

Merton Council

Standards and General Purposes Committee Agenda

Membership

Councillors:

Mike Brunt (Chair)
John Oliver (Vice-Chair)
Laxmi Attawar
John Braithwaite
Caroline Charles
Billy Hayes
Edith Macauley MBE
Gill Manly
Robert Page
Michael Paterson
Martin Whelton
Victoria Wilson

Substitute Members:

Sheri-Ann Bhim
Andrew Howard
Samantha MacArthur
Simon McGrath

Date: Thursday 27 April 2023

Time: 7.15 pm

Venue: Council Chamber, Civic Centre Council Chamber, Civic Centre,
Morden, SM4 5DX

This is a public meeting and attendance by the public is encouraged and welcomed.
For more information about the agenda please contact
democratic.services@merton.gov.uk or telephone [020 8545 3616](tel:02085453616).

All Press contacts: communications@merton.gov.uk, 020 8545 3181

Standards and General Purposes Committee Agenda

27 April 2023

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Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during

the whole of the consideration of that matter and must not participate in any vote on that matter. For further advice please speak with the Managing Director, South London Legal Partnership.

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Agenda Item 3

STANDARDS AND GENERAL PURPOSES COMMITTEE 28 NOVEMBER 2022

(8.00 pm - 9.42 pm)

PRESENT Councillors Councillor Michael Brunt (in the Chair),
Councillor John Oliver, Councillor Laxmi Attawar,
Councillor John Braithwaite, Councillor Caroline Charles,
Councillor Billy Hayes, Councillor Edith Macauley,
Councillor Gill Manly, Councillor Michael Paterson,
Councillor Martin Whelton, Councillor Simon McGrath and
Councillor Victoria Wilson

ALSO PRESENT Louise Round (Interim Executive Director of Innovation and
Change), Margaret Culleton, Roger Kershaw (Interim Executive
Director of Finance and Digital), Helen Martin, Kevin Holland and
Richard Seedhouse (Democratic Services Officer)

**ATTENDING
REMOTELY** Councillor Gill Manly, Nemashe Sivayogan (Head of Treasury
and Pensions), Katy Willison, Clive Douglas and Elizabeth
Jackson (Ernst and Young)

1 APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies were received from Councillor Robert Page, Councillor Simon McGrath attended as substitute. Councillor Gill Manly attended remotely.

2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest.

3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

RESOLVED that the minutes of the meeting held on 13 October 2022 were agreed as a correct record.

4 EXTERNAL AUDIT ANNUAL LETTER (Agenda Item 4)

The External Audit Annual Letter will be brought to a future meeting of the committee.

5 INTERNAL AUDIT PROGRESS REPORT ON ANNUAL AUDIT PLAN (Agenda Item 5)

The Head of Internal Audit introduced the report.

In response to questions, the Head of Internal Audit confirmed that officers could be invited to the Committee meeting to report on how items of concern had been taken forward, there is no automatic process for doing so, but as some items have been on the report three times, now may be a good time to invite relevant officers. At this stage it would not be necessary to invite the Chief Executive, but that is possible.

RESOLVED:

- That the committee noted and commented on the report, and requested that officers from Building Control and PCI Compliance be invited to the March meeting, if their audit items remain unresolved.
- That officers would circulate a list of when schools in the borough had last been audited to members.

6 FRAUD UPDATE REPORT INCLUDING RIPA AUTHORISATIONS (Agenda Item 6)

The Head of Shared Fraud Partnership introduced the report. The National Fraud Initiative allows the borough to match data with other local authorities to find people who have moved between areas, or deceased, to ensure that benefits are not duplicated. This work provides a significant return for little input from the authority. The work will mainly weed out clerical issues, but the risk of fraud lies within this area.

The work will feature on the audit plan for next year, and the numbers could be lower when checked at that time. A number of authorities have done extensive data cleansing, which will impact on final figures.

RESOLVED:

That members noted the Fraud Progress report that included an indicative plan for the application of resources for 2022/23, a review of activity completed during 2021/22 and 2022/23 to October 2022, and commented on the matters arising from it.

7 FINAL ACCOUNTS (Agenda Item 7)

The Interim Executive Director for Finance and Digital introduced the report, with the External Auditor, Ernst and Young.

In response to questions, officers confirmed that the understatement of cash was related to how schools submitted their data, accounts had been amended to show PTA funds were correctly categorised, the money was not mislaid.

Errors in accounting classification had shown an understatement in cash and overstatement in debtors, this had been resolved.

There is potential for some elements to become material, there is work in progress in this complex area, the rest of the report is fine.

If the committee approves subject to further changes, officers will write to the committee once the audit is complete highlighting any additional findings with amendments and a final version. If necessary a meeting with the chair and vice-chair

can be arranged, with responsibility for final approval delegated to the chair, vice-chair and S151 officer.

RESOLVED:

- That the Committee approved the revised Statement of Accounts, including the Group Accounts and the Pension Fund Accounts (Appendix 2), subject to any further comments from the External Auditor. B.
- That the Committee noted EY's Audit Results Report (Appendix 3) and the Letter of Representation for the Statement of Accounts.
- That the Committee noted EY's Audit Results Report (Appendix 4) for the Pension Fund accounts and the Letter of Representation.
- That the Standards and General Purposes Committee delegated authority to the Executive Director of Finance and Digital to sign off the final accounts once completed, subject to the Committee receiving a copy for inspection prior to signing.

8 RISK MANAGEMENT (Agenda Item 8)

The Interim Executive Director for Finance and Digital introduced the report and in response to questions noted that Cyber attacks are a major risk, although Merton has not been adversely affected directly, other councils have and it's important to be prepared, effective training is in place.

The pandemic had tested the business continuity plans well, and we had shown ourselves to be well equipped to deal with the risk.

The Cost of Living Crisis is a risk and is covered in balancing the budget, the impact on the council has not yet manifested, but the pressure on services is likely to increase, both in terms of the demands on services and the impact of inflation on council costs in delivering services.

The impact of the mini-budget was short term, affecting gilt prices and inflation and government borrowing, over time it is expected to settle down as financial markets become more confident in the British economy.

The next quarterly review could include a narrative explaining the limits of actions available to the council in some instances.

RESOLVED:

- That the Standards and General Purposes Committee reviewed the adequacy of the risk management framework and the associated control environment
- That the Committee considered the Key Strategic Risks and Issues faced by the council, and determined whether these are being actively managed

9 ANNUAL GIFTS AND HOSPITALITY REPORT (MEMBERS) (Agenda Item 9)

The Chair encouraged members to speak to colleagues, share the report and promote the declaration of gifts and hospitality.

The Monitoring Officer introduced the report and the proposed changes to the Gifts and Hospitality Protocol.

RESOLVED:

- That the Committee noted the report
- That members were reminded of their responsibility to complete declarations of gifts and hospitality including reasons for acceptance
- That members discussed and approved the amended Gifts and Hospitality Protocol contained at Appendix 2 of the report, in regard to the tickets to the pantomime, but retained the current procedure on declaring participation in the Councillors' ballot for Wimbledon Championship Tickets
- That the members delegated authority to the Monitoring Officer to amend the protocol to reflect the views of the Committee.

10 ANNUAL GIFTS AND HOSPITALITY REPORT (OFFICERS) (Agenda Item 10)

The Monitoring Officer introduced the report and in response to questions confirmed that officers are never named in public documents.

RESOLVED:

- That the Committee noted the report

11 HEARINGS SUB-COMMITTEE (Agenda Item 11)

The Monitoring Officer introduced the report, and in response to questions confirmed that the size of the Sub-Committee and proportion of representation had been agreed at a previous meeting of the Standards and General Purposes Committee.

RESOLVED:

- That the Standards and General Purposes Committee agreed to appoint a sub-committee to undertake hearings as and when required to consider complaints against members under the members complaints process, part 5A of the Council's Constitution (Appendix A). Group offices would be approached to nominate members.
- The Monitoring Officer would compare proposed sanctions with those in other councils and report back to the Committee if there are notable differences.

12 WORK PROGRAMME (Agenda Item 12)

The Chair requested that an item on Temporary and Contract workers be expanded to a report on HR Metrics covering a wider range of information, to inform the Committee on the shape of the workforce following the pandemic.

RESOLVED: That the Work Programme was noted and agreed as amended.

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London Borough of Merton
& Merton Pension Fund

Auditor's Annual Report

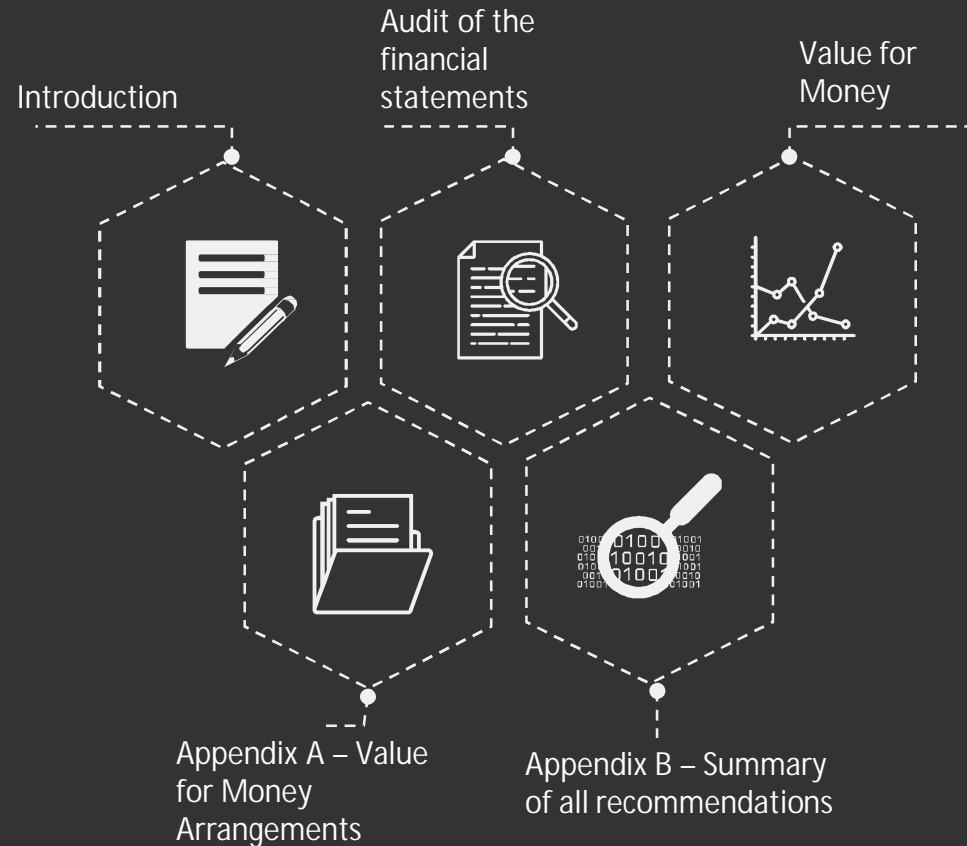
Year ended 31 March 2022

17 April 2023

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Agenda Item 4

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Public Sector Audit Appointments Ltd (PSAA) issued the "Statement of responsibilities of auditors and audited bodies". It is available from the PSAA website (<https://www.psa.co.uk/audit-quality/statement-of-responsibilities/>). The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The "Terms of Appointment and further guidance (updated July 2021)" issued by the PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and in legislation, and covers matters of practice and procedure which are of a recurring nature.

This report is made solely to the London Borough of Merton and Merton Pension Fund in accordance with the statement of responsibilities. Our work has been undertaken so that we might state the London Borough of Merton and Merton Pension Fund those matters we are required to state to them in this report and for no other purpose. To the fullest extent permitted by law we do not accept or assume responsibility to anyone other than the London Borough of Merton and Merton Pension Fund for this report or for the opinions we have formed. It should not be provided to any third-party without our prior written consent.



Introduction

Purpose

The purpose of the auditor's annual report is to bring together all of the auditor's work over the year.

A core element of the report is the commentary on value for money (VFM) arrangements, which aims to draw to the attention of the Authority, or the wider public, relevant issues, recommendations arising from the audit and follow-up of recommendations issued previously, along with the auditor's view as to whether they have been implemented satisfactorily.

Responsibilities of the appointed auditor

We have undertaken our 2021/22 audit work in accordance with the Audit Plan that we issued on 9 June 2022. We have complied with the National Audit Office's (NAO) 2020 Code of Audit Practice, other guidance issued by the NAO and International Standards on Auditing (UK).

As auditors we are responsible for:

Expressing an opinion on:

- The 2021/22 group financial statements;
- Conclusions relating to going concern; and
- The consistency of other information published with the financial statements, including the narrative statement.

Reporting by exception:

- If the governance statement does not comply with relevant guidance or is not consistent with our understanding of the London Borough of Merton;
- If we identify a significant weakness in the arrangements in place to secure economy, efficiency and effectiveness in its use of resources; and
- Any significant matters that are in the public interest.

Responsibilities of the Authority

The Authority is responsible for preparing and publishing its financial statements, narrative statement and annual governance statement. They are also responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.



Introduction (continued)

2021/22 Conclusions	
Financial statements	<p>Unqualified – the financial statements give a true and fair view of the financial position of the Group and Council as at 31 March 2022 and of the Group and Council expenditure and income for the year then ended. The financial statements have been prepared properly in accordance with the CIPFA/LASAAC Code of Practice on Local Council Accounting in the United Kingdom 2021/22. The 'financial statements' set out the Group, Council and Pension Fund accounts.</p> <p>We issued our auditor's report on 7 February 2023.</p>
Going concern	<p>We have concluded that the Interim Executive Director of Finance and Digital's use of the going concern basis of accounting in the preparation of the financial statements is appropriate.</p>
Consistency of the other information published with the financial statement	<p>Financial information in the narrative statement and published with the financial statements was consistent with the audited accounts.</p>
Consistency of the Pension Fund annual report and other information published with the financial statements	<p>Financial information in the Pension Fund Annual report and published with the financial statements was consistent with the audited accounts.</p>
Value for money (VFM)	<p>We had no matters to report by exception on the Council's VFM arrangements.</p> <p>We have included our VFM commentary in Section 03.</p>
Consistency of the annual governance statement	<p>We were satisfied that the annual governance statement was consistent with our understanding of the Council.</p>
Public interest report and other auditor powers	<p>We had no reason to use our auditor powers.</p>
Whole of government accounts	<p>We have not yet completed the procedures required by the National Audit Office (NAO) on the Whole of Government Accounts submission.</p> <p>This is because we are awaiting confirmation from the NAO of any additional procedures to be performed by auditors for bodies which fall below the reporting threshold.</p>
Certificate	<p>We are not currently able to issue our certificate due to the outstanding work required for whole of government accounts as explained above.</p>

Audit of the financial statements – London Borough of Merton

Key findings

The Narrative Statement and Accounts is an important tool for the Council to show how it has used public money and how it can demonstrate its financial management and financial health. On 07 February 2023, we issued an unqualified opinion on the group financial statements. We reported our detailed findings to Standards & General Purposes Committee. We outline below the key issues identified as part of our audit, reported against the significant risks and other areas of audit focus we included in our Audit Plan and the new significant risk included in the Audit Results Report. We reported two internal control recommendations in the Audit Results Report.

Significant risk

Conclusion

Misstatements due to fraud or error

There is a risk that the financial statements as a whole are not free of material misstatements whether caused by fraud or error. As identified in ISA (UK) 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively.

Our work did not identify any material weaknesses in the design or operation of controls or evidence of material misstatements, whether due to fraud or error. Our work did not identify any other transactions during our audit which appeared unusual or outside the organisation's normal course of business.

Risk of fraud in revenue and expenditure recognition – Inappropriate capitalisation of revenue expenditure

Under ISA 240 there is a presumed risk that revenue may be misstated due to improper revenue recognition. In the public sector, this requirement is modified by Practice Note 10 issued by the Financial Reporting Council, which states that auditors should also consider the risk that material misstatements may occur by the manipulation of expenditure recognition.

In considering how the risk of management override may present itself, we conclude that this is primarily through management taking action to override controls and manipulate in year financial transactions that impact the medium to longer term projected financial position.

We assessed the risk is most likely to occur through the inappropriate capitalisation of revenue expenditure, as there is an incentive to reduce expenditure which is funded from Council Tax. This could then result in funding of that expenditure, that should properly be defined as revenue, through inappropriate sources such as capital receipts, capital grants, or borrowing.

Our work did not identify any material misstatements from inappropriate capitalisation of revenue expenditure and we did not identify any material weaknesses in controls or evidence of material management override in relation to capitalisation of revenue expenditure. We did not identify any instances of inappropriate judgements being applied.

Audit of the financial statements – London Borough of Merton

Significant risk	Conclusion
Risk of fraud in revenue and expenditure recognition – Covid 19 Grants	<p>Under ISA 240 there is a presumed risk that revenue may be misstated due to improper revenue recognition. In the public sector, this requirement is modified by Practice Note 10 issued by the Financial Reporting Council, which states that auditors should also consider the risk that material misstatements may occur by the manipulation of expenditure recognition.</p> <p>We considered the income and expenditure streams of the Council and our assessment is that the risk is most prominent with regards to inappropriate recognition of Covid-related grant funding, including incorrect identification of whether the Council is acting as the principal or an agent and whether any associated terms and conditions were met prior to recognition.</p> <p>Our work highlighted a number of issues with the reconciliation of grants received as per the financial statements and the underlying working papers and also identified a number of instances where the Council incorrectly recorded if they are acting as principal or agent. As a result of our testing both income and expenditure were amended by £1.5m and this adjustment has been made to the revised financial statements. There was no overall impact on the net expenditure of the Council.</p>
Valuation of Land and Buildings – PPE valued under Depreciated Replacement Cost (DRC) and Existing Use Value (EUV)/Fair Value (FV)	<p>The fair value of land and buildings represents a significant balance in the Authority's accounts and is subject to valuation changes, impairment reviews and depreciation charges. Management is required to make material judgemental inputs and apply estimation techniques to calculate the year-end balances recorded in the balance sheet. Management is required to make material judgements and apply estimation techniques to calculate the year-end balances recorded in the balance sheet. ISAs (UK and Ireland) 500 and 540 require us to undertake procedures on the use of management experts and the assumptions underlying fair value estimates.</p> <p>Our testing highlighted one immaterial unadjusted judgmental difference, no other issues were noted.</p>
Infrastructure Assets	<p>An issue was raised through the National Audit Office's Local Government Technical Group that some local authorities were not writing out the gross cost and accumulated depreciation on highways infrastructure assets when a major part / component has been replaced or decommissioned. As a result of not writing out gross cost and accumulated depreciation where components are replaced, there is a risk that, if this is the case for elements not fully depreciated, assets in the balance sheet could be overstated.</p> <p>The Council took the option to apply the statutory instrument to their 2021/22 financial statements, they amended the presentation of infrastructure assets, included the required disclosure note and updated their accounting policy as required by the statutory instrument. We have agreed the opening balances to the prior year accounts and tested the in year movements, including additions, reclassifications and depreciation in line with our risk assessment.</p> <p>No exceptions were noted as a result of this testing.</p>

Audit of the financial statements – London Borough of Merton

Inherent risk	Conclusion
National Non-Domestic Rates (NNDR) Appeals Provision	<p>Statistics compiled by the Department for Levelling Up, Housing and Communities (DLUHC), reveal that councils are forecasting net additions to appeal in the coming years. The reason behind the forecast increase is that, due to the impact of Covid-19, businesses are likely to seek reductions based on a decrease in rental prices on which rateable values are based.</p> <p>We reviewed the assumptions made by the Council in calculating its NNDR appeals provision, including the local adjustments made.</p>
Going concern disclosures	<p>Covid-19, together with the political and economic turmoil in the external environment creates a number of financial pressures and risks across local government. It is creating financial stress through a combination of increasing service demand leading to increased expenditure in specific services, and reductions in income sources. There is a presumption that the Council will continue as a going concern for the foreseeable future.</p> <p>The Council is required to carry out a going concern assessment that is proportionate to the risks it faces. To address the requirement of the ISA, the auditor must review management's assessment of the going concern basis. The auditor's report in respect of going concern covers at least a 12-month period from the date of the report, therefore the Council's assessment also needs to cover this period.</p> <p>We are satisfied that the going concern disclosure of the Council is an adequate reflection of management's assessment and that it remains appropriate to prepare the financial statements on a going concern basis.</p>
Valuation of defined benefit pension scheme	<p>The Local Authority Accounting Code of Practice and IAS19 require the Council to make extensive disclosures within its financial statements regarding its membership of the Local Government Pension Scheme. The Council's pension liability is a material estimated balance and is required to be disclosed on the Council's balance sheet.</p> <p>Our work highlighted that due to a late adjustment to the valuation of level 3 asset investments there is an uncorrected misstatement of £1.6m in relation to the pension fund liability.</p> <p>Management chose not to amend for this late adjustment.</p>

Audit of the financial statements – Merton Pension Fund

Key findings

On 7 February 2023, we issued an unqualified opinion on the Pension Fund accounts. We reported our detailed findings to the Standards and General Purposes Committee. We outline below the key issues identified as part of our audit, reported against the significant risks and other areas of audit focus we included in our Audit Plan.

Significant risk

Conclusion

Misstatements due to fraud or error

The financial statements as a whole are not free of material misstatements whether caused by fraud or error. As identified in ISA (UK) 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively.

We have considered where this risk manifests and we consider this to be in the manipulation of Investment income and valuation of assets. We have not identified any material weaknesses in controls or evidence of material management override. We have not identified any instances of inappropriate judgements being applied and did not identify any other transactions during our audit which appeared unusual or outside the Fund's normal course of business.

Risk of manipulation of investment income and valuation (misstatements due to fraud or error)

There is a risk that the financial statements as a whole are not free of material misstatements whether caused by fraud or error. As identified in ISA (UK) 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively.

Our work did not identify any material weaknesses in the design or operation of controls or evidence of material misstatements, whether due to fraud or error. Our work did not identify any other transactions during our audit which appeared unusual or outside the organisation's normal course of business.

Valuation of Level 3 investments

We consider the valuation of Level 3 investments to be of a higher degree of inherent risk due to the unobservable inputs making up the valuations. Valuation of these assets involves a high degree of estimation from the fund manager as audited accounts supporting the valuation are only produced up to Quarter 3 of the financial year and may also be made more difficult because of current market volatility.

Management made a late adjustment to the financial statements to increase the value of Level 3 investments by £4.4m. This was to ensure the financial statements agreed to updated information received from Private market investments.

No other issues were noted.

Audit of the financial statements – Merton Pension Fund

Inherent risk	Conclusion
IAS26 disclosure	<p>We consider the valuation of IAS 26 to be of a higher degree of inherent risk because of the level of estimation uncertainty resulting from the calculation using a number of underlying assumptions. The actuary is required to make assumptions on salary increases, discount rates, pension rates, scheme member longevity and other variables. While IAS 26 does not inform the primary statements, there is stakeholder interest in this disclosure due to its nature.</p> <p>Our testing of the IAS26 calculation approach did not highlight any matters to bring to your attention.</p>
Going concern	<p>There is a presumption that the Fund will continue as a going concern for the foreseeable future. In light of the continued impact of Covid-19 there is a need for the Fund to ensure its going concern assessment, including its cashflow forecast, is thorough and appropriately comprehensive.</p> <p>We are satisfied with management’s assessment that it is appropriate for the financial statements to be prepared on a going concern basis which is reasonable and supported by evidence, including a cashflow forecast, for the foreseeable future.</p>

We did not identify any risks of significant weaknesses in the Council's VFM arrangements for 2021/22.

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Our VFM commentary highlights relevant issues for the London Borough of Merton and the wider public.

We have no matters to report by exception in the audit report.

Scope

We are required to report on whether London Borough of Merton has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. We have complied with the guidance issued to auditors in respect of their work on value for money arrangements (VFM) in the 2020 Code of Audit Practice (2020 Code) and Auditor Guidance Note 3 (AGN 03). We presented our VFM risk assessment to the 10 November Standards & General Purposes Committee meeting which was based on a combination of our cumulative audit knowledge and experience, our review of committee reports, meetings with the Council and evaluation of associated documentation through our regular engagement with management and the finance team

Reporting

We completed our risk assessment procedures in September 2022 and did not identify any risk of significant weakness in the Council's VFM arrangements from our detailed planning.

Our commentary for 2021/22 is set out on page 11. The commentary on these pages summarises specific observations over the arrangements at the London Borough of Merton in relation to our reporting criteria (see below) throughout 2021/22. Appendix A includes the detailed arrangements and processes underpinning the reporting criteria. These were reported in our 2020/21 Annual Auditors Report and have been updated for 2021/22 where appropriate.

In accordance with the NAO's 2020 Code, we are required to report a commentary against three specified reporting criteria:

Reporting criteria	Risks of significant weaknesses in arrangements identified?	Actual significant weaknesses in arrangements identified?
Financial sustainability: How the Council plans and manages its resources to ensure it can continue to deliver its services	No significant risks identified	No significant weaknesses identified
Governance: How the council ensures that it makes informed decisions and properly manages its risks	No significant risks identified	No significant weaknesses identified
Improving economy, efficiency and effectiveness: How the Council uses information about its costs and performance to improve the way it manages and delivers its services	No significant risks identified	No significant weaknesses identified

Financial Sustainability: How the Council plans and manages its resources to ensure it can continue to deliver its services

The Council is required to have arrangements in place to ensure proper resource management and the primary responsibility for these arrangements, and reporting on the design and operation of these arrangements via the annual governance statement, rests with management. In accordance with the NAO's Code the focus of our work should be on the arrangements that the audited body is expected to have in place during the year ended 31 March 2022. Our risk assessment did not identify any risk of significant weakness in arrangements to secure financial sustainability.

