, in certain circumstances, other third parties.

Types of wrongdoing

The types of wrong doing covered by the legislation are as follows:

- criminal activity;
- miscarriages of justice;
- danger to health and safety;
- damage to the environment;
- failure to comply with any legal obligation or regulatory requirements;
- bribery;
- financial fraud or mismanagement;
- negligence;
- The deliberate concealment of the fact that any of the above matters is being, has been, or is likely to be, committed.

In practice this will cover matters such as unauthorised use of public funds; unauthorised disclosure of confidential information; fraud and corruption; physical and sexual abuse; health and safety risks to both staff and members of the public; and the acceptance of bribes. However, these are only examples of the types of conduct that are likely to fall within the relevant types of wrong doing, and this is not an exhaustive list.

Whilst it is important that all staff are aware of the scope of the whistleblowing legislation, and the protection it provides, the aim of this policy is to address wrongdoing and malpractice of any kind within BBC, but should not be used to raise standard employment or line management matters for which there is a Grievance Policy

Conduct outside of the Scope of this policy

This policy should not be used for staff to raise concerns regarding their own personal circumstances, such as the way they have been treated at work (unless these relate to victimisation as a result of a previous whistleblowing complaint). Staff wishing to raise these types of concerns should do so either informally with their line manager, or formally through BBC's grievance procedure.

If you are uncertain about whether your concern falls into the scope of this whistleblowing policy, please contact the Whistleblowing Officer to discuss the same. You can also contact the HR helpdesk to discuss the scope of any such concerns on 01375 652310 / hr@brentwood.gov.uk.

This policy does not replace BBC's Corporate Complaints Procedure, and should not be used in place of the same. Complaints from members of the public in relation to general service level and operation of BBC should be made through the Corporate Complaints Procedure. More details on how to use the Corporate Complaints Procedure is available through BBC's leaflet 'How to compliment, comment or complaint' available from www.brentwood.gov.uk.

Whistleblowing Officer

The essence of a whistleblowing process is that staff should be able to by-pass the direct management line, because there may be instances where that is an area about which their concerns arise. There may also be occasion when the whistleblower is from outside of the BBC.

BBC has, therefore, elected a Whistleblowing Officer to be the first point of contact for all wrong doing and malpractice concerns. BBC has appointed the current Monitoring Officer who can be contacted directly on their work telephone and email.

It will be the Whistleblowing Officer's responsibility to investigate whistleblowing complaints, and to consider the most appropriate way to deal with these. His or her duties and powers include, but are not strictly confined, to the following responsibilities:

- To maintain a record of any complaints made under this policy
- To follow the confidentiality guidelines in this policy, in circumstances where any whistle blower has indicated their desire that their concern be treated in confidence
- To investigate promptly any Whistleblowing complaint.

- For the purposes of the investigation, the Whistleblowing Officer, or any officer nominated by him to act on his behalf, shall have a right of access to the Chief Executive, Deputy Chief Executive, All Members, All Heads of Service and any employees or workers of the Council, and to all documents and records of the Council.
- To report the outcome of the investigation to the Chief Executive/Head of Paid Service or the Finance Director/Section 151 Officer, and the appropriate Head of Service, and to recommend the action to be taken.
- Where the complaint relates to the conduct of one of the senior leaders, the Whistleblowing Officer shall report to the Chief Executive/Head of Paid Service.
- Where the complaint relates to the Chief Executive/Head of Paid Service, the Whistleblowing Officer shall report to the Finance Director/Section 151 Officer.
- To report as appropriate, either jointly with the Finance Director, or in his or her own right, to the Council, the Policy Board, the Corporate Leadership Board or Committee of the Council.
- To recommend appropriate action to resolve the concern.

How to make a complaint

Staff Concerns

BBC hopes that in many cases staff will be able to raise any concerns with their senior leader. This can be done in person, or in writing, if preferred. It is possible that they may be able to agree a way of resolving the concern quickly and effectively. In some cases such matters might be referred to the Whistleblowing Officer.

However, where the matter is more serious, or in circumstances where their senior leader has not addressed the concern, or if simply the preference is not to raise it with them for any reason, contact should be made directly with the Whistleblowing Officer.



