



**Resources Department
Town Hall, Upper Street, London, N1 2UD**

AGENDA FOR THE AUDIT COMMITTEE AND AUDIT COMMITTEE (ADVISORY)

Members of the Audit Committee and Audit Committee (Advisory) are summoned to a meeting which will be held in Committee Room 4, Islington Town Hall, Upper Street, N1 2UD on **29 July 2019 at 7.00 pm.**

Enquiries to : Mary Green
Tel : 020 7527 3005
E-mail : democracy@islington.gov.uk
Despatched : 19 July 2019

Membership 2019/20

Councillor Nick Wayne (Chair)
Councillor Sue Lukes (Vice-Chair)
Councillor Rowena Champion
Councillor Anjna Khurana
Alan Begg (Independent))
Nick Whitaker (Independent)

Substitute Members

Councillor Vivien Cutler
Councillor Mouna Hamitouche MBE
Councillor Sara Hyde
Councillor Flora Williamson

Quorum: is 3 Councillors



A. Formal Matters **Page**

1. Apologies for absence
2. Declaration of substitute members
3. Declarations of interest

If you have a **Disclosable Pecuniary Interest*** in an item of business:

- if it is not yet on the council's register, you **must** declare both the existence and details of it at the start of the meeting or when it becomes apparent;
- you may **choose** to declare a Disclosable Pecuniary Interest that is already in the register in the interests of openness and transparency.

In both the above cases, you **must** leave the room without participating in discussion of the item.

If you have a **personal** interest in an item of business **and** you intend to speak or vote on the item you **must** declare both the existence and details of it at the start of the meeting or when it becomes apparent but you **may** participate in the discussion and vote on the item.

***(a) Employment, etc** - Any employment, office, trade, profession or vocation carried on for profit or gain.

(b) Sponsorship - Any payment or other financial benefit in respect of your expenses in carrying out duties as a member, or of your election; including from a trade union.

(c) Contracts - Any current contract for goods, services or works, between you or your partner (or a body in which one of you has a beneficial interest) and the council.

(d) Land - Any beneficial interest in land which is within the council's area.

(e) Licences- Any licence to occupy land in the council's area for a month or longer.

(f) Corporate tenancies - Any tenancy between the council and a body in which you or your partner have a beneficial interest.

(g) Securities - Any beneficial interest in securities of a body which has a place of business or land in the council's area, if the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body or of any one class of its issued share capital.

This applies to **all** members present at the meeting.

4. Minutes of previous meetings 1 - 8
5. Appointments to the Pensions Sub-Committee 9 - 10

B.	Items for Decision - Audit and Audit (Advisory) Committee	Page
1.	Annual Governance Statement and Statement of Accounts (to follow)	-
2.	Risk Register (mid-year review) (to follow)	-
3.	Internal Audit programmes and transformation review	11 - 26
4.	The Council's use of surveillance under the Regulation of Investigatory Powers Act	27 - 32
5.	Update on Ombudsman's decisions January to June 2019	33 - 42

C. Urgent non-exempt items

Any non-exempt items which the Chair agrees should be considered urgently by reason of special circumstances. The reasons for urgency will be agreed by the Chair and recorded in the minutes.

D. Exclusion of press and public

To consider whether, in view of the nature of the remaining item on the agenda, it is likely to involve the disclosure of exempt or confidential information within the terms of the Access to Information procedure rules in the Constitution and, if so, whether to exclude the press and public during discussion thereof.

E. Confidential/exempt items

F. Urgent exempt items (if any)

Any exempt items which the Chair agrees should be considered urgently by reason of special circumstances. The reasons for urgency will be agreed by the Chair and recorded in the minutes.

The next meeting of the Audit Committee and Audit Committee (Advisory) will be on
2 September 2019

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London Borough of Islington

Audit Committee and Audit Committee (Advisory) - 3 June 2019

Minutes of the meeting of the Audit Committee and Audit Committee (Advisory) held in Committee Room 4, Town Hall, Upper Street, N1 2UD on 3 June 2019 at 7.30 pm.

Present: **Councillors:** Nick Wayne (Chair), Sue Lukes (Vice-Chair) and Anjna Khurana

Also Present: **Independent members:** Alan Begg and Nick Whitaker

Councillor Nick Wayne in the Chair

(A member of the public was permitted to photograph those present, other than those who had declined)

55 **APOLOGIES FOR ABSENCE (Item A1)**
Received from Councillor Rowena Champion.

56 **DECLARATION OF SUBSTITUTE MEMBERS (Item A2)**
None.

57 **DECLARATIONS OF INTEREST (Item A3)**
None received.

58 **MINUTES OF PREVIOUS MEETING (Item A4)**

RESOLVED:

That the minutes of the meeting held on 11 March 2019 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

59 **MEMBERSHIP, TERMS OF REFERENCE AND DATES OF MEETINGS IN 2019/20 (Item A5)**

RESOLVED:

That the membership of the Audit Committee appointed by the Council on 16 May 2019, terms of reference and dates of meeting of the Audit and Audit (Advisory) Committee for the municipal year 2019/20, as set out in Appendix A of the report of the Corporate Director of Resources, be noted.

AUDIT COMMITTEE APPOINTMENTS TO SUB-COMMITTEES AND PENSIONS BOARD 2019/20 (Item A6)

RESOLVED:

Pensions Sub-Committee

- a) That the size of the Pensions Sub-Committee and its Terms of Reference, as detailed in Appendix A of the report of the Corporate Director of Resources, be confirmed.
- b) That the following members be appointed to the Pensions Sub-Committee for the municipal year 2019/2020, or until successors are appointed:

Councillors	Substitute Members
David Poyser (Chair)	Mouna Hamitouche MBE
Andy Hull (Vice-Chair)	Roulin Khondoker
Paul Convery	Michael O’Sullivan
Sue Lukes	

- c) That Councillor David Poyser be appointed as Chair and Councillor Andy Hull be appointed as Vice-Chair of the Pensions Sub-Committee for the municipal year 2019/2020, or until successors are appointed.

Personnel Sub-Committee

- a) That the size of the Personnel Sub-Committee and its Terms of Reference, as detailed in Appendix A of the report of the Corporate Director of Resources, be confirmed.
- b) That the following members be appointed to the Personnel Sub-Committee for the municipal year 2019/2020, or until successors are appointed:

Councillors	Substitute Members
Nick Wayne (Chair)	All other Executive members
Andy Hull	
Jenny Kay	
Anjna Khurana	
Richard Watts	

- c) That Councillor Nick Wayne be appointed Chair of the Personnel Sub-Committee for the municipal year 2019/20, or until a successor is appointed.

Pensions Board

- a) That the following appointments be made to the Pensions Board:
 - i) Valerie Easmon-George as pensioner member representative, for a term of four years, from 3 June 2019.

- ii) Alan Begg as an independent member, for a term of four years, from 3 June 2019.

- b) That the following members be re-appointed for a three year term, from 3 June 2019:
 - (i) Mike Calvert, Unison, as a member representative
 - (ii) Maggie Elliott – Chair of Governors at Montem School, as an employer representative.

- c) That Maggie Elliott be reappointed as Vice-Chair of the Pensions Board.

- e) That Councillor Paul Smith be reappointed as a member and Chair of the Pensions Board.

- f) That the appointment of George Sharkey, GMB, as a member representative for a four year term, with effect from 26 May 2017, be noted.

- g) That it be noted that there was an employer representative vacancy and a substitute pensioner member representative vacancy on the Pensions Board.

