

# Public Document Pack



## Audit and Governance Board

Wednesday, 7 July 2021 at 6.30 p.m.  
Council Chamber - Town Hall, Runcorn

A handwritten signature in blue ink that reads 'David W R'.

**Chief Executive**

### **BOARD MEMBERSHIP**

Councillor Rob Polhill	Labour
Councillor Alan Lowe (Vice-Chair)	Labour
Councillor John Bradshaw	Conservative
Councillor Ellen Cargill	Labour
Councillor Eddie Jones	Labour
Councillor Tony McDermott	Labour
Councillor Ged Philbin	Labour
Councillor John Stockton	Labour
Councillor Andrea Wall	Labour
Councillor Pamela Wallace	Labour
Councillor Louise Whitley	Labour

*Please contact Gill Ferguson [gill.ferguson@halton.gov.uk](mailto:gill.ferguson@halton.gov.uk) for further information. The next meeting of the Board is on Wednesday, 29 September 2021*

**ITEMS TO BE DEALT WITH  
IN THE PRESENCE OF THE PRESS AND PUBLIC**

**Part I**

<b>Item No.</b>	<b>Page No.</b>
<b>1. MINUTES</b>	<b>1 - 5</b>
<b>2. DECLARATION OF INTEREST</b>	
Members are reminded of their responsibility to declare any Disclosable Pecuniary Interest or Other Disclosable Interest which they have in any item of business on the agenda, no later than when that item is reached or as soon as the interest becomes apparent and, with Disclosable Pecuniary interests, to leave the meeting during any discussion or voting on the item.	
<b>3. INTERNAL AUDIT ANNUAL REPORT</b>	<b>6 - 22</b>
<b>4. ANTI FRAUD AND CORRUPTION UPDATE</b>	<b>23 - 68</b>
<b>5. DRAFT ANNUAL GOVERNANCE STATEMENT 2020/21</b>	<b>69 - 103</b>
<b>6. MEMBERS CODE OF CONDUCT</b>	<b>104 - 133</b>
<b>7. REVISIONS TO COMMITTEE STRUCTURES</b>	<b>134 - 141</b>
<b>8. SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972 AND THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985</b>	

**PART II**

In this case the Board has a discretion to exclude the press and public and, in view of the nature of the business to be transacted, it is **RECOMMENDED** that under Section 100A(4) of the Local Government Act 1972, having been satisfied that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 3 of Part 1 of Schedule 12A to the Act.

<b>9. INTERNAL AUDIT PROGRESS REPORT</b>	<b>142 - 279</b>
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***In accordance with the Health and Safety at Work Act the Council is required to notify those attending meetings of the fire evacuation procedures. A copy has previously been circulated to Members and instructions are located in all rooms within the Civic block.***

**BUSINESS EFFICIENCY BOARD**

*At a meeting of the Business Efficiency Board held on Wednesday, 24 March 2021 held remotely.*

Present: Councillors M. Lloyd Jones (Chair), Wall (Vice-Chair), E. Cargill, A. Lowe, MacManus, McDermott, Philbin, Joe Roberts, G. Stockton and J. Stockton

Apologies for Absence: Councillor N. Plumpton Walsh

Absence declared on Council business: None

Officers present: E. Dawson, I. Leivesley, M. Murphy, S. Baker and G. Ferguson

Also in attendance: M. Green and S. Nixon (Grant Thornton). One member of the press.

**ITEMS DEALT WITH  
UNDER DUTIES  
EXERCISABLE BY THE BOARD**

**BEB20 MINUTES**

The Minutes of the meeting held on 18<sup>th</sup> November 2020 were taken as read and signed as a correct record.

**BEB21 ANNUAL GOVERNANCE STATEMENT 2019-20**

The Board considered a report of the Strategic Director, Enterprise, Community and Resources, which sought approval of the final 2019/20 Annual Governance Statement (AGS).

The 2019/20 AGS was originally presented to the Board on 23 September 2020. It was important that the AGS was up to date when the statement of accounts were approved. As such, the document was presented again for the Board to review.

Once approved the AGS would be signed by the Council Leader and Chief Executive and published on the Council's website.

**RESOLVED:** That the Annual Governance Statement 2019/20 be approved.

*Action*

BEB22 2019/20 STATEMENT OF ACCOUNTS, AUDIT FINDINGS REPORT AND LETTER OF REPRESENTATION

The Board considered a report of the Operational Director, Finance, which sought approval for the Council's 2019/20 Statement of Accounts (the latest version of which was enclosed with the Agenda), and the report of the Audit Findings of the External Auditor (Grant Thornton) on the 2019/20 financial statements. The report also sought approval of the Council's Letter of Representation.

It was reported that the Statement of Accounts set out the Council's financial performance for the year in terms of revenue and capital spending and also presented the year-end financial position as reflected in the balance sheet. The key elements were detailed in the report.

The External Auditor presented the Audit Findings report which summarised the findings from 2019/20 external audit. Section 2 of the Audit Finding report presented the finding of the External Auditor in respect of matters and risks identified at the planning stage of the audit and additional and significant matters that arose during the course of their work. Whilst Section 3 of the report also presented the External Auditor's findings on the Value for Money (VFM) conclusion. It was noted that the overall conclusion was that the Council had proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

Councillor Philbin asked a number of questions regarding Runcorn Locks and it was agreed that a response would be circulated to Board Members.

RESOLVED: That

- 1) the draft Letter of Representation in Appendix 1 be approved and any subsequent additions or amendments be approved by the Operational Director - Finance, in liaison with the Chair of the Business Efficiency Board;
- 2) the External Auditor's draft 2019/20 Audit Findings Report in Appendix 2 and Audit Opinion in Appendix 3 be received and any subsequent additions or amendments be approved by Operational Director - Finance, in liaison with the Chair of the Business Efficiency Board; and
- 3) the Council's draft 2019/20 Statement of Accounts in Appendix 4 be approved and any subsequent

additions or amendments be approved by the Operational Director - Finance, in liaison with the Chair of the Business Efficiency Board.

#### BEB23 PROCUREMENT UPDATE REPORT

The Board considered a report of the Strategic Director, Enterprise, Community and Resources, which provided an update on:

- Procurement activity in 2020/2021, with an outline of the key actions taken during the year;
- Brexit and its impact on the Council's procurement arrangements, with details on the new e-tender service 'Find a Tender' which was introduced on 1<sup>st</sup> January 2021; and
- The progress achieved in delivering the Council's Procurement Strategy 2020-2023 and the impact of COVID-19.

RESOLVED: That the report be noted.

#### BEB24 INTERNAL AUDIT PLAN 2021/22

The Board considered a report of the Divisional Manager, Audit, Procurement and Operational Finance, which sought approval for the planned programme of internal audit work for 2020/21.

A risk based Audit Plan had been prepared, designed to enable internal audit to deliver an overall opinion on the Council's risk management and control and governance arrangements.