Concerns by individuals other than staff

Individuals who are not staff, and who do not have access to a Head of Service (or who feel that concerns that they have previously raised with a senior member of staff have not been addressed) should raise their concerns directly with the Whistleblowing Officer.

Contacting the Whistleblowing Officer

The Whistleblowing Officer can be contacted by writing to him in a sealed envelope marked private and confidential and addressed to:

The Whistleblowing Officer,
Town Hall, Ingrave Road,
Brentwood, Essex, CM15 8AY

You can also contact the Whistleblowing Officer by emailing your concerns to wbo@brentwood.gov.uk

Or by telephoning the current Monitoring Officer on the main Brentwood switch board.

Should any complaint be received in relation to the Whistleblowing Officer himself, the complaint will be dealt with directly by the Finance Director/Section 151 Officer

Should you wish, in circumstance where a complaint relates to the Whistleblowing Officer himself, to contact the Chief Executive directly you can do so by writing to:

Chief Executive,
Town Hall, Ingrave Road,
Brentwood, Essex. CM15 8AY

Complaints Procedure

Once you have raised a concern, we undertake an initial assessment and determine what action should be taken. This may involve either an internal inquiry, or a more formal investigation. We will advise you of who will be handling the matter, how they can be contacted, and whether any further assistance may be needed. If requested, we will write summarising your concern, and setting out how we propose to handle it. We aim to do this within 5 working days.

When raising a concern you may be asked how you think the matter might best be resolved. If you do have any personal interest in the matter, we do ask that you tell us this at the outset.



BBC is committed to ensuring that adequate resources will be made available for the investigation of any complaints of malpractice in accordance with this policy's aims.

What happens next?

Following an assessment of the allegations a view will be taken on how best to resolve the matter. In dealing with some cases the Council may appoint an investigator, or team of investigators, including staff with relevant experience of investigations, or specialist knowledge of the subject matter. The investigator(s) may make recommendations for change to enable the Council to minimise the risk of future wrongdoing.

We will aim to keep you informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent us giving you specific details of the investigation, or any disciplinary action taken as a result. Any information about the investigation should always be treated as confidential.

If at the conclusion the investigator is of the view that a whistle-blower has made false allegations maliciously, or with a view to personal gain, where the whistle-blower is a member of staff, he or she may be subject to appropriate disciplinary action.

It is our aim to conclude all investigations within 20 working days and we will confirm the outcome in writing.

All complaints will be referred to both Human Resources and / or Internal Audit unless the allegations by their nature themselves make such a referral inappropriate.

Maintaining Confidentiality

You may feel that you can only raise your concern by us protecting your identity. We will attempt to do this where possible, but are unable to guarantee the same. Examples of when we would be unable to protect your identity could be when concerns are raised in respect of child protection issues, or crimes.

As part of a formal investigation, we may require you to give evidence on the information you are aware of. In certain cases, this can be done whilst maintaining your confidentiality. You may also be required take part in other related proceeding, such as resulting criminal proceedings.

When concerns are taken further to disciplinary investigations, or resulting Employment Tribunal Hearing, we can receive subject access requests, and Court Orders, which require that we disclose certain information we hold. We are happy to explain the consequences of these in further detail with you, should you be concerned by the same.

What happens if you are not satisfied?

While the Council cannot always guarantee the outcome you are seeking, we will try to deal with any concern fairly and in an appropriate way. By using this policy you can help us to achieve this.

If you are not happy with the way in which your concern has been handled, you can raise it with the Chief Executive or the Section 151 Officer. Alternatively, you may contact the Council's external auditors. Contact details are set out at the end of this policy.

Alternative Complaints methods

In addition to the Council's Complaints and Whistleblowing procedures, any member of the public may make a complaint against the Council by contacting one of the following external organisations.

(a) The Local Government Ombudsman:

The Local Government Ombudsman will receive complaints of alleged maladministration against the Council. To contact the Local Government Ombudsman write to:

The Local Government Ombudsman
PO Box 4771, Coventry, CV4 0EH

(Please note that the Ombudsman will usually require that a complaint has been through the Council's complaints process before they will investigate it).

(b) External Auditor:

The Council's External Auditors are;
Ernst & Young LLP,
One Cambridge Business Park,
Cambridge, CB4 0WZ



(c) Public Concern at Work:

Public Concern at Work is an independent charity which promotes accountability and good governance in organisations, and runs a confidential helpline for people with serious concerns about malpractice.