61

ANNUAL GOVERNANCE STATEMENT (DRAFT) (Item B1)

The following points were noted during discussion:

- The Acting Head of Law and Governance undertook to respond to a question raised about the final sentence in paragraph 3.12.1 of the Annual Governance Statement viz “Details of all training provided to Members is reported to Audit Committee annually” and how this was achieved.
- With regard to paragraph 4.4.9 of the Annual Governance Statement, it would be part of good governance to include reference to the fact that the Audit Committee would receive “deep dive” reports on the way the Council managed large scale projects, as part of identification and management of risks
- Given its cross cutting affects, the development of information technology across the Council was highly significant, particularly with regard to its application to external customer user experience, which was fundamental to achieving budget savings in the longer term
- The general areas for concern or further development detailed in paragraph 6.2 of the Statement, including the development and delivery of the savings programme and its overall management and scrutiny, the restructuring of Digital Services and development of a new Strategy for the Service, progress in addressing some of the issues affecting Corporate Human Resources
- That an update on the bullet points in paragraph 6.2 be submitted to the Audit Committee on 2 September 2019, particularly the three principal areas of delivery and development of the savings programme, the restructure of

Digital Services and development of a new Strategy for the Service and service improvements to Corporate Human Resources Division.

RESOLVED:

- (a) That the Annual Governance Statement for 2018-19, attached at Appendix A to the report of the Director of Financial Management, be approved.
- (b) That an update on the bullet points in paragraph 6.2 be submitted to the Audit Committee on 2 September 2019, particularly the three principal areas of: delivery and development of the savings programme, the restructure of Digital Services and development of a new Strategy for the Service and service improvements to Corporate Human Resources Division.

62 AUTHORISATION OF EXTERNAL INVESTIGATION INTO WHISTLEBLOWING COMPLAINTS (Item B2)

RESOLVED:

- (a) That approval be granted to the appointment of an external investigator, who had been identified as a Queen's Counsel (assisted by junior Counsel), with relevant experience in local government and employment law and in the conduct of external investigations, to undertake an investigation into a whistleblowing complaint described in the exempt appendix to the report.
- (b) That the Acting Director of Law and Governance's selection of the external investigator, as detailed in resolution (a) above, be approved, and that authority be granted to the appointment of the investigator.
- (c) That the findings of the independent investigation be reported to a future meeting of the Audit Committee.

63 ENFORCEMENT AND PROSECUTION POLICY (Item B3)

Jan Hart, Service Director for Public Protection, introduced this report.

RESOLVED:

That the "Islington – Enforcement and Prosecution Policy", appended to the report of the Corporate Director of Environment and Regeneration, be approved.

64 MARKET SUPPLEMENTS - MEMBERS' QUESTIONS TO THE ACTING DIRECTOR OF HUMAN RESOURCES AND HEAD OF SCHOOLS HUMAN RESOURCES (IN ACCORDANCE WITH A RESOLUTION PASSED BY THE COMMITTEE IN MARCH 2019) (Item B4)

Alan Grant, the Acting Director of Human Resources and Head of Schools Human Resources, was in attendance for members' discussion of this item.

In response to a request from the Chair for an update on where the Council stood broadly on the matter of market supplements and what analysis had been carried out to determine their value, it was reported that a total of 15 Council employees received market supplements, 13 of whom worked in Housing and all of which were

attached to gas engineer roles. One member of staff in Environment and Regeneration and another in the People Directorate also received market supplements. The total costs of the supplements was £98k p.a., of which £87k was paid to staff in Housing. The public sector often found difficulty to match the private sector in salaries for staff in, for example, Digital Services and it was necessary to pay the going rate to attract quality staff.

The Acting Director of Human Resources and Head of Schools Human Resources undertook to respond to members on the question of any consequential effects on existing staff carrying out the same role in a division where a post attracted a market supplement. He acknowledged that further workforce planning was needed to address this, including the appointment of a Workforce Planning Officer.

A member of the Committee asked for evidence that market supplements worked and asked whether consideration had been given to the upskilling of staff, on condition that they remain as Council employees, or be required to pay back training costs to the Council. Further information was required on the number of times market supplements were offered, whether it had then resulted in satisfactory recruitment to a particular post and the extent to which staff with market supplements remained in post. A comparison with other boroughs would be helpful in this context.

The Acting Director of Human Resources and Head of Schools Human Resources was asked to send a written response to members of the Committee on these points, before the next meeting of the Committee.

RESOLVED:

That the Acting Director of Human Resources and Head of Schools Human Resources provide a written update to members of the Committee on the points above, raised during discussion, before the next meeting of the Committee.

65 AUDIT COMMITTEE FORWARD PLAN OF BUSINESS

The Committee considered items on the Forward Plan of business for the Committee, which had been forwarded to the Chair.

Members expressed concerns about contracting practices (eg how sizeable contracts are procured) and the Council's commitment to insourcing (eg of cyclical repairs). A suggestion was made that it would be useful for the Committee to consider the Risk Register more frequently to ensure that the Committee was satisfied that managers' response to any particular risk was appropriate.

Following discussion, it was agreed that:

- Although the Corporate Management Board kept a risk log which was updated by Corporate Directors, an interim review of the Risk Register be submitted to the Audit Committee for review, preferably in July of each year,

given that the full Risk Register was due for review by the Committee in January 2020.

- The updated Forward Plan of business for the Audit Committee be circulated to members of the Committee for information

66 ALAN LAYTON, DIRECTOR OF FINANCIAL MANAGEMENT AND S151 OFFICER (Item)

The Chair noted that this would be the last attendance of Alan Layton at the Audit Committee, prior to his retirement in July 2019. On behalf of the Committee, he thanked Alan Layton for his immeasurable assistance and immense contribution, not only to the work of the Committee, but to the Council. He thanked him for his years of valuable service to the Council and wished him well for the future.

RESOLVED:

Accordingly.

67 AUTHORISATION OF EXTERNAL INVESTIGATION INTO WHISTLEBLOWING COMPLAINTS - EXEMPT APPENDIX (Item F1)

RESOLVED:

That the contents of the exempt appendix on the external investigation into whistleblowing complaints be noted (- see minute 62 for decision).

The meeting ended at 9.00 pm

CHAIR

Audit Committee and Audit Committee (Advisory) - 27 June 2019

Minutes of the meeting of the Audit Committee and Audit Committee (Advisory) held at the Town Hall, Upper Street, N1 2UD on 27 June 2019 at 6.30 pm.

Present: **Councillors:** Nick Wayne (Chair), Sue Lukes (Vice-Chair),
Rowena Champion and Anjna Khurana

Also Present: **Independent member:** Alan Begg

Councillor Nick Wayne in the Chair

68 APOLOGIES FOR ABSENCE (Item A1)

Received from Nick Whitaker, independent member.

69 DECLARATION OF SUBSTITUTE MEMBERS (Item A2)

None.

70 DECLARATIONS OF INTEREST (Item A3)

None received.

71 WHISTLEBLOWING COMPLAINT UPDATE (Item B1)

RESOLVED:

(a) That the options available to the Committee and the implications for the Council and the complainant, as detailed in the report of the Interim Corporate Director of Resources, be noted.

(b) That it be noted that the most appropriate and reasonable outcome for the complainant and the Council had been taken into account.

(c) That the Acting Director of Law and Governance be authorised to action recommendations 11.1 and 11.2 in the exempt appendix to the report.

72 EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That the press and public be excluded during consideration of the following items as the presence of members of the public and press would result in the disclosure of exempt information within the terms of Schedule 12A of the Local Government Act 1972, for the reasons indicated:

<u>Agenda item E1</u>	<u>Title</u>	<u>Reasons for exemption</u>
	Whistleblowing complaint update– exempt appendix	<u>Categories 1 and 2</u> – Information relating to any individual; and Information which is likely to reveal the identity of an individual

WHISTLEBLOWING COMPLAINT UPDATE – EXEMPT APPENDIX

RESOLVED:

That the Acting Director of Law and Governance be authorised to take the actions outlined in the exempt appendix.

The meeting closed at 7.00pm.

CHAIR

**Governance and Human Resources
Town Hall,
Upper Street
London N1 2UD**

Report of : Acting Director of Law and Governance
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Meeting of	Date	Agenda Item	Ward(s)
Audit Committee	29 July 2019		n/a

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**Subject: AUDIT COMMITTEE APPOINTMENTS TO PENSIONS SUB-COMMITTEE
2019/20**

1. Synopsis

Due to resignation of Councillor David Poyser as a member of and the Chair of the Pensions Sub-Committee, it is necessary to appoint replacements.