A copy of the draft Audit Plan for 2020/21 was attached as an appendix to the report. It was noted that the Plan had incorporated a number of reviews originally included in 2020/21 Audit Plan that could not be completed during the year due to significant amounts of unplanned work being necessary to support the Council's response to the pandemic.

The Board was advised that, as in previous years, the Audit Plan would need to remain flexible and that changes may be required in order to respond to risks which emerge during the year.

Performance against the Audit Plan would be kept under review throughout the year and regular progress reports would be provided to the Business Efficiency Board.

Internal Audit would work closely with the Council's external auditor, Grant Thornton, to minimise duplication and to ensure efficient and effective deployment of the overall audit resource.

RESOLVED: That the Board approves the proposed Internal Audit Plan for 2021/22.

BEB25 SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972 AND THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

The Board considered:

- 1) whether members of the press and public should be excluded from the meeting of the Board during consideration of the following items of business in accordance with Sub-Section 4 of Section 100A of the Local Government Act 1972, because it was likely that, in view of the nature of the business to be considered, exempt information would be disclosed, being information defined in Section 100 (1) and paragraph 3 of Schedule 12A of the Local Government Act 1972; and
- 2) whether the disclosure of information was in the public interest, whether any relevant exemptions were applicable and whether, when applying the public interest test and exemptions, the public interest in maintaining the exemption outweighed that in disclosing the information.

RESOLVED: That as, in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, members of the press and public be excluded from the meeting during consideration of the following item of business, in accordance with Sub-Section 4 of Section 100A of the Local Government Act 1972 because it was likely that, in view of the nature of the business, exempt information would be disclosed, being information defined in Section 100 (1) and paragraph 3 of Schedule 12A of the Local Government Act 1972.

**Councillors E. Cargill and McDermott were not in attendance for Minute no. BEB26**

BEB26 INTERNAL AUDIT PROGRESS REPORT

The Board considered a report of the Divisional

Manager, Audit, Procurement and Operational Finance, which provided Members with a summary of internal audit work completed since the last progress report on 18<sup>th</sup> November 2020. The report also highlighted matters relevant to the Board's responsibilities as the Council's Audit Committee.

It was reported previously that COVID-19, had had a significant impact on the work of Internal Audit in 2020/21. There had been a continuation of Covid-19 related audit work since the last progress report with support provided in respect of the range of grant and relief payment schemes introduced by Government. Overall, internal audit coverage in 2020/21 would be less than planned, primarily due to the team providing operational support to other business areas, particularly in the early stages of the pandemic.

On behalf of the Board, the Chair thanked Councillors Roberts and MacManus for their contribution to the Board and wished them well for the future.

RESOLVED: That the report be noted.

*Meeting ended at 7.48 p.m.*



<b>REPORT TO:</b>	Audit and Governance Board
<b>DATE:</b>	7 July 2021
<b>REPORTING OFFICER:</b>	Divisional Manager – Audit, Procurement & Operational Finance
<b>PORTFOLIO:</b>	Resources
<b>SUBJECT:</b>	Internal Audit Annual Report – 2020/21
<b>WARD(S):</b>	Borough-wide

### **1.0 PURPOSE OF REPORT**

- 1.1 The Public Sector Internal Audit Standards (PSIAS) require the Head of Internal Audit to deliver an annual audit opinion and report, which can be used to inform the Annual Governance Statement.
- 1.2 This report therefore summarises the work completed by Internal Audit during 2020/21 and presents the Head of Internal Audit's opinion on the effectiveness of the Council's overall risk management, control and governance processes.

### **2.0 RECOMMENDATION: That the Board considers and approves the Internal Audit Annual Report.**

### **3.0 EXECUTIVE SUMMARY**

- 3.1 Internal audit is an assurance function that provides an independent and objective opinion on the adequacy and effectiveness of the Council's risk management, control and governance processes.
- 3.2 The Public Sector Internal Audit Standards require the Head of Internal Audit to provide an annual report providing an opinion that can be used by the organisation to inform its governance statement.
- 3.3 The Internal Audit Annual Report (attached as a separate document) summarises the internal audit work completed over the 2020/21 financial year. It includes an overall assurance opinion on the Council's risk management, control and governance processes.
- 3.4 Despite the obvious challenges faced during the year, and the resulting changes to planned work, it is the view of the Head of Internal Audit that sufficient audit work was completed during the year to be able to form an overall opinion. Details of the evidence base supporting the opinion are provided in the report.
- 3.5 In summary, the Council's risk management, control and governance processes that were in place during 2020/21 were considered to be adequate and to have operated effectively during the year.

#### **4.0 POLICY, FINANCIAL AND OTHER IMPLICATIONS**

- 4.1 Under Regulation 6 of the Accounts & Audit Regulations 2015, the Council 'must undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control'. This responsibility is delegated to the Operational Director – Finance.
- 4.2 There are no direct policy implications arising from this report. However, the Head of Internal Audit's opinion on the Council's risk management, control and governance processes is one of the key sources of assurance that supports the Council's Annual Governance Statement.
- 4.3 The internal audit work carried out during the year provides assurance that the Council's main financial systems are operating effectively.

#### **5.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

##### **5.1 Children and Young People in Halton**

Internal audit provides assurance over the Council's risk management, control and governance processes, which help to support the achievement of the aims and objectives set out in the Corporate Plan.

##### **5.2 Employment, Learning and Skills in Halton**

See 5.1

##### **5.3 A Healthy Halton**

See 5.1

##### **5.4 A Safer Halton**

See 5.1

##### **5.5 Halton's Urban Renewal**

See 5.1

#### **6.0 RISK ANALYSIS**

Internal Audit adopts a risk based approach to its work and provides assurance over the Council's key business risks. In the course of its work, internal audit raises issues which have risk implications for the Council. The regular internal audit progress reports to the Audit and Governance Board summarise these issues and provides details of the actions agreed with management to mitigate any risks identified.

There are no direct risk implications arising from this report.

#### **7.0 EQUALITY AND DIVERSITY ISSUES**

None

**8.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

<u>Document</u>	<u>Place of Inspection</u>	<u>Contact</u>
Internal Audit Plan 2020/21	Halton Stadium, Widnes	Merv Murphy
Internal Audit reports		
Public Sector Internal Audit Standards		
Local Government Application Note for the UK Public Sector Internal Audit Standards		



# Internal Audit Annual Report

## 2020/21

Audit and Governance Board - 7 July 2021

# Section One

## Purpose of report

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### 1.1 Introduction

In accordance with the Public Sector Internal Audit Standards, the Head of Internal Audit is required to provide an annual opinion on the overall adequacy and effectiveness of the organisation's risk management, control and governance processes. This is achieved through delivering a risk-based plan of work (the Internal Audit Plan), which has been agreed with management and approved by the Audit and Governance Board.