Public Concern at Work can be contacted on 020 7404 6609, or by writing to:

Public Concern at Work,
3rd Floor, Bank Chambers,
6 -10 Borough High Street,
London SE1 9QQ

By e-mail at whistle@pcaw.co.uk

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06 March 2019

Regulatory and Governance Committee

Strategic & Operational Risk

Report of: *Jacqueline Van Mellaerts - Interim Chief Financial Officer*

Wards Affected: *All*

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 2019 Strategic Risk Register and the progress being made across Services in delivering Operational Risk Registers.
- 1.2 The Insurance and Risk Management Strategy 2018 was approved at Committee on 10th October 2018. Both Strategic and Operational Risk Registers have been revised to reflect changes of the Strategy.

2. Recommendation(s)

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

3. Introduction and Background

- 3.1 The governance arrangements set out in the 'Insurance & Risk Management Strategy' 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 monthly by Executive Board and 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 B is a summary showing the current status of each risk together with explanatory commentary on the key issues for each risk.
- 4.2 The Original Risk has been added to show what would be the risk score in a “do nothing” situation. Current risk scores have been assessed in line with the new ranking table, against current controls that are in place to mitigate the risk.

Risk Matrix

- 4.3 The fourteen 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	Low (5)	Medium (10)	High (15)	V. High (20) RSK1	V. High (25)
	Very Likely	Low (4)	Medium (8)	High (12)	V. High (16) RSK13	V. High (20)
	Likely	Low (3)	Medium (6)	Medium (9)	High (12) RSK10 RSK3	V. High (15) RSK2
	Unlikely	Low (2)	Low (4)	Medium (6)	Medium (8) RSK5 RSK6 RSK7 RSK9	High (10) RSK11
	Highly Unlikely	Low (1)	Low (2) RSK12	Low (3) RSK4 RSK8	Medium (4)	Medium (5) RSK14
		Negligible	Minor	Moderate	Significant	Major
Negative Impact / Severity						

Likelihood x Impact = Risk Score

No.	Risk	No.	Risk
1	Finance Pressures	8	Lack of strategic Direction
2	Local Development Plan	9	Failure to Spend Capital Receipts
3	Disaster Recover/Continuity Planning	10	Roll out of Universal Credit
4	Organisational Capacity	11	Failure to deliver key Corporate Projects
5	Information Management and Security	12	Failure of Democratic Services
6	Commercial Activities	13	Brexit
7	Contract/Partnership Failure	14	Treasury Management

Operational Risks

- 4.4 The operational risks have now been rewritten and scored using the new risk ranking table. Attached at appendix B is the operational risk summary sheet showing the very high and high-level risks and any new emerging risks. The Risk references are shown in brackets below which match to Appendix B.
- 4.5 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	Very High Risk	High Risk	Medium Risk	Low Risk
Assets	6			1	5
Community Services	5			3	2
Corporate Services	6			4	2
Environment Health	2	1 (EH1)		1	
Finance	9			6	3
Housing	8			6	2
Parking & CCTV	1			1	
Planning	5			4	1
Street Scene	7	1(SC6)	1(SC7)	2	3

5. Reasons for Recommendation

- 5.1 Risk Management continues to be embedded quarterly within the Senior Management Team reports, where Service Heads discuss the top-level risks for their service areas to ensure that the risks are updated to reflect the ongoing changes.
- 5.2 In addition, the Risk & Insurance Officer will continue to work with risk managers to maintain the good progress to date and further develop a consistent application of risk management considerations across all operations of the Council.

6. Consultation

- 6.1 None.

7. References to Corporate Plan

- 7.1 Effective risk management arrangements will enable the Council to achieve its corporate priorities. The process will allow identification of risks and issues

enabling informed decision making to remove or reduce them in order for the priorities to be achieved.