2. Recommendations

- 2.1 To appoint Councillor Paul Convery as Chair of the Pensions Sub-Committee.
- 2.2. To appoint Councillor Michael O'Sullivan as a member of the Pensions Sub-Committee.
- 2.3 To appoint Councillor David Poyser as a substitute on the Pensions Sub-Committee.

3. Background

- 3.1 The Audit Committee is responsible for the appointment of the Pensions Sub-Committee and its membership.
- 3.3 Councillor David Poyser has recently resigned as the Chair and as a member of the Sub-Committee.
- 3.4 The following nominations have been proposed:

Councillor Paul Convery as Chair of the Pensions Sub-Committee
 Councillor Michael O'Sullivan (currently a substitute) as a member of the Sub-Committee
 Councillor David Poyser as a substitute on the Sub-Committee

4. Implications

4.1 Financial Implications

None

4.2 Legal Implications

None.

4.3 Environmental Implications

There are no environmental impacts arising from this report.

4.3 Resident Impact Assessment

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

A resident impact assessment has not been carried out since the contents of this report relate to a purely administrative function and will not impact on residents.

5. Conclusion and reasons for recommendations

Approval to the recommendations is needed to ensure that the Pensions Sub-Committee is properly constituted.

Background papers:

None.

Final Report Clearance

Signed by



Peter Fehler

Acting Director of Law and Governance

Date 15 July 2019

Report author Mary Green
Tel 020 7527 3005
E-mail mary.green@islington.gov.uk



Report of: The Deputy S151 officer

Meeting of	Date	Ward(s)
Audit Committee	29 th July 2019	All

Delete as appropriate		Non-exempt
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SUBJECT: Internal Audit Programmes and Transformation Review

1. Synopsis

- 1.1. This report provides Committee with outcomes from an Internal Audit review surrounding Programmes and Transformation. The review was commissioned by Committee, and Roger Dunlop, Head of Strategy and Change, was the key audit contact. The background and purpose of the review is detailed at section 3 below.

2. Recommendations

- 2.1. Committee is requested to note the management letter at Appendix 1, including management responses to audit recommendations and timescales for implementation.

3. Background

- 3.1. An Internal Audit review was undertaken to assess the design of controls and governance arrangements surrounding Programmes and Transformation within the Council. The audit was not included within the 2018-19 audit plan approved by the Audit Committee in March 2018, and was undertaken in Q3/Q4 2018/19 as a special review at the request of the Audit Committee. The Chair of the Audit Committee agreed the Terms of Reference and the Council's Head of Strategy and Change was also consulted. Further background surrounding the scope and purpose of the review is included at in the Terms of Reference at Appendix 1 (section D).

4. Implications

4.1. Financial implications

There are no specific financial implications associated with this report. The Programme Management Office is being funded from existing budgets.

4.2. Legal Implications

There are no specific legal implications associated with this report.

4.3. Environmental implications

There are no environmental implications arising from the recommendations in this report.

4.4. Resident Impact Assessment

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

A Resident Impact Assessment has not been completed because the decision currently being sought does not have direct impacts on residents.

5. Reason for recommendations

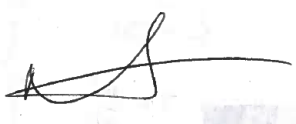
To note audit recommendations relating to governance arrangements and control design surrounding Programmes and Transformation

Appendices:

Appendix 1 – Final Internal Audit Management Letter – Programmes and Transformation

Final report clearance:

Signed by:

A handwritten signature in black ink, appearing to be a stylized 'A' followed by a long horizontal line.

11 July 2019

Mohammed Sajid – Chief Accountant and
Deputy S151 Officer

Report Authors:

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Financial Implications

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REPORT ENDS

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Audit Committee 29th July 2019 – Appendix 1 (Internal Audit Programmes and Transformation Management Letter)

Date: July 2019
Our Ref: LBI1819
Enqs To: Nasreen Khan, Head of Internal Audit, Investigations and Risk Management

CAMDEN & ISLINGTON SHARED INTERNAL AUDIT SERVICE

FINAL MANAGEMENT LETTER

To:

Roger Dunlop, Head of Strategy and Change

Copies to:

Corporate Management Board (CMB)

Dear Roger

Internal Audit Review - Programmes and Transformation

Introduction and background

This management letter presents outcomes of our review of the design of controls and governance arrangements surrounding Programmes and Transformation within the Council.

In 2018/19, the Council's Audit Committee resolved to conduct an annual deep dive into an area of assurance that would have a positive impact Council-wide. It was agreed that, in 2018-19, this review would focus on programme governance arrangements given the level of transformation currently underway across the Council.

The Council currently has a focus on transformation, to enable the authority to continue to operate as a well-run council. The Council has a number of transformation and change initiatives planned, which will be delivered as cross cutting ventures as well as within individual Council departments. It is anticipated that the Council's newly created Programme Management Office (PMO) will enhance programme and project governance and so support wider transformation and change initiatives. The main objectives of the PMO are to:

- Provide the senior leadership team with clear oversight of key programmes and how they are progressing;
- Help senior leaders to prioritise change initiatives, by providing a more structured approach to project initiation;
- Provide scrutiny and challenge to key programmes, ensure that they are managing key risks and are on track to deliver the expected outcomes / benefits; and
- Develop tools, templates and guidance to help drive quality and consistency.

Audit Approach

The primary purpose of this review was to advise the PMO during its initial creation and assess the adequacy of the design of controls to be introduced by the PMO. As the PMO is at development stage, we were unable to provide assurance surrounding the effectiveness of the implementation of controls. Our review focussed on

the design of the controls and governance arrangements introduced by the PMO in order to achieve its objectives. A detailed Terms of Reference, outlining the scope of our work, is attached at **Appendix D**.

Summary of findings

The aim of the PMO is to improve how the Council approaches and manages its programmes, projects and change activities and therefore supports the Council to achieve its overall objectives. The scope of the PMO will encompass all change projects across the Council. Currently work has focussed on outcomes-based budgeting for projects / programmes and work is underway to determine additional departmental projects. According to the PMO update provided to the CMB in December 2018, the PMOs remit currently includes:

- 97 Business cases totalling £40m;
- 52 Management Actions totalling approx. £10m; and
- 45 Projects, either cross cutting or departmental totalling approx. £30m.

Areas of good practice

Internal Audit worked with the PMO team in an advisory capacity to provide input into the design of controls during its initial phase of operation and observed the following areas of good practice controls introduced by the team:

- **Business Case Process** - The team's initial efforts have rightly focussed on the Council's case for change. This has included the introduction of a formal process for business case development and assessment. Proposed business cases are validated at the Design & Compliance Authority board meeting, which includes cross Council representatives, including Finance, HR, Procurement, ICT and Legal, to provide technical sign off of proposed business cases prior to formal approval at the Programme Delivery Board. This process is supported by a suite of templates for initial project Mandate, Outline and Full Business Case, which include fields to capture all the required information and allow management to make fully informed decisions.
- **Governance / Delivery Process** - The team have introduced a full governance structure for projects and programmes to provide management oversight and challenge throughout the delivery lifecycle. The PMO have determined the level of governance and sponsorship to be applied to a project or programme, based on its profile of benefits, risk and complexity. This uses the SCOT model (Strategic, Critical, Operational and Transactional). All boards have clearly defined remits and roles and this is accompanied by a gateway process for major cross cutting and departmental programmes. An overview of this structure can be found at **Appendix B**. Governance processes will be supported by the introduction of Microsoft Project Online software, which will allow management to have full oversight of the Council's change portfolio.
- **Supporting Projects** - A programme of work is underway to develop the project / programme management capability across the Council. This has included access for all Council staff to online training for best practice qualifications, such as Prince2 and Managing Successful Programmes, until May 2020. Those delivering and overseeing projects and programmes will also have the opportunity to attend a series of masterclasses delivered by subject matter experts. Details of the training available to staff is included at **Appendix C**. This will be supported by the planned creation of good practice templates for project/programme managers to utilise.
- **Cross Council Presence** - The PMO team currently consists of five change programme leads embedded within Council directorates and aligned to specific programmes (for example Children's or Adults services), and three PMO analysts. This is supported by dedicated Council subject matter experts aligned to directorates for areas such as Finance, HR, Procurement, ICT and Legal. The PMO team will provide support to programmes in the initial development of a programme's business case and plans, and has oversight of the programme's ongoing delivery. This covers areas such as progress against the plan, financial monitoring, and risk management; effectively acting as an embedded assurance function.