The Standards require that the annual report includes the following:

- An opinion on the overall adequacy and effectiveness of the organisation's governance, risk management and internal control environment;
- Disclose any qualifications to that opinion, together with the reasons for the qualification;
- Present a summary of the audit work from which the opinion is derived;
- Draw attention to any issues that the Head of Internal Audit considers particularly relevant to the preparation of the Annual Governance Statement;
- Compare the work actually undertaken with the work that was planned and summarise the performance of the internal audit function against its performance measures and criteria;
- Comment on compliance with these standards and communicate the results of the internal audit quality assurance programme.

### 1.2 Purpose of report

The purpose of this report is to satisfy the requirements of the Public Sector Internal Audit Standards by providing an annual opinion. The Board is asked to note the report's content and the opinion provided.

## Section Two

# Annual Opinion

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### 2.1 Basis of Opinion

The annual opinion is based on the following sources of information:

- Review of the risk management arrangements within specific business areas;
- The work of Internal Audit in reviewing the Council's governance arrangements and annual review of the Constitution;
- Assessment of the range of audit assurance opinions arising from audit assignments that have been reported to the Audit and Governance Board throughout the year. This assessment has taken account of the relative materiality of each area audited;
- Assessment of management's responses to Internal Audit's recommendations and the progress made in addressing risks and issues identified through internal audit work;
- Cumulative audit knowledge and experience of the organisation.

### 2.2 Qualifications to the Opinion

The Internal Audit Annual Opinion helps to inform the content of the Annual Governance Statement. However, it should be noted that in providing an opinion assurance can never be absolute.

Internal Audit cannot review all the risks that the Council faces and can only provide reasonable assurance that there are no major weaknesses in the Council's risk management, control and governance processes. The opinion is largely informed by the audit work completed. Weaknesses may exist in areas that did not form part of the programme of audit work or if specific areas were excluded from the scope of individual audit assignments.

Ultimately, senior management and elected members are responsible for ensuring an effective system of internal control. It is however important to note that Internal Audit continues to enjoy a positive working relationship with senior management across the Council. Management has been supportive in terms of the work of Internal Audit and has responded positively to any recommendations made.

### 2.3 Coverage and output

Internal audit delivered 890 of the 1,125 planned days of audit work during 2020/21. As reported to the Board throughout the year, completion of the planned number of days of audit work was not achievable. This was largely due to the Covid-19 pandemic, which necessitated the Internal Audit team supporting other business areas in the early part of the year at the expense of planned audit work.

## Section Two

### Annual Opinion

Covid-19 obviously presented a major challenge to the Council and had a significant impact on all areas of the organisation. In terms of Internal Audit, there was significant involvement in terms of the Council's response, particularly in the form of additional assurance work around the various Government support schemes put in place. Unplanned audit reviews were also completed on emerging risk areas, such as PPE, accounting for Covid and homeworking.

As reported in the progress reports to the Board throughout the year, numerous changes to planned work were necessary in order to provide assurance over the changing risks that the Council faced as a result of the pandemic. Additionally, some planned audit work needed to be deferred to minimise the impact on services at the frontline of the Council's pandemic response.

The audit work completed during the year was therefore significantly different to that originally planned. However, under the circumstances, it was appropriate for Internal Audit's coverage to reflect the Council's changing risk environment. This is important in terms of adding value to the organisation and in ensuring that a robust annual audit opinion can be provided. The work completed is therefore considered sufficient and wide-ranging enough to support the annual audit opinion.

The following table summarises the audit reports issued in the year and a summary of the audit assurance opinions provided. Comparative information is also provided for the two preceding financial years.

Financial year	No. of audit days	Substantial Assurance	Adequate Assurance	Limited Assurance	Total
2020/21	890	46	5	1	52
2019/20	684	36	6	0	42
2018/19	883	43	7	1	51

A full list of the audit assignments that have helped inform the opinion is provided in Appendix A. Each audit is graded in terms of how well risks were managed in the area under review. Three different assurance levels are used: substantial, adequate and limited. Definitions of the assurance levels are provided in Appendix C.

## Section Two

### Annual Opinion

#### 2.4 Follow-up audit assignments

Five follow-up audits were completed during the year and these are listed in Appendix B. Follow-up audits examine the progress that management has made in implementing previously agreed audit recommendations. A revised assurance opinion is issued for each review, which is informed by the extent to which the issues identified in the original audit report have been addressed.

All five follow-up audits completed during the year received substantial assurance opinions.

#### 2.5 Limitations placed on internal audit

During the year, there have been no matters arising which have impacted on the independence of the Internal Audit service and there have been no inappropriate scope or resource limitations on internal audit work.

As previously reported to the Board, the Head of Internal Audit also has managerial responsibility for a number of other finance functions. Arrangements to safeguard the independence of Internal Audit are well-established and have previously been reported to and agreed by the Board. These arrangements have operated effectively throughout the year.

Two audits were completed during the year that included coverage of areas for which the Head of Internal Audit also had some operational responsibilities. These audits related to 'Accounts Payable – Feeder Systems' and 'Accounting for VAT'.

#### 2.6 Conformance with the Public Sector Internal Audit Standards

Under PSIAS, internal audit services are required to have an external quality assessment every five years. The Council's external assessment was completed during 2017/18 and the overall conclusion was that the Council's internal audit arrangements substantially conform to the standards. There were no departures from these arrangements in 2020/21.

#### 2.7 Issues relevant to the Annual Governance Statement

Where issues have been identified through internal audit work, management has responded positively. There are therefore no outstanding issues that have implications for the Annual Governance Statement.

A recurring theme identified in the course of completing audits is the challenge faced across the whole Council in continuing to deliver services and maintain appropriate risk management, control and governance arrangements at a time of continuing funding challenges and budgetary pressures. This issue has however been recognised by the Council and is reported upon in the 2020/21 draft Annual Governance Statement.



## Section Two

### Annual Opinion

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#### 2.8 Overall opinion

Halton Borough Council continues to maintain adequate and effective risk management, control and governance processes. This opinion is based on the internal audit work performed during 2020/21 and from cumulative knowledge and experience of the organisation.

There has been positive engagement with management in agreeing recommendations where audit work has identified weaknesses in the design or application of controls. Action plans are in place to address all issues identified through the work of internal audit.

The results of the follow-up audits completed also provide assurance that the actions agreed in response to audit reports are implemented.

## Section Three

# Quality Assurance and Improvement Programme

### 3.1 Quality Assurance

The development and maintenance of a Quality Assurance and Improvement Programme (QAIP) is a requirement within PSIAS.

The purpose of the QAIP is to ensure that the internal audit service operates in accordance with PSIAS and the Local Government Application Note (LGAN) and maintains consistently high standards.

Key elements of the quality assurance arrangements are described below:

- The Internal Audit team is made up of appropriately trained and qualified staff with significant local government experience. The majority of the team are members of professional institutes and all of the team complies with ethical rules, technical standards and professional practice laid down by those bodies;
- Internal audit work is based upon a detailed risk-based audit plan, which is agreed in consultation with management and is approved by the Audit and Governance Board;
- Internal Audit employs an audit methodology that is in accordance with professional standards;
- Terms of reference are developed with key stakeholders for each audit assignment, which set out the agreed coverage;
- Robust management review is undertaken of all audit files and reports prior to issue;
- There is a system of regular reporting of progress against the plan to the Audit and Governance Board;
- All Internal Audit staff complete annual declarations confirming their compliance with the Code of Ethics;
- There is a commitment to the continuing professional development of all internal audit staff through a range of learning and development opportunities. These include professional training, on the job training, e-learning, webinars and attendance at relevant training events and workshops.