8. Implications

Financial Implications

Name & Title: Jacqueline Van Mellaerts, 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

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 – Strategic Risk Register Summary Report

Appendix B – Operational Risk Summary Sheet

Report Author Contact Details:

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

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BRENTWOOD BOROUGH COUNCIL STRATEGIC RISK REGISTER SUMMARY SHEET 2018-2019

Row No	Risk No	Risk Description	Existing Controls	Original Risk Rating			Current Risk Rating			Risk Response/Update on action required	Risk Owner
				*L	*I		*L	*I	Feb-19		
1	RSK1	<u>Finance Pressures</u> As Revenue Support Grant from Central Government has ceased from 2018/19, the budget gap falls below the Minimum Level of Reserves.	Medium Term Financial Planning (MTFP) is undertaken on an annual basis, with monthly budget monitoring and half year reports to Committee. A Funding Volatility Reserve has been created to specifically address the uncertainty of Government funding levels. Risk Assessment of Minimum level of reserves is carried out yearly.	5	5	25	5	4	20	COMMENT FEBRUARY 2019: The Council continues to face financial pressures, however within the recently proposed 2019/20 budget, plans are in place to reduce the funding gap by under £1 million over the next three financials years.	Jacqueline Van Mellaerts
2	RSK13	<u>Brexit</u> To ensure that the organisation is equipped to handle the potential of any negative impacts on Brentwood following the decision to leave the EU 29th March	Brentwood are heavily involved with the Essex Resilience Forum (ERF) whose focus at the moment is planning to cope with a variety of scenarios. The ERF, is a multi agency approach, including as an example all Essex Authorities and the Police. The ERF has reviewed food, fuel and highways conditions in a range of scenarios and BBC officers are attending on a regular basis, briefing sessions and participate in exercises.	5	5	25	4	4	16	COMMENT FEBRUARY 2019: The position is monitored regularly with Senior Officers at Exec Board and our Emergency Planning Officer.	Phil Ruck
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 Local Plan timetable (Local Development Scheme, approved November 2018) Ongoing discussion with neighbouring Local Planning Authorities and key stakeholders (Duty to Cooperate). Partnership in Association of South Essex Local Authorities (ASELA) Preparation of Community Infrastructure Levy (CIL) Delivery of new garden village community, Dunton Hills Garden Village (DHGV) Retention of permanent staff and recruitment of temporary staff to meet short-term needs when required	5	5	25	3	5	15	COMMENT FEBRUARY 2019: Pre-Submission Local Plan (Regulation 19) published for consultation (Feb-Mar 2019). Post consultation steps will be taken to prepare submission material to the Secretary of State. Now that the Plan has been "published" a Service Level Agreement has been received from the Planning Inspectorate to begin examination proceedings (once the Plan is submitted). Project remains on course.	Phil Drane

BRENTWOOD BOROUGH COUNCIL STRATEGIC RISK REGISTER SUMMARY SHEET 2018-2019

Row No	Risk No	Risk Description	Existing Controls	Original Risk Rating			Current Risk Rating			Risk Response/Update on action required	Risk Owner
				*L	*I		*L	*I			
4	RSK10	<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 (UC) are being monitored by Housing Officers regularly. Ability to refer externally/internally for budgeting advice. Updated income Management procedure to become more client based. Introduction of new Pre-Tenancy Service to instil a payment culture. Monthly rent arrears campaign to target high risk areas. Portal access to immediately identify who has applied for UC. Joined Housemark, to benchmark arrears performance against other Local Authorities. Auditing individual tenant accounts. Fortnightly performance review meetings with housing officers to review arrears.	4	4	16	3	4	12	COMMENT FEBRUARY 2019: The increase on the number of tenants transferring onto universal credit remains a risk. Following portal access to identify who has applied for UC, we are currently liaising with DWP to identify who may/should apply for UC in future. We are also independently discussing with other Local Authorities (LA's) to identify what measures they have in place to mitigate the impact of UC. We have recently joined Housemark which will provide us with further opportunity to benchmark our arrears performance against other LA's. We are currently in the process of auditing individual tenant accounts to review our individual processes and whether we can streamline these further, to date we have audited approximately 700 accounts. We hold fortnightly performance review meetings with all Housing Officers and review arrears performance for individual officers.	Steve Summers
5	RSK3	<u>Disaster Recovery/Business Continuity</u> Failure to have in place adequate plans and procedures, understood, tested and reviewed, to react to a major incident leading to a breach of our statutory duties under the Civil Contingencies Act.	All services areas have up-to-date Business Continuity Plans in place. Support and ongoing embedding of EP & BC Plans by Basildon Council	4	5	20	3	4	12	COMMENT FEBRUARY 2019: Strategic review continues to be undertaken by Basildon Council. All service business continuity plans are in place and up to date. The Council continues to reviews out of hours options for Emergency Planning.	Jacqueline Van Mellaerts
6	RSK11	<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.	PP&R Committee appointed as Programme Board. Continued communication on all projects. Ownership of delivery of projects identified at all levels within the Council.	4	5	20	2	5	10	COMMENT FEBRUARY 2019: Regular reports are presented and discussed by CLB to ensure the organisation continues to monitor its projects and programmes, and that they are on track and are linked with the budget.	Phil Ruck
7	RSK5	<u>Information Management and Security</u> Non-compliance with data protection legislation resulting in disclosure of personal information and/or inability to comply with individuals' legal rights.	Data Protection Policies Training 3rd party review of arrangements Data protection support provided by Thurrock Council	5	4	20	2	4	8	COMMENT FEBRUARY 2019: Controls continue to be strengthened with a recent review of polices being completed and annual training for 2019 having been issued to all staff. Member training is scheduled to take place in March. Processes and compliance is continually reviewed.	Chris Leslie