Areas for continued development

Aside from continuing to embed the above processes, we have identified some specific areas where management may wish to further develop controls to ensure the successful delivery of the Council's change portfolio, particularly as the programmes move into delivery phases. These include:

- **Agreed Minimum Standards** – Whilst the PMO have set parameters around the way in which projects and programmes will operate they have not specified the level of information or documentation managers would be expected to produce and maintain, appropriate to the scale and complexity of each project and programme. This may mean that projects and programmes inconsistently apply control processes, leading to delivery issues or inconsistent reporting through governance forums. Once minimum standards have been agreed management should determine an appropriate approach to providing assurance over project and programme delivery.
- **Clear Escalation Criteria** - The governance structure references the requirement for escalation, however we found that programmes were not yet supported by tolerances or escalation criteria for key project / programme areas, such as risk, issues, time, cost, benefits, quality or scope; defining the point at which an escalation is required. Without agreed tolerances or escalation criteria in place, project and programme managers may be unclear what would warrant escalation and it may be difficult for the governance structures to make effective decisions.
- **Wider PMO Publication** – To date publicising of the PMO across the Council has focused on the Senior Leadership Team and initial meetings with Corporate Directors. Management intend to publicise the PMO's role and available training materials to all staff across the Council, however this had not yet taken place at the time of our review. The Council may fail to realise the full benefits from the introduction of the PMO if the wider Council are not aware of their existence or fully engaged.
- **Departmental Management Team (DMT) Project Monitoring** - The scope of the PMO will encompass all change projects across the Council. Work is underway to determine additional departmental projects, however this had not yet completed at the time of our review. Once departmental projects have been determined the PMO should agree the key projects which require regular DMT oversight and monitoring and introduce appropriate highlight reporting to DMT meetings.

Conclusion

Overall, whilst areas of good practice have been identified in terms of the design of the PMO, we have identified areas where further development is required in order for the PMO to successfully achieve its objectives.

An action plan is attached at **Appendix A** to assist with the ongoing design of controls and includes recommendations to address the identified risks; as well as management's response to each recommendation. A follow up review, to assess the level of implementation of recommendations, will be conducted in Q3/4 2019/20.

Yours sincerely,

Nasreen Khan

Head of Internal Audit, Investigations and Risk Management

Action Plan

Appendix A

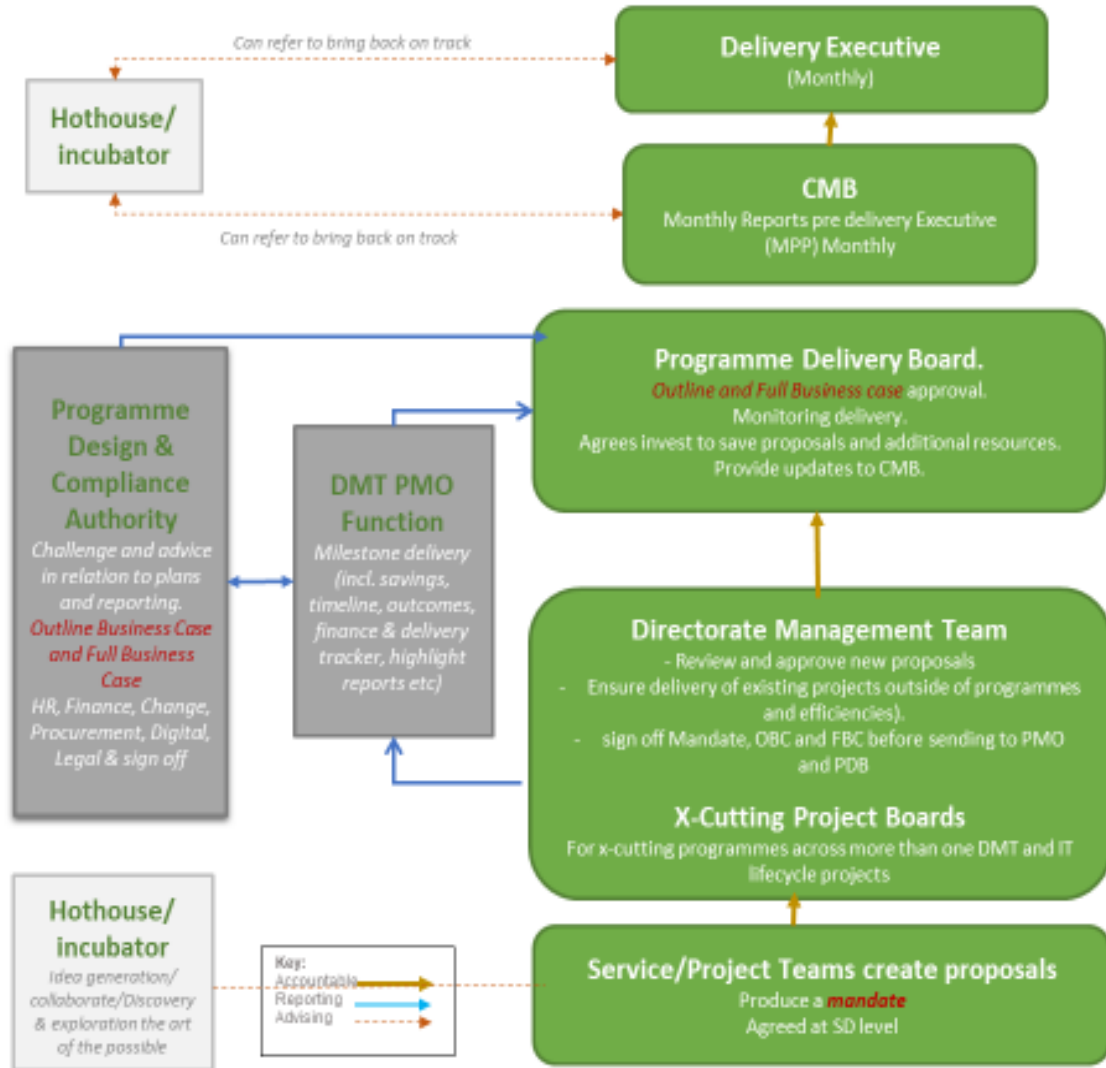
Ref	Audit Findings	Risk	Recommendations	Priority	Management Responses
1.	<p><u>Agreed Minimum Standards</u></p> <p>The PMO have determined the level of governance and sponsorship to be applied based on a project or programmes profile of benefits, risk and complexity, using the SCOT model (Strategic, Critical, Operational and Transactional).</p> <p>Whilst parameters around the way in which projects and programmes will operate have been agreed, the PMO have not specified the level of information or documentation project / programme managers would be expected to produce and maintain, appropriate to the scale and complexity of each project/programme.</p> <p>This may mean that projects and programmes inconsistently apply control processes which lead to delivery issues and or inconsistent reporting through governance forums.</p> <p>Once minimum standards have been agreed management should determine an appropriate approach to providing assurance over project and programme delivery. Management may wish to focus on inflight projects and programmes to ensure that controls in place are fit for purpose.</p>	<p>Project teams may be unsure of the level of information / documentation they are expected to produce and maintain.</p> <p>This may mean that projects and programmes inconsistently apply control processes which lead to delivery issues and or inconsistent reporting through governance forums.</p> <p>Reporting may not provide management with accurate and up-to-date information and ensure decisions are taken based on all the required information. This may lead to reputational damage or operational inefficiency.</p>	<p>1) It is recommended that management specify the level of documented information projects and programmes are required to produce and maintain, in relation to the following areas:</p> <ul style="list-style-type: none"> ○ Risk and issue management; ○ Benefits management; ○ Financial monitoring; ○ Detailed project and programme planning and resourcing; ○ Highlight reporting; ○ Stakeholder analysis and engagement; ○ Change control; and ○ Supplier management. <p>2) Management should determine an appropriate approach to providing assurance over project and programme delivery.</p>	<p>Medium</p> <p>●</p>	<p>Agreed: Partly.</p> <p>Several of these are clearly documented, including the RAID log, financial monitoring, highlight report and change controls.</p> <p>Action to be taken:</p> <p>Complete the outstanding project management documentation standards</p> <p>Responsible Officer: Roger Dunlop, Head of Transformation</p> <p>Target Date: 31 August 2019</p>