### 3.2 Feedback from audit clients

Internal Audit invites feedback on the quality of service provided by issuing a 'satisfaction questionnaire' at the end of each audit. This is an important process in terms of identifying how the audit was received by the service area. It is also an important means of identifying aspects of the audit process that can be improved.

## Section Three

# Quality Assurance and Improvement Programme

The feedback received from the surveys returned in the year was very positive and there were no common themes in the responses received that highlighted any particular areas for improvement.

A sample of comments received in response to the questionnaires is included below:

- *The auditor demonstrated a good understanding of the Council's arrangements for accounting for VAT. Excellent communication throughout the audit. The audit will be helpful to the Council in demonstrating our governance arrangements for VAT to HMRC.*
- *The audit was excellent. We were a bit apprehensive to have the audit in the current situation; however the auditor supported us completely and we found the whole experience supportive. Thank you.*
- *Very pleased with all aspects of the Audit team who have been very helpful throughout.*
- *The audit was carried out in a thoroughly professional manner. Feedback at all times was constructive.*

### 3.3 Areas for development

As with many teams across the Council, the Covid-19 pandemic impacted significantly on the Internal Audit team and the way in which it delivers its work. The move to remote auditing has in fact been a successful experience and has not impacted on productivity. This is evidenced by the amount of work delivered during 2020/21 despite the challenges faced, particularly at the early stages of the pandemic when the completion of audit work was very difficult.

Across the wider Council, it appears likely that many teams will not go back to a predominantly office-based service when we emerge out of the pandemic. It is therefore very likely that the Internal Audit team will in future adopt a hybrid approach to work, with staff predominantly being home-based but going into the office as the requirements of the service dictate.

In response to these changes, some revised performance management and support arrangements have been put in place for the Internal Audit team. These changes are intended to help ensure quality and delivery of work, whilst also providing support to staff working remotely and to maintain a sense of 'team'.

These arrangements include:

- Allocating an annual plan of work to each auditor to manage and agree delivery timescales with the relevant service areas;
- A greater focus on outcomes with each auditor identifying the audits they will aim to complete for each meeting of the Board;

## Section Three

### Quality Assurance and Improvement Programme

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- Brief daily team meetings to discuss progress on each piece of work and to allow the team to discuss issues and to support one another.

Additionally, as part of an MBA in Leadership and Management, the Audit & Investigations Manager is in the process of completing a dissertation on 'lean auditing'. Lean auditing refers to the application of 'lean' principles to the internal audit process. 'Lean' is about working in the most efficient and effective way. The focus is on ensuring that the whole process adds value to the customer and is completed by the quickest and most effective means to achieve the desired end product or goal for the customer.

It is therefore anticipated that the findings and recommendations from the dissertation will also be used to make further refinements to the delivery of the internal audit service.

## Appendix A

### Summary of audit assignments

A summary of the audits completed in the year is set out below showing the assurance level for each assignment. The audits are grouped according to the Board meeting at which they were presented:

#### 18 November 2020

	Assignment	Assurance Level
1.	Complex Care Pooled Budget	●
2.	Victoria Road Primary School	●
3.	Lunts Heath Primary School	●
4.	Liverpool City Region Grant - Runcorn Station Quarter - Q1 2020/21	●
5.	Liverpool City Region Grant - Runcorn Station Quarter - Q2 2020/21	●
6.	Local Growth Fund (LGF) Grant - Silver Jubilee Bridge - Q1 2020/21	●
7.	Local Growth Fund (LGF) Grant - Silver Jubilee Bridge - Q2 2020/21	●
8.	Town Centre Fund Grant Claim – Halton Lea Q1 2020/21	●
9.	Town Centre Fund Grant Claim – Halton Lea Q2 2020/21	●
10.	Troubled Families (July 2020)	●
11.	Troubled Families (October 2020)	●
12.	Local Authority Discretionary Grant Fund	●
13.	Small Business Grant Fund & Retail, Hospitality and Leisure Grant Fund	●
14.	Be More (Halton) – Apprenticeship Hub	●
15.	Skills Capital Investment Fund (Strand 2) – Q2 2020/21 Grant Claim	●

## Appendix A

# Summary of audit assignments

24 March 2021

	Assignment	Assurance Level
16.	Accounts Payable - Feeder Systems	●
17.	Runcorn Locks Restoration Grant Claim 2020/21 - Q2	●
18.	Runcorn Locks Restoration Grant Claim 2020/21 – Q3	●
19.	Disabled Facilities Grant Claim	●
20.	Pewithall Primary School	●
21.	Ashley School	●
22.	Liverpool City Region Grant - Runcorn Station Quarter - Q3 2020/21	●
23.	Town Centre Fund Grant Claim – Halton Lea – Q3 2020/21	●
24.	Workforce Capacity Grant	●
25.	Infection Control Fund Round One – Tranche Two	●
26.	Infection Control Fund Round Two – Tranche One	●
27.	Skills Capital Investment Fund – Q3 2020/21 Grant Claim	●
28.	Covid Winter Grant Scheme – Interim Report	●
29.	Corporate Card Programme	●
30.	Rapid Testing Fund	●
31.	Financial Support to Adult and Social Care Providers - Covid-19	●

## Appendix A

# Summary of audit assignments

7 July 2021

	Assignment	Assurance Level
32.	Adult Social Care – Accounting for Covid	●
33.	Local Growth Fund (LGF) Grant - Silver Jubilee Bridge - Q3 & Q4 2020/21	●
34.	Test and Trace Support Payment Scheme	●
35.	Accounting for VAT	●
36.	Budget Monitoring Framework	●
37.	Liverpool City Region Grant - Runcorn Station Quarter - Q4 2020/21	●
38.	Skills Capital Investment Fund – Q4 2020/21	●
39.	Runcorn Locks Restoration Society – Q4 2020/21	●
40.	LCR Region Grant - Runcorn Busway Active Travel Corridor 2020/21	●
41.	LCR Grant – Transport Pipeline, East Runcorn Connectivity 2020/21	●
42.	Town Centre Fund Grant Claim – Halton Lea – Q4 2020/21	●
43.	Infection Control Fund - Round Two Tranche Two	●
44.	Rapid Testing Fund	●
45.	Workforce Capacity Grant	●
46.	Supporting Families Grant Claim	●
47.	Covid Winter Grant Scheme – Report Two	●
48.	Holiday Activities and Food Programme – Easter Support Scheme	●
49.	Hospitality & Leisure Support Grant & Hospitality, Leisure and Retail Grant (Expanded Scheme)	●
50.	Local Authority Day Care Provision	●
51.	Community Meals Service	●
52.	Homeworking	●

## Appendix B

### Summary of follow-up audit assignments

The Public Sector Internal Audit Standards require the 'chief audit executive' to establish a follow-up process to monitor and ensure that management actions have been effectively implemented or that senior management has accepted the risk of not taking action. This process involves internal audit carrying out work to determine the progress that management has made in implementing recommendations previously agreed. A follow-up audit report is then issued summarising the results of this work.