BRENTWOOD BOROUGH COUNCIL STRATEGIC RISK REGISTER SUMMARY SHEET 2018-2019

Row No	Risk No	Risk Description	Existing Controls	Original Risk Rating			Current Risk Rating			Risk Response/Update on action required	Risk Owner
				*L	*I		*L	*I			
8	RSK6	<u>Commerical Activities</u> - Commercial income target from the Joint Venture and other activities are not achieved	Experienced consultants have been engaged to advise and assist in delivery Appropriate governance arrangements have been set up. Progress reports to Project Board and Committee. Robust business modeling and financial projections	4	4	16	2	4	8	COMMENT FEBRUARY 2019: The procurement process for the Joint Venture has remained on schedule and is now entering the final stage. SAIL is due to purchase its second investment property and is generating returns in excess of the original business plan.	Chris Leslie
9	RSK7	<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	COMMENT FEBRUARY 2019: The organisations capability in this area is reflected in two major procurement exercises that we have undertaken in 2018. (The Joint Venture partner and Housing Repairs & Maintenance). This has introduced substantial training and increased knowledge and application of good procurement practice as we continue into mobilisation and optimisation of both contracts.	Phil Ruck
10	RSK9	<u>Failure to spend Capital Receipts</u> Failure to spend capital receipts within the deadline will result in delays in delivering Affordable Housing programme	Monitoring spend by Finance department. Affordable housing programme in place. Purchase of properties on open market Maximising opportunities of right to 1st refusal buy back of former RTB properties Pursuing options of development on garage sites	3	5	15	2	4	8	COMMENT FEBRUARY 2019: The wider Housing Strategy work continues reviewing multiple work streams to mitigate this risk. Two development sites have been identified at Brookfield Close & Sir Francis Way and are due to be referred to Community, Health & Housing Committee on the 5th March 2019 to approve that delegated authority be given for feasibility report to be prepared. The parking application for Coram Green was approved at Planning Committee on the 19th February. The Housing development for Barnston way is due to be submitted to planning committee. We have purchased 6 properties on the private market and currently have 5 further properties been purchased.	Steve Summers
11	RSK14	<u>Treasury Management</u> The Treasury Management function could fail, with increasing commercial activity.	Treasury Management (TM) Annual Review included in the Medium Term Financial Plan (MTFP) TM half yearly and Outturn Reviews as part of MTFP Strong TM due diligence with relevent officers Good relationship with TM advisors Borrowing Strategy Review underway	5	5	25	1	5	5	COMMENT FEBRUARY 2019: With increasing Commerical Activity, there is a risk that the TM function will not meet the Council's needs. Although this could result in a high impact, this area is well managed and monitored.	Jacqueline Van Mellaerts