Ref	Audit Findings	Risk	Recommendations	Priority	Management Responses
2.	<p><u>Clear Escalation Criteria</u></p> <p>The governance structure references the requirement for escalation, however we found that programmes were not yet supported by tolerances or escalation criteria for key project / programme areas, such as risk, issues, time, cost, benefits, quality or scope; defining the point at which an escalation is required.</p> <p>Good practice would suggest defining proportionate tolerance levels, at which each project or programme is required to escalate issues to the next level within the governance structure. This should be aligned to scale and complexity of each programme and may for example include slippage of overall timescales of one month, or exceeding approved budget within 5%, as a trigger for exception reporting and escalation. This would enable project / programme teams to be clear on what would warrant escalation throughout the governance structure and senior leaders to ensure they were made aware of potential issues as they arise.</p>	<p>Without agreed tolerances or escalation criteria in place, it may be difficult for the governance structure to make effective decisions regarding the projects / programmes.</p> <p>The teams may also be unsure what would warrant escalation to the programme boards or beyond.</p>	<p>It is recommended that management introduce and clearly document tolerances or escalation criteria for key project /programme areas, including (but not limited to) risks, issues, time, cost, benefits, quality and scope for each of the projects and programmes.</p>	<p>Medium</p> <p>●</p>	<p>Agreed: Partly</p> <p>Action to be taken:</p> <p>Tolerance levels have been set and included in the RAG status reporting framework. However this will take some months to embed and refine and work will continue through the PMO to support this.</p> <p>Responsible Officer:</p> <p>Roger Dunlop, Head of Transformation</p> <p>Target Date:</p> <p>Complete</p>
3.	<p><u>Wider PMO Publication and engagement</u></p> <p>To date publicising of the PMO across the Council has focused on the Senior Leadership Team and initial meetings with Corporate Directors.</p> <p>Management intend to publicise the PMO's role and available training materials to all staff across the Council, however this had not yet taken place at the time of our review. For example there was not a formal communications plan in place to ensure that the wider Council was aware of the PMOs objectives and remit and fully engaged in the process.</p>	<p>The Council may fail to realise the full benefits from the introduction of the PMO if the wider Council are not aware of its existence or fully engaged.</p>	<p>It is recommended that management develop a plan to formally publicise the PMO and engage the wider Council. For example this could include:</p> <ul style="list-style-type: none"> ○ Attendance at DMTs to ensure members are aware of the PMOs aims and objectives: ○ The activities required to agree the project / programme universe with DMTs; 	<p>High</p> <p>●</p>	<p>Agreed: Partly</p> <p>CMB are in full support of the PMO process and are embedding it through their departments</p> <p>Action to be taken:</p> <p>We will develop a fuller comms plan as we move the PMO to the next stage</p>

Ref	Audit Findings	Risk	Recommendations	Priority	Management Responses
			<ul style="list-style-type: none"> ○ Periodic attendance at DMTs to encourage continued engagement; ○ Periodic support to relevant projects and programmes; and ○ A Schedule of publicising events for the wider Council staff. 		<p>Responsible Officer: Roger Dunlop, Head of Transformation</p> <p>Target Date: 31 August 2019</p>
4. Page 20	<p><u>Departmental Management Team (DMT) Project Monitoring</u></p> <p>According to the PMO update provided to the CMB in December 2018, the PMO aims to be a single point of reference for all Council change projects and programmes.</p> <p>Work is underway to determine additional departmental projects, however this had not yet completed at the time of our review.</p> <p>Once departmental projects have been determined the PMO should agree the key projects which require regular DMT oversight and monitoring and introduce appropriate highlight reporting to DMT meetings.</p>	<p>Reporting may not provide management with accurate and up-to-date information and ensure decisions are taken based on all the required information. This may lead to reputational damage or operational inefficiency.</p>	<p>It is recommended that management agree key department projects and develop highlight reporting for key projects to DMT meetings. Providing information on key project areas, such as scope, risks, issues, time, cost, benefits and quality for each key projects.</p>	<p>High</p> <p>●</p>	<p>Agreed: Agreed</p> <p>Action to be taken:</p> <p>Include the non-savings related projects into the PMO</p> <p>Responsible Officer: Roger Dunlop, Head of Transformation</p> <p>Target Date: 30 September 2019</p>

Appendix B – Project / Programme Governance Process Overview

Delivery Governance Framework



- Key Features**
- **Delivery Executive Chaired by Leader, with Portfolio Holder for Finance, Performance & Community Safety, CEX, Director of Finance - s151**
 - **Corporate & Service Directors report into the Delivery Board and Delivery Executive as appropriate** e.g. to expedite resolution of delivery of transformation and savings that are off track.
 - **Programme Delivery Board chaired by CD Resources and nominated rep from each Directorate Management Team (DMT)** and supported by other colleagues to provide challenge of business cases and savings tracking (including S151, Director of HR). Delivery Board would provide:
 - Approval of financial commitment (investment) from Invest to Save pot
 - Tracking and ensuring accountability
 - Cross council (Corporate) new concepts/business case decisions
 - Resource allocation (to support the transformation)
 - Benefits realisation and tracking savings (all decisions subject to usual member/delegated officer approvals)
 - **Programme Management Office (PMO) function will support the Delivery Board** to have all appropriate information to sign off and have full management of the programme.
 - **Design & Compliance Authority** Finance, HR, Comms, Procurement, ICT, Legal reps to provide technical sign off on proposals and validate
 - **DMT/PMO function** – a dedicate group of staff for each DMT/X-cutting programme providing specific advice and support.
 - **No Project Boards except for approved Corporate Transformation Programmes & IT Lifecycle Projects (infrastructure/architecture/technology assets etc)** – DMT’s are accountable for delivery of change and savings. DMT’s will initially sign off mandate and outline business cases.
 - All business cases for resources, funding, changes to IT/data, workforce, efficiencies, transformation etc. would follow this process

Appendix C – Support to Projects and Programmes

Project and Programme Masterclasses

Masterclass workshops to be provided to Project and Programme staff and the Councils Senior Leadership Team:

- Better Business Cases
- Managing Benefits
- The Project Sponsor Course
- The Senior Responsible Owner Course
- Vision and Blueprint
- Programme Management Overview
- Managing Projects Overview
- Risk Management
- Project Governance and Control
- Better Planning
- Stakeholder Management
- Resource and People Management

Project and Programmes training

Online training available to all Council staff until May 2020:

- Projects in a controlled environment (PRINCE2) Foundation & Practitioner
- Managing Successful Programmes (MSP) Foundation & Practitioner
- Managing Portfolio's (MOP) Foundation and Practitioner
- Management of Risk (MOR) Foundation and Practitioner
- Management of Project, Programme and Portfolio Offices (P3O)
- APMG International Change Management
- APMG International Managing Benefits
- APMG International Better Business Cases (Foundation Only)
- APMG International Agile Project Management (Foundation Only)
- APM Project Fundamentals Qualification (APM PFQ)

Appendix D

Internal Audit Shared Service Terms of Reference

Internal Audit Plan 2018/19

Programmes and Transformation

January 2019

Introduction and Ownership

The purpose of this Terms of Reference is to set out our work programme for the review of the design of controls and governance arrangements surrounding Programmes and Transformation within the Council. This audit was not included within the 2018-19 audit plan approved by the Audit Committee in March 2018, and is being undertaken as a special review at the request of the Audit Committee.