For 2021/22, £10.8m was transferred to earmarked reserves. The main driver for this was the settlement of negotiations with the DfE and subsequent safety valve agreement for the DSG deficit. Additionally general fund reserves were kept above minimum levels and the Council continues to hold earmarked reserves for future spending plans, with total usable reserves totalling £102m.

The Council has continued to set a balanced budget for the coming year and is not anticipating any significant budget pressures in the medium term.

Conclusion: Based on the work performed, the London Borough of Merton had proper arrangements in place in 2021/22 to enable it to plan and manage its resources to ensure that it can continue to deliver its services.

Governance: How the Council ensures that it makes informed decisions and properly manages its risks

The London Borough of Merton is required to have arrangements in place to ensure proper risk management and the primary responsibility for these arrangements and reporting on the design and operation of these arrangements via the annual governance statement rests with management. In accordance with the NAO's Code the focus of our work should be on the arrangements that the audited body is expected to have in place during the year ended 31 March 2022. In 2021/22 we did not identify a risk of significant weakness in arrangements in place to ensure sound governance.

The Council has an effective Internal Audit function who undertook 43 audits during 2021/22 and on the basis of their work gave reasonable assurance regarding the effectiveness of the internal control environment of the Council. Where priority one recommendations are made, progress against implementation the actions is monitored and reported as part of the regular updates provided to the Standards & General Purposes Committee.

The Council provides sufficient oversight of the subsidiaries to understand the trading and management of the companies.

Conclusion: Based on the work performed, the London Borough of Merton had proper arrangements in place in 2021/22 to enable it to make informed decisions and properly manage its risks



Value for Money (continued)

Improving economy, efficiency and effectiveness: How the Council uses information about its costs and performance to improve the way it manages and delivers its services

The London Borough of Merton is required to have arrangements in place to ensure economy, efficiency and effectiveness, and the responsibility for these arrangements and reporting on the design and operation of these arrangements via the annual governance statement, rests with management. In accordance with the NAO's Code the focus of our work should be on the arrangements that the audited body is expected to have in place during the year ended 31 March 2022. In 2021/22 we did not identify a risk of significant weakness in arrangements in place to ensure economy, efficiency and effectiveness.

In 2021/22 OFSTED undertook an inspection of Merton's Children's Services, in three of the four areas assessed they assessed the Council as outstanding, with an assessment of good in the final area. The report stated "Children in the London Borough of Merton benefit from good and outstanding services. Highly aspirational and committed senior managers and political leaders place children and their families at the centre of their decision-making".

Conclusion: Based on the work performed, the London Borough of Merton had proper arrangements in place in 2021/22 to enable it to use information about its costs and performance to improve the way it manages and delivers services.

Appendices

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The EY logo consists of the letters 'EY' in a bold, white, sans-serif font. A yellow triangle is positioned above the 'Y', pointing downwards towards the letters.

Building a better
working world

Appendix A – Summary of arrangements

Financial Sustainability

Reporting Sub-Criteria	Findings
How the body ensures that it identifies all the significant financial pressures that are relevant to its short and medium-term plans and builds these into them	An annual Business Plan, including a medium term financial plan (MTFP) is produced and reported to Cabinet by the S151 officer. The preparation of the MTFP is an ongoing process which engages officers, members and the public on a cyclical basis to continuously update the medium-term position of the Council once new information becomes available. Each year, the Council will then consider the opportunities for savings and growth to the initial MTFP. This is broken down in the different Council services which guide their wider strategy. The annual Business Plan brings to together local and national strategies and is underpinned by individual service plans. Business Planning and financial planning frameworks are closely aligned and integrated. In addition to this, the Council's Corporate Management Team are fully engaged in budget development to ensure a comprehensive package is developed. Significant financial pressures are then closely monitored and identified as part of on-going revenue monitoring with quarterly financial reporting to Cabinet.
How the body plans to bridge its funding gaps and identifies achievable savings	Budget planning is an ongoing process, usually starting in April each year, with a detailed timetable agreed by Cabinet. Officers then work on refining the underlying service plans and MTFP assumptions and developing budget proposals to deliver a sustainable budget that includes a Council tax strategy. This will prompt further dialogue between members and officers and once a sustainable plan has been identified, this is then put out for public consultation, after which Cabinet will formulate a final balanced budget. Savings proposals are produced annually, by service and monitored on a monthly basis at Cabinet. Savings proposals are fully consulted on with staff and impact assessments scrutinised before implementation
How the body plans finances to support the sustainable delivery of services in accordance with strategic and statutory priorities	<p>The Council's policy is to hold a General Fund Balance at £14m going forwards following an annual risk assessment as part of the Business Plan process, which takes place in February each year. The Council deem the new level to be a generally accepted and appropriate level for the Council. The S151 officer then determines whether the estimates are sufficiently robust to allow the Council to set the Revenue Budget and Capital Programme. Alongside this, the annual Business Plan process involves two-way communication and collaboration with services and lead members. The strategic aims of each service are interlinked with the financial budget projections for the 4-year Business Plan timescale.</p> <p>The next step for the Council is to start looking forward to future years as the financial gap becomes more significant so more strategic initiatives, focusing on prevention, need to be established early so savings can be delivered in the coming year.</p>
How the body ensures that its financial plan is consistent with other plans such as workforce, capital, investment, and other operational planning which may include working with other local public bodies as part of a wider system	The Council's Business Plan is structured in a way to combine and capture all of the Council's strategic plans. This process is embedded across the Council from service submissions, to challenge sessions, formal member meetings, consultations with staff and the wider scrutiny processes.
How the body identifies and manages risks to financial resilience, e.g. unplanned changes in demand, including challenge of the assumptions underlying its plans	Budget monitoring is completed each month. Any budget variations are supported by demand data or key performance data and this information is used as the starting point for the following years budget. Any emerging pressures identified are included in the Integrated Planning process. This is reported formally to Cabinet on a quarterly basis. The Council holds a number of contingency reserves for in year unplanned events. As part of the business planning cycle, these are reviewed taking account of the external environment, internal known challenges and the level of savings needing to be delivered in year. The council holds its General Fund balance to be used if the annual contingency is not sufficient to meet in year operational overspends and other unforeseen pressures.

Appendix A – Summary of arrangements (continued)

Governance

Reporting Sub-Criteria

How the body monitors and assesses risk and how the body gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud

Findings

The Leader of the Council is responsible for approving the Council's Corporate Risk Management Strategy and for reviewing the effectiveness of risk management. The Chief Executive's Leadership Team is responsible for implementing the Corporate Risk Management Strategy throughout the Council. Members are responsible for ensuring that there are appropriate processes in place for effective risk management. The Standards and General Purposes Committee has overall responsibility for promoting corporate governance and ensuring controls are adequate and working effectively. The Committee is also concerned with the promotion and maintenance of high standards of conduct within the council, the enforcement of the Member Code of Conduct and advising the council on ethical governance matters.

The Council maintains risk registers, including corporate risk registers which are reviewed. The Standards and General Purposes Committee receives and considers reports on the Council's overall risk management arrangements and also receives reports on specific risk issues that are considered worthy of individual reporting by Internal Audit or the officers of the Council. The Standards and General Purposes Committee approves the Internal Audit Plan and receives regular updates on progress against the plan as well as copies of the final reports for individual review as required. The Committee considers the overall annual opinion on internal control provided by the Internal Audit Service along with the opinions on the Council's accounts provided by External Audit.

The Head of Assurance's Annual Report on the internal control environment, prepared in accordance with the Public Sector Internal Audit Standards, provides an independent opinion on the adequacy and effectiveness of the Council's system of internal control in respect of its financial and non-financial systems. The Council also receives Counter Fraud Progress Reports which outline how the service prevent, detect and deter fraud, both internally and externally.

The Council maintains a wide-ranging constitution which sets out how the Council functions, the decision-making processes in place and the procedures which are followed to ensure that decisions are responsible, effective and transparent.

How the body approaches and carries out its annual budget setting process

The Annual Budget process including the responsibilities and procedures in the annual budget process is set out within the Constitution of the Council.

The Business Plan process has a structure and timetable which is comparable year on year, however the underlying strategic goals and challenges can change drastically between years dependent on pressures and strains by department.

The Business and financial planning of the Council is fully integrated with financial and non financial plans being considered together. Both are also fully linked to the Council's priorities, helping it achieve its strategic aims within the resources available. Cabinet agree draft proposals in December each year. After this the plans are taken to various scrutiny committees within the Council to challenge and provide comment before the final Business Plan is approved by Cabinet at the end of February.

Appendix A – Summary of arrangements (continued)

Governance

Reporting Sub-Criteria

Findings

How the body ensures effective processes and systems are in place to ensure budgetary control; to communicate relevant, accurate and timely management information (including non-financial information where appropriate); supports its statutory financial reporting requirements; and ensures corrective action is taken where needed

The Council's constitution details the responsibility for providing appropriate financial information is with the S151 Officer. It further details the processes and procedures required to report this information to Cabinet.

In practice budget and performance reports are monitored monthly by Cabinet. Furthermore Council and sub-committees receive information as required. Below that, processes and systems are in place to address the different components for budgetary control at a service level and reported and monitored throughout the Council regularly.

How the body ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency. This includes arrangements for effective challenge from those charged with governance/audit committee

The Council has a committee structure to allow it to make informed decisions, these are supported by a number of scrutiny and overview committees as described, notably the Standards and General Purposes Committee and an Overview and Scrutiny Commission and panels with terms of reference as defined within the constitution.

The Council's constitution includes guidelines on how decisions need to be made and by whom. On the council's website there is the Forward Plan of key decision and a record of decisions made.

The Forward Plan is a list of the Council's Key Decisions that will be made over the month, published on the Council's website. Key decisions such as budgets and the Business Plan are subject to several layers of scrutiny prior to approval and implementations. Decisions made at Cabinet, Council and Committee meetings are recorded for future reference. This can be evidenced through the published Committee papers and minutes.

How the body monitors and ensures appropriate standards, such as meeting legislative/regulatory requirements and standards in terms of officer or member behaviour (such as gifts and hospitality or declarations/conflicts of interests)

The Council maintains a Code of Corporate governance which sets out and ensures appropriate legislative and regulatory requirements were met. The Council also has a clear constitution which sets out the policies such as the Council's Code of Conduct (for officer's and member's) providing advice on the disclosure of gifts and hospitality as well as other interests. This extends to dealing with allegations of breach of the Code and ensures that Members of the Council have access to training and advice on the Code of Conduct.

To ensure that concerns or complaints from the public can be raised, the Council has an established formal complaints policy which sets out how complaints can be made, what should be expected and how to appeal. An annual complaints report is presented to Standards and General Purposes Committee. There is a formal process to deal with Freedom of Information requests and Subject Access requests. Code of Conduct training sessions will be provided to members on the requirement of the revised Code of Conduct.

Any issues, for example from whistle-blowing processes or complaints, are investigated in accordance with agreed processes and/or referred to Internal Audit or the Monitoring Officer, as appropriate. Councillors are required to complete and update Registers of Interest which are available on the Council's public website.

Appendix A – Summary of arrangements (continued)

Improving economy, efficiency and effectiveness

Reporting Sub-Criteria	Findings
How financial and performance information has been used to assess performance to identify areas for improvement	<p>The Council receives reports on performance in key areas which outline the current performance against planned targets and outcomes and highlight any instances of overspend or underspend and over or under performance against service expectations.</p> <p>Each service undertakes annual assessments of their performance, and benchmarks where possible. This assessment by each portfolio is included in the detailed service assessment that forms part the Business Plan. These assessments then form the budget bids and challenge around each portfolio to ensure the most efficient decisions are made on where to invest the local taxpayer's money. The Council's Annual Report and Annual Governance Statement also set out the review of performance for the year. The performance management framework included within the Business Plan highlights the Golden Thread, demonstrating the link between the Community Plan to that of individual work programmes and targets</p>
How the body evaluates the services it provides to assess performance and identify areas for improvement	<p>The Council publishes an Annual Report which summarises significant developments and achievements for the period. The report sets out how the Council's finances have been applied to meet its priorities and also outlines some of the potential challenges and opportunities it will face in the coming year.</p> <p>Corporately the Council receives benchmarking information from a number of sources, including CIPFA, the government department that was MHCLG (via published returns) and other sector specialists. In addition, the Council is subject to external reviews from bodies such as the Care Quality Commission and Ofsted, which provide insight into the performance and effectiveness of key services provided by the Council.</p>
How the body ensures it delivers its role within significant partnerships, engages with stakeholders it has identified, monitors performance against expectations, and ensures action is taken where necessary to improve	<p>The Council partners with a range of external organisations to consult on and deliver services. The Merton Partnership and its thematic Boards and working groups provide a mechanism for the Council to engage with key stakeholders, bringing together the public, private and community and voluntary sectors. This partnership will play a key role in delivering the Merton 2030 strategic framework and the latest priorities in the Community Plan. Most of the Partnership Boards meet at least quarterly and all have clear governance arrangements.</p> <p>As part of the Business Plan process, in accordance with statute, a consultation is run with ratepayers each year. This consultation gathers information from residents to understand their views on priorities and performance. The Council also conducts a number of other consultations and focus group events on a wide variety of areas throughout the year.</p>
Where the body commissions or procures services, how the body ensures that this is done in accordance with relevant legislation, professional standards and internal policies, and how the body assesses whether it is realising the expected benefits.	<p>The Council's Constitution sets out the standing orders on procurement and contracts. The Council has also developed a Procurement Strategy for which sets out the framework in which the Council will work to ensure it delivers value for money across all services to contribute to achieving its strategic goals. There are also additional requirements set out in the Council's Code of Conduct and the Council's Financial Regulations.</p> <p>Alongside national and international procurement law, these regulations provide the legislative backdrop to the Council's procurement activities. Each contract, where appropriate, has a set of key performance indicators and the monitoring of these and benefit of delivery is addressed throughout the contract lifecycle through contract management meetings and actions.</p>

Appendix B – Summary of recommendations

Recommendations

The table below sets out all the recommendations arising from the financial statements and value for money audits in 2021/22. All recommendations have been agreed by management.

Issue	Recommendation	Management Response
Financial statements: Collection Fund	<p><i>There were a significant number of errors in the underlying workings for the collection fund. These resulted in material changes to not only the collection fund but also the primary statements, The errors were generally clerical in nature and included the mis-posting of journals which had an impact of £5.6m on the impairment provision for national non domestic rates debtors and incorrect signage within the underlying working papers and accounts disclosures.</i></p> <p><i>There had been staff changes in the preparation of the collection fund in the current year. Management should ensure sufficient support and review is provided to ensure any detectable errors are identified before the draft accounts are issued for audit.</i></p>	Management agree with the recommendation.
Financial Statements: Infrastructure Assets	<p><i>CIPFA provided an update to the Code and specifications for future Codes for infrastructure Assets in November 2022. The publication is an update to the 2021/22 Code, but it also updates the 2022/23 Code and will apply to subsequent years until the 2024/25 Code.</i></p> <p><i>Amendments to Section 4.1 of the Code include a temporary relief so that local authorities are not required to report the gross book value and accumulated depreciation for infrastructure assets. This temporary relief is applied from the 2021/22 Code up to and including the Code applicable to the 2024/25 financial year.</i></p> <p><i>As this is only a temporary relief we recommend the Council utilise the time available to review the underlying records it holds for infrastructure assets to be able to support the gross book value and accumulated depreciation balances going forward.</i></p>	Management agree with the recommendation.



Appendix C – Fees

Relationships, services and related threats and safeguards – London Borough of Merton

The FRC Ethical Standard requires that we provide details of all relationships between Ernst & Young (EY) and London Borough of Merton, and its senior management, including all services provided by us and our network to the London Borough of Merton and other services provided to other known connected parties that we consider may reasonably be thought to bear on the our integrity or objectivity, including those that could compromise independence and the related safeguards that are in place and why they address the threats.

We have identified two relationships to report to you in respect of additional services provided by EY LLP. The firm is the auditor of one of the subsidiaries of the Council in 2021/22 (see page 20) and we perform non-audit services as set out below. We have concluded that there is no impact on our independence and objectivity as the external auditor of the Council and Pension Fund.

As at the date of this report, there are no future services which have been contracted and no written proposal to provide non-audit services has been submitted other than those disclosed below.

Services provided by Ernst & Young

	Planned fee 2021/22	Scale fee 2021/22	Final Fee 2020/21
Audit Fees	£'s	£'s	£'s
Total Fee – Code work	110,493	110,493	110,493
Final 2020/21 scale fee variation determined by PSAA (see Note 1)	-	-	99,821
Additional work:	-	-	-
Scale fee rebasing (Note 2)	120,539	133,276	-
Total audit fees	TBC	243,769	210,314
Non Audit Fees			
Fee in relation to certification of Teachers Pension return	15,000	N/A	10,000
Fee in relation to certification of Housing Benefit subsidy claim (Note 3)	N/A	N/A	60,000
Total non audit fees	15,000	N/A	70,000

* All fees exclude VAT

Note 1 - The 20/21 final fee includes a scale fee variation which has been determined by PSAA of £99,821.

Note 2 - Given the number of significant risks and areas of audit focus that we highlighted in our audit plan as areas of additional work and in order to meet regulatory and compliance audit requirements not present in the market at the time of our most recent bid to PSAA, we undertook additional work at a fee of £120,539 to deliver the audit in 2021/22 and we expect to reoccur in subsequent years. This also includes the impact of amended auditing standards, and the changing requirements for our VFM responsibilities. PSAA has provided outline amounts to charge for the work required to address these latter areas.

Note 3 - This is an indicative fee as our work to certify the 2020/21 housing benefit subsidy claim is yet to commence.



Appendix C – Fees

Relationships, services and related threats and safeguards – London Borough of Merton

Group accounts arrangement

EY LLP is the appointed auditor of CHAS 2013 Ltd for their 2021/22 accounts. The fee charged by EY LLP for the CHAS 2013 Ltd audit was £21k.

We were the auditor of Merantun Ltd in 2020/21 but the Company was dissolved during June 2022. The company did not trade during the 2021/22 financial year so applied for an audit exemption.

Non audit services – Grant claims

As set out in the fee table on page 19, we carried out the Teachers' Pensions return for 2021/22. As part of our independence procedures required under Ethical Standard 1 we assessed the six statements and concluded that there were no threats to our independence and objectivity as the external auditor of the Council and therefore no safe guards were required:

- *Self-interest; A self-interest threat arises when the auditor has financial or other interests which might cause the auditor to be reluctant to take actions that would be adverse to the interests of the audit firm or any individual in a position to influence the conduct or outcome of the audit*
- *Self-review; A self-review threat arises when the results of a non-audit service performed by the auditor or by others within the audit firm are reflected in the amounts included or disclosed in the financial statements*
- *Management; prohibits partners and employees of the audit firm from taking decisions on behalf of the management of the audited entity. A management threat can also arise when the audit firm undertakes an engagement to provide non-audit services in relation to which management are required to make judgments and take decisions based on that work*
- *Advocacy; An advocacy threat arises when the audit firm undertakes work that involves acting as an advocate for an audited entity and supporting a position taken by management in an adversarial context*
- *Familiarity; A familiarity (or trust) threat arises when the auditor is predisposed to accept, or is insufficiently questioning of, the audited entity's point of view*
- *Intimidation; An intimidation threat arises when the auditor's conduct is influenced by fear or threats.*

Note: we are not the auditor for the Housing Benefit claim in 2021/22.



Appendix C – Fees

Relationships, services and related threats and safeguards – Merton Pension Fund

The FRC Ethical Standard requires that we provide details of all relationships between Ernst & Young (EY) and Merton Pension Fund, and its senior management, including all services provided by us and our network to Merton Pension Fund and other services provided to other known connected parties that we consider may reasonably be thought to bear on the our integrity or objectivity, including those that could compromise independence and the related safeguards that are in place and why they address the threats.

There are no relationships from the 01 April 2021 to the date of this report, which we consider may reasonably be thought to bear on our independence and objectivity.

As at the date of this report, there are no future services which have been contracted and no written proposal to provide non-audit services has been submitted other than those disclosed below.

Services provided by Ernst & Young

	Planned fee 2021/22	Scale fee 2021/22	Final Fee 2020/21
Audit Fees	£'s	£'s	£'s
Total Fee – Code work	16,170	16,170	16,170
Final 2020/21 scale fee variation determined by PSAA (see Note 1)	-	-	16,078
Scale fee rebasing (Note 2)	40,425	35,397	-
Additional fee for IAS19 assurance work on behalf of admitted bodies	8,500	8,500	8,000
Total audit fees	TBC	TBC	210,314

* All fees exclude VAT

Note 1 - The 20/21 final fee includes a scale fee variation which has been determined by PSAA of £99,821.

Note 2 - Given the number of significant risks and areas of audit focus that we highlighted in our audit plan as areas of additional work and in order to meet regulatory and compliance audit requirements not present in the market at the time of our most recent bid to PSAA, we undertook additional work at a fee of £120,539 to deliver the audit in 2021/22 and we expect to reoccur in subsequent years. This also includes the impact of amended auditing standards, and the changing requirements for our VFM responsibilities. PSAA has provided outline amounts to charge for the work required to address these latter areas.

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ey.com*

London Borough of Merton

Outline Audit Plan

Year ended 31 March 2023

25 February 2023

25 February 2023



London Borough of Merton
Standards and General Purposes Committee
Civic Centre
Morden
SM4 5DX

Dear Committee Members
Outline Audit Plan

We are pleased to attach our Outline Audit Plan. Its purpose is to provide the Standards and General Purposes Committee with an overview of our plans and fee for the 2022/23 audit before detailed planning work has commenced.

This report summarises our initial assessment of the key issues which drive the development of an effective audit for the London Borough of Merton. Due to the late completion of our 2021/22 audit, we have not yet completed our detailed planning procedures. We will provide a more detailed and comprehensive audit plan for the Committee at the next meeting. This report sets out the areas which we consider to be a focus for our 2022/23 audit.

Our audit is undertaken in accordance with the requirements of the Local Audit and Accountability Act 2014, the National Audit Office's 2020 Code of Audit Practice, the Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA) Ltd, auditing standards and other professional requirements.

We welcome the opportunity to discuss this report with you as well as understand whether there are other matters which you consider may influence our audit.

Yours faithfully

E. Jackson.

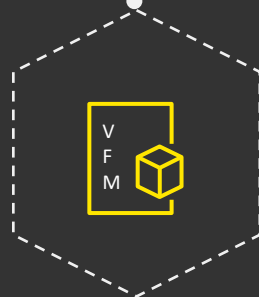
Elizabeth Jackson, Partner
For and on behalf of Ernst & Young LLP
Encl

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Public Sector Audit Appointments Ltd (PSAA) issued the "Statement of responsibilities of auditors and audited bodies". It is available from the PSAA website (<https://www.psa.co.uk/audit-quality/statement-of-responsibilities/>). The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas. The "Terms of Appointment and further guidance (updated April 2018)" issued by the PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and in legislation, and covers matters of practice and procedure which are of a recurring nature. This report is made solely to the Standards and General Purposes Committee and management of the London Borough of Merton in accordance with the statement of responsibilities. Our work has been undertaken so that we might state to the Standards and General Purposes Committee, and management of the London Borough of Merton those matters we are required to state to them in this report and for no other purpose. To the fullest extent permitted by law we do not accept or assume responsibility to anyone other than to the Standards and General Purposes Committee, and management of the London Borough of Merton for this report or for the opinions we have formed. It should not be provided to any third-party without our prior written consent.



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01 2022/23 Audit



2022/23 financial statements audit

Planning for 2022/23

We have met the Interim Executive Director of Finance and Digital and members of the finance team during January and February 2023 to discuss the conclusion of our 2021/22 audit and have a detailed planning meeting for the 2022/23 audit on 2 March 2023.

We have not yet commenced our initial planning work for the 2022/23 audit. However, we set out in this report our initial considerations of the risks for the audit - these are broadly similar to those identified in 2021/22. We will update these risks as our planning progresses and new issues emerge during the course of the year.

We have arranged regular liaison meetings throughout the year to inform our continuous audit planning. We will also take in to account any updated CIPFA guidance for the 2022/23 year.

Materiality

Our application of materiality

When establishing our overall audit strategy, we determine the magnitude of uncorrected misstatements that we judge would be material for the financial statements as a whole.

Gross expenditure on the provision of services

£577m

We consider gross revenue expenditure to be one of the principal considerations for stakeholders in assessing the financial performance of the Authority. For the Outline Audit Plan, we have taken this figure from the audited 2021/22 group financial statements.

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Planning materiality

£10.4m

Planning materiality is the amount over which we anticipate misstatements would influence the economic decisions of a user of the financial statements. For planning purposes, group planning materiality for 2022/23 has been set at £10.4 million, which represents 1.8% of the prior years gross expenditure on provision of services in the group comprehensive income and expenditure statement. The use of 1.8% of gross revenue expenditure in line with the prior year.

Planning materiality for the Authority has been determined at £10.3 million on the same basis as the group.

Performance materiality

£7.8m

Performance materiality is the amount we use to determine the extent of our audit procedures. We have set performance materiality at £7.8 million for the group financial statements which represents 75% of planning materiality and is in line with the prior year.

Performance materiality for the Authority is £7.7 million.

Audit differences

£0.5m

We will report all uncorrected misstatements relating to the primary statements (comprehensive income and expenditure statement, balance sheet, movement in reserves statement, cash flow statement and collection fund) greater than £0.5 million. Other misstatements identified will be communicated to the extent that they merit the attention of the Standards and General Purposes Committee.