Each follow-up audit provides an overall assurance opinion, which is based on the extent to which the risks identified in the original audit have been addressed. The following table summarises the results of the follow-up assignments completed during the year:

	Assignment	Assurance Rating	Additional Commentary
1.	Halton Lodge Primary School	●	All issues from the original audit have been addressed.
2.	Street Lighting	●	All issues from the original audit have been addressed.
3.	Markets	●	All issues from the original audit have been addressed.
4.	Our Lady of Perpetual Succour	●	There was an out of date agreement in place with the pre-school operating from the school premises, which needs to be reviewed. As a result of the follow up audit the Head teacher contacted the Archdiocese to progress the issue in preparation for setting the budget for 2021/22.
5.	Foster Care	●	All issues from the original audit have been addressed.



## Appendix C: Assurance Level Definitions

Assurance Level		Conclusions from Audit Findings
Limited	●	Improvements in procedures and controls are required to strengthen the management of risk(s) fundamental or material to the activities reviewed.
Adequate	●	In the main there are appropriate procedures and controls in place to mitigate the key risks to the activities reviewed. However, opportunities were identified to improvement the management of some risks.
Substantial	●	Effective procedures and controls in place to mitigate the key risks to the activities reviewed.

**REPORT TO:** Audit and Governance Board

**DATE:** 7 July 2021

**REPORTING OFFICER:** Operational Director - Finance

**PORTFOLIO:** Resources

**SUBJECT:** Anti-Fraud & Corruption Update

**WARD (S):** Borough-wide

### **1.0 PURPOSE OF REPORT**

- 1.1 The Audit and Governance Board is responsible for monitoring and reviewing the adequacy of the Council's anti-fraud and corruption arrangements, which is a key aspect of the Council's risk management, control and governance framework.
- 1.2 This annual report updates the Board on developments in regard to the Council's anti-fraud and corruption activity. It consequently forms one of the sources of assurance supporting the Annual Governance Statement.

### **2.0 RECOMMENDATION: That the Board**

- (i) **Considers the annual update on anti-fraud and corruption related activity; and**
- (ii) **Notes and approves the minor changes made to the suite of anti-fraud related plans and policies.**

### **3.0 SUPPORTING INFORMATION**

- 3.1 This report provides:
- A commentary on the fraud risk landscape;
  - A summary of the fraud investigations from 2020/21;
  - A summary of the HR related investigations from 2020/21;
  - A summary of the whistleblowing complaints received and action taken;
  - An update on the National Fraud Initiative;
  - Details of fraud investigation related information reported under the Transparency Code;
  - Details of ongoing and planned anti-fraud work;
  - Details of the review of the Council's suite of anti-fraud related plans and policies.

#### **4.0 FRAUD RISK LANDSCAPE**

- 4.1 Every organisation including public bodies are at risk from fraud in one form or another. Acknowledging this fact is vital in developing and maintaining an effective anti-fraud response.
- 4.2 Whilst it is inherently difficult to quantify the level of fraud nationally, the Office of National Statistics estimates that there were 4.5 million fraud offences committed in the UK in the 12 months to December 2020.
- 4.3 As a unitary authority, the Council faces similar fraud risks to other local authorities providing the same services. Particular areas at risk of fraud and corruption are recognised as being:
- Adult Social Care – Financial Assessments
  - Blue badges and concessionary travel
  - Business Rates
  - Cash handling
  - Council Tax – Single Person Discounts
  - Council Tax Reduction Scheme
  - Development control
  - Direct Payments
  - Electoral fraud
  - Expenses
  - Financial abuse of vulnerable persons
  - Grants to individuals or organisations
  - Insurance claims against the Council
  - Payroll & Pensions
  - Procurement
  - Recruitment
  - School admission application fraud
  - Supplier invoice fraud
- 4.4 Fraudsters continually revise their techniques and look for new opportunities to commit fraud and the pandemic has provided a unique opportunity to identify vulnerabilities in organisations due to changes in working practices and the increased workloads of many employees. This combined with the introduction of various Government financial support schemes has provided greater opportunities for fraudsters to exploit.
- 4.5 There are numerous examples of areas that have seen an increase in attempted frauds since the start of the pandemic:
- Phishing emails and scams – these attempt to get staff to click on links allowing fraudsters access to public-sector systems.

- Impersonation fraud - Criminals regularly use false emails and websites to impersonate organisations such as banks, suppliers and even the police, to persuade members of staff to either make fraudulent payments or disclose confidential financial information to assist them to perpetrate fraud.
- Impersonation of senior members of organisations – this can take the form of criminals using technology to produce fake emails that look identical to an organisation’s internal email. The email will often be sent to an unsuspecting employee asking them to make a payment to a specific account. There have also been reports of artificial intelligence being used to mimic the voice of senior officers during telephone conversations. This tricks the employee into believing they are speaking to the real person, who is instructing them to make a genuine payment.
- Ransomware – this is a type of malware that surreptitiously infects an individual’s computer, encrypts the victim’s data, and demands a ransom to receive the decryption key. In October 2020, Hackney Council suffered a suspected ransomware attack, which caused significant disruption to the Council and its residents.

4.6 It is recognised that the fraud threat posed during emergency situations is higher than at other times and it is therefore important that the Council remains attuned to the changing fraud risk landscape. In particular, the increased online dependency for all organisations has created many new opportunities for fraudsters. It is therefore imperative that the Council’s cyber defences are robust and kept up to date.

4.7 In order to keep abreast of the ever-evolving fraud risks, and to support the wider Council, the Investigations Team has continued to share intelligence and best practice with other local authorities and the regional fraud groups. The team also continues to receive fraud updates and bulletins from a range of sources, which include:

- Action Fraud
- Cabinet Office
- Chartered Institute of Public Finance and Accountancy
- National Anti-Fraud Network
- iCAN (Consumer Alert Network)
- Institute of Internal Auditors

## **5.0 FRAUD INVESTIGATIONS - 2020/21**

5.1 A total of 75 fraud investigations and one whistleblowing investigation were completed during 2020/21. Details of the whistleblowing investigation can be found in section 7 of this report.

5.2 A summary of the outcomes from the investigations completed in which a fraud was proven are shown in the following table:

<b>Fraud Type</b>	<b>No.</b>	<b>Value £</b>	<b>Outcome</b>
Council Tax / Housing Benefit	28	£30,563	Council tax bills amended and sums owed being recovered. Housing benefit overpayment reported to DWP.
<b>Total</b>	<b>28</b>	<b>£30,563</b>	

NB – Council Tax frauds include:

- Council Tax Reduction incorrectly claimed
- Single Person Discount incorrectly claimed
- Council Tax evasion

5.3 There was a decrease in the number of Council Tax investigations that resulted in fraud or error being identified in 2020/21 (£30,563) when compared to the 2019/20 (£44,540). This can in part be explained by the impact of the pandemic, which made it difficult to progress some investigations where it was necessary to interview persons under caution. The figures for 2020/21 are however more comparable to 2018/19 (£33,395).