Councillor Nick Wayne (Chair of the Audit Committee) will take ownership of this review and will be responsible for agreeing the Terms of Reference. Roger Dunlop (Head of Transformation) will also be consulted.

Background

The Council's Audit Committee recently resolved to conduct an annual deep dive into an area of assurance that would have a positive impact Council-wide. It was agreed that, in 2018-19, this review would focus on programme governance arrangements given the level of transformation currently underway across the Council.

The Council currently has a focus on transformation to enable the authority to continue to operate as a well-run council. The Council has a number of transformation and change initiatives planned, which will be delivered as cross cutting ventures as well as within individual Council departments. It is anticipated that the Council's newly created Programme Management Office (PMO) will enhance programme and project governance and so support wider transformation and change initiatives.

The primary purpose of this review to advise the PMO during its initial creation and assess the adequacy of the design of controls to be introduced by the PMO.

Service Objective

The aim of the PMO is to improve how the Council approaches and manages programmes, projects and change activities and therefore support the Council to achieve its overall objectives. The main objectives of the PMO are to:

- Provide the senior leadership team with clear oversight of key programmes and how they are progressing;
- Help senior leaders to prioritise change initiatives by providing a more structured approach to project initiation;
- Provide scrutiny and challenge to key programmes and ensure that they are managing key risks and are on track to deliver the expected outcomes / benefits; and
- Develop tools, templates and guidance to help drive quality and consistency.

Scope

The review will focus on the design of the controls/governance arrangements that the PMO plans to introduce in order to achieve the objectives outlined above. To inform this, Internal Audit's twelve elements of project / programme management excellence will be utilised (see appendix 1) and will form the basis of the assessment of the PMO's proposed controls. The twelve elements represent good practice project and programme management controls and have been developed based on extensive experience of delivering and assuring projects and programmes and enables any weaknesses in controls to be identified.

Audit objective and approach

Internal Audit will work with the PMO team in an advisory capacity to provide input into the design of PMO controls during its initial creation. Our review will include the following activities:

- Consider the adequacy of the proposed design of the PMO;
- Consider the design of proposed controls introduced by the PMO for programmes to utilise;
- Offer input on good practice aligned to the twelve elements (see appendix A) and lessons learnt from other Councils and programmes;
- Consider how the PMO is publicised and reaches out to key programmes;
- Reviewing pertinent documentation, such as any governance documents created or standard templates introduced for programmes to utilise; and
- Interview key members of PMO staff.

Limitations of Scope

The scope of our work is limited to the procedures outlined in the scope section above. We will not undertake any additional detailed testing over specific programmes as part of this review.

Output

The principal output from this review will be a management letter summarising the activities undertaken and highlighting any activities where the PMO may wish to undertake further work to strengthen the controls.

Proposed timescales

Action	Date
Agreement of terms of reference	January 2019
Fieldwork start	Mid January 2019
Fieldwork complete	Mid February 2019
Draft management letter to client	Late February 2019
Response by client	Early March 2019
Final management letter	Early March 2019

Terms of Reference Appendix 1 – Twelve Elements of Project / Programme Management Excellence

Twelve Elements Model

Managed risks and opportunities

- Effective risk and issue management is based upon ensuring that the process is fit for purpose – i.e. it provides challenge and scrutiny to the project without placing excessive burden on the project team

Embedded life-cycle assurance and learning

- A project's assurance needs should be mapped over its lifecycle in order to ensure that the right assurance is provided at the right time
- Assurance activity should be prioritised according to the specific context, content and risk profile of the project

Focused benefits management

- Benefits management is one of the cornerstones of project success
- The diagnostic considers the following four key facets of benefits management: Benefits governance, Benefits identification and planning, Benefits management and realisation, and continuous improvement

Smart financing

- Project costs and budgets should be managed to ensure that the expected benefits accrue to the organisation within the specified financial constraints
- If costs become out of control or are significantly higher than expected, the project may no longer be viable or cost-effective

Active quality management

- This is the development and implementation of an approach and plan to monitor and evaluate the quality of the work performed within a project
- It ensures that individual deliverables are produced and project activities are conducted in line with requirements and expectations

Engaged stakeholders

- It is essential that stakeholders are identified, assessed and managed on an ongoing basis throughout the project
- It is important to work with key stakeholders as they are critical in driving success

Integrated suppliers

- Most projects involve a number of suppliers who work together to play a part in delivering the project
- It is important to consider the nature of each of these suppliers, their respective roles within the project and their relationships to each other

Clear scope

- It is important to have agreement on a clearly defined and documented project scope, as this provides the boundaries within which the project and its workstreams will deliver
- Undefined scope creates significant risk to delivering business outcomes and benefits on time and within budget

Agile change control

- Change control arrangements are used to manage changes to scope, requirements (business and technical), deliverables and intended benefits that impact the project baseline, timing or cost

Delivery-enabling plans

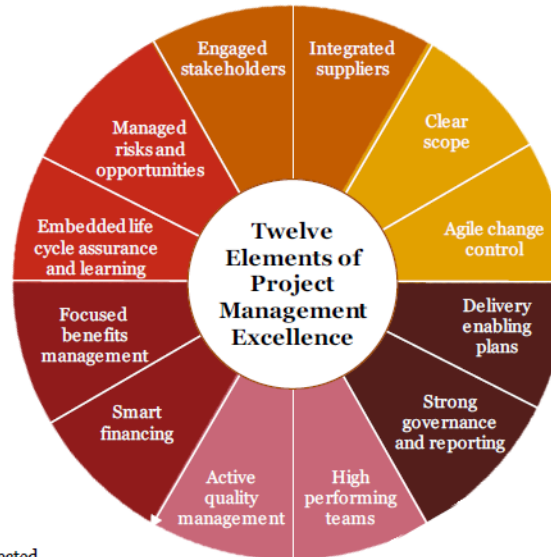
- Plans provide the foundation upon which good projects are successfully delivered
- They provide the base against which overall progress can be measured, showing in advance whether targets are achievable or not

Strong governance and reporting

- The primary focus of governance is on the achievement of business outcomes and benefits, although key project outputs should be reported to the steering committee as indicators that the project is on track

High-performing teams

- Resource management is the process of ensuring that the project has access to adequate numbers of resources with the correct skill sets and experience
- It also addresses the need to provide resources with all the necessary facilities to perform their roles, as well as motivation through performance management processes



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Report of: **Corporate Director of Resources**

Meeting of:	Date	Agenda item	Ward(s)
Audit Committee	29 July 2019		All

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SUBJECT: THE COUNCIL'S USE OF INVESTIGATORY POWERS

1. Synopsis

- 1.1 The report updates the Committee on the Council's use of investigatory powers under the Regulation of Investigatory Powers Act 2000 ("RIPA") and recent legal developments.

2. Recommendations

- 2.1 To note the level of directed surveillance undertaken by the Council.
- 2.2 To note the recent legal developments.

3. Background

- 3.1 RIPA provides a statutory framework regulating the use of directed surveillance and the conduct of covert human intelligence sources (informants or undercover officers) by public authorities. RIPA requires public authorities, including local authorities, to use covert investigation techniques in a way that is necessary, proportionate and compatible with human rights.
- 3.2 Directed surveillance is covert surveillance conducted for the purposes of a specific investigation or operation that is likely to result in the obtaining of private information about a person. Private information includes any aspect of a person's private or personal relationship with others, including family and professional or business relationships. Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that

person's activities in public may still result in the obtaining of private information.