These figures will be updated upon receipt of the draft 2022/23 financial statements.

Overview of 2021/22 audit strategy

The following 'dashboard' summarises the significant accounting and auditing matters outlined in this report. It seeks to provide the Standards and General Purposes Committee with an overview of our initial risk identification for the upcoming audit and any changes in risks identified in the current year.

Audit risks and areas of focus

Risk / area of focus	Risk identified	Change from PY	Details
Risk of fraud in revenue and expenditure recognition	Fraud risk / Significant risk	No change in risk or focus	<p>Under ISA 240, there is a presumed risk that revenue may be misstated due to improper revenue recognition. In the public sector, this requirement is modified by Practice Note 10 issued by the Financial Reporting Council, which states that auditors should also consider the risk that material misstatements may occur by the manipulation of expenditure recognition.</p> <p>We have identified the accounting for Covid-19 related grant income as a specific area where revenue may be inappropriately recognised.</p>
Misstatements due to fraud or error	Fraud risk / Significant risk	No change in risk or focus	<p>As identified in ISA 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that would otherwise appear to be operating effectively.</p> <p>In addition to our overall response, we consider where these risks may manifest themselves and identify separate fraud risks as necessary below.</p>
Inappropriate capitalisation of revenue expenditure	Fraud risk / Significant risk	No change in risk or focus	<p>As noted above, under ISA 240, management is in a unique position to perpetrate fraud through the override of controls. We have identified the inappropriate capitalisation of revenue expenditure on property, plant and equipment and Revenue Expenditure Funded by Capital Under Statute (REFCUS) (if this is material in 2022/23) as an area of risk.</p>

Overview of 2021/22 audit strategy

The following 'dashboard' summarises the significant accounting and auditing matters outlined in this report. It seeks to provide the Standards and General Purposes Committee with an overview of our initial risk identification for the upcoming audit and any changes in risks identified in the current year.

Audit risks and areas of focus

Risk / area of focus	Risk identified	Change from PY	Details
Valuation of Land and Buildings - PPE valued under Depreciated Replacement Cost (DRC) and Existing Use Value (EUV)/Fair Value (FV)	Significant risk	No change in risk or focus	<p>The fair value of Property, Plant and Equipment (PPE) represents a significant balance in the Authority's accounts and is subject to valuation changes, impairment reviews and depreciation charges.</p> <p>The valuation of these assets is reliant upon expert valuations based on information provided by the Authority. Management is required to make material judgemental inputs and apply estimation techniques to calculate the year-end balances recorded in the balance sheet. Errors within the judgements, assumptions or information provided to the valuer can have a material impact on the financial statements.</p>
Infrastructure Assets	Inherent risk	New risk at the end of 2021/22 - for 2022/23 reduction in risk from significant to inherent	<p>An issue was raised through the National Audit Office's Local Government Technical Group during 2022 that some local authorities were not writing out the gross cost and accumulated depreciation on highways infrastructure assets when a major part / component has been replaced or decommissioned. CIPFA issued an adaptation to the Code of Practice on Local Authority Accounting to allow reporting on a net basis for infrastructure assets and in December 2022 DLUHC issued a Statutory Instrument (The Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2022) which allows for the infrastructure assets opening balance to be brought forward without amendment and determines the carrying amount to be derecognised in respect of replaced components to be nil.</p> <p>The Council took the option to apply the statutory instrument to their 2021/22 financial statements and amended the presentation of infrastructure assets, included the required disclosure note and updated their accounting policy as required by the statutory instrument. We have reduced the risk to inherent as this still remains an area of focus for the audit.</p>

Overview of 2021/22 audit strategy

The following 'dashboard' summarises the significant accounting and auditing matters outlined in this report. It seeks to provide the Standards and General Purposes Committee with an overview of our initial risk identification for the upcoming audit and any changes in risks identified in the current year.

Audit risks and areas of focus

Risk / area of focus	Risk identified	Change from PY	Details
National Non-Domestic Rates (NNDR) Appeals Provision	Inherent risk	No change in risk or focus	<p>Statistics compiled by the Ministry for Housing, Communities and Local Government, reveal that councils are forecasting net additions to appeal in the coming years. The reason behind the forecast increase is that, due to the impact of Covid-19, businesses are likely to seek reductions based on a decrease in rental prices on which rateable values are based.</p> <p>In light of this we consider there to be a higher inherent risk of misstatement of the Authority's NNDR appeals provision.</p>
Pension Liability Valuation	Inherent risk	No change in risk or focus	<p>The Local Authority Accounting Code of Practice and IAS19 require the Authority to make extensive disclosures within its financial statements regarding its membership of the Local Government Pension Scheme.</p> <p>Accounting for this scheme involves significant estimation and judgement and therefore management engages an actuary to undertake the calculations on their behalf. ISAs (UK) 500 and 540 require us to undertake procedures on the use of management experts and the assumptions underlying fair value estimates.</p>
Going Concern	Area of focus	Change from inherent risk to area of focus	<p>There is a presumption that the Authority will continue as a going concern for the foreseeable future. However, the Authority is required to carry out a going concern assessment that is proportionate to the risks it faces, including a comprehensive cashflow forecast.</p> <p>The Authority is required to ensure that its going concern disclosure within the statement of accounts adequately reflects its going concern assessment and in particular highlights any uncertainties it has identified.</p>



02

Value for Money



Value for money

Authority responsibilities for value for money

The Authority is required to maintain an effective system of internal control that supports the achievement of their policies, aims and objectives while safeguarding and securing value for money from the public funds and other resources at its disposal.

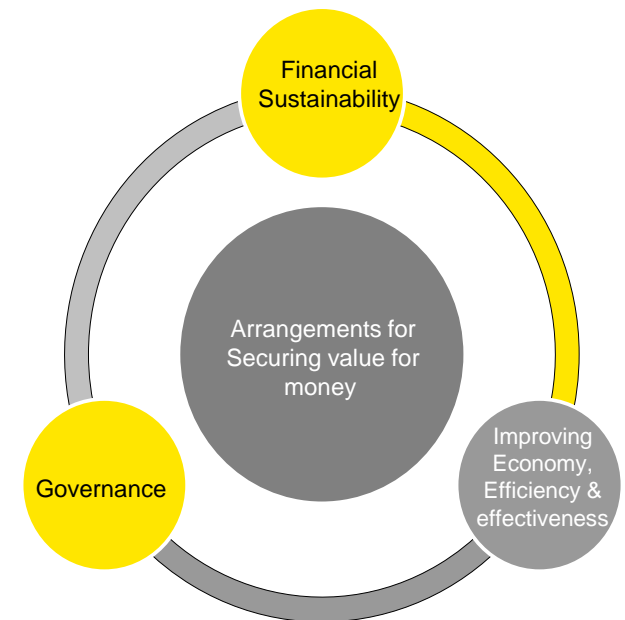
As part of the material published with its financial statements, the Authority is required to bring together commentary on its governance framework and how this has operated during the period in an annual governance statement. In preparing its annual governance statement, the Authority tailors the content to reflect its own individual circumstances, consistent with the requirements of the relevant accounting and reporting framework and having regard to any guidance issued in support of that framework. This includes a requirement to provide commentary on its arrangements for securing value for money from their use of resources.

Auditor responsibilities under the new Code

Under the 2020 Code we are still required to consider whether the Authority has put in place 'proper arrangements' to secure economy, efficiency and effectiveness on its use of resources. The Code requires the auditor to design their work to provide them with sufficient assurance to enable them to report to the Authority a commentary against specified reporting criteria (see below) on the arrangements the Authority has in place to secure value for money through economic, efficient and effective use of its resources for the relevant period.

The specified reporting criteria are:

- *Financial sustainability*
How the Authority plans and manages its resources to ensure they can continue to deliver its services;
- *Governance*
How the Authority ensures that it makes informed decisions and properly manages its risks; and
- *Improving economy, efficiency and effectiveness:*
How the Authority uses information about its costs and performance to improve the way it manages and delivers its services.





Value for money risks

Planning and identifying VFM risks

The NAO's guidance notes require us to carry out a risk assessment which gathers sufficient evidence to enable us to document our evaluation of the Authority's arrangements, in order to enable us to draft a commentary under the three reporting criteria. This includes identifying and reporting on any significant weaknesses in those arrangements and making appropriate recommendations. This is a change to 2015 Code guidance notes, where the NAO required auditors, as part of planning, to consider the risk of reaching an incorrect conclusion in relation to the overall criterion.

In considering the Authority's arrangements, we are required to consider:

- The Annual Governance Statement
- Evidence that the Authority's arrangements were in place during the reporting period;
- Evidence obtained from our work on the accounts;
- The work of inspectorates (such as Ofsted and CQC) and other bodies; and
- Any other evidence source that we regard as necessary to facilitate the performance of our statutory duties.

We then consider whether there is evidence to suggest that there are significant weaknesses in arrangements. The NAO's guidance is clear that the assessment of what constitutes a significant weakness and the amount of additional audit work required to adequately respond to the risk of a significant weakness in arrangements is a matter of professional judgement. However, the NAO states that a weakness may be said to be significant if it:

- 40 Exposes - or could reasonably be expected to expose - the Authority to significant financial loss or risk;
- Leads to - or could reasonably be expected to lead to - significant impact on the quality or effectiveness of service or on the Authority's reputation;
- Leads to - or could reasonably be expected to lead to - unlawful actions; or
- Identifies a failure to take action to address a previously identified significant weakness, such as failure to implement or achieve planned progress on action/improvement plans.

We should also be informed by a consideration of:

- The magnitude of the issue in relation to the size of the Authority;
- Financial consequences in comparison to, for example, levels of income or expenditure, levels of reserves (where applicable), or impact on budgets or cashflow forecasts;
- The impact of the weakness on the Authority's reported performance;
- Whether the issue has been identified by the Authority's own internal arrangements and what corrective action has been taken or planned;
- Whether any legal judgements have been made including judicial review;
- Whether there has been any intervention by a regulator or Secretary of State;
- Whether the weakness could be considered significant when assessed against the nature, visibility or sensitivity of the issue;
- The impact on delivery of services to local taxpayers; and
- The length of time the Authority has had to respond to the issue.



Value for money risks

Responding to identified risks

Where our planning work has identified a risk of significant weakness, the NAO's guidance requires us to consider what additional evidence is needed to determine whether there is a significant weakness in arrangements and undertake additional procedures as necessary, including where appropriate, challenge of management's assumptions. We are required to report our planned procedures to the Audit Committee.

Reporting on VFM

In addition to the commentary on arrangements, where we are not satisfied that the Authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources we are required to refer to this by exception in the audit report on the financial statements.

We are also required to include the commentary on arrangements in our Auditor's Annual Report. The 2020 Code states that the commentary should be clear, readily understandable and highlight any issues we wish to draw to the Authority's attention or the wider public. This should include details of any recommendations arising from the audit and follow-up of recommendations issued previously, along with our view as to whether they have been implemented satisfactorily.

Where we have sufficient evidence to determine that there is a significant weakness on VFM related arrangements we are able to report that weakness, and an associated recommendation for improvement, at that time and not wait until we issue our Audit Results Report on the audit of the statement of accounts.

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Status of our 2022/23 VFM planning

We have yet to commence our detailed VFM planning.

However, one area of focus will be on the arrangements that the Authority had in place during the year for the sale of its wholly owned subsidiary. At this stage of the audit, this is an area of focus for the detailed risk assessment [planning and not a risk of significant weakness].

We will update the Committee on the outcome of our VFM planning and our planned response to any identified risks of significant weaknesses in arrangements.



03

Fees





Fees

Fees

The duty to prescribe fees is a statutory function delegated to Public Sector Audit Appointments Ltd (PSAA) by the Secretary of State for Housing, Communities and Local Government.

This is defined as the fee required by auditors to meet statutory responsibilities under the Local Audit and Accountability Act 2014 in accordance with the requirements of the Code of Audit Practice and supporting guidance published by the National Audit Office, the financial reporting requirements set out in the Code of Practice on Local Authority Accounting published by CIPFA/LASAAC, and the professional standards applicable to auditors' work.

The table sets out our expected fees for 2020/21 and 2021/22. However, these figures could change, and need to be agreed with officers and the PSAA. Any further additional fees (over and above VFM and ISA540) for 2020/21 will be communicated to Interim Executive Director of Finance and Digital following the completion of the audit

	Planned fee 2022/23	Proposed fee 2021/22	Final fee 2020/21
	£	£	£
Scale Fee - Code work	£110,493	£110,493	£110,493
Final 2020/21 scale fee variation determined by PSAA (Note 1)			£99,821
Scale fee rebasing (Note 2)	£133,276	£133,276	-
Risk based fee variations (Note 3)	TBC	TBC	-
Total Fees	TBC	TBC	£210,314

All fees exclude VAT

Note 1 - The 20/21 final fee includes a scale fee variation which has been determined by PSAA of £99,821.

Note 2 - Given the number of significant risks and areas of audit focus that we highlighted in our audit plan as areas of additional work and in order to meet regulatory and compliance audit requirements not present in the market at the time of our most recent bid to PSAA, we undertook additional work at a fee of £133,276 to deliver the audit in 2020/21 which reoccurred in 2021/22 and we expect to reoccur in subsequent years. This also includes the impact of amended auditing standards, and the changing requirements for our VFM responsibilities. PSAA has provided outline amounts to charge for the work required to address these latter areas.

Note 3 - We have identified new and continuing risks for 2021/22 that are not within the scale fee (infrastructure assets). Additional work was required to address these risks and we will quantify the impact of these on the fee and discuss with management.

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Merton Pension Fund Outline Audit Plan

Year ended 31 March 2023

25 February 2023

25 February 2023



Merton Pension Fund
Standards and General Purposes Committee
Civic Centre
Morden
SM4 5DX

Dear Committee Members

Outline Audit Plan

We are pleased to attach our Outline Audit Plan for Merton Pension Fund. Its purpose is to provide the Standards and General Purposes Committee with an overview of our plans and fee for the 2022/23 audit before detailed planning work commences.

This report summarises our initial assessment of the key issues which drive the development of an effective audit for Merton pension Fund. Due to the late completion of our 2021/22 audit, we have not yet completed our detailed planning procedures. We will provide a more detailed and comprehensive audit plan for the Committee at the next meeting, or circulate the plan separately if Members prefer. This report sets out the areas which we consider will be a focus for our 2022/23 plan.

Our audit is undertaken in accordance with the requirements of the Local Audit and Accountability Act 2014, the National Audit Office's 2020 Code of Audit Practice, the Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA) Ltd, auditing standards and other professional requirements.

We welcome the opportunity to discuss this report with you as well as understand whether there are other matters which you consider may influence our audit.

Yours faithfully

E. Jackson.

Elizabeth Jackson, Partner
For and on behalf of Ernst & Young LLP
Encl

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Public Sector Audit Appointments Ltd (PSAA) issued the "Statement of responsibilities of auditors and audited bodies". It is available from the PSAA website (<https://www.psa.co.uk/audit-quality/statement-of-responsibilities/>). The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The "Terms of Appointment and further guidance (updated April 2018)" issued by the PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and in legislation, and covers matters of practice and procedure which are of a recurring nature.

This report is made solely to the Standards and General Purposes Committee and management of Merton Pension Fund in accordance with the statement of responsibilities. Our work has been undertaken so that we might state to the Standards and General Purposes Committee, and management of Merton Pension Fund those matters we are required to state to them in this report and for no other purpose. To the fullest extent permitted by law we do not accept or assume responsibility to anyone other than to the Standards and General Purposes Committee, and management of the Merton Pension Fund for this report or for the opinions we have formed. It should not be provided to any third-party without our prior written consent.



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01 2022/23 Audit



2022/23 financial statements audit

Planning for 2022/23

We have met the Interim Executive Director of Finance and Digital and members of the finance team during January and February 2023 to discuss the conclusion of our 2021/22 audit and have a detailed planning meeting for the 2022/23 audit on 2 March 2023.

We have not yet commenced our initial planning work for the 2022/23 audit. However, we set out in this report our initial considerations of the risks for the audit - these are broadly similar to those identified in 2021/22. We will update these risks as our planning progresses and new issues emerge during the course of the year.

We have arranged regular liaison meetings throughout the year to inform our continuous audit planning. We will also take in to account any updated CIPFA guidance for the 2022/23 year.

Materiality

Our application of materiality

When establishing our overall audit strategy, we determine the magnitude of uncorrected misstatements that we judge would be material for the financial statements as a whole.

Page 50	<p>Net Assets</p> <p>£926.9m</p>	<p><i>We consider net assets to be one of the principal considerations for stakeholders in assessing the financial performance of the Fund. We have used the Net Assets total from the audited 2021/22 financial statements as a basis for our planning materiality.</i></p>
	<p>Planning materiality</p> <p>£9.2m</p>	<p><i>For planning purposes, planning materiality for 2022/23 has been set at £9.2 million, which represents 1.0% of the prior year net assets of the pension fund.</i></p>
	<p>Performance materiality</p> <p>£6.9m</p>	<p><i>Performance materiality is the amount we use to determine the extent of our audit procedures. We have set performance materiality at £6.9 million which represents 75% of planning materiality and is in line with the prior year.</i></p>
	<p>Audit differences</p> <p>£0.46m</p>	<p><i>We will report to you all uncorrected misstatements relating to the fund account and net asset statement that are greater than £0.46 million. Other misstatements identified will be communicated to the extent that they merit the attention of the Standards and General Purposes Committee.</i></p>

These figures will be updated upon receipt of the draft 2022/23 financial statements.

Purpose and evaluation of materiality

For the purposes of determining whether the accounts are free from material error, we define materiality as the magnitude of an omission or misstatement that, individually or in the aggregate, in light of the surrounding circumstances, could reasonably be expected to influence the economic decisions of the users of the financial statements.

Our evaluation of it requires professional judgement and necessarily takes into account qualitative as well as quantitative considerations implicit in the definition. We would be happy to discuss with you your expectations regarding our detection of misstatements in the financial statements. Materiality determines the locations at which we conduct audit procedures to support the opinion given on the financial statements; and the level of work performed on individual account balances and financial statement disclosures.

The amount we consider material at the end of the audit may differ from our initial determination. At this stage, however, it is not feasible to anticipate all of the circumstances that may ultimately influence our judgement about materiality.

At the end of the audit we will form our final opinion by reference to all matters that could be significant to users of the accounts, including the total effect of the audit misstatements we identify, and our evaluation of materiality at that date.

Overview of 2021/22 audit strategy

The following 'dashboard' summarises the significant accounting and auditing matters outlined in this report. It seeks to provide the Standards and General Purposes Committee with an overview of our initial risk identification for the upcoming audit and any changes in risks identified in the current year.

Audit risks and areas of focus

Risk / area of focus	Risk identified	Change from PY	Details
Misstatement due to Fraud or Error - Posting of investment journals	Fraud risk / Significant risk	No change in risk or focus	<p>As identified in ISA (UK) 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively.</p> <p>There is a specific risk that, due to fraud or error, investment journals posted into the general ledger are incorrect, which could result in a misstatement of year-end investment value and/or investment income.</p>
Valuation of private debt and infrastructure investments (level 3 investments)	Significant risk	No change in risk or focus	<p>The Fund holds a material value of private debt and infrastructure investments which are not publicly quoted.</p> <p>The Fund will make judgements when valuing those investments whose prices are not publicly available. The material nature of investments means that any error in judgement could result in a material valuation error.</p> <p>Current market volatility means such judgments can quickly become outdated, especially when there is a significant time period between the latest available audited information and the fund year-end. Such variations could have a material impact on the financial statements.</p> <p>As these investments are more complex to value, we have identified the valuation of the Fund's Level 3 investments as a significant risk.</p>

Overview of 2021/22 audit strategy

The following 'dashboard' summarises the significant accounting and auditing matters outlined in this report. It seeks to provide the Standards and General Purposes Committee with an overview of our initial risk identification for the upcoming audit and any changes in risks identified in the current year.

Audit risks and areas of focus

Risk / area of focus	Risk identified	Change from PY	Details
IAS 26 disclosure - Actuarial Present Value of Promised Retirement Benefits	Inherent risk	No change in risk or focus	We consider the valuation of IAS 26 to be of a higher degree of inherent risk because of the level of estimation uncertainty resulting from the calculation using a number of underlying assumptions. The actuary is required to make assumptions on salary increases, discount rates, pension rates, scheme member longevity and other variables. While IAS 26 does not inform the primary statements, there is stakeholder interest in this disclosure due to its nature.
Going concern disclosure	Area of focus	No change in risk or focus	The financial landscape for the Fund's admitted and scheduled bodies remains challenging and as a result, the Fund will need to undertake a going concern assessment covering a period up to 12 months from the expected date of final authorisation. It will also need to make an appropriate disclosure in the financial statements. In addition, the revised auditing standard on going concern requires additional challenge from auditors on the assertions being made by management.



02

Fees





Fees

Fees

The duty to prescribe fees is a statutory function delegated to Public Sector Audit Appointments Ltd (PSAA) by the Secretary of State for Housing, Communities and Local Government.

This is defined as the fee required by auditors to meet statutory responsibilities under the Local Audit and Accountability Act 2014 in accordance with the requirements of the Code of Audit Practice and supporting guidance published by the National Audit Office, the financial reporting requirements set out in the Code of Practice on Local Authority Accounting published by CIPFA/LASAAC, and the professional standards applicable to auditors' work.

The table sets out our expected fees for 2020/21 and 2021/22. However, these figures could change, and need to be agreed with officers and the PSAA.

	Planned fee 2022/23	Planned fee 2021/22	Final Fee 2020/21
	£	£	£
Scale Fee - Code work (1)	16,170	16,170	16,170
Final 2020/21 scale fee variation determined by PSAA (see Note 1)	-	-	16,078
Increased fee for carrying out the audit (see Note 2)	35,397	35,397	-
Risk based scale fee variation not yet quantified (see Note 3)	TBC	TBC	-
IAS 19 work on the 2019 triennial valuation of the Fund	TBC	8,500	8,000
Total	TBC	TBC	37,970

All fees exclude VAT

Note 1 - The 2020/21 additional fees have been determined by PSAA at £16,078.

Note 2 - In order to meet regulatory and compliance audit requirements not present in the market at the time of our bid to PSAA for this contract, we assessed that the recurrent cost of additional requirements to carry out our audit should increase by £35,397. We remain in discussion with PSAA about increasing the scale fee to reflect the additional work auditors are required to complete.

Note 3 - We have yet to quantify our proposed risk based scale fee variation for 2021/22. We will report our proposed 2021/22 scale fee variation to management and the Standards and General Purposes Committee in due course.

Committee: Standards and General Purposes

Date: 27 April 2023

Wards:All

Subject: Internal Audit Plan, Strategy and Charter 2023/24

Lead officer: Roger Kershaw, Interim Director of Finance and Digital

Lead member: Mike Blunt, Chair of the Standards and General Purposes Committee

Forward Plan reference number: N/A

Contact officer: Margaret Culleton, Head of Internal Audit

Email: margaret.culleton@merton.gov.uk

Recommendation:

That members review and comment upon the 2023/24 Draft Internal Audit Plan, Strategy and Charter.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The Public Sector Internal Audit Standards (PSIAS) requires the Head of Audit to prepare a risk-based audit plan designed to implement the audit strategy. The Draft Internal Audit Plan, Strategy and Charter 2023/24 are included in Appendix 1.

2 DETAILS

- 2.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) introduced Public Sector Internal Audit Standards (PSIAS) from 1st April 2013, (updated in March 2017).
- 2.2 Internal Audit is defined by the PSIAS as “an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes”.
- 2.3 Internal Audit is required to complete an internal self-assessment against the standards on an annual basis and an external review to be undertaken every 5 years. An external review has been arranged to be undertaken during 2023/24.

Internal Audit Plan 2023/24

- 2.4 In preparing the audit plan, the PSIAS standards require the Head of Audit to take account of the adequacy and outcomes of the organisation’s risk

management, performance management and other assurance processes. Where the outputs from these processes are not judged to be sufficiently reliable, the Head of Audit should undertake their own risk assessment. The Head of Audit should consult stakeholders on the draft plan and revise the plan if appropriate. Internal Audit met with all Assistant Directors in 2022/23 and attended DMT's and CMT to discuss the areas of high risk and the audits plan proposed for 2023/24.

- 2.5 To ensure sufficient coverage is delivered across the organisation, Internal Audit combined the corporate assessment of risk with its own assessment of risk (the Audit Universe) and knowledge of any emerging risks to produce a plan with sufficient coverage of the Council's activities. This enables the Head of Audit to provide the Council with an opinion on the adequacy and effectiveness of the internal control environment.
- 2.6 As always, the audit plan must remain flexible to accommodate changing management and organisational priorities during the year and officers from Internal Audit will attend DMTs throughout the year to agree which audits should be prioritised each quarter and whether new areas need to be added and / or areas removed or postponed. A contingency has been included in the plan to enable the officers to be flexible and respond to changes that the council will undergo during the 2023/24 year.
- 2.7 In addition, sufficient flexibility is required on an on-going basis to ensure that appropriate levels of audit staff are available for deployment on unprogrammed work with the minimum disruption to the achievement of planned targets.
- 2.8 The Audit Plan is assessed with an audit risk rating of High, Medium and Low. This rating is based on a scoring covering financial cost, statutory requirement, reputation, fraud risk, safeguarding and key Council objectives and risks. Audits rating with a High or Medium rating will be given priority over the low risk rated audits.