5.4 During 2020/21, the Investigation Team made significant use of the Fraud Sanction and Prosecution Policy, which was previously approved by the Board. The policy allows the Council to impose a financial penalty where a person has supplied incorrect information, failed to notify the Council of a change of circumstances, or failed to provide information when asked in regard to their Council Tax. It also allows the option to offer a financial penalty as an alternative to prosecution.

5.5 During the year 28 penalties were issued totalling £6,270. This represents a reduction from 2019/20 and is a result of financial penalties not being issued for the first half of the year due to difficulties in progressing investigations as a result of the pandemic.

5.6 An exercise was also undertaken during the year, in conjunction with an external company, to review and validate all Single Person Discount claims. The aim of the exercise was to identify claims that were at potential risk of fraud and error. Any claims that could not be validated were cancelled. In total, 20,249 discounts were reviewed, of which 18,955 were validated as being correct. The remaining 1,294 discounts were cancelled, which equated to 6.4% of the total discounts applied. It is estimated that cancellation of these discounts will generate an additional £205,724 of Council Tax revenue.

## **6.0 HR RELATED INVESTIGATIONS**

6.1 As well as conducting fraud investigations the investigation team complete all the HR related employee investigations for the Council.

- 6.2 In March 2020, all HR related internal investigations were put on hold due to the pandemic and the difficulties in progressing internal interviews with employees and union representatives whilst working remotely.
- 6.3 A Covid secure internal investigation process was however developed with HR and the investigations recommenced in July 2020. During the year 11 such investigations were commissioned by management. The table below provides an overview of these investigations.

Service Area	No.	Allegation
Adult Social Care	5	Three allegations of failing to perform duties  Two allegations of failing to comply with CQC standards
Communities & Environment	3	One allegation of bullying  Two allegations of failing to comply with management instructions
Economy, Enterprise and Property	2	Two allegations of breaching the Acceptable Use Policy and the employee code of conduct
Children's Services	1	One allegation of failing to ensure appropriate management oversight

## 7.0 WHISTLEBLOWING

- 7.1 The Council operates a Whistleblowing Policy (the Confidential Reporting Code) that allows employees, agency workers and contractors to raise any concerns confidentially through a variety of channels. All complaints received are assessed and further investigations undertaken where appropriate.
- 7.2 One whistleblowing referral was received during 2020/21. Whistleblowing referrals received are usually low in number with only three being received in 2019/20 and 2018/19 respectively. It is also possible that the change in the working arrangements for many staff during 2020/21 may have impacted on the number of referrals received.
- 7.3 The following table summarises the nature of the referral received, the action taken and the outcome.

<b>Allegation</b>	<b>Action taken</b>	<b>Outcome</b>
A number of staff have posted content on a social media group that breaches the Council's acceptable use policy, employee code of conduct and potentially brings the Council into disrepute.	Reviewed internally by the Audit & Investigations Team	Disciplinary action taken against two employees. A further two employees are subject to an ongoing internal disciplinary investigation.

- 7.4 The Council also operates a confidential reporting system through which members of the public can report any concerns relating to fraud, misconduct or other issues. Concerns can be reported either online or via the telephone. The reporting system is actively promoted through the Council's fraud awareness activities.
- 7.5 In 2020/21, 87 referrals were received through the Confidential Reporting System, which is a slight increase on the 75 referrals received in 2019/20.
- 7.6 A summary of the nature of referrals received is provided below:

<b>Service / Function</b>	<b>No.</b>
Council Tax / Council Tax Reduction	60
Housing Benefit / Disability Living Allowance / Universal Credit / Working Tax Credits *	5
Blue Badges	5
Business Rates	6
Social Care Fraud	1
Insurance	1
Cyber Fraud	1
Tenancy Fraud	1
Covid-19 Support Grant	2
Issues relating to other organisations	5
<b>Total</b>	<b>87</b>

\* These were referred to the DWP Single Fraud Investigation Service (SFIS) for investigation

- 7.7 All referrals received are assessed and investigations undertaken where sufficient information is provided. The outcomes of these investigations have been included in the 2020/21 fraud figures provided earlier in this report, where appropriate.

## **8.0 NATIONAL FRAUD INITIATIVE**

- 8.1 The National Fraud Initiative (NFI) is a sophisticated data matching exercise designed to prevent and detect fraud. NFI is managed by the Cabinet Office and it is a legal requirement that the Council participates in the exercise.
- 8.2 Data matching involves comparing computer records held by one body against other computer records held by other bodies. This allows potentially fraudulent claims and payments to be identified. Where a match is found it may indicate that there is an inconsistency which requires further investigation. No assumption can be made as to whether there is fraud, error or other explanation until an investigation is carried out.
- 8.3 The Council's participation in NFI assists in the prevention and detection of fraud and involves the provision of particular sets of data to the Cabinet Office for matching. The data sets included in NFI 2020/21 cover the following areas:
- Blue badges
  - Creditors history
  - Concessionary travel passes
  - Creditors standing
  - Council tax reduction scheme
  - Housing benefit claimants (provided by the DWP)
  - Personal budgets (direct payments)
  - Personal alcohol licence
  - Payroll
  - Waiting lists
  - Council Tax
  - Electoral register
  - Pensions
  - Housing tenants
  - Right to buy
  - Students eligible for a loan (data provided by the Student Loans Company)
- 8.4 The use of data by the Cabinet Office in NFI is carried out with statutory authority under Part 6 of the Local Audit and Accountability Act 2014. It does not require the consent of the individuals concerned under the General Data Protection Regulations 2018. Data matching by the Cabinet Office is however undertaken in accordance with a Code of Practice.
- 8.5 Work has now commenced on reviewing the data matches received from 2020/21 NFI exercise. The Council has received 4,400 matches to be investigated, which will be reviewed throughout the year.
- 8.6 The cost to the Council of participating in NFI 2020/21 is £3,900.



## 9.0 TRANSPARENCY CODE REPORTING REQUIREMENTS

9.1 The Local Government Transparency Code requires the Council to publish data regarding its fraud arrangements. The following table is a summary of these requirements together with the corresponding information on the Council's fraud arrangements. This information is also published on the Council's website.