- 3.3 Local authorities cannot authorise the use of intrusive surveillance under RIPA. Intrusive surveillance is surveillance that is carried out in relation to anything taking place on any residential premises or in any private vehicle. Images taken with equipment which consistently provide the same detail or quality as if they were taken in residential premises or private vehicles constitutes intrusive surveillance.
- 3.4 The use of covert surveillance techniques by local authorities was previously the subject of some controversy. The Government introduced significant changes under the Protection of Freedoms Act 2012, which came into effect on 1 November 2012. The changes mean that a magistrate's approval is required before a local authority's RIPA authorisation can take effect.

4. Obtaining Communications Data

- 4.1 The Investigatory Powers Act 2016 ("IPA") governs the lawful obtaining of communications data by public authorities. The term communications data includes the 'who', 'when', 'where', and 'how' of a communication but not the content i.e. what was said or written. A local authority cannot make an application that requires the processing or disclosure of internet connection records for any purpose.
- 4.2 Communications data is generated, held or obtained in the provision, delivery and maintenance of communications services i.e. postal services or telecommunications services. All communications data held by a telecommunications operator or obtainable from a telecommunication system falls into two categories of entity data and events data.

Examples of entity data include:

- 'subscriber checks' such as "who is the subscriber of phone number 01234 567 890?", "who is the account holder of e-mail account example@example.co.uk?" or "who is entitled to post to web space www.example.co.uk?";
- subscribers' or account holders' account information, including names and addresses for installation, and billing including payment method(s), details of payments;
- information about apparatus or devices used by, or made available to, the subscriber or account holder, including the manufacturer, model, serial numbers and apparatus codes.

Examples of events data include, but are not limited to:

- information tracing the origin or destination of a communication that is, or has been, in transmission (including incoming call records);
- information identifying the sender or recipient of a communication from data comprised in or attached to the communication;
- itemised timing and duration of service usage (calls and/or connections);
- information about amounts of data downloaded and/or uploaded;

- 4.3 Part 3 of IPA contains provisions relating to authorisations for obtaining communications data. This part of IPA is now in force but the acquisition of communications data was previously covered by RIPA. Under RIPA, local authorities were required to obtain judicial approval in order to acquire communications data. However, the position has now changed and from June 2019, all communications data applications must instead be authorised by the Office for Communications Data Authorisations ("the OCDA").

- 4.4 The Home Office issued 'Communications Data' Code of Practice in November 2018 and chapter 8 covers local authority procedures. A local authority must make a request to obtain communications data via a single point of contact ("SPoC") at the National Anti-Fraud Network ("NAFN"). In addition to being considered by a NAFN SPoC, an officer within the local authority of the rank of service manager or above should be aware the application is being made before it is submitted to an authorising officer in the OCDA.
- 4.5 A serious crime threshold applies to the obtaining of some communications data. The Council can only submit an application to obtain events data for the investigation of a criminal offence capable of attracting a sentence of 12 months or more. However, where the Council is looking to obtain entity data this can be done for any criminal investigation where it is necessary and proportionate to do so.

5. Authorisation of covert surveillance

- 5.1 During this financial year since 1 April 2019, the Council has authorised directed surveillance on 1 occasion for a case of unlawful subletting of a council tenancy, investigated by Housing Investigations. This authorisation has been given judicial approval by a magistrate.
- 5.2 For the previous financial year (1 April 2018 to 31 March 2019) the Council authorised directed surveillance on 6 occasions for cases investigated by Housing Investigations:
- 4 cases of unlawful subletting of council tenancies
 - 1 case of unlawful subletting of a council tenancy, fraudulent RTB application and benefit fraud
 - 1 case of unlawful subletting of a council tenancy and benefit fraud

These authorisations were all given judicial approval by a magistrate.

- 5.3 The council has not authorised the use of a covert human intelligence source since October 2010.
- 5.4 The trend in the number of RIPA authorisations has generally been downwards, although there was a slight increase in the last financial year. By comparison the Council has granted the following number of directed surveillance authorisations in previous years:
- 2010/11 – 23
 - 2011/12 – 15
 - 2012/13 – 17
 - 2013/14 - 6
 - 2014/15 – 4
 - 2015/16 – 1
 - 2016/17 – 2
 - 2017/18 - 1

6. Implications

6.1 Financial implications:

There are no financial implications arising directly from this report. Robust anti-fraud activity is an integral part of the Council's strategy for safeguarding its assets and maximising its use of

resources. The use of investigatory surveillance is one of the tools the Council uses to achieve these aims.

6.2 Legal Implications:

RIPA was introduced to ensure that covert surveillance undertaken by public authorities is undertaken in accordance with the European Convention on Human Rights and the Human Rights Act 1998.

The Council can only undertake covert surveillance under RIPA if the proposed operation is authorised by one of the Council's authorising officers and subsequently approved by a magistrate. A local authority can only use directed surveillance if it is necessary to prevent or detect criminal offences, which attract a custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco. The authorising officer must also be satisfied that the proposed directed surveillance is proportionate to what is sought to be achieved.

There has been a reduction in the number of directed surveillance authorisations granted by the Council since 1 November 2012, when the Protection of Freedoms Act 2012 introduced significant changes to local authorities' use of RIPA. However, the Council could still face a legal challenge to the way in which covert surveillance is conducted; this could lead to the evidence obtained being ruled as inadmissible and/or a complaint to the Investigatory Powers Tribunal.

Part 3 of IPA is now in force and this sets out the provisions for the obtaining of communications data by public authorities.

6.3 Environmental Implications:

Nil

6.4 Resident Impact Assessment:

The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

A resident impact assessment has not been conducted, as this report only provides monitoring information and a legal update for the Committee.

7. Reason for recommendations

- 7.1 The Protection of Freedoms Act 2012 introduced additional safeguards to the use of RIPA and the impact of covert surveillance on the privacy of those under investigation. This has seen a reduction in the use of directed surveillance by the Council.
- 7.2 The Council is managing its covert activities in accordance with RIPA, IPA and the Home Office codes of practice.

Appendices: None

Background papers: None

Final report clearance:

Signed by:



Corporate Director of Resources

Date 05/07/2019

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**Resources Department
7, Newington Barrow Way, London N7 7EP**

Report of: Acting Director of Law and Governance and Monitoring Officer

Meeting of:	Date:	Ward(s):
Audit	29 July 2019	All

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SUBJECT: Update on Ombudsman's decisions January to June 2019

1. Synopsis

- 1.1 This report updates the Committee on the number, nature and findings of complaints dealt with by the Local Government and Social Care Ombudsman (LGSCO) during the period from 1st January to 30th June 2018.

2. Recommendations

- 2.1 To note the contents of the report.

3. Background

- 3.1 The Commission for Local Administration in England, commonly known as the Local Government Ombudsman, was set up following the Local Government Act 1974. In June 2017 the Local Government Ombudsman's title was changed to the Local Government and Social Care Ombudsman (LGSCO) to reflect its wider remit
- 3.2 The main statutory functions for the LGSCO are found in the Local Government Act 1974 as amended by the Local Government and Public Involvement in Health Act 2007. Their powers include:
- investigating complaints against councils and some other authorities;
 - investigating complaints about adult social care providers from people who arrange or fund their adult social care (Health Act 2009);
 - providing advice and guidance on good administrative practice; and

d) looking at service failure in addition to maladministration (LGPIHA 2007).

- 3.3 All investigated complaints result in a decision. The LGSCO issues these decisions, either by way of a statement of reasons for the decision or a report. If the LGSCO decides that the council has done something wrong and that this fault (be that maladministration, service failure, or failure to provide a service) has caused an injustice to the complainant, the LGSCO will recommend what the council should do to put this right.
- 3.4 Additionally, where a complaint of fault is upheld and a formal report (or public interest report) is to be issued; this must be considered by the Executive (for executive functions) or Full Council or its appropriate committee (for non-executive functions).
- 3.5 In the case of complaints about the council, the outcomes of these complaints are reported to Members by way of this committee. The most recent report come before this committee on the 23rd January 2018

Complaints against the Council

- 3.6 During the period 1st January to 30th June 2019, 15 complaints about the Council were considered by the LGSCO:
- 2 was upheld;
 - 3 were not upheld, and
 - 10 were closed after initial enquiries and accordingly did not reach investigation stage.