Revised Assurance Levels 2023/24

- 2.9 Audit opinion definitions will be changed for work commencing in the 2023/24 plan. The current opinions Full, Substantial, Limited and No assurance will be replaced with those recommended by CIPFA following analysis of existing practice.
- 2.10 The changes are minor however the removal of the 'Full Assurance' opinion is welcomed and aligns us with Institute of Internal Audit guidance that states that assurance can never be absolute.

Levels of Assurance	
Substantial Assurance	A sound system of governance, risk management and control exist, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
Reasonable Assurance	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
Limited Assurance	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
No Assurance	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control are inadequate to effectively manage risks to the achievement of objectives in the area audited.

Priority of recommendations	
1	Major issues that we consider need to be brought to the attention of senior management and should be implemented within 3 months.
2	Important issues which should be addressed by management in their areas of responsibility to avoid exposure to significant risk and should be implemented within 6 months.
3	Minor issues where the risk is low. Action is advised to enhance control or improve operational efficiency

INTERNAL AUDIT CHARTER AND STRATEGY

2.11 Internal Audit Standards, state that “The purpose, authority and responsibility of Internal Audit must be formally defined in an internal audit charter, consistent with the Definition of Internal Audit, the Code of Ethics and the Standards. The chief audit executive (Head of Audit) must periodically review the internal audit charter and present it to senior management and the board for approval”. The charter should: -

- define internal audit’s purpose, authority and responsibility.
- establish internal audit’s position within the organisation, including the nature of the chief internal audit executive’s functional relationship with the board (committee);
- authorise access to records, personnel and physical properties relevant to the performance of engagements.
- define the scope of internal audit activities.
- define the terms “board” and “senior management”;
- cover the arrangements for appropriate resourcing.
- define the role of internal audit in any fraud-related work; and

- include arrangements for avoiding conflicts of interest if internal audit undertakes non-audit activities.

2.12 The Strategy sets out how the Council's Internal Audit Service will be developed and delivered in accordance with the Internal Audit Charter. The Head of Audit reviews the Strategy and Audit Plan on an annual basis. The Strategy communicates the contribution that Internal Audit makes to the organisation and includes: -

- Internal Audit objectives and outcomes.
- how the Head of Audit will form and evidence their opinion on the control environment to support the Annual Governance Statement.
- how Internal Audit's work will identify and address significant local and national issues and risks.
- how the services will be provided, i.e., internally, externally or a mix of the two; and
- the resources and skills required to deliver the Strategy.

3 ALTERNATIVE OPTIONS

3.1. None for the purpose of this report.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. The draft Audit Plan has been sent to all Chief Officers who have consulted with their management teams. The Head of Audit attends Departmental Management teams to discuss the audit coverage.

5 TIMETABLE

5.1. The Internal Audit Plan will be the basis of Internal Audit's programme of work throughout the 2023/24 financial year. The timing of individual audits is considered in consultation with the Departments where possible.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. The audit plan is completed within the provision of existing resources.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. The requirement to maintain an Internal Audit service is defined within legislation, some of which is outlined below:-

- Section 151 of the **Local Government Act 1972** requires each Local Authority to *make arrangements for the proper administration of their financial affairs and to ensure that one of their officers is made responsible for the administration of those affairs.*
- The **Accounts and Audit Regulations 2015**

3 (a) A relevant authority must ensure that it has a sound system of internal control which facilitates the effective exercise of its functions and the achievement of its aims and objectives; (b) ensures that the financial and operational management of the authority is effective; and (c) includes effective arrangements for the management of risk.

5 (1) A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.

7.2. The Director of Finance and Digital is the designated officer responsible for ensuring compliance with these pieces of legislation. The purpose of the Internal Audit Plan, Strategy and Charter is to:

- a) Provide Elected Members with an assurance as to the adequacy of the Authority's financial systems and system of internal audit.
- b) Provide Chief Officers with assurance that the financial dealings within their departments meet the standard required.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. Effective and timely auditing and advice enables Departments, Voluntary Organisations and Schools to provide quality services to their clients. These client groups are often vulnerable members of the community, e.g., elderly people, disabled people, asylum seekers and members of staff and voluntary organisations. The audit service helps to identify weak financial management and sometimes reflects weaknesses in other operational systems such as quality and monitoring. Audit, therefore, has a crucial role in ensuring that Council resources are used to enable a fair access to quality services.

9 CRIME AND DISORDER IMPLICATIONS

9.1. There are no specific crime and disorder implications arising from this report.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. The Audit Plan has a risk assessment formula built into the processing. This takes such aspects as expenditure, income, and previous audit findings into account and calculates the priority and the frequency of the audit.

10.2. In addition to the audit risk assessment formula the Corporate Risk Register is consulted during the production of the Draft Plan.

11. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

Appendix 1 - Merton's Draft Internal Audit Plan, Strategy and Charter 2023/24

12 BACKGROUND PAPERS

12.1. Papers held within the Internal Audit Service.

INTERNAL AUDIT PLAN, STRATEGY AND CHARTER 2023/24



Introduction

This document sets out the Council's Internal Audit Plan, Strategy and Charter for the year 2023/24.

The purpose of the Internal Audit Plan, Strategy and Charter is to:

- Ensure effective audit coverage and a mechanism to provide independent and objective overall assurance to Members, the Director of Finance and Digital and the Corporate Management Team (CMT).
- Optimise the use of audit resources available, given that they are limited.
- Add value and support senior management in providing effective control and identifying opportunities for improving value for money.
- Deliver an internal audit service that meets the requirements of the Accounts & Audit Regulations 2015.

Internal Audit's Role in the Risk, Internal Control and Assurance Framework

The Accounts and Audit Regulation 2015 requires an annual review of the effectiveness of the system of internal control to be reported to the Standards and General Purposes committee for consideration. The system of internal control is broader than just the work of the internal audit section and includes the framework of assurance covering how the risks to the authority are identified with effectively managed controls. Assurances are provided by a range of internal and external providers. The Head of Internal Audit will assess whether the overall framework of assurances is adequately designed and effectively operated through a plan of internal audit work.

In addition to the above, the Director of Finance and Digital has a statutory duty under Section 151 of the Local Government Act 1972, to establish a clear framework for the proper administration of the local authority's affairs. To perform that duty the Section 151 Officer relies on, amongst other things, the work of internal audit for reviewing systems of internal control, financial management and other assurance processes.

The standards for 'proper practice' in relation to internal audit are laid down in the Public Sector Internal Audit Standards. We continually ensure compliance with these professional standards these are reflected in our Charter attached.

An overall assurance on the adequacy of internal controls within the Council is provided in the Annual Report and the Annual Governance Statement.

To give such an assurance, a balanced programme of Internal Audit reviews is constructed each year. This Audit Plan contains elements of all audit work assessed by a "Risk Based" approach. There are many elements to this including undertaking systems reviews, regularity audits (e.g., schools), contract and computer audit, and an Annual Review of major financial systems such as Council Tax, the General

Ledger and debtors/creditors systems.

To contribute to the Annual Governance Statement all Internal Audit reports give an audit assurance (updated from 2023/24) as follows:

- Substantial Assurance
- Reasonable
- Limited Assurance
- No assurance

In addition, each recommendation is given a priority 1 (high), 2 (medium) or 3 (low). All recommendations are followed up by Internal Audit to ensure that they have been implemented.

Anti-Fraud and Corruption

The Internal Audit service will review areas of high fraud risk to recommend improvements in controls.

Related Documents

This document is one of a series that, together, constitute the policies of the Authority in relation to anti-fraud and corruption. The other documents are:

- Anti-Fraud and Corruption Strategy
- Anti-Money Laundering Policy
- Whistleblowing policy

Internal Audit's Role Providing Advice

Internal Audit can provide support and advice to managers, particularly regarding the interpretation and application of Council Policies and Procedures.

Internal Audit advice and recommendations are given without prejudice to the right of Internal Audit to review the relevant policies, procedures, and operations at a later date.

We provide advice, support, and training to schools. We provide a newsletter to schools and share best practice.

Protocol for Audit Reviews

For each audit review carried out, the responsible Head of Service/Assistant Director will be consulted in the scoping to ensure that the audit is appropriately focused on current key perceived risks and issues. A term of reference (Audit Brief) will be produced for each audit review and agreed to ensure the scope, objectives, approach, and timetable are understood and agreed.

Draft internal audit reports will be issued for discussion with the appropriate levels of

management which are normally set out in the terms of reference.

Final internal audit reports will be issued after the agreement of draft reports and contain completed management actions plans that will identify those responsible for implementation and timescales. The final reports will always be issued to the 'Lead Client' responsible for the area reviewed.

Implementation of Agreed Audit Recommendations

At the end of each audit review, an audit report will be produced containing agreed management actions to audit recommendations made. We will ensure these agreed actions to audit recommendations are fully implemented to ensure improvements to the Council's control environment and value for money. We will follow-up on all audit recommendations. We will get confirmation from officers responsible for implementation that required actions have taken place.

Developing the Annual Audit Plan 2023/24

A key focus of the Audit Plan for 2023/24 is to provide assurance on the core processes. In setting the plan, discussions take place with a range of officers including Directors and Assistant Directors, to identify key risk areas, as well as reviewing the Council's risk registers and using professional knowledge of changes or potential areas of risk.

Further significant changes in processes and policies are likely during the coming year due to legislative changes. Internal audit will continue to support this work and provide advice on the governance, risk management and control implications of the changes as well as undertaking audit reviews.

The Standard and General Purposes Committee will be kept informed of progress against the Annual Audit Plan and be asked to agree any significant changes during the year.

Lines of Defence

There are three lines of defence in place on controls in the Council.

- 1st line of defence is the day-to-day operational controls.
- 2nd line of defence is functions (such as finance, HR and Procurement).
- 3rd third line of defence is independent inspection such as Internal Audit or other assurance providers.

Internal Audit audits will look to ensure that managers in the 1st and 2nd line defence have sound controls and monitoring in place and that their management function is properly discharged. Given the limitations on internal audit resources there is an increasing need for more reliance to be placed by the Council's 2nd line of defence and audit will increasingly need to provide assurance on the effectiveness of those functions especially as budget constraints impact on these areas.

Annual Audit Plan 2023/24

Appendix A shows the detailed Annual Audit Plan and provides a summary of each review.

Risk rating has considered the following factors: Financial Cost, Change in Systems / Personnel, Reputation / Sensitivity / Political, Statutory & Legal / Health & Safety, Safeguarding, Potential for Fraud & Corruption, Strategic Objective/ Corporate Priority, Risk Register to frequency of audits.

Contingency has been provided for unplanned reactive work. This will be used to respond to emerging issues, risks and to have the capacity to respond to requests from senior managers. Timing of the audit review will be agreed with management during the planning process. There is however flexibility to respond for example to pressures on services audited and audit resource availability.

In addition to the Standards and General Purposes Committee receiving regular progress reports against the plan. The Head of Internal Audit will also attend Management Team meetings as required, to discuss audit coverage and outcomes.

Internal Audit Plan 2023/24

Environment, Civic Pride and Climate

Audits	Comments / Key risks / Focus
Climate Change	Review of Councils' strategies and progress against the accompanying action plans. review of progress against agreed milestones, implementation of strategy, compliance across departments with changes made to policies and funding.
Building Checks	Review statutory compliance - gas safety, legionella, asbestos, and check in terms of processes and assurance re meeting statutory requirements for Council owned buildings.
Air Quality Control	Review of the function and arrangement in place with funding – co-ordinated through Merton for 30 other London Boroughs.
Arboriculture Contract	Review of contract monitoring arrangements in place.
Watersport Centre	Review of the financial controls in place at the centre.

Housing and Sustainable Development

Audits	Comments/key risks/focus
Homelessness and Housing Registration Processes	Review of Councils arrangement for the Housing application process. Review of housing register. To include contract/agreement arrangements with providers for temporary accommodation. monitoring and oversight.

Adult Social Care, Integrated Care and Public Health

Audits	Comments / Key risks / Focus
Care Act Assessments for Adult Social Care	Audit to focus on the timeliness of Care Act assessments and evidence has been retained on Mosaic. New CQC assurance from April 2023.
Home Care Contracts	Request for audit input in June/July to provide assurance that processes required in specification / contract are adequate. All packages will be transferred to new providers.
Financial Assessments	Review of the procedures and processes in place and management oversight.

Children Lifelong Learning and Families

Audits	Comments / Key risks / Focus
Transitions from children to adult services	To review transition planning, identification of children requiring continued support, tracking, monitoring. transitions to ensure that, for those who will need help as an adult, a smooth transfer occurs between Children's Social Care and Adult Social Services. work with Education, Health and Care Plans (EHCP) and Pathway Plans so that young people have personalised input and control over the type of support they receive.
Schools PFI contract	To review the arrangements in place, for expiry contract management. Handover risk and opportunity assessment undertaken covering for example, contract conditions, assets, future provision.
Schools' assurance audits	To review governance, and financial management arrangements including contracts for a sample of schools.

Finance and Digital

Audits	Comments / Key risks / Focus
Medium term financial planning, Savings plans, Budget monitoring	To review the arrangements for MTFP, savings plans and budget monitoring and oversight
Corporate Procurement	A review of the procurement process and sample testing on expenditure to ensure compliance with Contract Standing Orders. Sample checking across departments, to include procurement planning.
Accounts Payable	Key Financial Audit – review controls in place for setting up creditors, authorisation and payment. Access level controls on the system.
Cash and Bank	Review of the process for setting up and monitoring direct debit payments and controls in place for cash received and completion of e returns.
Council Tax	Review of controls on the Council Tax system. Updates to standing date, collection, debts, refunds and write offs. (
Treasury Management	Review of the governance and management oversight on treasury management arrangements.
Household Support grant	Review of the adequacy and effectiveness of the control environment relating to the provision of Cost-of-Living support and distribution of Government funding.
Client Financial Affairs	Review of administration of scheme. Monitoring of arrangements in place to manage client assets.
Galpins Road	Bellwin Claim, review of process in place for cash payments made.
Duplicate Payment Testing - quarterly review	Quarterly payment data checks to identify any duplicate payments made. Queries checked by Transactional services.

Innovation and Change

Audits	Comments / Key risks / Focus
Information Governance	Review of the framework for Information Governance. Include Retention & Disposal of data, Records management, Information Sharing Agreements etc.
Control and monitoring of Agency staff	A review of the arrangements in place for the process for appointing agency staff, checking and sign off on timesheets and management oversight. (To include IR35 checks).
Shared Payroll/HR System (joint review with Merton and Kingston)	Key Financial System (Joint audit across Sutton, Merton and Kingston).

Grants/Annual Accounts

Audits	Comments / Key risks / Focus
MSJCB	Review of annual accounts.
Supporting Families grant	Monthly sample check on grant claims and on-going support and advice.
Signing off grant claims	To review grants as required
Annual Governance Statement	Annual review of the Councils governance arrangements
Follow ups	Follow up on audit actions to ensure timely implementation.

Charter and Strategy 2023-24

This Charter and Strategy sets out the purpose, authority, and responsibility of the Council's Internal Audit function, in accordance with the UK Public Sector Internal Audit Standards. It also sets out how the South West London Audit Partnership (SWLAP) will be developed and delivered in accordance with these standards.

The Charter and Strategy will be reviewed annually and presented to the Audit Committee¹ for approval.

Public Sector Internal Audit Standards

The UK Public Sector Internal Audit Standards (PSIAS), which came into effect from 1 April 2013, and were revised in April 2017, provide a consolidated approach across the whole of the public sector providing continuity, sound corporate governance and transparency.

The PSIAS are mandatory, and the Heads of Audit will report on compliance with the Standards as part of their Annual Internal Audit Report. An independent external quality assessment (EQA) review of SWLAP compliance with the Standards will be undertaken at least every five years, as required by the PSIAS, and will be supplemented by an annual self-assessment to ensure the SWLAP ongoing compliance with them.

The PSIAS require SWLAP to implement and maintain an 'Internal Audit Charter' for each partner council. The purpose of the Internal Audit Charter is to formally define the internal audit activity's purpose, authority and responsibility. This Charter will be reviewed on a regular basis and presented to the relevant audit committees for review and approval.

PURPOSE

Internal Audit is defined by the Institute of Internal Auditors' International Professional Practices Framework as "an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes".

In a local authority, internal audit provides independent and objective assurance to the organisation, its members, the senior management board (Directors Board in Wandsworth and Richmond's Shared Staffing Arrangement (SSA), Strategic Leadership Team at Kingston, Corporate Management Teams at Merton and Sutton), and in particular the Directors of Finance to help them discharge their responsibilities under s151 of the Local Government Act 1972, relating to the proper administration of the Council's financial affairs. For Achieving for Children (AfC), internal audit provides assurance to its Strategic Leadership Team and Audit and Risk Committee.

In addition, the Accounts and Audit Regulations 2015, Regulation 6 (1), requires that: "*A relevant body must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes taking into account public sector Internal audit standards and guidance*". Internal Audit proper practices is defined as compliance with the Public Sector Internal Audit Standards and the CIPFA application note.

Within an organisation, there are 3 lines of defence in place to effect controls. The first line of defence is the day to day operational controls, the second is the management controls (budget

& performance monitoring, trend analysis) and the third is independent inspection, both internal & external.

Internal audit forms part of the third line of defence and provides assurance on the effectiveness of governance arrangements, risk management and internal controls, and this includes an assessment of the effectiveness of the first two lines of defence. Internal audit can place reliance on assurances provided by third parties, although depending on the source, this may require some independent validation.

Mission and Core Principles

The mandatory elements of the International Professional Practices Framework (IPPF) for Internal Audit are incorporated into the PSIAS and include an overarching 'Mission' for Internal Audit services '...to enhance and protect organisational value by providing risk-based and objective assurance, advice and insight'.

The 'Core Principles' that underpin delivery of the IPPF mission require internal audit functions to:

- Demonstrate integrity.
- Be objective and free from undue influence (independent)
- Align with the strategies, objectives and risks of the organisation.
- Be appropriately positioned and adequately resourced.
- Demonstrate quality and continuous improvement.
- Communicate effectively.
- Provide risk-based assurance.
- Be insightful, proactive, and future-focused; and
- Promote organisational improvement.

AUTHORITY and ACCESS TO RECORDS

In carrying out their duties and responsibilities, Internal Audit shall be entitled to have full and unrestricted access to all of the Council's activities, records, assets, cash, stores, property, personnel and information (both manual or computerised) which they consider to be necessary to properly fulfil its function. Internal audit may enter Council property and has unrestricted access to all locations and officers where necessary on demand and without prior notice. Council staff are expected to provide every possible assistance to facilitate the progress of audits.

Access rights also apply to other third parties / organisations as permitted through contract and partnering arrangements. Internal audit has the authority to obtain such information and explanations as it considers necessary to fulfil its responsibilities.

All records, documentation and information accessed in the course of undertaking internal audit activities shall be used solely for that purpose. All internal audit staff are responsible and accountable for maintaining the confidentiality of the information they receive in the course of their work. Any information shared will be shared in accordance with the Shared Service Data Sharing Protocol.

RESPONSIBILITY

The Audit Committees for each of the partner councils fulfil the functions of 'The Board'; and the Corporate Management Teams for each council will fulfil the functions of 'Senior Management', as defined by PSIAS.

The responsibility for maintaining an adequate and effective system of internal audit within each Council lies with the authority's Chief Finance Officer (S151 Officer).

The Head of Internal Audit is required to provide the Council, via the S151 officer and the Audit Committee, with an annual opinion on the adequacy and effectiveness of the internal control system for the whole council. To achieve this, the internal audit function has the following objectives:

- To provide a quality, independent and objective audit service that effectively meets the Council's needs, adds value, improves processes and helps protect public resources.
- To provide assurance that the Council's operations are being conducted in accordance with legislation, and relevant external and internal regulations, policies and procedures.
- To provide assurance that significant risks to the Council's objectives are being managed.
- To support management through the provision of advice and guidance on the overall control environment, and where new systems and / or procedures are implemented.
- To provide independent assurance over the corporate governance arrangements in place across the Council
- To promote an anti-fraud, anti-bribery and anti-corruption culture within the Council to aid the prevention and detection of fraud. The corporate fraud function will be undertaken by the South West London Fraud Partnership (SWLFP) but will be overseen by the Head of Internal Audit (see Counter Fraud below).
- To undertake investigations where there is suspected fraud, bribery and corruption. This function will be undertaken by the SWLFP but will be overseen by the Head of Internal Audit.

These audit responsibilities are exercised with the aim of assisting the Council to deliver services in the most efficient and effective manner possible.

There are inherent limitations in any system of internal control and thus errors or irregularities may occur and not be detected by internal audit's work. When carrying out its work, internal audit will provide management with comments and report on breakdowns, failures or weaknesses of internal control systems together with recommendations for remedial action. However, internal audit cannot absolve line management of responsibility for internal controls.

Where appropriate, internal audit will undertake audit or consulting work for the benefit of the Council and / or organisations that are wholly owned by the Council (such as Achieving for Children). Where services are provided to bodies separate from the Council, this will be subject to approval by the Shared Service Board and will be provided under the terms of a Service Level Agreement (SLA).

Internal audit may also provide assurance to the Council on third party operations where this is provided for as part of the agreement or contract.

The Heads of Audit considers relying on the work of other internal or external assurance and consulting service providers when forming their annual opinion.

Counter Fraud

Internal Audit's planned work includes evaluating controls for their effectiveness in preventing or detecting fraud. Managing the risk of fraud is the responsibility of management however Internal Audit will consider the risks and exposures which may allow fraud or corruption to occur.

Fraud work is undertaken by the South West London Fraud Partnership which is a five Borough Shared Service led by the SSA. This service is overseen by the Shared Service Board which includes the Directors of Finance from each of the partners or their delegated representatives. Work will be undertaken in accordance with an agreed Fraud Plan which includes a mix of proactive and reactive fraud work in the following main areas:

- Housing tenancy
- Internal fraud
- Procurement
- Business Rates
- Council Tax Reduction
- Blue Badge
- Social Care
- Schools

REPORTING

The UK Public Sector Internal Audit Standards require the Head of Internal Audit to report directly to the top of the organisation and those charged with governance. This will be achieved as follows:

- The Audit Charter will be agreed with the senior management team (Directors Board at the SSA, Corporate Management Teams at Sutton and Merton, and Strategic Leadership Team at Kingston)
- The annual audit plan will be compiled by the Head of Internal Audit following discussions with senior managers at their Directorate Management Team (DMT) meetings and sign off by the senior management team (Directors Board at the SSA, Corporate Management Teams at Sutton and Merton, and Strategic Leadership Team at Kingston and AfC). It will then be considered by the Shared Service Board who will agree the number of audit days to be commissioned each year, and the resource required to deliver this. This will then be reported to the Audit Committee for approval.
- The internal audit budget is agreed each year by the Shared Service Board.
- Performance against the annual internal audit plan, together with any significant risk exposures and control issues arising, will be reported to the Shared Service Board on a quarterly basis. Progress reports will be made to Directorate Management Teams on a quarterly basis and to Audit Committee at least twice a year.
- Changes to the plan during the year will be reported to the Shared Service Board quarterly and where significant, to Audit Committee
- Any significant consultancy activity not already included in the risk-based plan, and which might affect the level of assurance work undertaken will be reported to the Audit Committee
- The annual opinion report will be presented to Audit Committee annually.
- Any instances of non-conformance with the Public Sector Internal Audit Standards will be reported to the Shared Service Board and Audit Committee and will be included in the Head of Internal Audit's annual report. Any significant failings will be included in the Annual Governance Statement
- Any external review of the internal audit function will be agreed by, and reported to the Shared Service Board and the Audit Committee

INDEPENDENCE

The Heads of Internal Audit have full and unrestricted access to the following (where relevant):

- The Director of Finance/Resources/Finance and Digital/Corporate and Commercial (S151 officer)
- Chief Executive
- Chair of the Audit Committee
- The Council's Monitoring Officer
- The Council's General Counsel (RBK)
- All members of the senior management team (Directors Board at the SSA, Corporate Management teams at Sutton and Merton, and Strategic Leadership Team at Kingston and AfC)

The Head of the SWLAP performs the statutory role of Head of Internal Audit for RB Kingston and AfC and is line managed by the Assistant Director of Resources (Financial Services) (SSA), who is responsible for carrying out the Head of the SWLAP's annual appraisal. The Director of Corporate and Commercial and / or the Assistant Director Governance and Law, Kingston; Strategic Director of Resources (Sutton) and Managing Director - Legal Services (Merton), can participate in this appraisal review. The standards require that the Chief Executive, SSA, reviews, provides feedback and signs off this appraisal, also that the Chair of the Audit Committee must give feedback.

The Deputy Head of the SWLAP performs the statutory role of Head of Internal Audit for LB Merton and LB Sutton and is line managed by the Head of the SWLAP who is responsible for carrying out the annual appraisal. The Strategic Director of Resources (Sutton), Director of Finance and Digital (Merton), Managing Director- Legal Services (Merton) and the Chairs of the Audit and Governance Committees (Sutton) and Standards and General Purposes Committee (Merton) can participate in this appraisal review.

The Assistant Director of Resources (Financial Services) performs the statutory Head of Internal Audit role for the LB of Wandsworth and Richmond and is line managed by the Director of Resources who will undertake the annual appraisal and this will be signed off by the SSA's Chief Executive.

All staff (including agency and contract staff) in the Internal Audit Partnership are required to make annual declarations of any potential conflicts of interest and adhere to confidentiality requirements. As far as resources permit, auditor rotation will be implemented to ensure auditors' objectivity is not impaired.

Internal audit must ensure that it is not involved in the design, installation and operation of controls so as to compromise its independence and objectivity. Internal Audit will however offer advice on the design of new internal controls in accordance with best practice. Where Internal Audit do provide consultancy services, any audit staff involved in this consulting activity will not be involved in the audit of that area for at least 12 months.