Reporting requirement		HBC Arrangements
1.	Number of occasions the Council have used the powers under the Prevention of Social Housing Fraud Regulations 2014 or similar powers.	Nil
2.	Number (absolute and FTE) of employees undertaking investigations and prosecutions of fraud	3 full time equivalent employees
3.	Number (absolute and FTE) of professionally accredited counter fraud specialists	4 full time equivalent employees
4.	Total amount spent by the authority on the investigation and prosecution of fraud	£111,388
5.	Total number of fraud cases investigated	75

## 10.0 ONGOING ANTI-FRAUD WORK

10.1 In July 2020, the Board was informed of an ongoing plan of work for the fraud team, which included:

- Further development of the functionality of the fraud management system to assist the delivery of fraud investigations;
- Recommencement of joint working arrangements with the DWP and further development of that working relationship;
- Completion of the data matching exercise with Merseyflow;
- Completion of a data matching exercise with our neighbouring authorities in regard to Business Support Grant payments. The objective is to identify potential cross-border fraud;
- Launching a new e-learning fraud awareness package for all staff and elected members;
- Responding to all fraud referrals received;
- Reviewing the Council's arrangements for tackling fraud and corruption against the requirements of the new Fighting Fraud and Corruption Locally 2020, which is the updated counter fraud and corruption strategy for local government.

10.2 Most planned activities for 2020/21 have either been completed or are in progress:

- The Investigation Officers continue to use and develop the functionality of the case management system, which will remain an ongoing activity.
  - Data matching has been completed with Merseyflow to identify vehicles registered for a local user discount account that are being used for business purposes. The results of this exercise are currently being reviewed by Merseyflow to identify potential crossings where a toll payment was due but was avoided by use of the local user discount account. A further review of local user discount account data is also being carried out to identify potential Council Tax single person discount fraud and / or fraudulent applications for local user discount permits.
  - Work is in progress with four neighbouring authorities in regard to a data matching exercise relating to the Business Support Grant payments.
  - A new e-learning fraud awareness package for all staff and elected members has been developed and launched. Fraud awareness training is a key element of the Council's anti-fraud arrangements. Educating employees in respect of what to look for, and how fraud happens, empowers them to take the necessary action to mitigate the risk of it occurring. It also allows employees to take appropriate action in the event that suspected fraud is identified.
  - A review the Council's arrangements for tackling fraud and corruption against the requirements of the Fighting Fraud and Corruption Locally has commenced. An action plan will be produced and implemented to address any areas where the Council's arrangements can be strengthened further.
- 10.3 Additionally, as a deterrent to others who may consider committing fraud against the Council, the Audit & Investigations Team has worked with the BBC to publicise two significant fraud cases previously investigated. Both cases were complex direct payments frauds committed against the Council and other public bodies that led to four individuals receiving criminal convictions, two of which were custodial sentences. The two investigations were recently broadcast on separate episodes of BBC1's Fraud Squad television programme and helped to reinforce the Council's zero tolerance approach to fraud.
- 10.4 The one area where progress has not been made is in regard to the joint fraud investigations with the DWP. This is because the DWP suspended all local anti-fraud activities at the start of the pandemic and is not yet in a position to start joint working again. The Council is however in a position to recommence joint working as soon as the DWP is in a position to do so.
- 10.5 The ongoing plan of work for 2021/22 includes:
- Preparation to recommence joint working arrangements with the DWP and further development of the working relationship;
  - Investigate the results of the data matching exercise with Merseyflow;
  - Promote the e-learning fraud awareness package.

- Respond to all fraud referrals received, and continue to develop the functionality of the fraud management system;
- Complete the review of the Council's arrangements for tackling fraud and corruption against the requirements of the Fighting Fraud and Corruption Locally.

## **11.0 FRAUD RELATED POLICIES**

11.1 Fraud is highlighted in the Corporate Risk Register as one of the key risks faced by the Council. To mitigate this risk the Council has developed a comprehensive suite of linked policies, which include:

- Anti-Fraud, Bribery and Corruption Policy
- Fraud Response Plan
- Fraud Sanction and Prosecution Policy
- Anti-Facilitation of Tax Evasion Policy
- Whistleblowing Policy

11.2 These policies were previously presented to the Business Efficiency Board for review and approval in July 2020. The documents have again been reviewed and are still considered fit for purpose. The only changes that have been made are to reflect the renaming of the Board and a minor update to section 8 of the Whistleblowing Policy. Copies of the documents are attached at Appendices A, B C, D and E.

## **12.0 POLICY, FINANCIAL AND OTHER IMPLICATIONS**

12.1 The responsibilities of public sector entities in relation to the prevention and detection of fraud and error are set out in statute, standards and other guidance. Local authorities also have a statutory duty to make arrangements for the proper administration of their financial affairs.

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

## **13.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

### **13.1 Children and Young People in Halton**

The maintenance of an effective framework to minimise the risk of fraud and corruption contributes to the achievement of all the Council's priorities.

### **13.2 Employment, Learning and Skills in Halton**

See 13.1

### **13.3 A Healthy Halton**

See 13.1

**13.4 A Safer Halton**

See 13.1

**13.5 Halton's Urban Renewal**

See 13.1

**14.0 RISK ANALYSIS**

The Council, as a large organisation providing many services, is at risk of loss due to fraud and corruption. The impact of fraud on the Council can have consequences that are serious and potentially far reaching. Financial loss is the obvious key risk but fraud and corruption can also undermine public confidence and cause significant reputational damage. In order to mitigate this risk the Council needs to maintain robust arrangements to prevent and detect fraud.

**15.0 EQUALITY AND DIVERSITY ISSUES**

None

**16.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

None

## Fraud Response Plan

### 1. Introduction

- 1.1 Halton Borough Council is committed to the highest possible standards of propriety and accountability in all its affairs. It is determined to develop a culture of honesty and opposition to fraud and corruption.
- 1.2 In line with this commitment, the Anti-Fraud, Bribery & Corruption Policy outlines the principles the Council is committed to in relation to preventing, reporting and managing fraud and corruption.
- 1.3 The Fraud Response Plan reinforces the Authority's approach by:
  - Defining the types of activity that would require the implementation of this plan;
  - Setting out how employees or members of the public can voice their concerns about suspected fraud and corruption;
  - Outlining how the Council will deal with such complaints.
- 1.4 This Plan is one of a suite of documents that collectively constitute the policies of the Council in relation to anti-fraud and anti-corruption. The other key documents include:
  - Anti-Fraud, Bribery & Corruption Policy
  - Local Code of Corporate Governance
  - Finance Standing Orders
  - Procurement Standing Orders
  - Member Code of Conduct
  - Employee Code of Conduct
  - Confidential Reporting Code (Whistleblowing Policy)
  - Fraud Sanction and Prosecution Policy

### 2. Defining Fraud and Corruption

- 2.1 The Fraud Response Plan is intended to be implemented where suspicions of fraud or corruption have been raised:

**Fraud** is defined as:

*Acting dishonestly with the intention of making a personal gain or a gain for another, or inflicting a loss (or a risk of loss) on another; this includes but is not limited to:*

- *Dishonestly making a false representation*
- *Dishonestly failing to disclose to another person, information which they are under a legal duty to disclose*
- *Committing fraud by abuse of position, including any offence as defined in the Fraud Act 2006.*

**Corruption** is defined as:

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

2.2 Fraudulent or corrupt acts may therefore include:

Financial issues

Where individuals or organisations fraudulently obtain money or a financial gain from the Council, (e.g. insurance claims, Council Tax Single Person Discounts)

Asset issues

Where Council assets are misappropriated or used for personal use (e.g. theft of Council equipment, information or materials)

Accounting issues

Where employees falsify or alter accounting or other records (e.g. unauthorised amendment of financial records or timesheets)

Other issues

Activities undertaken by officers or elected members which may:

- Be unlawful;
- Contravene Standing Orders or Council policies,
- Fall below established standards or practices, or amount to improper conduct.