Attached as Appendix one are two tables. The first, Table one, provides a brief summary of the upheld and not upheld complaints. The second, Table two, provides a summary of the complaints closed after initial enquiries.

- 3.7 Full copies of the decisions in Tables one and two can be found on the LGSCO's website: <https://www.lgo.org.uk/Decisions>.
- 3.8 Since 1st January 2019, the council has not received any decision which has resulted in a formal (Public Interest) report of maladministration.
- 3.9 In April 2013, the Housing Ombudsman took over responsibility for all new complaints about social housing. This includes complaints about a local authority's (or arms-length management organisation's) relationship as landlord to its tenants or leaseholders.
- 3.10 The Housing Ombudsman's jurisdiction occasionally overlaps with that of the LGSCO Ombudsman. They are both able to conduct joint investigations and work under a Memorandum of Understanding. For the relevant period, one complaint has resulted in the Housing Ombudsman making a decision of maladministration. Table three provides a brief summary of this complaint and can be found at Appendix One.
- 3.11 In order to ensure that the council continually improves its performance and that lessons are learned from the Ombudsman's decisions, all reports are shared with the service area and relevant officers.
- 3.12 The number of complaints in respect of the council received by the LGSCO during the period 1 April 2018 to 31 March 2019 and comparative figures for other local authorities will not become available until August 2019 and will be summarised in the next monitoring report to this committee in January 2020.

4. Implications

4.1 Financial implications:

There are no financial implications arising directly from this report.

However, s 92 of the Local Government Act 2000 provides that the authority may, if they think appropriate, make a payment to, or provide some other benefit for, a person where:

(a) that action taken by or on behalf of the authority in the exercise of their functions amounts to, or may amount to, maladministration, and

(b) that a person has been, or may have been, adversely affected by that action,

During the period from 1st January to 30th June December 2019, £150 was payable to one complainant for maladministration arising out of Ombudsman decisions. The payment was met from within existing budgets.

4.2 Legal Implications:

In accordance with s 5A (2) of the Local Government and Housing Act 1989 the Monitoring Officer is under an obligation to prepare a report to the Executive where it appears that the authority, or any part of it, has acted or is likely to act in such a manner as to constitute maladministration, or service failure, and where the LGSCO has conducted an investigation into the matter. This obligation applies to all LGSCO decisions.

In preparing that report, the Monitoring Officer is under a duty to consult as far as practicable with the Head of Paid Service and the Chief Finance Officer (s 5A(5)(a)). As soon as practicable after the report has been prepared, the Monitoring Officer's report must be sent to each member of the authority (s 5(A)(5)(b)).

Under s 5A (6) it is the duty of the authority's Executive to consider the Monitoring Officer's report within 21 days. Under s 5A (8), as soon as practicable after the Executive has concluded its consideration of the report, the Executive must prepare a report which specifies: (a) what action (if any) the Executive has taken in response to the report of the Monitoring Officer; (b) what action (if any) the executive proposes to take in response to that report and when it proposes to take that action; and (c) the reasons for taking the action specified in the Executive's report or, as the case may be, for taking no action. The Executive must also arrange for a copy of that report to be sent to each member of the authority and the authority's Monitoring Officer (s 5A (9)).

However, the LGSCO in their letter to this authority dated the 20th July 2017 stated:

"..... I do not seek to impose a prescriptive approach, as long as the Parliamentary intent is fulfilled in some meaningful way and the authority's performance in relation to Ombudsman investigations is properly communicated to elected members.

As a general guide I would suggest:

Where my office has made findings of maladministration/fault in regard to routine mistakes and service failures, and the authority has agreed to remedy the complaint by implementing the recommendations made following my investigations, I feel that the duty is satisfactorily discharged if the Monitoring Officer makes a periodic report to the council summarising the findings on all upheld complaints over a specific period....."

4.3 Environmental Implications

There are no environmental implications arising from this report

4.4 Resident Impact Assessment:

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

A resident impact assessment has not been conducted, as this report provides monitoring information and a legal update for the Committee.

5. Reason for recommendations

- 5.1 This report ensures that the statutory requirements of the Local Government Act 1974, and Local Government Housing Act 1989 are met.

Appendices

Appendix One: Table one and two: LGSCO complaints received during 1st January to 30th June 2019
Table three: Housing Ombudsman complaints received during 1st January to 30th June 2019

Background papers:

None

Final report clearance:

Signed by:

Monitoring Officer (Acting Director of Law and Governance) Date

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Appendix One:

Table One - Complaints dealt with by the Local Government and Social Care Ombudsman during period 1st January to 30th June 2019

No	LGSCO Case no (ID)	Date	Nature of Complaint	Brief Description	Type of Decision	Outcome
1	17018271	14.02.19	Parking	Mrs B complains the council wrongly directed bailiffs to recover an unpaid fine from her company. The council initiated enforcement action for an unpaid PCN against a car linked to the complainant's company. The company responded to the PCN as incorrect and the council failed to put the PCN recovery on hold to explore the information initially received from the DVLA which was to establish ownership of the vehicle. The LGSCO has agreed with the remedy provided by the council during the complaint process.	Statement	Upheld Financial Award £150 in recognition of distress, time and trouble.
2	18003304	15.03.19	Housing benefit	Mr D complains the council's delay and inconsistent treatment of his expenses in its housing benefits calculation caused him hardship. The LGSCO considered there was fault by the council because it delayed submitting an appeal to the Tribunal. However, as the Tribunal	Statement	Upheld Financial Award Nil

				dismissed Mr D's appeal, the LGSCO did not recommend a financial remedy as there was no significant injustice.		
3	18007410	04.01.19	Noise	Mr C complained that the council failed to deal with reports of noise nuisance from underground trains. Mr C says he suffers from excessive noise which has affected his mental health. The LGSCO found no evidence of fault by the council.	Statement	Not upheld
4	18009867	12.03.19	Child protection	The council investigated Mr F's complaint arising from a family crisis at all three stages of the statutory children's services complaints procedure. The LGSCO found nothing to add to the council's investigation, and decided that further investigation would not change the outcome.	Statement	Not Upheld
5	18010401	15.02.19	Planning application	Mr C complained about the council's handling of his neighbour's planning application. The LGSCO found no fault by the council.	Statement	Not upheld

Table 2: Table two – Complaints closed by the Local Government and Social Care Ombudsman during period 1st January to 30th June 2019

No	LGSCO Case no (ID)	Date	Nature of Complaint	Type of Decision	Outcome
6	18013122	15.01.19	Information request	Statement	Closed after initial enquiries
7	18013839	17.01.19	Councillor conduct and standards	Statement	Closed after initial enquiries
8	18013804	04.02.19	Direct payments	Statement	Closed after initial enquiries
9	18014650	04.02.19	Traffic management	Statement	Closed after initial enquiries
10	18014398	05.02.19	Planning application	Statement	Closed after initial enquiries
11	18014246	12.02.19	Accident claim	Statement	Closed after initial enquiries
12	18016740	11.03.19	Parking penalty	Statement	Closed after initial enquiries
13	18016990	15.03.19	Parking penalty	Statement	Closed after initial enquiries
14	18016993	15.03.19	Parking penalty	Statement	Closed after initial enquiries
15	18015433	22.03.19	Safeguarding	Statement	Closed after initial enquiries

Table Three – Complaints dealt with by the Housing Ombudsman during 1st January to 30th June 2019

No	Housing Ombudsman Case no (ID)	Date	Nature of Complaint	Brief Description	Type of Decision	Outcome
1	201705261	11.06.19	Housing- noise nuisance	Mr G complained about the noise nuisance from a water tank in a neighbouring property and the council's/tenancy management organisation's (TMO) handling of the noise reports. The HO determined that there was no maladministration in relation to complaint handling, but maladministration in regards to record keeping. The TMO must review record keeping arrangements and provide staff training about investigating complaints in accordance with the landlord's complaint policy.	Statement	Maladministration