Accountability for the response to the advice and recommendations of Internal Audit lies with management. Managers must either accept and implement the advice and recommendations, or formally reject them accepting responsibility and accountability for doing so.

The Heads of Audit will confirm to the board, at least annually, the organisational independence of the internal audit activity.

Non-audit Areas

The PSIAS require the Internal Audit Charter to identify any 'Non-audit' areas that fall under the remit of the Head of Audit as Internal Audit must remain independent of the activities that it audits

to enable auditors to make impartial and effective professional judgements and recommendations.

Within the SSA, the Assistant Director of Resources (Financial Services), who covers the Statutory Head of Audit role for Richmond and Wandsworth, has operational responsibilities for: Health & Safety, Procurement and Pensions and for Risk Management and Insurance.

Since these roles may involve establishing and maintaining the control environment, these functions will be audited independently by Mazars or other such appropriately qualified persons.

EXTERNAL AUDITORS

Internal Audit will consider all requests from each partner council's external auditors for access to any information, files or working papers obtained or prepared during audit work that has been finalised, which external audit would need to discharge their responsibilities.

DUE PROFESSIONAL CARE

The internal audit function will adhere to / comply with the following:

- Institute of Internal Auditor's International Code of Ethics
- Seven Principles of Public Life (Nolan Principles)
- UK Public Sector Internal Audit Standards
- All Council policies and procedures
- All legislation

All audit work is subject to in house quality control procedures whereby each audit review is subject to senior peer review. The audit service will be subject to an annual self-assessment to assess its compliance with the UK Public Sector Internal Audit Standards and an external review and assessment at least once every 5 years by a suitably qualified, independent assessor. An external review was last completed in 2018.

The Head of Internal Audit is required to hold a relevant professional qualification (CCAB or CMIIA) and be suitably experienced. All staff are required to maintain a programme of Continuous Professional development (CPD) to ensure auditors maintain and enhance their knowledge, skills and audit competencies.

INTERNAL AUDIT STRATEGY

Internal Audit Objectives

Internal Audit will provide independent and objective assurance to the organisation, its Members, senior management and in particular to the Directors of Finance/Resources to support them in discharging their responsibilities under S151 of the Local Government Act 1972, relating to the proper administration of the Council's financial affairs.

It is the Council's intention to provide a best practice, cost efficient internal audit service through the SWLAP which adds value to the partner organisation's it serves.

Internal Audit Remit

The internal audit service is an assurance function that primarily provides an independent and objective opinion on the degree to which the internal control environment supports and promotes the achievement of the Council's objectives. The work undertaken by Internal Audit is a key part of the Council's Annual Governance Statement (AGS) process and the annual audit opinion forms part of the AGS.

Under the direction of a suitably qualified and experienced Head of Internal Audit, Internal Audit will:

- Provide management and Members with an independent, objective assurance and consulting activity designed to add value and improve the Council's operations.
- Assist the Audit Committees to reinforce the importance of effective corporate governance and ensure internal control improvements are delivered.
- Drive organisational change to improve processes and service performance.
- Work with other internal stakeholders and customers to review and recommend improvements to internal control and governance arrangements in accordance with regulatory and statutory requirements.
- Work closely with other assurance providers to share information and provide a value for money assurance service and.
- Participate in local and national bodies and working groups to influence agendas and developments within the profession.

Internal Audit will ensure that it is not involved in the design, installation and operation of controls so as to compromise its independence and objectivity. Internal Audit will however offer advice on the design of new internal controls in accordance with best practice. This type of work is key for our service in ensuring that it works closely with the partner organisations to provide proactive advice and guidance. The ability to bring in knowledge and experience from our other partners is an important way for the service to add value.

Service delivery

The Internal Audit service will be delivered by the South West London Audit Partnership (SWLAP) which is the 5-borough shared internal audit service hosted by the SSA providing internal audit services to LB Wandsworth, LB Richmond, RB Kingston, LB Merton and LB Sutton. This relationship is governed in law through a formal Collaboration Agreement. The arrangement also includes the provision of Internal Audit to Achieving for Children (AfC), the community interest company created by LB Richmond and RB Kingston to provide their children's services.

The SWLAP is an in-house team with contract auditors or agency staff used as required to supplement the in-house skills and experience. The SWLAP are part of the Croydon Framework contract with Mazars allowing the service to buy in additional audit resource and expertise. Resources can also be sourced through the CCAS framework.

One of the key objectives of the shared service is the provision of an efficient and cost-effective service to its partners. This is achieved through the review and standardization of audit methodology which takes on board best practice, ensuring staff are properly trained and developed, developing and delivering shared audits across more than one partner and reviewing and restructuring the service where needed to drive out cost savings. Key objectives and performance targets are included within the annual Service Plan.

Quarterly performance reports to the Shared Service Board will provide updates on any staffing changes, issues such as sickness absence levels and whether there is any surplus or shortfall in resources (significant issues will be reported to the Audit Committee at LB Wandsworth, Audit and Risk Committee at AfC, Audit and Governance Committee at LB Sutton, Audit, Standards and Statutory Accounts Committee at LB Richmond, Standards and

General Purposes Committee at LB Merton and Audit, Governance and Standards Committee at RB Kingston).

The statutory Head of Internal Audit roles across the 5 Borough's will be undertaken by the Assistant Director of Resources (Financial Services), Head, Deputy Head of the SWLAP. Unless amended and agreed by the Shared Service Board, the Head of the SWLAP is the statutory Head of Internal Audit for RB Kingston and AfC. The Deputy Head of the SWLAP is the statutory Head of Internal Audit for LB Merton and LB Sutton. The Assistant Director of Resources (Financial Services) will take the lead as the statutory Head of Internal Audit for LB Wandsworth and LB Richmond for the SWLAP. All of these officers will support each other in the delivery of these roles.

The Corporate Fraud service will be delivered by the South West London Fraud Partnership, led by the SSA. This is a shared service which is overseen by the Shared Service Board.

Key Performance Targets

Key Performance Targets are established and monitored on a quarterly basis by the Shared Service Board. A Service Plan and Risk Register have also been established and are reported to and monitored by the Shared Service Board.

Bi-monthly reports on corporate fraud work undertaken by the SWLFP will be provided to the Head of Internal Audit and 6 monthly reports made to Audit Committee.

Audit Planning

The Head of Audit has responsibility for preparing a balanced internal audit plan, ensuring audit maintains its independence, ensuring independence and sufficient coverage to support the annual opinion.

Each year, an audit plan will be discussed and agreed by the respective Directors, Senior Leadership Teams and Audit Committees which will be based on the following:

- Issues identified in the Annual Governance Statement and Action Plan
- Discussions with the Council's Departmental Management teams (DMT).
- Discussions with Council's Corporate Management teams (CMT) if required.
- Discussions with the Shared Service Board.
- Review of Corporate and Service Risk Registers/ Risk Returns
- Outputs from other assurance providers
- Outputs from previous audit or fraud assignments
- Requirements as agreed with External Audit

The Head of Internal Audit will ensure attendance at all DMT meetings as part of the annual planning process to ensure that management views and suggestions are taken into account when producing the audit plan. Key to ensuring that the service adds value is maintaining a dynamic audit plan which responds to changes in the organisation's risk profile. This is managed through quarterly reporting and attendance at DMT meetings during the year to discuss the audit plan and departmental risks.

The Internal Audit Plans are based on the following:

- **Governance Arrangements:** Internal Audit have a key role in assessing the effectiveness of governance arrangements by comparison with principles contained in the CIPFA/SOLACE Governance Framework. A number of audits will support this assessment and will take account of any emerging governance arrangements.

- **Transformation:** Considering the significant financial challenges facing the public sector and the all the council's ambitions, the annual audit plan will need to be flexible enough to respond to emerging issues and risks from change.
- **Risk Based Systems Audit:** Audits of systems, processes or tasks where the internal controls are identified, evaluated and confirmed through a risk assessment process. The internal controls depending on the risk assessment are tested to confirm that they are operating correctly. The selection of work in this category is driven by the AGS, Corporate Risk Registers, Departments' own risk processes and will increasingly include work in areas where the Council services are delivered in partnership with other organisations.
- **Value for money:** This is an integral part of our risk-based audit approach, in particular being alert to opportunities and reporting issues and agreed management actions.
- **Key Financial Systems:** The effectiveness of controls and management of risks within key financial systems remain a core part of our audit work. We continue to develop our audit approach to give greater assurance.
- **Probity Audit (schools and other establishments):** Audit of a discrete unit. Compliance with legislation, regulation, policies, procedures or best practice is confirmed. For schools this includes assessment against the Schools Financial Value Standard.
- **Computer Audit:** Information technology is fundamental to the delivery of all the council's services and is an area of rapid change. Due to this high risk, providing assurance on the adequacy of electronic systems and controls is a key part of our annual audit plan.
- **Contract Audit:** Changing approaches to procurement and contract management are a key part of delivering improved services. This also brings additional inherent risks that need to be managed. Audits of the procedures and processes for the letting and monitoring of contracts, including reviews of completed and current contracts.
- **Special Projects:** Specific areas of Council business which may be subject to change through the development and implementation of new systems, or delivery models, where poor value for money or failing service standards have been identified or where there are new or significant risks will be targeted for review as part of the audit planning process.
- **Risk Management:** Risk management support is provided to some of the partners to facilitate the review and implementation of risk management strategies and to take the lead in compiling the Annual Governance Statement. Where this function is provided by the SWLAP, an independent review is undertaken by the Internal Audit contractor under the Croydon Framework contract to ensure independence. This review will assess the risk management arrangements, including risk strategy, adequacy of strategic and operational risk registers and the extent to which it is embedded.
- **Partnerships:** Councils are increasingly operating and delivering services jointly through partnerships. This brings risks and opportunities to councils and the delivery of services. We will review key partnerships.
- **Provision of advice and support:** Increasingly Internal Audit are involved in providing advice and support on an ad hoc basis. This may involve the provision of general advice on risks and controls or more detailed work with specific business areas where there are significant changes to systems and processes or decisions which require independent due diligence. The Heads of Audit also sit on boards, such as Information governance boards and working groups, corporate governance and risk management.
- **Fraud, Corruption and Financial Irregularities:** The SWLFP will investigate fraud and irregularity arising during the year and may work alongside officers from the SLWAP on cases particularly where there are significant control issues requiring audit

and fraud input. The audit plan will also include a programme of pro-active fraud checks.

- **Follow up work:** Follow up work on outstanding audit recommendations will be regularly undertaken. Progress will be reported to Audit Committee and where progress is unsatisfactory, or management fail to provide a satisfactory response to follow up requests this will be reported to the relevant Assistant Director, Director or Audit Committee where required.

Policies and Procedures

All audit work will be undertaken in accordance with Council regulations and professional standards. There is an Audit Manual and Internal Audit Protocol which sets out the audit process for staff to adhere to, including quality control procedures.

Quality Assurance and Improvement Programme

The Head of the South West London Audit Partnership continuously reviews the quality and effectiveness of all aspects of the Internal Audit service. This includes:

- Establishing procedures that comply with the Public Sector Internal Audit Standards
- Maintaining a professional audit team with sufficient knowledge, skills and experience to carry out the Audit Plan. This includes undertaking appraisals and ensuring that training needs are identified and addressed.
- Undertaking, reviewing and acting on client satisfaction surveys and feedback
- Reviewing audit methodology and benchmarking against best practice.
- Independent review of all audit assignments undertaken.

In line with the Public Sector Internal Audit Standards, Internal Audit has a quality and improvement programme in place. The results of the quality and assurance programme and progress against any improvement plans will be reported in the Annual reports to each Borough's Audit Committees

Committee: Standards and General Purposes Committee **Date: 9 March 2023**

Wards: All Wards

Subject: Whistleblowing and Anti Money Laundering policies

Lead officer: Roger Kershaw Interim Executive Director of Finance and Digital
Lead member: Mike Blunt Chair of Standards and General Purposes Committee

Contact officer: Margaret Culleton - Head of Internal Audit
margaret.culleton@merton.gov.uk

Recommendation:

To Approve: The revised Whistleblowing and Anti Money Laundering policies

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report provides an update on a review of the arrangements in place for Whistleblowing and to minimise the Council's risk of exposure to Money Laundering, as a support to the Anti-fraud and Anti-corruption Strategy.
- 1.2 The regular review of these policies ensures that they continue to be fit for purpose and are aligned to both legislative changes and operational changes to this Council's service delivery. The Anti-fraud and Anti-corruption Strategy sets out the Council's position for preventing fraud and corruption.
- 1.3 This review confirms the Councils' arrangements for Whistleblowing and Money Laundering Prevention measures are currently proportionate to the risks associated and the prevention of money laundering and comply with Government Guidance.
- 1.4 Within the Council, the responsibility to control the risk of fraud and corruption occurring resides at all levels of the organisation. It does not rest solely with assurance functions, but in all business units and corporate functions.

2 WHISTLEBLOWING

- 2.1 The Council's whistleblowing policy has always encouraged staff to raise concerns and assurance given that these would be treated in confidence. The policy has clearly stated the action that is taken when a whistleblowing allegation is received.
- 2.2 A review has been carried out on policy against other public sector bodies and guidance from the whistleblowing commission. This has found that the policy is robust and therefore only the following minor changes have been made in the following paragraphs: -

- 4.3 Example of complaints that count as whistleblowing
- 4.4 Example of issues not covered by the policy
- 7.2 initial assessment
- 7.3 further details provided on how the Council will respond

3 ANTI MONEY LAUNDERING

- 3.1 Money laundering is defined as the process of moving illegally acquired cash through financial systems so that it appears to be from a legitimate source. It is interpreted very widely and includes possessing, or in any way dealing with, or concealing, the proceeds of any crime.
- 3.2 The Money Laundering Regulations has placed an enhanced duty upon organisations to identify their potential risk to Money Laundering, to have clear, documented control processes in place to help prevent exposure, and to have defined reporting mechanisms in place should Money Laundering be suspected. These arrangements need to be supported by guidance and training.
- 3.3 Although Anti-Money Laundering legislation does not specifically cover local authorities as defined by organisations in the regulatory sector, it is implied best practice that we assess the risk and put sufficient controls in place to prevent the Council from being used for money laundering.
- 3.4 The Council’s arrangements for addressing Money Laundering are incorporated within a policy, attached at Appendix B. The policy outlines the arrangements in place that will:
 - Assist with ensuring that suitable policies, procedures and controls exist to mitigate the risk of money laundering and terrorist financing
 - Support the application of a risk management approach to detecting and preventing risk of money laundering and terrorist financing to help inform the level of risk associated with particular business relationships and transactions in order to enable appropriate risk-based decisions about clients and retainers.
 - Ensure all necessary steps to communicate this code and train staff in relation to identification and prevention of money laundering offences.
- 3.5 **Changes to the existing policy:** The policy has been reviewed to ensure compliance with the organisational duties required under the Money Laundering Regulations and has been updated with a new requirement to complete regular, documented, risk assessments of the organisation’s exposure to money laundering and terrorist financing. Where necessary specific training will be provided in areas at high risk of money laundering.

Risk Assessment

- 3.6 In identifying ownership, the 2019 Regulations introduced an explicit Customer

Due Diligence (CDD) requirement for relevant persons to take reasonable measures to understand the ownership and control structure of their customers. Relevant persons must also take reasonable measures to verify the identity of senior managing officials when the beneficial owner of a body corporate cannot be identified.

3.8 To comply with the requirements under the Money Laundering Regulations, there is a need for a regular, documented, risk assessments (regulation 18) to identify and assess the Councils risk of money laundering and terrorist financing relating to the following:

- customer due diligence measures and ongoing monitoring.
- reporting.
- record-keeping.
- internal control.
- risk assessment and management; and
- the monitoring and management of compliance with, and the internal communication of such policies and procedures.

3.9 In order to minimise the risk of money laundering when dealing in high-risk areas, or where customers or clients meet any of the criteria below, an Identification Procedure must be followed before any business is undertaken with that organisation or person

- Undertake a one-off transaction involving payment by or to the client of 15,000 Euro (approximately £13,500) or more.
- Undertake a series of linked one-off transactions involving total payment by or to the client of 15,000 Euro (approximately £13,500) or more.
- It is known or suspected that a one-off transaction (or a series of them) involves money laundering.

3.10 These arrangements will be regularly monitored and improved if required, and this policy will be subject to a full review at least every three years

4. Alternative options

4.1 None for the purposes of this report.

5 Consultation undertaken or proposed

5.1 n/a

6 Timetable

6.1. None for the purposes of this report.

7 Financial, resource and property implications

7.1 No additional financial implications.

8 Legal and statutory implications

8.1 This report covers the following regulations and legislation

- Public Interest Disclosure Act 2018
- Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017
- Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (the 2019 Regulations)

9. Human rights, equalities and community cohesion implications

9.1 n/a

10 Crime and disorder implications

10.1 n/a

11 Risk management and health and safety implications

11.1 n/a

APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix A – Whistleblowing policy
- Appendix B- Anti Money Laundering policy

Whistleblowing

Policy and Procedure

Date of implementation: April 2023

Date of next review: April 2026

London Borough of Merton

Whistleblowing Policy

1 Policy Statement

- 1.1 The London Borough of Merton is committed to achieving the highest possible standards of service, including honesty, openness and accountability, and recognises that employees have an important role to play in achieving this goal.
- 1.2 All of us at one time or another has concerns about what is happening at work. Usually, these concerns are easily resolved. However, when you are troubled about something that involves a danger to the public or colleagues, misconduct or malpractice or wrongdoing which affects others, it can be difficult to know what to do.
- 1.3 You may be worried about raising such an issue, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Council. You may have said something but found that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what, if anything, to do next.
- 1.4 The London Borough of Merton has introduced this policy to enable everyone to blow the whistle safely so that such issues are raised at an early stage and in the right way. We know from experience that to be successful we must all try to deal with issues on their merits. The Council welcomes your genuine concerns and is committed to dealing responsibly, openly and professionally with them. Without your help, we cannot deliver a safe service and protect the interests of the public, staff and the Council. If you are worried, we would rather you raised it when it is just a concern than to wait for proof.
- 1.5 The Whistleblowing Policy is for use if you have a concern about danger or illegality that has a public interest aspect to it, usually because it threatens others (e.g., customers, stakeholders or the public). A grievance or private complaint is, by contract, a dispute about your own employment position and has no additional public interest dimensions. If you are aggrieved about issues relating to your employment, such as your working environment or terms and conditions of employment, please use the Council's Grievance policy.

2 Purpose of the policy

- 2.1 The purpose is as follows:
 - To encourage you to feel confident in raising concerns.
 - To enable you to confidentially raise concerns within the Council environment.

- To ensure you receive a response to your concerns and if not satisfied you are aware of how to pursue them.
- To reassure you that you will be protected from reprisals or victimisation where you reasonably believe the disclosure to be made in the public interest.

This Whistleblowing procedure is primarily for concerns where the interests of others or of the Council are at risk.

3 Who is covered by this procedure

- 3.1 Council employees including schools, agency staff, trainees, apprentices, volunteers, consultants and interim managers, or any self-employed staff employed on council business.
- 3.2 The policy applies to contractors working for the Council and partner agencies. It also covers any suppliers and those providing services under a contract or in partnership with the Council in their own premises.

4 Definitions

- 4.1 The Council has a range of policies and procedures, which deal with standards of behaviour at work, for example, discipline, grievance, discrimination, and recruitment and selection. Staff are encouraged to use these procedures when appropriate.
- 4.2 This policy is a means to deal with serious or sensitive concerns about matters such as the following:
- Fraud or financial irregularity
 - Corruption, bribery or blackmail
 - Failure to comply with legal or regulatory duty or obligation.
 - Malpractice or abuse of a client including improper discrimination or relationships with clients
 - Disclosures related to miscarriages of justice.
 - Dangerous procedures risking Health and Safety, including risk to the public as well as other employees.
 - Damage to the environment.
 - Other unethical conduct, including deliberate concealment of information relating to the above
 - The inappropriate use of the Council's standing orders and financial procedures.
 - Conduct which is a criminal offence or a breach of law.

Complaints that count as whistleblowing

- 4.3 You're protected by law if you report any of the following:
- a criminal offence, for example fraud
 - someone's health and safety is in danger

- risk or actual damage to the environment
- a miscarriage of justice
- the council is breaking the law
- the complainant believes someone is covering up wrongdoing.

4.4 The policy does NOT apply to the following:

Relationships between employees, their managers and the Council for which grievance and other dispute procedures are more appropriate.

- Concerns or complaints by members of the public to which the Corporate Complaints Procedure would apply.
- Personal grievances (for example bullying, harassment, discrimination) are not covered by whistleblowing law, unless your particular case is in the public interest.
- Concerns or complaints about the behaviour of Members of the Council (Councillors) to which the Member Code of Conduct would apply.

5 What protection do you have?

5.1 The Public Interest Disclosure Act provides workers with protection from dismissal or other damage as a result of making a disclosure of information in the public interest about wrongdoing at work. Such disclosures are protected if they are done according to the Act's provisions. Disclosures may be made to the employer, prescribed regulatory bodies or on a wider basis to the Police. The Act's protection is strongest where workers raise matters with their employers.

5.2 The Council is committed to adhering to this Act and to provisions contained within this Policy. If you raise a genuine concern in accordance with this Policy, you will not be at risk of losing your job or suffering any form of retribution as a result. The Council will not tolerate any reprisal against an employee because he or she has raised a concern under the Code and will treat any such reprisal as a disciplinary matter.

5.3 Provided you are acting honestly; it does not matter if you are mistaken or if there is an innocent explanation for your concerns. You will not be asked to provide proof. Of course, this assurance is not extended to someone who maliciously raises a matter they know is untrue. Disciplinary action will be taken against employees who knowingly make false allegations.

5.4 Giving out information about third parties to whom the Council owes a duty of confidence may not be protected under the Public Interest Disclosure Act. This may lead to disciplinary action. If you are in any doubt, you should seek advice from your manager, union or legal.

Raising unfounded malicious concerns

- 5.5 You are encouraged to come forward in good faith with genuine concerns with the knowledge they will be taken seriously. If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. However, when it appears that there are clear grounds for suggesting that you may have acted frivolously, maliciously or vexatiously, this will be taken seriously and may constitute a disciplinary offence.

Harassment or Victimisation

- 5.6 The Council is committed to good practice and high standards and wants to be supportive of employees.
- 5.7 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you provide a service.
- 5.8 The Council will not tolerate any harassment or victimisation (including informal pressure) and will take appropriate action to protect you when you raise a concern.

6 What action should *you* take?

- 6.1 The London Borough of Merton encourages you to raise the matter internally in the first instance. This allows staff and those in positions of responsibility and authority the opportunity to right the wrong and give an explanation for the behaviour or activity.
- 6.2 Where you make a disclosure, you are encouraged to give details of your identity. Anonymous disclosures are more difficult to investigate.
- 6.3 As a first step, you should normally raise concerns with your line manager, Head of Service or Director. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If the circumstances make contacting a line manager not appropriate, then you can use the Whistleblowing Hotline 020 8871 8383.
- 6.4 Concerns made in writing should set out the background and history of the concern, giving names, dates and places where possible and the reason why there are particular concerns about the situation. The earlier the concern is expressed, the easier it is for someone to take action.
- 6.5 If you need advice and guidance on how matters of concern may be pursued, this can be obtained from Departmental HR Managers, or the Shared Internal Audit service.
- 6.6 If you are not in a formal line management relationship because of your employment relationship, e.g., agency staff or contractors, you should first discuss your concerns with a relevant colleague or manager within the service.

7 How will the Council respond?

- 7.1 The individual who receives the information or allegation will assemble the information made available to them. The details of the allegation are then immediately passed on to the Head of Internal Audit in order that it can be included on the central Whistleblowing register.
- 7.2 An assessment is then undertaken to establish whether the allegation falls within the remit of the whistleblowing policy. If it is considered that the concerns are more appropriately dealt with under other HR procedures, these will be passed to HR to consider. The outcome of this initial assessment will be provided to the individual to confirm the action taken. In all cases the concerns are logged onto a whistleblowing register with the decision.
- 7.3 Where a concern has met the whistleblowing threshold an appropriate investigating officer is then appointed, dependent on the nature of the allegation. The investigating officer(s) will carry out a preliminary investigation. This will seek to establish the facts of the matter and assess whether the concern has foundation and can be resolved internally. The initial assessment may identify the need to involve third parties to provide further information, advice or assistance. This could involve for example members of staff, the Internal Audit service, external audit, legal or HR advisors, or the police. Concerns or allegations, which fall within the scope of specific procedures (e.g., child protection, Health and Safety or discrimination issues), will normally be referred for consideration under those procedures. It may be decided to employ an outside firm to undertake the investigation, or it may be passed to external audit to investigate, depending on the nature of the allegation.
- 7.4 Fraud allegations will be passed to the South West London Fraud Partnership (SWLFP) to carry out the investigation.
- 7.5 Records will be kept of work undertaken and actions taken throughout the investigation. The investigating officer(s) will consider how best to report the findings and what if any corrective action needs to be taken. This may include some form of disciplinary action or third-party referral such as the police.
- 7.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved, and the clarity of the information provided. If necessary, further information will be sought from you as part of the investigation process. If you are a Council employee, and the investigating officer has invited you to attend a meeting, you will have the right to be accompanied. This should be a representative of a recognised trade union, or a work colleague who is not involved in the area of work to which the concern relates.
- 7.7 The Council will take steps to minimise any difficulties that you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will advise on the procedure.