BRENTWOOD BOROUGH COUNCIL STRATEGIC RISK REGISTER SUMMARY SHEET 2018-2019

Row No	Risk No	Risk Description	Existing Controls	Original Risk Rating			Current Risk Rating			Risk Response/Update on action required	Risk Owner
				*L	*I		*L	*I			
12	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 (MFTP) Communications Protocol & Strategy Workforce Strategy Regular meetings between senior members & officers. Review options for alternative service delivery models	3	4	12	1	3	3	COMMENT FEBRUARY 2019: Key objectives of the Council are in line with expectations and new structures are now proving to be beneficial. The Council has recently approved a senior management structure to ensure operational, financial and governance efficiencies are maintained.	Phil Ruck
13	RSK8	<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.	3	3	9	1	3	3	COMMENT FEBRUARY 2019: Work continues on ensuring delivery through the strong programme management ethos we have instigated and embedded within the organisation. A recently approved senior management structure underpins the organisations vision while recognising the impact of the commercialisation workstream.	Phil Ruck
14	RSK12	<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.	3	3	9	1	2	2	COMMENT FEBRUARY 2019: All partnership arrangements are following client management best practice and any concerns are flagged to the Monitoring/Deputy Officer.	Phil Ruck
<p>* L = Likelihood Rating (1 = Low, 5 = Very High) * I = Impact Rating (1 = Low, 5 = Very High) Maximum Score 5 x 5 = 25</p>											

Operational Risks Summary Sheet

Update on High Level Risks

Risk Ref	Risk Description	Existing Controls	Risk			Risk Response/Update on action required
			Feb-19			
			*L	*I		
EH1	Breach of Health & Safety Regulations from council activities caused by insufficient management of risk or activity controls to enable safe service delivery	<ul style="list-style-type: none"> Review of current data systems for H&S compliance and Director level (GC) support requested to facilitate robust software systems to maintain compliance for Corporate and Housing. All service areas have received training in risk assessment and health and safety management New activities and events are supported and overseen to enable proportionate controls and measures to be put in place to reduce or eliminate the Council's exposure to the risks of service delivery. New Housing Repair and Maintenance (R&M) contract being put in place. Mobilisation group for Housing R&M contract established and being supported and monitored to enable success. Housing Compliance Manager appointed. H&S monitoring of Streetscene service delivery activities through new DASH module. The council's H&S micro site provides information and respective forms for risk assessments and Safe Systems of Work Corporate communication of proposed organisational change arrangements communicated as required. 	3	5	15	COMMENT FEBRUARY 2019: Actions and arrangements are being put in place to improve the H&S risks to the Council through existing controls identified and, revised processes and procedures through the mobilisation of the new R&M contract. Development and support for software systems to improve H&S compliance is being pursued to enable positive outcomes and appropriate data availability for increased compliance.

Brentwood Borough Council - Summary Risk Report

SC6	Risk of subsidence to private, commercial and borough owned properties due to water abstraction by Council owned trees, resulting in an increase in claims against the Council	All tree works at present carried out are on a reactive basis.	4	4	16	COMMENT FEBRUARY 2019: The lack of proactive inspection and maintenance regime means that the majority of claims received, our insurers are making payments to third parties to compensate them for their loss. We have also seen a significant number of subsidence issues within our Housing stock. The proposal is to prepare a subsidence risk analysis on a zonal base throughout the borough to identify the hot spots based on geographical data and trees.
SC7	Risk of unmaintained trees wholly or partly falling on persons/property and other infrastructure resulting in an increase in claims against the Council	Woodland management plans that have been negotiated over the last 4 years have now been approved and are beginning to be implemented to manage woodland edge trees over a 10-year period. However, a risk remains for non-woodland trees for which there is no proactive system All tree works at present carried out are on a reactive basis.	3	4	12	COMMENT FEBRUARY 2019: Another area of concern is the inspection of trees in extremely high-risk positions following on from the judgement handed down in the case of <i>Witley Parish Council v Cavanagh</i>. Where the judge found the Council's policy of inspection totally inadequate.

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New Risks

Risk No	Risk Description	Existing Controls	Risk			Impact Description
			Feb-19			
			*L	*I		
CS6	Council assets, particularly those related to housing, may not be protected from fraud if not investigated in accordance with legislation	Council has an in-house Corporate Fraud team which is made up of two qualified investigators	1	3	3	Unsuccessful prosecution cases / complaints. Possible legal and reputational impact for the Council, possible legal impact for individual officers, Council assets are not protected especially those related to housing

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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