- 7.8 We will keep a confidential record of your concern. This will be held in accordance with relevant data protection legislation.
- 7.9 Whenever possible, we will give you feedback on the outcome of any investigation. Please note, however, that we may not be able to tell you about the precise actions we take where this would infringe a duty of confidence we owe to another person.

8 Confidentiality

- 8.1 Wherever possible the London Borough of Merton seeks to respect the confidentiality and anonymity of the Whistleblower and will as far as possible protect you from reprisals. The Council will do its best to protect your identity when you raise a concern and do not want your name disclosed. However, it must be appreciated that the investigation process may reveal the source of the information and a statement by you may be required as part of the evidence in criminal proceedings or Employment Tribunals.
- 8.2 The Council will endeavour to ensure your identity will not be disclosed to third parties without a court order.
- 8.3 Where the procedure allows a matter to be taken outside the Council, you should not disclose confidential information unless the information relates to the matter under investigation and until the internal procedures have been exhausted. No confidential information shall be disclosed externally in a frivolous or vexatious manner.

9 Support for Employees

- 9.1 It is recognised that raising concerns can be difficult and stressful. Advice and Support is available via an employee's line manager, Departmental Human Resources or Trade Union representative. It must be recognised that employees who are subject to investigation following concerns being raised will also be entitled to support from the same sources, although not from the same individuals.
- 9.2 The Council provides Employee Assistance Programme (EAP) for members of staff which can provide support including regarding employment issues, consumer rights. Contact details are a free 24 Hour Confidential Helpline: 0800 030 5182. Information can be found at <https://healthassuredeap.co.uk/>. The login is **Merton** and the password is **EAP**.
- 9.3 The Council will take steps to minimise any difficulties which may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 9.4 Help will be provided to you in order to minimise any difficulties which you may experience. This may include advice on giving evidence if needed. Meetings may, if necessary be arranged off-site with you and with you being represented, if you so wish.

- 9.5 If you believe that you have suffered a detriment for having raised a concern, you should report this.
- 9.6 If you are not satisfied with the action taken by the Council and feel its right to question the matter further may consider the following possible contact points:
- External Auditor
 - the employee's Trade Union
 - the Citizens Advice Bureau and / or law centre / firm
 - relevant professional bodies or regulatory organisations
 - the Local Government Ombudsman
 - the Information Commissioner
 - a relevant voluntary organisation
 - the Police and/ or Health and Safety Executive

10 How the matter can be taken further

- 10.1 If you have raised your concern, but feel this has not been resolved or you feel the matter is so serious or sensitive that you cannot discuss it with your line managers please contact one of the following: -
- **Head of Internal Audit** 020 8545 3149
 - **Monitoring Officer** 020 8545 3338
 - **Head of HR** 020 8545 3152
 - **Chief Executive** 020 8545 3332
 - **Chair of the Standards and General Purposes Committee** (contact democratic services on 020 8545 3864)
 - If your concerns involve potential fraud or criminal activities the Councils Fraud hotline 020 8871 8383 or email swlfp@richmondandswandsworth.gov.uk
- 10.2 You may prefer to raise the matter in person, by telephone or in written form marked private and confidential and addressed to one of the above named individuals. All matters will be treated in strict confidence and anonymity will be respected wherever possible.

11 Referral outside the Council

- 11.1 In exceptional circumstances you may consider the matter too serious or sensitive to raise within the internal environment of the Council. In this instance, depending on the nature of the concern, the matter could be directed to the police or local MP (contact through directory enquiries or local telephone directory).
- 11.2 The Comptroller and Auditor General (C&AG) is a prescribed person, to whom external persons can make disclosures relating to “the proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services”. Their Whistleblowing hotline **020 7798 7999**
- 11.3 The Act does not require the C&AG to investigate every disclosure s/he receives; their decision whether or not to investigate is based upon various

criteria designed to ensure the most effective use of the resources at their disposal in safeguarding the public interest.

The Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
London SW1W 9SP

- 11.4 The council's external auditor is Ernst & Young:- <http://ey.com>

Ernst & Young
1 More London Place
London SE1 2AF
Tel: 020 7951 2000

- 11.5 The Local Government Ombudsman can also be contacted, they will not however, take any action until the allegation has been dealt with internally first. They can be contacted at: - <http://www.lgo.org.uk/>

Telephone the LGO Advice Team on 0300 061 0614 or Text 'call back' to 0762 481 1595.

- 11.6 Further information may be obtained from the following:

Citizens Advice Bureau <https://www.citizensadvice.org.uk/about-us/contact-us/>
The Information Commissioner <http://www.ico.gov.uk/>
Health and Safety Executive <http://www.hse.gov.uk/>
Care Quality Commission <http://www.cqc.org.uk/contact-us/report-concern/report-concern-if-you-are-member-public>
Ofsted (Whistleblowing hotline) 0300 123 3155 whistleblowing@ofsted.gov.uk

12 Communication, Recording, Monitoring and Review of Whistleblowing

- 12.1 This policy will be communicated as appropriate and will be subject to regular monitoring and review.

- 12.2 The Monitoring Officer will maintain a Corporate Register containing all concerns that are brought to their attention. This register will include details of who raised the concern/s (if available), the department the concerns relate to, a brief summary of the concern/s, conclusion of the investigation, any action taken and any other relevant information. The Monitoring Officer will report the number of whistleblowing cases received and a summary of the outcome to the Audit Committee on an annual basis.

13 In Summary

DO

- Make an immediate note of your concerns
 - a) Note all relevant details, such as what was said in telephone or other conversations, the date, time and the names of the parties involved.
 - b) Note any documentary evidence that may exist to support your claim but do not interfere with this evidence.
- Report your concerns

- a) to your line manager or
- b) to those listed above in 10.1
- Deal with the matter quickly. Any delay could allow the problem to continue and escalate and evidence to disappear
- Think about risks and outcomes before you act
- Follow the guidance provided and contact the appropriate officer

DON'T

- Do nothing and let it go unreported
- Be afraid of raising concerns
- Approach and accuse individuals directly
- Try and investigate the matter yourself
- Convey your suspicions to anyone except those of the proper authority as set out in our policy.
- Use the whistleblowing procedure to pursue a personal grievance

IF IN DOUBT – RAISE IT!

London Borough of Merton
ANTI-MONEY LAUNDERING POLICY

Date of Review: April 2023

Date for next review: April 2026

1. Introduction

- 1.1. On 10 January 2020 changes to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (SI No. 2017/692) (the MLRs) came into force. The changes update the UK's Anti Money Laundering regime to incorporate international standards set by the Financial Action Task Force (FATF). The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 (the 2019 Regulations) amend the MLRs. Further amendments to the MLRs by the Money Laundering and Terrorist Financing (Amendment) (No.2) Regulations 2022 (No. 860) made on 21 July 2022 came into force in stages in accordance with regulation 1.
- 1.2. As an overview, the changes incorporate the requirement to keep an up to date list of exact functions that qualify as prominent public functions, the requirement on enhanced due diligence when working with high risk countries, the requirement to maintain registers of beneficial owners, a reduced limit of pre-paid cards and electronic money, enhanced due diligence on virtual currencies/crypto currencies/digital tokens and letting agency activities to be brought within the scope of Anti-Money Laundering.
- 1.3. A key difference is the Fifth Money Laundering Directive brings additional businesses into the scope of the anti-money laundering regulatory framework. Described as "obliged entities" in the Fourth Money Laundering Directive, these are defined as "relevant persons" in the MLRs and as businesses in the "regulated sector" in the Terrorism Act 2000 (the 2000 Act) and the Proceeds of Crime Act 2002 (the 2002 Act). The requirements of the Fifth Money Laundering Directive do not allow for the exemption of small businesses, or any exemptions based on size.
- 1.4. In identifying ownership, the 2019 Regulations introduce an explicit Customer Due Diligence (CDD) requirement for relevant persons to take reasonable measures to understand the ownership and control structure of their customers. Relevant persons must also take reasonable measures to verify the identity of senior managing officials when the beneficial owner of a body corporate cannot be identified.
- 1.5. Although Anti-Money Laundering legislation does not specifically cover local authorities as defined by organisations in the regulatory sector, it is implied best practice that we assess the risk and put sufficient controls in place to prevent the Council from being used for money laundering.

2 Scope

- 2.1 This Policy applies to all of the Council's activities, its employees, including those permanently employed, temporary staff, agency staff, contractors, Members (including independent members), volunteers and consultants.
- 2.2 It is important that all employees are familiar with their responsibilities as serious criminal sanctions may be imposed for breaches of anti-money laundering legislation. Failure by any member of staff to comply with this Policy may lead to prosecution and disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary Procedures.
- 2.3 Whilst it is stressed that the risk to the Council is low, it is extremely important that all staff are familiar with their legal responsibilities as serious criminal sanctions may be imposed for breaches of the legislation. The key requirement for staff is to:

Promptly report any suspected money laundering activity to the Money Laundering

Reporting Officer (MLRO).

3 What are the obligations on the Council?

- 3.1 As noted at paragraph 1.5 above, whilst local authorities are not directly covered by the requirements of the MLRs, guidance from finance and legal professions, including the Chartered Institute of Public Finance and Accounting (CIPFA), indicates that public service organisations should comply with the underlying spirit of the legislation and regulations and put in place appropriate and proportionate anti-money laundering safeguards and reporting arrangements.
- 3.2 The MLRs, as amended, by the 2019 Regulations apply to “relevant persons” acting in the course of business carried out by them in the UK. Relevant persons must check beneficial ownership registers of legal entities in scope of the People with Significant Control (PSC) requirements before establishing a business relationship. Where there is a discrepancy between the beneficial ownership information on the registers and the information that is made available to them in the course of carrying out CDD, there is a requirement to report these discrepancies to Companies House. Companies House will investigate and, if necessary, resolve the discrepancy in a timely manner. These reports are excluded from public inspection. For the purposes of the MLRs, not all of the Council’s business is relevant, it could include accountancy and audit services carried out by Financial Services and the financial, company and property transactions undertaken by the Council’s Shared Legal Service, the South London Legal Partnership.
- 3.3 The obligations on the Council are to establish and maintain appropriate and risk-sensitive policies and procedures relating to the following:
- customer due diligence measures and ongoing monitoring.
 - reporting.
 - record-keeping.
 - internal control.
 - risk assessment and management; and
 - the monitoring and management of compliance with, and the internal communication of such policies and procedures.
- 3.4 All employees are required to follow the procedure set out in this Policy and in this way the Council will properly discharge its obligations under the money laundering regime.

4. Background

- 4.1. Money laundering is the term used for a number of offences involving the proceeds of crime or terrorist financing: Such offences are defined under the 2002 Act as the following prohibited acts:
- concealing, disguising, converting, transferring, or removing criminal property from the United Kingdom
 - becoming concerned in an arrangement which facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person, either knowingly or merely by way of suspicion.
 - acquiring, using, or possessing criminal property
 - doing something that might prejudice an investigation e.g., falsifying a document
 - failure to disclose one of the offences listed above where there are reasonable grounds for knowledge or suspicion; and/or
 - tipping off a person(s) who is suspected of being involved in money laundering in such a way as to reduce the likelihood of or prejudice an investigation.

- 4.2. Although the term ‘money laundering’ is generally used when describing the activities of organised crime, for which the legislation and regulations were first and foremost introduced, to most people who are likely to come across it, or be affected by it, it involves a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.
- 4.3. Money laundering activity may range from a single act, for example being in possession of the proceeds of one’s own crime, to complex and sophisticated schemes involving multiple parties and multiple methods of handling and transferring criminal property as well as concealing it and entering into arrangements to assist others to do so. Council employees need to be alert to the risks of clients, their counterparties and others laundering money in any of its many forms.
- 4.4. Under Section 18 of the 2000 Act, it is an offence for a person to enter into or become concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property: -
- (a) by concealment,
 - (b) by removal from the jurisdiction,
 - (c) by transfer to nominees, or
 - (d) in any other way.

“Terrorist property” is defined by Section 14 of the 2000 Act as money or other property which is likely to be used for the purposes of terrorism (including any resources of a proscribed organisation), proceeds of the commission of acts of terrorism, and proceeds of acts carried out for the purposes of terrorism.

- 4.5. In recent years, new laws have been passed which significantly shifts the burden of identifying acts of money laundering away from government agencies and more towards organisations and their employees. They prescribe potentially very heavy penalties, including imprisonment, for those who are convicted of breaking the law.
- 4.6. It is vital to recognise that the regime under which money laundering is monitored operates on an ‘all crimes’ basis, and that there is no *de minimis* provision in the money laundering legislation. In other words, every crime, however small, is subject to the money-laundering regime.

5 High Risk Areas

- 5.1. In order to minimise the risk of money laundering when dealing in high-risk areas, or where customers or clients meet any of the criteria below, an Identification Procedure must be followed before any business is undertaken with that organisation or person
- Undertake a one-off transaction involving payment by or to the client of 15,000 Euro (approximately £13,500) or more.
 - Undertake a series of linked one-off transactions involving total payment by or to the client of 15,000 Euro (approximately £13,500) or more.
 - It is known or suspected that a one-off transaction (or a series of them) involves money laundering.
- 5.2. The Council is committed to raising awareness and where necessary specific guidance and training will be provided to services assessed at high risk of money laundering and terrorist financing.

6 Identification Procedures and Customer Due Diligence

- 6.1 For any new business relationship or any business involving a considerable one-off transaction the officer concerned should set up and maintain identification procedures regarding the parties involved, in particular, if the new party is not present or acting on behalf of a third party. Satisfactory evidence must be obtained as soon as practicable after instructions are received and should be capable of establishing, to the satisfaction of the person receiving it, that the client is who they claim to be. Documentary evidence i.e., birth certificate, drivers' licence, a power of attorney, signed written instructions on headed paper is an example of what can be obtained for this procedure.
- 6.2 Where the Council is carrying out certain regulated business (accountancy, audit and tax services and legal services in relation to financial, company or property transactions) Identification Procedures and Customer Due Diligence checks should be undertaken.
- 6.3 These checks should be done as soon as practicable after instructions are received (unless evidence has already been obtained) and no dealings should take place until this has been completed.
- 6.4 Satisfactory evidence is evidence which establishes that the client (company and/or person) is who they claim to be. This can include, but is not limited to, some of the following:
- Signed, written instructions on official letterhead at the outset of the dealings, which confirms the company name and location
 - Verification of company registration and VAT numbers, website details and registered office address
 - checking with the customer/supplier's website to confirm their business address.
 - conducting an on-line search via Companies House to confirm the nature and business of the customer and confirm the identities of any directors.
 - Proof of personal identification, if dealing with an individual, through meeting the client in person and verifying their identity against the passport or photo-card driving licence.
 - Copies of the identity evidence obtained must be retained on file for at least five years. This retention can be in an electronic format (e.g., scanned documentation) as long as it is available for inspection with sufficient notice.

7. Customer Due Diligence

- 7.1 Customer due diligence means that the Council must know its clients and understand their businesses. This is to enable the Council to be in a position to know if there is suspicious activity that should be reported. Clearly, it is only by the Council knowing its clients and their businesses that it can recognise abnormal and possibly suspicious activity.
- 7.2 The obligations imposed on the Council must, of course, be brought into effect by its individual employees. Employees must therefore be familiar with these obligations.
- 7.3 The MLR, as amended by the 2019 Regulations, require that the Council identifies its customers and verifies that identity based on documents, data or information obtained from a reliable source. Where there is a beneficial owner who is not the customer then the Council must identify that person and verify the identity and where the beneficial owner is a trust or similar then the Council must understand the nature of the control structure of that trust.
- 7.4 The Council must obtain information on the purpose and intended nature of the business relationship. Under Regulation 33(1)(b) of the MLRs, Enhanced Customer Due Diligence (ECDD) is required for any business relationship with a person established in a high-risk third country.

7.5 From 1 January 2021, the UK has had its own standalone list of high-risk third countries. (Any amendments to the EU List do not have effect in the UK). The UK can amend its own list of high-risk countries under Section 49 of and Schedule 2 to, the Sanctions and Anti Money Laundering Act 2018 and has announced proposals to align further with Financial Action Task Force (FATF) practices. The list of high-risk third countries in Schedule 3ZA to the MLRs was substituted with effect from 12 July 2022 by Regulation 2 of the Money Laundering and Terrorist Financing (High-Risk Countries) (Amendment) (No 2) Regulations 2022 (SI 2022/782).

7.6 The checks described in paragraph 7 must generally be undertaken by the Council: -

- before it establishes a business relationship; or
- carries out an occasional transaction; or
- if it suspects money laundering or terrorist financing; or
- doubts the veracity of any information obtained for the purposes of identification or verification.

However, the Council is not required to undertake these checks if its customer is another public authority, unless it suspects money laundering or terrorist financing.

7.7 The Council is also obliged to undertake ongoing monitoring of its business relationships which means it must scrutinise transactions throughout the course of the relationship to ensure that the transactions are consistent with the Council's knowledge of the customer and keep the information about the customer up to date.

7.8 Where property transactions are carried out using externally appointed agents on behalf of the Council, the agent will be required to perform and evidence Customer Due Diligence checks, and these should be shared and retained by the Council.

7.9 Where the Council is not able to apply the Customer Due Diligence measures set out above:

-

- it must not carry out a transaction with or for a customer through a bank account.
- it must not establish a business relationship or carry out an occasional transaction with the customer.
- it must terminate any business relationship with the customer and consider whether to make a disclosure.

7.10 However, paragraph 7.9 does not apply where a lawyer or other professional adviser is in the course of advising on the legal position for his/her client or performing his/her task of defending or representing that client in, or concerning, legal proceedings including the advice on the institution or avoidance of proceedings.

8. Enhanced Customer Due Diligence and Ongoing Monitoring

8.1 It will in certain circumstances be necessary to undertake Enhanced Customer Due Diligence as set out in paragraphs 7.4 – 7.5 above. In summary, this will be necessary where:

- the customer has not been physically present for identification purposes; or
- in any other situation which by its nature can present a higher risk of money laundering or terrorist financing.

8.2 Where this applies, the Council will need to take adequate measures to compensate for the higher risk. For example, this will mean ensuring that the customer's identity is established by additional documents, data or information.

- 8.3 Similarly, where the Council is in an ongoing “business relationship” with a customer, the MLRs impose a special obligation to carry out ongoing monitoring. This means that the Council must:
- scrutinise transactions undertaken throughout the course of the relationship to make sure that these transactions are consistent with the Council’s knowledge of the customer, his/her business, and risk profile; and
 - keep documents, data or information obtained for the purpose of applying Customer Due Diligence measures up to date.
- 8.4 The MLRs require that Enhanced Customer Due Diligence measures are taken to manage and mitigate the risks posed by a politically exposed person (PEP). The term PEP means an individual who is entrusted with prominent public functions, other than as a middle-ranking or more junior official. The Council is required to have appropriate risk-management systems and procedures to identify when the customer is a PEP and to manage the enhanced risks arising from having a relationship with that customer. Business relationships with a *family member* or a *known close associate* of a PEP are also subject to greater scrutiny.

9 When Money Laundering is suspected

- 9.1 Where you know or suspect that money laundering or terrorist financing activity is taking/has taken place, or you are concerned that your involvement in the matter may amount to a prohibited act under the anti-money laundering legislation, you must disclose this suspicion or concern to the Council’s Money Laundering Reporting Officer (MLRO) as soon as practicable. The disclosure should be made within hours rather than days or weeks of the information coming to your attention. The MLRs stipulate that a single cash transaction, or a series of linked transactions, totalling over €15,000 (approximately £13,500 at the time of the legislation) should be treated as suspicious. However, vigilance also needs to be maintained in respect of all other possibilities such as a series of smaller payments in cash.
- 9.2 Any necessary investigation will be undertaken by the National Crime Agency (NCA) or relevant successor body, as appropriate. All members of staff will be required to co-operate with the MLRO and the authorities during any subsequent money laundering investigation.
- 9.3 Similarly, **at no time and under no circumstances should you raise any suspicions** with the person(s)/organisation you suspect of money laundering or terrorist financing, otherwise you may commit the criminal offence of “tipping off”.
- 9.4 Accordingly, no reference should be made on a client file to a report having been made to the MLRO. Should the client exercise his/her right to see the file then such a reference would obviously tip them off to the report having been made. Again, you would be at risk of prosecution for the offence of “tipping off”. The MLRO will keep the appropriate records in a confidential manner.
- 9.5 After reporting the employee:
- must follow any subsequent directions of the MLRO and must not themselves make any further enquiries into the matter.
 - must not take any further steps in any related transaction without authorisation from the MLRO.
 - must not disclose, or otherwise indicate, their suspicions to the person suspected of the money laundering.
 - must not discuss the matter with others as this can result in “tipping off” the suspect
 - must not record on the file that a report has been made to the MLRO in case this results in the suspect becoming aware of the situation and could constitute a “tip

off”.

9.6 Employees should be aware that:

- Ignoring the obvious can be considered a criminal offence.
- A reasonable cause for knowledge or suspicion of money laundering offence will be required. Speculation or gossip is unlikely to be sufficient to justify an investigation.
- The size or significance of the money laundering offence is irrelevant as money laundering covers the proceeds of any crime, no matter how minor and irrespective of the size of the benefit gained.

10 Money Laundering Reporting Officer (MLRO)

10.1 The Council has nominated **Margaret Culleton**, the Head of Internal Audit, to be its MLRO, to whom disclosures about money laundering activity should be made. Contact details are as follows:

Head of Internal Audit,
London Borough of Merton
Civic Centre
London Road
Morden
SM4 5DX

Email: Margaret.culleton@merton.gov.uk

10.2 The MLRO is responsible for ensuring that sufficient guidance is available to officers identified as working in areas of higher risk of money laundering or terrorist financing; and for maintaining a central register of reportable incidents which are promptly assessed and, where disclosure is deemed necessary, reported to the NCA.

10.3 Upon receipt of the disclosure report, the MLRO will:

- Consider it and any other available internal information the MLRO considers relevant.
- Undertake such further reasonable inquiries the MLRO considers appropriate.
- Seek specialist legal and financial advice, if necessary.
- Promptly evaluate any disclosure, and determine whether it should be reported to the NCA: - by way of a Suspicious Activity Report (SAR) (form can be located on the NCA website)

10.4 The MLRO will commit a criminal offence if s/he knows or suspects, or has reasonable grounds to do so, through a disclosure being made, that another person is engaged in money laundering, but does not disclose it to the NCA as soon as practicable.

Committee: Standards and General Purposes Committee

Date: 27th April 2023

Subject: Fraud Update

Lead officer: Roger Kershaw – Interim Executive Director of Finance and Digital
Lead member: Mike Brunt Chair of Standards and GP Committee
Contact officer: Kevin Holland – Head of Shared Fraud Partnership
Tel.–020 8871 6451
kevin.holland@richmondandwandsworth.gov.uk

Recommendation:

That members note this Fraud Update report that includes an indicative plan for the application of resources for 2023/24, and a review of activity completed during 2022/23 to February 2023, and comment on the matters arising from it.

1. Purpose of Report and Executive Summary

- 1.1 One of the responsibilities of the Committee is to maintain an overview of the effectiveness of the Council's arrangements for corporate governance, particularly those concerned with risk management, internal control, financial governance, treasury management, and counter fraud and corruption; obtaining assurance that appropriate action is being taken on any issues raised.
- 1.2 Members recognise that the funds the Council administers and services it provides are targeted by fraudsters, and support the fight against Fraud and Corruption through an anti-fraud strategy and culture that seeks to:
- Have robust arrangements and executive support to ensure anti-fraud, bribery and corruption measures are embedded throughout the organisation.
 - Acknowledges and understands fraud risks and commits to support and resource tackling fraud through maintaining a robust anti-fraud response.
 - Prevent and detect more fraud by making better use of information and technology, enhancing fraud controls and processes and developing a more effective anti-fraud culture.
 - Prioritises fraud recovery and the use of civil sanctions. Developing capability and capacity to punish fraudsters. Supports collaborative work across geographical sector boundaries. Learning lessons and reducing fraud risks where possible.

- Protect ourselves, residents and service users from becoming disadvantaged by those seeking to commit fraud through recognising the harm that fraud can cause in the community and seeking to minimise this.
- 1.3 This report seeks to provide the Committee with assurance over the arrangements for protecting the Council, its residents and service users against fraud and corruption.
 - 1.4 Merton Council entered into a shared fraud investigation service, known as the South West London Fraud Partnership (SWLFP), with Kingston, Richmond, Sutton & Wandsworth Councils, in April 2015.
 - 1.5 This pooling of resource under a single team helps strengthen resilience for individual authorities, enhances collaborative approach to fraud investigations and introduces the ability to undertake regional proactive counter fraud exercises, and have call upon a larger fraud resource when needed, enhancing both capacity and capability.
 - 1.6 For 2022/23 the SWLFP investigation team comprises 14.5 posts, with a mixture of expertise from both within and outside local government. All Investigation Officers are members of the Government Counter Fraud Profession (GCFP) and in addition we have three officers who are completing the GCFP Counter Fraud Investigator Apprenticeship. The professionalisation of the team will help ensure investigative techniques are both current and legally compliant, helping to sustain capability.
 - 1.7 Individual partner authorities retain responsibility for ensuring that its affairs are managed in accordance with proper standards of financial conduct and for preventing and detecting fraud and corruption.
 - 1.8 The use of technology and ongoing improvements to accessing key systems, intelligence sources and records for fraud detection and prevention means that the fraud response capability has been able to manage and address the volume of fraud referrals received and to deliver and promote fraud awareness training.
 - 1.9 Members can be reasonably assured that there are suitable systems in place for the identification and investigation of allegations of fraud. Most referrals are received from in-house teams which is a good indication that a reasonable level of fraud awareness exists across all Council staff supported by the Council's Anti-Fraud and Anti-Corruption Strategy and culture.
 - 1.10 The Council has made suitable provision for the investigation and prevention of fraud and corruption.

2. Fraud Risk Threat and 2023/24 Indicative Fraud Plan

- 2.1 The Fraud Risk Threat has changed significantly in recent years with a substantial rise at a national level in the volume of reported fraud, up 18% year on year, to a level where fraud is the largest reported crime type, at 39% when last measured.

- 2.2 Recent surveys are suggesting a worrying increase in the public's acceptance of fraud and the misconception that fraud is a victimless crime being purely financial which can be offset through insurance. The surveys also report on changes in the drivers behind those who commit fraud with; 61% for Personal gain, 30% greed and a growing 27% for because I can.
- 2.3 The current financial climate has also had an impact on those who commit fraud with a noticeable increase in those who commit fraud because of a need rather than pure greed and this will likely reflect upon those who are willing to commit fraud against public services.
- 2.4 The rise in the level of fraud risk threat combined with new methods being used within the fraudsters community means that it is increasingly more difficult to recover losses highlighted through detected fraud, so the need to ensure that prevention measures is even more valuable.
- 2.5 This increase in the fraud risk threat does not mean that there will be an automatic increase in fraud occurrences for the Council but will likely be reflected in the volume of attempts.
- 2.6 This has been reflected within the indicative fraud plan with an increased level of resource been set aside for fraud prevention work and the need to continue with close working alongside Internal Audit who provide assurance over the effectiveness of the Councils control environment.
- 2.7 Priority areas of coverage for individual partner Councils are agreed through consultation with the Shared Services Board and the Heads of Audit.
- 2.8 Tables 1 & 2 provide an indicative breakdown of how the fraud resource for 2023/24 will be applied in terms of reactive and proactive work, with a split by fraud type, and the key performance targets.

Table 1: 2023/24 Indicative Fraud Response Plan

	Estimated Days	%	Resource Allocation by fraud type	%
Referral Triage & Review	38	8.8	Internal (e.g. employee)	27.4
Proactive Fraud Drives	117	27.1	CTR/SPD/Support Grant	10.3
Fraud Investigations	229	53.0	Parking Permit	5.4
Fraud Awareness/prevention	22	5.1	Corporate – Other	10.7
Contingency	26	6.0	Tenancy	38.1
			Housing applications	2.7
TOTAL	432	100.0	Right to Buy/Acquire	5.4

- 2.9 The SWLFP continues to work closely with the Social Housing Providers in relation to concerns over tenancy fraud and abuse and facilitate the Social Housing Investigation Partnership (SHIP), a forum that is accessible to social housing providers who have property within at least one of the fraud partnership authorities. Every property recovered frees up a place for a family on the Council's waiting list therefore reducing the impact of the temporary housing costs on the General Fund.
- 2.10 Partnership working provides a sound framework to help identify and respond to tenancy fraud and abuse resulting in the recovery of misused tenancies which can be assigned to those in genuine eligible need thus reducing the call upon temporary housing provided by local authorities.

Table 2: Key Performance Targets 2023/24

Activity	Performance Indicator	Target
Work with Housing Associations and Housing teams to establish and deliver a programme of proactive fraud checks including illegal subletting	Properties brought back into Housing Associations/ Council control following identification of fraud	9 properties
Develop joint working with Housing teams to proactively identify housing fraud	Housing applications withdrawn as a result of fraud work	20 applications withdrawn
Delivery of the Fraud Plan	% of the Fraud Plan delivered	95% of the Fraud Plan by 31 March

3. Summary of Fraud Investigations and Performance Results

- 3.1 The Tables below summarise the fraud work undertaken, with Table 3 summarising progress against the key fraud performance targets. In total, 179 fraud cases have been worked on (141 new cases, with 38 cases c/f from 2021/22) as a result of either referrals received, or concerns highlighted through pro-active fraud drives since April 2022.

Table 3: Performance against key objectives and targets for 2022/23

Activity	Performance Indicator	Target	Actual
Work with Housing Associations and Housing teams to establish and deliver a programme of proactive fraud checks including illegal subletting	Properties brought back into Housing Associations/ Council control following identification of fraud	9 properties	1 (7 cases are with legal for recovery action)
Develop joint working with Housing teams to proactively identify housing fraud	Housing applications withdrawn as a result of fraud work	20 applications withdrawn	81 applications withdrawn
Delivery of the Fraud Plan	100% of the Fraud Plan	95% of the Fraud Plan by 31 March	98.12%

Table 4: Summary of fraud referrals

	2020/21	2021/22	2022/23
Referral worked on in period for investigation by type:			
- Tenancy fraud/abuse	48	40	33
- Housing Applications	2	66	83
- Right to Buy	3	5	2
- Permit Fraud	4	3	9
- Internal - Employee	17	10	11
- External - CTR & SPD	6	12	23
- Other	23	11	18
Total referrals in period	103	147	179
Closed in period			
- Closed no fraud	45	33	43
- Closed with sanction	8	78	104
Referrals still under investigation	50	36	32

3.2 Tables 4 and 5 provide a breakdown of the fraud/abuse referrals that have been accepted for investigation and a summary of the value of fraud/overpayments and notional savings identified as a result of the fraud work undertaken, with comparisons to previous years.

Table 5: Summary of Overpayments and Notional savings

(* notional savings figures as per Audit Commission estimates)	2020/21 £	2021/22 £	2022/23 £
Social Housing (notional @ £93k per property recovered from 2020)	372,000 (4 props) 26,423	465,000 (5 props)	93,000 (1 prop)
Housing Applications Rejected (notional £3,240 from 2020 per application cancelled)	3,240 (1 app)	191,160 (59 apps)	262,440 (81 apps)
Right to buy (notional @ £100k discount)	Nil	100,000 (1 app)	100,000 (1 app)
Blue Badges & Parking Permit (fines plus notional @ £575 per case from 2020)	575	1,150	4,257
Internal – Employee (notional £6k per case)	12,000 (2 cases)	24,000 (4 cases)	24,000 (4 cases)
Council Tax (identified overpayments and administrative penalties)	Nil	43,882	22,521
Other/NFI	10,000	188,700	34,000
Total actual and notional savings	424,238	1,013,892	540,218

- 3.3 For the past two years progression on fraud cases has been affected by Covid and changed working practices, notably within the ability to progress Tenancy Fraud was limited as access to Courts was reduced and there were periods where the ability to action eviction notices was suspended.
- 3.4 Whilst Merton Council do not directly manage any social housing, the cost of temporary accommodation does rest with the Council, so every property, that is being misused, recovered represents a nomination right for the Council and the opportunity to place a family in need into more secure accommodation and reduce to call upon Council funds.
- 3.5 We are working closely with housing services and housing providers to address the lower than expected volume of tenancy fraud referrals in 22/23.
- 3.6 The volume of fraud referrals has seen a steady increase in recent years, which is in line with national surveys on the fraud risk threat albeit that these surveys are commissioned and produced by the financial sector.

3.7 We have also seen, across the Local Government Sector, fraudsters demonstrating their agility with near instantaneous changes to their methods, quickly moving onto to target the funding support arrangements that were put in place to support those in need or other streams that prove profitable to them. In response, resources have been applied to support services delivering Government Funded business support grants and this work continues with support of the ongoing post payments assurance work that is required.

3.8 **Closed Investigations:** Appendix A provides a brief summary of the completed investigations, in 2022/23, into fraud and financial irregularity that have resulted in a sanctioned outcome. The variety of the type of referrals received reflects the effectiveness of the implementation of the Council’s Anti-Fraud and Anti-Corruption Strategy and indicates a reasonable level of general fraud awareness by officers across all the Council’s departments.

4. Developments in Fraud Detection and Prevention

4.1 The fundamental challenge that public bodies face with fraud is that it is often a hidden crime with those committing it actively try to conceal it so we must be proactive in our efforts to seek it out.

4.2 **Data Analytics:** The principles for maximising collaborative and smarter working through data sharing are key to the successful operation of the National Fraud Initiative.

4.3 London Councils working with NFI have established a London centric fraud hub. This is intended to enhance localised data-matching, supplementing the statutory national fraud prevention and detection initiative with an opportunity for closer to real-time data-matching or areas of local concern. It can also provide an on-line repository that can be used to validate applications for certain Council provided services.

4.4 National Fraud Initiative (NFI): The Mandatory National 2022/24 NFI exercise is about to commence where data is requested in accordance with Part 6 of the Local Audit and Accountability Act 2014 and for Merton Council this meant the provision of the following datasets:

- Blue Badge Parking Permits
- Creditors History
- Creditors Standing
- Concessionary Travel Passes
- Council Tax Reduction Scheme
- Right to Buy
- Deferred Pensions
- Pensions Gratuities
- Pensions
- Payroll
- Resident Parking Permits
- Waiting Lists

- 4.5 Service Leads have been contacted to ensure that they will be in position to provide the required data by the due dates. System developments will always mean that there may changes in how data is held and made available and any concerns with to supply of the mandated data files will be reported to the Director of Corporate Services.
- 4.6 **On-line Fraud Awareness Training:** An on-line fraud awareness training package, aligned to Merton’s policies and procedures, has been made available for all officers to increase awareness and understanding of how and to who suspicions of fraud or irregularity should be reported. With continual changes in staffing and staff roles regular reminders on fraud awareness helps support and robustly maintain the Council’s Anti-Fraud and Anti-Corruption Strategy and Culture.
- 4.7 The on-line fraud awareness training package for officers has been revised and is now separated into three modules covering: Anti-Bribery & Corruption, Whistleblowing and General Fraud Awareness. The modules have been provided to the Human Resource Team who will be making it available to all officers on the new training platform. has been commissioned. This learning platform, which is shared with two other authorities and managed by Human Resource, should be ready for use this Autumn.

5. Local Government Transparency Code.

- 5.1 Under the code the Council is required to publish the following data regarding its Fraud Investigation activity. Listed below are 2022/23 figures (with 2021/22 comparative figures shown within brackets).

Accredited number of occasions they use powers under the Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014, or similar powers		
	(21/22)	22/23
Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014	5	3
The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013	1	0
Total number (absolute and full time equivalent) of employees undertaking investigations and prosecutions of fraud		
	Absolute	FTE
Fraud Investigation - SWLFP #	15 (15)	14.5 (14.5)
Total number (absolute and full time equivalent) of professionally accredited counter fraud specialists		
Government Counter Fraud Profession (GCFP)	12 (n/a)	11.5 (n/a)

GCFP Counter Fraud Investigator Apprentices	3 (n/a)	3.0 (n/a)
PINS trained Fraud Specialist	n/a (6)	n/a (6.0)
CIPFA Certificate in Investigative Practices	n/a (2)	n/a (2.0)
CIPFA Accredited Counter Fraud Specialist	n/a (4)	n/a (4.0)
Total amount spent by the authority on the investigation and prosecution of fraud		
	21/22	22/23
Fraud Investigation, awareness & prevention	£128.5k	£131.1k
Total number of fraud cases investigated.		
Housing/Tenancy related Investigations	106	116
Right to Buy/Acquire	5	2
Permit Fraud Investigation	3	9
Other Investigations	<u>33</u>	<u>52</u>
TOTAL	147	179

5.2 To ensure that sufficient knowledge and capability for fraud investigation Merton Council entered a partnership with four neighbouring boroughs, the SWLFP. The Council has access to the pool of trained fraud investigation officers' dependent upon the demands of any individual fraud referral. Merton's resource contribution for 2022/23 equates to 2.0 FTE Investigators.

6. Financial, Resource and Property Implications.

6.1 There are no specific financial, resource or property implications. completed within existing resources.

7. Legal and Statutory Implications

7.1 This report provides details of 22/23 fraud activity levels as required under the Local Government Transparency Code.

8. Human Rights, Equalities and Community Cohesion Implications

8.1 There are no specific human rights, equalities or community cohesion implications, except in so far as this report is wholly concerned with good governance.

9. Risk Management and Health and Safety Implications

9.1 There are no specific risk management or health and safety implications.

10. APPENDICES – The following documents are to be published with this report and form part of this report

10.1 Appendix A: Summary of Closed Cases with Sanction 2022/23.

GLOSSARY

CIPFA	Chartered Institute of Public Finance and Accountancy
CTR	Council Tax Reduction
GCFP	Government Counter Fraud Profession
FTE	Full Time Equivalent
IPCO	Investigatory Powers Commissioner's Office
NFI	National Fraud Initiative
PINS	Professionalism IN Security
RIPA	Regulation of Investigatory Powers Act
SHIP	Social Housing Investigation Partnership
SPD	Single Person Discount
SWLFP	South West London Fraud Partnership

FRAUD, CORRUPTION AND FINANCIAL IRREGULARITIES – RESULTS OF CASES CLOSED for 2022/23

Offence/irregularity, sanctions and redress	Key outstanding actions
<p><u>Housing Tenancy</u></p> <p>1. (6432) Subletting: - Referral from social housing provider who suspected that the tenant was subletting their property to various families. Initial investigations identified linked to multiple individuals and the property and that the tenant was likely residing abroad. Attempts made to speak to the tenant, but they failed attend interview under caution requests. Evidence pack prepared for legal and notices were served. Following Court proceedings an eviction was secured and</p> <p><u>Housing Waiting List</u></p> <p>2. 492 housing applications have been identified from NFI for removal from the waiting list. Merton advised of a staffing issue, therefore, in line with the next NFI data run in September, it was agreed that Merton work on 81 of the cases identified for deceased tenants. These applications have now been removed. The majority of these applications highlighted for removal are likely due to failure to notify changes in circumstance as opposed to a deliberate fraudulent intent to secure social housing that they would no longer be entitled to, but it is important for the authority to ensure that applicants details are current and correct.</p>	<p>None</p> <p>Work with Housing to have the remaining 411 applications, and any further applications highlighted within the 23-24 NFI exercise are removed.</p>

Offence/irregularity, sanctions and redress	Key outstanding actions
<p><u>Corporate Internal</u></p> <p>1. (8434) Fraud by false representation to gain employment: Allegation that individual had provided falsified qualifications and references in order to gain employment. Investigations revealed that the previous job titles and experience had been exaggerated and the references submitted could not be verified. Investigation report and evidence provided and following a Disciplinary hearing their employment was terminated.</p> <p>2. (8438) Theft: Allegation that a breach of food voucher scheme had occurred with a School whereby unused vouchers had been downloaded and cashed at Sainsbury's by someone other than the intended recipients. Evidence gathered during the investigation highlighted an individual who had likely downloaded the vouchers for personal use. This individual was Interviewed Under Caution and a report was issued. Formal disciplinary action was commenced but the individual resigned before the hearing.</p> <p>3. (9063) Theft: Allegations that an officer was undertaking private work during their paid time and using materials paid for by a school for their private work. he was working as a handyman during the school day. Evidence gathered that supported the allegation and an investigation report issued. Formal disciplinary action was commenced but the individual resigned before the hearing was arranged.</p> <p>4. (9344) False SPD claim: Allegation that an individual working for the Council had failed to notify a change in their circumstance that meant that they were no longer entitled to an SPD. Report produced, recommending formal written warning but the officer resigned before any further disciplinary action.</p>	<p>None</p> <p>None</p> <p>None</p> <p>None</p>
<p><u>Permit Fraud</u></p> <p>5. (8190) Blue Badge Misuse: Blue Badge found being used regularly near Merton Council Offices, was identified as having been lost/stolen. Vehicle found to be linked to an agency worker who left the organisation before further investigation could be undertaken and insufficient evidence of who had been misusing the badge to pursue further action. Badge recovered and case closed.</p>	<p>None</p>

Offence/irregularity, sanctions and redress	Key outstanding actions
<p>6. (8928) Blue Badge Misuse: Investigation into the misuse of a child's Blue Badge being used by an individual. The person was identified as a parent of the child and interviewed under caution. The parent denied the misuse of the badge however, checks confirmed that the child was at school at the time the badge was being misused. Case taken to court where individual pleaded guilty to the 5 charges. The Court imposed costs & fine totalling £828.00. Case closed – successful prosecution.</p> <p>7. (9103) Blue Badge Misuse: Misuse investigation identified the owner of a business was misusing a blue badge, individual was interviewed and provided a preprepared statement in which they admitted responsibility for the misuse. Case heard at Lavender Hill and individual pleaded guilty to four charges. Total costs & Fine £1,128. Closed – Successful Prosecution.</p> <p>8. (9799) Blue Badge Misuse: Anonymous referral suggesting that the badge holder had died, and the badge was still being used by a family member. Badge subsequently cancelled and recovered and removed from circulation.</p>	<p>None</p> <p>None</p> <p>None</p>
<p><u>CTR/SPD</u></p> <p>9. (7938) False SPD claim: Investigation highlighted that an individual was claiming SPDs at two different properties and identified which property they were not residing at. query relating to the Mitcham address and possible Wandsworth address recommendations sent to Ctax. Confirmation received discount has been removed. Case closed Overpayment of £2,142 being recovered.</p> <p>10. (8302) Undeclared Income: Claimant declared income as an employee and failed to declare that he was the Director of 2 companies that had applied for a Covid 19 Grant. Claim re-assessed and a CTR adjustment of £3,395.26 was created as well as a Housing Benefit overpayment of £10,318.29</p> <p>11. (8816) Undeclared income: NFI match indicated that partner was employed which had not been declared. Earning details sent to Benefits as claim was being paid on the basis of DWP Benefits. Re-assessment carried out and CTR adjustment of £4,038.55 created.</p> <p>12. (8817) Undeclared Pension: NFI match identified that claimant was in receipt of a pension which had not been declared. Investigation found that private pension had not been declared. CTR adjustment of £578.57 created and incorrect award of £200 covid grant.</p>	<p>None</p> <p>None</p> <p>None</p> <p>None</p>

Offence/irregularity, sanctions and redress	Key outstanding actions
13. (8834) Undeclared Non-Dependant: NFI match identified an undeclared non-dependant residing at the property. Information requested from claimant who confirmed the information and Benefits were asked to re-assess the claim. CTR adjustment of £658.76 created.	None
14. (9504) Undeclared Non-Dependant: NFI case suggests customer has an undeclared non dependant living at the property. Investigations found that this was the case and the claimant confirmed that another adult had been residing at the property and provided details of income during this time. Information passed to benefits and an overpayment of £1,189.06 was created. Case closed.	None

NFI Match Category/Number	Number of matches closed NFA	Sanction Outcomes (No. & value)
Pensions-(180)	163	1
Payroll-(61)	42	2
Procurement-(27)	11	0
Resident Parking Permit-(10)	8	0
Blue Badge-(547)	264	0
Waiting List-(1346)	22	411
Creditors-(2531)	2241	0
CTR Scheme-(1259)	679	18
HB-(429)	8	3

Glossary

ASB	Anti-Social Behaviour
CTR	Council Tax Reduction
NFI	National Fraud Initiative
RTB	Right to Buy
SPD	Single Person Discount

Committee: Standards and General Purposes Committee

Date: 27 April 2023

Subject: Procedure for awarding Honorary Alderperson Status

Lead officer: Louise Round, Monitoring Officer

Lead member: Councillor Michael Brunt, Chair, Standards and General Purposes Committee

Contact officer: Amy Dumitrescu, Democracy Services Manager

Recommendations:

A. That members consider the options for the procedure for awarding Honorary Alderperson status set out in paragraph 3 below and either:

- 1) Agree which option should be adopted in future; or
- 2) Agree to establish a cross party working group to consider the options and to report back to this committee at its next meeting.

B) To consider as detailed in Paragraph 2.12 whether former Leaders should be automatically awarded Freedom of the Borough in addition to Honorary Alderperson status (if also entitled to this) and if so, whether this should apply retrospectively to those former Leaders who have not already been awarded that status.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. At a Committee training session on 13 October 2022, members of the Standards and General Purposes Committee requested that a report be brought to Committee for discussion on reviewing the procedure for awarding Honorary Alderman/woman status to retiring Councillors.

2 DETAILS

- 2.1. Section 249 of the Local Government Act 1972 allows Council to, by a resolution passed by no less than two-thirds of the members voting, confer the title of Honorary Alderman or Alderwoman status on persons who have, in the opinion of the Council, rendered eminent services to the Council as past members of that Council but who are not then members of the Council.
- 2.2. The Act requires that this vote be taken at a special Meeting of Council convened for that purpose.
- 2.3. Current working practice at Merton is that all Councillors who either retire or lose their seat at any election who have accumulated at least 15 years cumulative service for the Council are automatically awarded Honorary Alderman/woman status. Those awarded are provided with a certificate and will have their names sign-written onto the boards within the Council Chamber.
- 2.4. An honorary alderman or alderwoman may attend and take part in such civic ceremonies as the Council may from time to time decide, but shall not, as such have the right to attend meetings of the Council or a committee of the

Council (including joint committees) or to receive any such allowance or other payments.

- 2.5. This process is separate from the process for awarding Honorary Freeman or Freewoman status.
- 2.6. Merton have awarded Honorary Alderman/woman status to 22 councillors over the last decade as follows:
 - 5 September 2022 – 12 former councillors
 - 12 July 2018 – 5 former Councillors
 - 23 November 2016 – 1 former councillor
 - 4 June 2014 – 4 former councillors
- 2.7. There are 10 currently serving councillors who could be eligible for Honorary Alderman/woman status at the next election in 2026 if the current process continued.
- 2.8. Whilst there is no legal definition of “eminent services to the Council”, Merton have adopted the working practice of awarding those with at least 15 years cumulative service. A number of other Councils have also adopted this approach.
- 2.9. No formal nomination process is required to receive this status. Following an election the Democracy Services Manager collates the names of those eligible and a Special Council meeting is arranged post-election to vote on and award the status to those individuals.
- 2.10. The status cannot be awarded to serving councillors, however those awarded with the status can be re-elected at a future election to the Council, at which point they would cease to use the Alderman/woman title whilst serving as a Councillor.
- 2.11. Freedom of the Borough for Former Leaders
- 2.12. It is noted that a number of former Leaders of the Council, most recently former Leaders Mark Allison and David Williams MBE JP have been awarded Freedom of the Borough when they were no longer on the Council. It could be proposed as part of the process that former leaders are automatically nominated for Freedom of the Borough, without the need for their nomination to go through the normal process, options for which are set out below. This does not prevent them also receiving Honorary Alderman/woman status. The Committee is asked to consider whether this should be included within the protocol and whether specific criteria should be attached to this. As stated in the legal comments below, although it would be possible to automatically refer an ex leader to a council meeting for a vote, the council cannot set a policy which would fetter the discretion of any future council meeting when asked to vote on a nomination.

3 OPTIONS

- 3.1. Officers have suggested a number of potential options below for the appointment of honorary Alderman or women. The Committee can decide to proceed with one of the following options, or can discuss and agree an alternative.

Option 1:

To retain the current procedure with no changes.

Option 2:

To require all those Councillors eligible under the current process (that is those with at least 15 years service as at the date when they cease to be a councillor) to undergo a nomination/agreement process whereby a working group or the Standards and General Purposes Committee consider the list of those eligible and agree whether they should be awarded the status. Information from any historical upheld complaints received against Councillors would be considered as part of this process.

Option 3:

To require all those Councillors eligible under the current process to undergo a nomination agreement process within their groups, including considering information received from the group whips and any information on complaints received against Councillors during their service. The group whips or group leaders would then put the nominations forward for consideration either by the Standards and general purposes Committee or direct to full Council.

Option 4:

That any Councillor (including those with less than 15 cumulative years' service) who is retiring/who loses their seat at an election can be nominated for Honorary Alderman/woman status, provided there is a case made for this and that this is agreed by either the Standards and General Purposes Committee or a working group thereof. It is suggested that the Committee agree what the criteria should be under this option.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1.

5 TIMETABLE

5.1. The new process once agreed by Standards and General Purposes Committee would be considered by Council in July 2023 and then implemented immediately.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. The only criteria for conferring either alderperson status or freedom of the borough are those set out in section 249 of the Local Government Act 1972 namely that the conferee is not a serving councillor and that they are either a person of distinction or someone who has "rendered eminent services" to the place or area. Therefore, it is a matter for the council to set the criteria by which someone is judged to fall into that description, provided those criteria are in themselves reasonable and fairly applied.

7.2. Although it would be possible to dispense with a formal sifting process for ex leaders of the council who are no longer serving councillors and to create a

presumption that they will have the freedom of the borough conferred upon them, it would not be lawful to set a policy that bound full council to agree such status. As stated above a resolution to grant such status must be agreed by two thirds of councillors present and voting at a specially convened meeting and they must be free to exercise their discretion at such a meeting.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None for the purposes of this report

9 CRIME AND DISORDER IMPLICATIONS

9.1. None for the purposes of this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. None for the purposes of this report

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- None

12 BACKGROUND PAPERS

12.1. None

Committee: Standards and General Purposes

Date: 27 April 2023

Wards: All

Subject: Freedom of the Borough

Lead officer: Louise Round, Monitoring Officer

Lead member: Councillor Michael Brunt, Chair, Standards and General Purposes Committee

Contact officer: Amy Dumitrescu, Democracy Services Manager

Recommendations:

- A. To establish a member working group to consider any nominations for awarding Freeperson of the Borough Status and to make recommendations to the July meeting of this Committee for onward submission to Council and then a special Council meeting.
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. Members will be aware that the Council has the power under section 249 of the Local Government act to admit “persons of distinction” as freemen or freewomen of the Borough. A number of nominations have been received for one individual and therefore the report recommends setting up a working group to consider that and any other subsequent nominations.

2 DETAILS

2.1.1 This Committee has previously agreed that the following process should be followed in order to award freedom of the borough status:

2.1.2 Nominations for persons or organisations to be granted Freedom of the Borough, may be made by any serving Member of the Council to the Monitoring Officer on the appropriate form. The Member should first raise the matter for discussion within their political group.

2.1.3 Once a nomination is received, the Monitoring Officer will check that sufficient information has been provided on the form and will pass it to the Standards and General Purposes Committee for consideration.

2.1.4 The Standards and General Purposes Committee may establish a small working group to informally assess nominations and the likelihood of meeting the 2/3 criteria. The working group would report back to the Standards and General Purposes Committee in regard to any nominee who it believed would meet the criteria and achieve sufficient support at Council.

2.1.5 The Standards and General Purposes Committee shall report to Council and, should Council accept the nomination, a Special Meeting of Council would then be called to pass the resolution as required by Section 249 of the Local Government Act 1972.

- 2.1.6 A number of nominations have been received for Ivor Heller for his work for AFC Wimbledon but also for local charities. The details of these nominations are included at Appendix A of this report (exempt).

3 CONSULTATION UNDERTAKEN OR PROPOSED

- 3.1. In relation to conferring freedom of the borough status, all councillors are invited to make nominations and the final decision will rest with full Council. There is no requirement for public consultation.

4 TIMETABLE

- 4.1. If the Committee agrees the working group would meet over the next couple of months with their recommendations brought to the next meeting of the Committee on 19 July. If approved, any agreed nominations would go to a Special Council meeting in the Autumn to be awarded.

5 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 5.1. There are no significant implications although a modest amount of expenditure will be required to hold the special council referred to above.

6 LEGAL AND STATUTORY IMPLICATIONS

- 6.1. The power to confer freedom of the borough status is contained in section 249 of the Local Government Act 1972 and includes the ability to incur reasonable expenditure in connection with the same.

7 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 7.1. None

8 CRIME AND DISORDER IMPLICATIONS

- 8.1. None

9 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 9.1. None

10 APPENDICES

- 10.1. Appendix A – Nomination Forms

Committee: Standards and General Purposes Committee

Date: 27 April 2023

Subject: Remuneration of Councillors

Lead Director: Louise Round, Interim Executive Director Innovation and Change

Lead member: Councillor Billy Christie, Cabinet Member for Finance and Corporate Services

Contact officers: Andrew Robertson, Head of Democracy and Electoral Services and Amy Dumitrescu, Democracy Services Manager

Recommendations:

- A. That the Committee considers the Independent Remuneration Panel's report on the Remuneration of Councillors ("the Report") with a view to deciding whether to recommend any changes to the current members' allowances scheme ("the Scheme");
 - B. That the Committee considers whether to set up a working group to consider the recommendations of that report in more detail and to report findings back to Committee to allow it to make recommendations to Council
 - C. The Committee consider whether to recommend that Council implement the uplift to Members Allowances
-

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The current scheme for paying allowances to members was approved by Council on 24 September 2003 and it was made under powers conferred by the Local Authorities (Member's Allowances) (England Regulations, 2003 ("The Regulations")). That Scheme has been readopted in subsequent financial years as required by the Regulations.
- 1.2 The Scheme and current rates can be found at Part 6 of Merton's Constitution and provides for a number of Special Responsibility Allowances (SRAs) to be payable to those Councillors appointed by Council to particular positions in addition to the basic allowance paid to all councillors. The Scheme is considered and approved annually by Council alongside the Pay Policy Statement.
- 1.4 The existing Scheme for 2022/23 was approved by Council on 1 March 2023.
- 1.5 London Council's Independent Remuneration Panel published a report on Councillor remuneration in January 2022. That report is attached as appendix A and recommends amending the scheme to include an uplift to Members allowances and the Committee is therefore asked to consider this report and the Council's response to it.

2. DETAILS

- 2.1 The recently published Report (Appendix A) represents a comprehensive review of the current position on members' allowances across London and notes that the role of councillors is becoming increasingly complex as is the

landscape in which they operate and notes the importance of continuing to encourage people to put themselves forward as councillors and seeking, so far as possible, to ensure that financial loss does not prevent this. However, the report also recognises that the question of councillors' remuneration against the backdrop of a very difficult financial climate presents a real dilemma.

- 2.2 Officers have carried out a benchmarking exercise using data from London Councils (Appendix B) to show where Merton's current allowances (Appendix C) differ from those recommended by the IRP, from the London average and from our nearest neighbours. This may need some updating and not all roles map easily against each other, especially for those councils operating committee systems but the data gives a broad picture of the current position. Members will note that there is a considerable gap between the amounts recommended in the Report and those currently paid by Merton.
- 2.3 As well as looking at the rates paid, Committee may wish to consider the number of special responsibility allowances paid as on the whole Merton has fewer of these than its neighbours.
- 2.4 The current Scheme provides for an annual uplift in Members Allowances in line with national Local Government pay increases. However in previous years it has been agreed that that automatic uplift should not apply. Accordingly, Members Allowances rates have not increased in Merton since 2008/9. At its meeting on 1 March, full Council will be asked to agree that the same approach be taken for 23/24 pending the outcome of the review proposed in this report, which is not to say that it could not be applied, backdated to 1 April 2023 should that be the view of this Committee, endorsed by full Council. In this respect it is worth noting that the IRP advice is that the practical effect of the 22/23 pay award would, if implemented, be to increase both the basic and special responsibility allowances by 4%.
- 2.5 The rate at which allowances are paid is clearly a sensitive issue and the Committee may take the view that it would be appropriate to set up a cross party working group to examine the issue, As the working group would not be a formal sub-committee, it would be bound by strict proportionality rules. A suggested remit for the working group is set out below:
 - a) to consider in detail the contents of the Report;
 - b) to ask officers to provide further benchmarking information as appropriate;
 - c) to make recommendations to Committee on any changes to the rates of basic and/or special responsibility allowances;
 - d) to make recommendations to Committee on the question of whether to increase the number of roles for which a special responsibility allowance is payable;
 - e) to consider whether to maintain the current provision for an annual uplift in rates pegged to the staff pay award and, if so, whether that uplift should apply for 23/24 regardless of any other recommended changes to the Scheme; and

f) to consider whether to recommend any public consultation on any proposed changes, noting that there is no legal requirement to do so.

3. ALTERNATIVE OPTIONS

The Committee could agree to recommend that the Council not change its Member Allowances scheme

4. CONSULTATION UNDERTAKEN OR PROPOSED

There is no statutory requirement to consult externally on any proposed changes to the Scheme although the working group may wish to consider the extent to which public consultation is practicable and desirable.

5. TIMETABLE

When the IRP reported in January 2022, they indicated that they would produce a fresh report in 2023; enquires have been made of London Councils to ascertain when this is due. Depending on the outcome of those enquires, it may be necessary to shift the timetable to ensure any recommendations are made on the basis of the information most recently available. Subject to that, it would be hoped that the working group could conclude its work in the Summer with a view to reporting to Council in the Autumn. If necessary, a special SGP could be convened to enable this.

6. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

The total cost of an increase of 4% is approximately £30,000 and can be met from existing budgets, which also accommodate a proposed saving of 20K. However, should a more comprehensive increase be recommended, this would require growth to be agreed.

7. LEGAL AND STATUTORY IMPLICATIONS

7.1 The Local Authorities (Members' Allowance) (England) Regulations 2003 (the Regulations) require a relevant authority to make a scheme providing for the payment of a basic allowance to each member of that authority.

7.2 Regulation 10 of the Local Authorities (Members' Allowances) (England) Regulations 2003 ("the Regulations") requires re-adoption of the scheme on an annual basis. Before making or amending its allowances scheme, the Council is required, by Regulation 19, to have regard to the recommendations of an Independent Remuneration Panel.

8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

None

9 CRIME AND DISORDER IMPLICATIONS

None

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

None

12. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Appendix A – London Council's Report Of Independent Remuneration [Panel](#)
- Appendix B – London Benchmarking data on Members [Allowances](#)
- Appendix C – Current [Members Allowances Scheme](#) and [Schedule of Rates](#)

13. BACKGROUND PAPERS

None

Committee: Standards and General Purposes Committee

Date: 27 April 2023

Subject: Amendments to the Constitution

Lead Director: Louise Round, Monitoring Officer

Lead member: Councillor Billy Christie, Cabinet Member for Finance and Corporate Services

Contact officer: Amy Dumitrescu, Democracy Services Manager

Recommendations:

- A. To recommend to Council that the following amendments to the Council's Constitution be authorised:
 - (i) The amendments to the Pensions Committee terms of reference as detailed in paragraph 2.1 below
 - (i) That all references to CHAS 2013 Ltd be removed from the Constitution as detailed at paragraph 2.4
 - B. To note that the Monitoring Officer will use her delegated authority under Article 15.2(b) of the Constitution to make consequential amendments to the Constitution to reflect the new Council structure agreed in September 2022.
 - C. To consider whether to recommend to full Council that changes be made to the Published Pay Policy and the Officer Employment Procedure Rules to clarify the approval process for making termination payments to officers and, if so, to decide which of the options set out in paragraph 2.8 to recommend.
 - D. Subject to C above, to authorise the Monitoring officer to submit amended versions of the terms of reference of the Appointment Committee, the Pay Policy and the Officer Employment Procedure Rules which reflect this Committee's recommendations for approval by Full Council.
 - E. To recommend to Council that the Officer Employment Procedure Rules be amended to remove the current requirement for the appointment of the Monitoring Officer to be agreed by full Council as this is not a legal requirement.
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To consider changes to the Constitution to update sections with current working practice and to amend any other sections as detailed within the report as required.

2 DETAILS

Pensions Committee

- 2.1. The Pensions Committee terms of reference do not currently require the annual Statement of Accounts and annual report for the Pensions Fund to be approved by the Pensions Committee. As a result, last year, External Audit refused to accept the Pensions Committee approval of the accounts. Therefore, it is recommended that the terms of reference are amended to

state an additional line “to review and approve the Pension fund’s annual statement of accounts and the annual report”.

New Council Structure

- 2.2. At its meeting on 21 September 2022, Council approved the recruitment of five Executive Director roles. Recruitment subsequently took place to fill these roles. The Constitution is therefore required to be amended to reflect the new roles, removing all reference to the previous titles and to amend all relevant delegations to refer to the new responsible Directors. Any reference to the previous Directorate names will also need to be amended. These amendments can be carried out by the Monitoring Officer using her delegated authority to make consequential changes to the Constitution under article 15(2)(b). References to specific directors appear in a number of places in the constitution, including the articles, financial regulations and contract standing orders and the Monitoring Officer will ensure such references are consistent throughout.

Delegations to Executive Directors

- 2.3. Because some council functions will move from their current locations under the new structure, it will be necessary also to amend the scheme of delegation to officers forming Part 3E of the Constitution using the Monitoring Officer’s delegated authority. It will also be necessary to amend the departmental schemes of management but those schemes are officer documents and do not require member level authority.

CHAS 2013 LTD

- 2.4. All references to CHAS will be removed from the Constitution following its sale to Veriforce.

Officer Employment Procedure Rules

- 2.5. Paragraph 9.4 of the Officer Employment Procedure Rules which comprise part 4H of the Constitution currently states that for chief officers, termination payments are subject to approval by the **Standards and General Purposes Committee** and that all severance packages over £100,000 shall be reported to Full Council for approval. This is at odds with the pay policy adopted by Full council which states:

*For Chief Officers, termination payments are reported to the Standards and General Purposes Committee for information on a regular basis. Payments which are in excess of a chief officer’s contractual or statutory entitlement shall require the approval of the **Appointments Committee**. In any event, all termination payments over £100,000 shall be reported to full Council for approval.*

- 2.6. The terms of reference of the Appointments Committee also include approving termination payments as follows:

To determine the terms and conditions on which officers hold office

(including the terms of dismissals), restructures, exits, statutory discretion relating to termination payments, reorganisations involving changes to staff responsibilities at Deputy Chief Officer and above.

- 2.7. It is important that the process for agreeing any terminations is clear and at the moment although an argument can be made that either the Standards and General Purposes or the Appointments Committee can be approached for approval, it would be prudent for the responsibility to sit with one body. It is the view of the Monitoring Officer that the Appointments Committee would be a more appropriate forum as the body charged with a number of staffing matters, including the appointment and dismissal of chief officers. It is worth noting that in any event, as the function is derived from the Council itself, a decision can lawfully be taken by the Full Council without prior consideration or approval by any committee although in practice it may usually be more appropriate for the matter to be considered in committee given the likely sensitive nature of any discussion relating to it, rather than the detail being debated by 57 councillors, albeit in confidential session.
- 2.8. Any process should comply the [statutory guidance](#) issued by the Secretary of State which indicates that termination packages of £100,000 and over should be subject to approval by full Council. For amounts below that level, the guidance suggest that this can be authorised by the Chief Executive; at present any payment outside of a chief officer's contractual and statutory entitlement arguably requires Appointment Committee approval regardless of the amount. Committee could choose to follow the guidance and allow payments bellow £100,000 to be authorised by the Chief Executive and only require those of £100,000 to have member approval. Alternatively, the threshold at which appointments Committee approval is required could be altered .The options are set out below and would apply to any officer, not just chief officers, the deciding factor being the value of the termination payment.

Option A – delegation to Chief Executive up to £50,000

- a) any termination payment outside of an officer's contractual and statutory entitlement the value of which is £50,000 or less shall require the approval of the Chief Executive although she may choose to delegate authority to approve such payments to the relevant Executive Director where they are £20,000 or less.
- b) any termination payment outside of an officer's contractual and statutory entitlement the value of which is greater than £50,000 but less than £100,000 shall require the approval of the Appointments Committee and does not need to be reported elsewhere;
- c) any termination payment outside of an officer's contractual and statutory entitlement, the value of which is £100,000 or more shall require the approval of the Appointments Committee *and* full Council, provided that if in

the view of the Chief Executive it is more appropriate for the decision to be taken solely by full Council without prior consideration or approval by the Appointments Committee, s/he may choose to put the matter straight to full Council. If the decision in question relates to the Chief Executive him or herself, then the Monitoring Officer shall have the authority to exercise the discretion to refer the matter straight to Council. **Option B- delegation to Chief Executive below £100,000**

a) any termination payment outside of an officer's contractual and statutory entitlement the value of which is less than £100,000 shall require the approval of the Chief Executive although she may choose to delegate authority to approve such payments to the relevant Executive Director where the value is £20,000 or less.

b) any termination payment outside of an officer's contractual and statutory entitlement, the value of which is £100,000 or more shall require the approval of the Appointments Committee *and* full Council, provided that if in the view of the Chief Executive it is more appropriate for the decision to be taken solely by full Council without prior consideration or approval by the Appointments Committee, s/he may choose to put the matter straight to full Council. If the decision in question relates to the Chief Executive him or herself, then the Monitoring Officer shall have the authority to exercise the discretion to refer the matter straight to Council.

Option C – Appointment Committee Approval for all Payments (status quo)

a) any termination payment outside of an officer's contractual and statutory entitlement in excess , the value of which is £100,000 or less shall require the approval of the Appointments Committee and does not need to be reported elsewhere

b) any termination payment outside of an officer's contractual and statutory entitlement, the value of which is £100,000 or more shall require the approval of the Appointments Committee *and* full Council, provided that if in the view of the Chief Executive it is more appropriate for the decision to be taken solely by full Council without prior consideration or approval by full Council, s/he may choose to put the matter straight to full Council. If the decision in question relates to the Chief Executive him or herself, then the Monitoring Officer shall have the authority to exercise the discretion to refer the matter straight to Council.

- 2.9. As part of its audit role, the Standards and general Purposes Committee shall be entitled to request a report on termination payments which have been paid from time to but there is no requirement for this Committee to approve such payments.

Monitoring Officer Role

- 2.10. Paragraph 3.2 of the Officer Employment Procedure Rules requires full Council approval for the appointment of the Monitoring Officer. This is not a legal requirement although it is for the Head of Paid Service (Chief Executive). The Constitution designates the Managing Director of the South London Legal Partnership (SLLP) as the Monitoring Officer by default. The appointment of the Managing Director is a thorough process, involving representatives of the 4 other councils making up the shared legal service as well as the Appointments Committee on which the Leader, relevant cabinet members and opposition group leaders are represented. Given the relatively infrequent nature of full council meetings and the need to be able to move swiftly once a recruitment process has been completed, it is arguably more appropriate for the final say on the appointment to rest with Appointments Committee, as it does for Executive Directors and the Section 151 Officer. It is therefore recommended that paragraph 3.2 be amended to remove that requirement.

3 ALTERNATIVE OPTIONS

- 3.1. The Council is advised to make these changes to ensure the Constitution is up to date and compliant with current legislation and best practice. The alternative option would be to do nothing, which is not recommended. Even if the Committee chooses not to make any changes to the thresholds at which member level approval is required for termination payments, the decision-making process should be clarified so that either the Appointments Committee or the Standards and General Purposes Committee is the body with responsibility for approval.
- 3.2. Specifically in relation to the appointment of the Monitoring Officer, the current incumbent will be leaving the Council at the end of July, and it is hoped to make the appointment of her successor following the process set out in paragraph 2.10 above, in the week beginning 29 May. As the next Council meeting after that is 12 July, as currently drafted, the offer of appointment would, have to wait until then. This would leave a longer than desirable gap with no permanent monitoring officer or head of the SLLP in place which is clearly not desirable. If the Committee were minded not to remove the standing requirement for the appointment to be agreed by Full Council, it is invited to ask Full Council to delegate the appointment of the Monitoring Officer to the Appointments Committee on this occasion, with the proviso that it is reported for noting to the next scheduled council meeting.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. None for the purposes of this report

5 TIMETABLE

- 5.1. The recommendations of the Standards and General Purposes Committee will be considered by Council at its' meeting on 17 May 2023.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. None for the purposes of this report

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The Constitution provides that proposed changes to the Council's constitution be reported to this Committee for approval prior to being considered at Council. (Article 15)
- 7.2. The Monitoring Officer has delegated authority to make minor administrative changes to the Constitution to reflect legislative changes or for the purposes of clarification.
- 7.3. The guidance issued by the Secretary of State on the authorisation process for special severance payments and the requirements for transparency relating to them is statutory guidance by virtue of section 40 of the Localism act 2022.
- 7.4. The process for appointing chief officers is in part governed by the Local Authorities Standing Orders England Regulations 2001). They do not require the appointment of the Monitoring Officer to be approved by a meeting of the full Council.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. None for the purposes of this report

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None for the purposes of this report

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. None for the purposes of this report

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

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12 BACKGROUND PAPERS

- 12.1. None

Department Approval	Name of Officer	Date of Comments
Legal		
Finance		

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Committee: Standards and General Purposes Committee

Date: 27 April 2023

Wards: All

Subject: Member Complaints

Lead officer: Louise Round, Monitoring Officer

Lead member: Councillor Mike Brunt Chair of the Standards and General Purposes Committee

Contact officer: Louise Round, Monitoring Officer

Recommendations:

- A. To note the number and types of complaint received by the Monitoring Officer in the last six months;
 - B. To consider whether there should be an absolute prohibition on the inclusion of links to external social media accounts in emails sent by councillors; and
 - C. To ask the Monitoring Officer to write to all councillors reminding them of the need to take care when using council resources including council email addresses to ensure they are not being improperly used for party political purposes and to seek advice from the Monitoring Officer or Deputy Monitoring Office if there is any doubt.
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. At its meeting on 7 July 2021, Council agreed a new code of conduct for members based closely on the model code produced by the Local Government Association, together with a revised process for dealing with complaints that members had breached the code of conduct. The new code and the complaints process are attached as appendix A and B of this report,

1.2. As the Committee charged with oversight of the Council's standards regime, it would seem appropriate for it to consider complaints made under that regime at regular intervals. This report provides an update on complaints received since the Committee was last updated in September 2022.

2 DETAILS

2.1. The complaints process requires that, following receipt of a complaint, the Monitoring Officer will carry out an initial review to decide whether or not the actions leading to the complaint were carried out by the councillor in their official capacity, as the Code only applies if that is the case. If she concludes that it does, then she will further consider whether that behaviour is capable of amounting to a breach of the Code. If so, a further decision is required as to whether the matter should be referred for an investigation.

2.2. In reaching that decision, the Monitoring Officer will consider the criteria set out in the complaints procedure which include factors such as the seriousness of the complaint, the age of the complaint and the extent to which the complaint may be considered to be “tit for tat” or motivated by political considerations. If on the balance of those factors and the public interest, she forms the view that even though on the face of the complaint there may have been a breach of the Code, the public interest does not require an investigation, she will inform the complainant accordingly. The Monitoring Officer may consult one of the Council’s two independent persons at any stage in this process, although this is not mandatory.

2.3. In all but the most exceptional cases, the councillor complained of will be told of the existence of the complaint and in order to inform the initial filter process it is common for the Monitoring Officer to have an exploratory discussion with both parties and to ask for further documentary evidence if it is available.

2.4. If the matter is referred for investigation and the conclusion of the investigating officer is that there has been a breach then, on receipt of a report concluding that there has been a breach, the matter will proceed straight to a hearing by a sub-committee of the Standards and General Purposes Committee. Before reaching a decision, the Sub Committee is obliged at that point to consult the Independent Person.

2.5. Complaints Received.

2.6. Since January 2020, the following complaints have been received:

September 22- April 23	Nature of Complaint	Complainant	Outcome
Complaint A	Content of a tweet allegedly misleading in connection with status of planning application	Member of Public	NFA - tweet did not specifically refer to the planning application, politician allowed a measure of hyperbole
Complaint B	Failure of councillor to explain inconsistencies between two council policies	Member of the public	NFA unhappiness with council policy not a cause to bring a conduct complaint.

Complaint C	Complaint relating to a tweet using insulting language about a fellow councillor	Fellow councillor	Wording used not sufficiently offensive as to amount to a breach, right to freedom of expression taken into account. NFA
Complaint D	Use of council email address to contact political party supporters, not for council business	Fellow councillor	Councillor accepted that the use of the council email was inappropriate and won't be repeated. Informal resolution accepted and NFA.
Complaint E	Complaint about a letter sent to local constituents in connection with the installation of LED lighting, wrongly implying the ward councillor was authorised to act on the part of the Council.	Member of the public	Letter had been cleared by the MO, was routine and was in accordance with the approach agreed by SGP to constituent letters. NFA

2.7. It will be noted that none of the complaints received have been referred for formal investigation although in some case other action was taken. There is no formal right of appeal against the Monitoring Officer's decision not to refer a complaint for investigation, but complainants are informed that if they are dissatisfied with the outcome of their complaint, they may refer the matter to the Local Government and Social Care Ombudsman. No such referrals have been made although one is

anticipated from complainant B.

2.8. It will be noted that there have been two complaints relating to the use of council resources (complaints D and E). This committee has previously considered the protocol for members wishing to send letters to local residents and that protocol had been followed in relation to complaint E, thus there was no case to answer. In relation to complaint D, as well as this formal complaint, the Monitoring Officer has received informal approaches about the use by councillors of links to personal or party twitter accounts in the email signatures or other allusion to party political activity. This can present something of a dilemma as it is perhaps neither desirable nor realistic to expect councillors to function as though they have no party-political allegiances at all when communicating with residents. After all, they would have been elected to their roles in many if not most cases, largely because of that affiliation. The code of conduct's requirements in this respect also acknowledge that there may be situations where the use of resources for party political purposes is permissible namely where:

“that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which [the member] has been elected or appointed”

2.9. There may be some cases where this is arguable and some where it is hard to see how overtly party-political activity does perform that function. Other situations, such as the simple use of links to social media accounts in email sign offs, are less clear cut. The Committee may wish to take the view that members should err on the side of caution when using council emails and if in doubt should seek advice about any content which they may believe falls the wrong side of the line. In relation to cross references to other social media platforms or external party-political matters, the Committee's views are sought as to whether an absolute ban on these should be imposed.

3 ALTERNATIVE OPTIONS

3.1. Not applicable.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. Not applicable

5 TIMETABLE

5.1. Not applicable

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

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

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. The statutory framework governing member conduct is set out in the Localism Act 2011.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. None

9 CRIME AND DISORDER IMPLICATIONS

9.1. None

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

None

11. APPENDICES

Appendix A – Code of Conduct for Members

Appendix B - Complaints process

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Standards and General Purposes Committee Forward work plan

June

- Annual Governance Statement
- Internal Audit Annual Report
- External Audit – Fee Letters for the Council and Pension Fund Accounts
- External Audit of the Council and Pension Fund Accounts
- Complaints against Members
- 22/23 Annual Complaints Report
- Work Programme

September

- Internal Audit progress report on annual audit plan
- Final Accounts
- Update on RIPA authorisations
- Work programme

November

- External Audit Annual Letter
- Internal Audit progress report on annual audit plan
- Final Accounts
- Fraud Update Report
- Annual Gifts and Hospitality report (members)
- Annual Gifts and Hospitality report (officers)
- Risk management
- Temporary and Contract Staff update
- Work programme

March

- External Audit Certification of Claims report
- External Audit progress report
- External Audit Plans for Council and Pension Fund accounts
- Internal Audit Plan

- Internal Audit progress report
- Update on RIPA authorisations
- Temporary and Contract Staff update
- Work programme

Add as required:

- Polling Places
- Constitutional amendments
- Review of members' interests
- Independent / co-opted members (September '24)
- Reports on dispensations issued by Monitoring Officer
- Report on payment exceeding £1000 as a result of maladministration as directed by the LGO.
- Revisions to Contract Standing Orders (July '23)
- Freedom of the Borough (recommendations from working group)