2.3 This is not an exhaustive list. Advice regarding the seriousness of any concerns can be obtained from the Divisional Manager – Audit, Procurement & Operational Finance.

### **3. Reporting suspected fraud and corruption**

3.1 Any officer shall immediately report to the Divisional Manager – Audit, Procurement & Operational Finance, either directly or through line management, or via the Council's Confidential Reporting Code, any circumstances which suggest the possibility of financial irregularity or loss. The circumstances will be reviewed and the necessary action will be taken by way of investigation, report, sanction and recovery.

3.2 The Council's Confidential Reporting Code is intended to encourage and enable employees to raise serious concerns within the Council. This policy document makes it clear that concerns may be raised without fear of victimisation, subsequent discrimination or disadvantage. The policy applies to all employees and those contractors working for the Council on Council premises, e.g. agency staff, builders, drivers, consultants. It also covers suppliers and those providing services under a contract with the Council in their own premises, e.g. care homes.

3.3 The Council's Confidential Reporting Code provides details as to how concerns of fraud or corruption may be reported:

- Operational Director and Monitoring Officer (Legal and Democratic Services);
- Strategic Director – Enterprise, Community & Resources
- Divisional Manager – Audit, Procurement & Operational Finance

- Chair of the Standards Committee (who can be contacted by a letter addressed to the Chair of the Standards Committee and sent to the Municipal Building, Kingsway, Widnes, WA8 7QF).

#### **4. Investigating suspected fraud and corruption**

- 4.1 The Single Fraud Investigation Service of the DWP investigates and prosecutes Social Security welfare benefits and tax credit fraud. As a result, the Council will not complete any investigations of Housing Benefit fraud. The Council may complete joint investigations with the DWP. The decision to conduct any joint investigation will be made on a case-by-case basis and will be completed in compliance with the joint working arrangements agreed between the DWP and the Council.
- 4.2 For non-benefit related matters, the decision as to whether or not an investigation is warranted will be made by the Divisional Manager – Audit, Procurement and Operational Finance.
- 4.3 The action taken by the Council will depend on the nature of the concern. The matter raised may be investigated internally or referred directly to the Police.
- 4.4 All internal investigations will normally be led by the Audit and Investigations Team, and each case will be judged on its merit. The purposes of any investigation shall be to:
- Establish the facts of any suspected fraud in order to inform decisions regarding further action;
  - Clear innocent persons of any suspicion;
  - Enable the recovery of losses;
  - Assist with the prosecution and sanction of offenders;
  - Improve systems and controls to prevent and deter fraud and corruption in the future.
- 4.5 Investigations will be assigned to a lead officer who is suitably qualified and experienced. The officer will ensure that the investigation is conducted impartially and objectively, and will, as appropriate:
- Determine and plan the resources needed for the investigation;
  - Carry out the investigation in a timely manner ensuring that all allegations are properly investigated and reported on;
  - Comply with all relevant statutory requirements, codes of practice, and the ethical standards of relevant professional bodies;
  - Ensure that the identity of the person raising the concern is protected wherever possible;
  - Ensure that all evidence obtained is properly recorded and retained securely;

- Liaise as appropriate with the Operational Director (Legal and Democratic Services), Insurance Manager, the Police or other relevant agencies as required;
- Assist management in implementing the Council's disciplinary procedures;
- Advise and assist management in implementing improved procedures where necessary.

4.6 Where an investigation requires 'directed surveillance' or uses a 'covert human intelligence source', the investigating officer(s) must ensure that the investigation is undertaken in accordance with the Authority's RIPA policy. Any such surveillance may only be undertaken after the appropriate authorisation has been obtained by an officer with delegated powers under the policy.

4.7 At the conclusion of the investigation, the investigating officer(s) will produce a report setting out all of the facts relating to the case. The report shall be submitted to the Divisional Manager – Audit, Procurement and Operational Finance to determine how the matter should be progressed to a resolution. Dependent upon the circumstances of the case this decision may be taken in conjunction with the Strategic Director – Enterprise, Community & Resources, Operational Director (Legal and Democratic Services), Operational Director – Finance or the Chief Executive.

## **5. Recovery and Sanctions**

5.1 Where an investigation indicates fraud or corruption, the Council will use the full range of sanctions available to it, including criminal prosecution, civil recovery, internal discipline and referral to other law enforcement agencies and professional bodies in order to deter fraud, bribery and any other associated offences.

5.2 The Council's disciplinary procedures will be used where the outcome of an investigation indicates improper behaviour. This may be in addition to any other recovery action or sanctions. Referral to the Police will not prohibit action under the disciplinary procedure.

## **6. Review of the Fraud Response Plan**

The Fraud Response Plan will be reviewed and updated as required to reflect new legislative requirements, professional developments and any other relevant matters.



**Fraud Sanction and Prosecution Policy****1. Policy Statement**

- 1.1 Halton Borough Council (the Council) will use the full range of sanctions available to it in order to deter fraud, bribery and any other associated offences. These sanctions may include criminal prosecution, civil recovery, internal discipline and referral to professional bodies. The Council will utilise its own Legal Services or agent solicitors and the Crown Prosecution Service to conduct prosecutions where appropriate. The Council will refer matters to the police and other law enforcement agencies or regulators where appropriate and support those agencies in bringing proceedings.

**2. Introduction**

- 2.1 The Council's Anti-Fraud, Bribery and Corruption Policy sets out the Council's aims and objectives with regard to tackling fraud and associated offences. The Council will seek the strongest possible sanction against any individual or organisation that defrauds, or seeks to defraud the Council. The use of sanctions will be governed by this policy and the principles of the policy shall apply equally to any fraud against the Council or against funds for which the Council has responsibility.
- 2.2 The objectives of this policy are:
- To ensure that the Council applies a full range of sanctions in a just and consistent manner;
  - To ensure that sanctions are applied in an effective and cost efficient manner;
  - To ensure that the sanction decision making process is stringent, robust and transparent.
- 2.3 This policy provides a framework to ensure the most appropriate resolution to a case is reached. The sanction decision will have regard at all times to the Council's Anti-Fraud, Bribery and Corruption Policy objectives, the individual circumstances of each person concerned and the overall impact of the sanction to both the individual and the community.
- 2.4 A range of sanctions are available to the Council. These include disciplinary action, civil recovery action, criminal proceedings and civil penalties. In appropriate cases the Council may take more than one form of action. For example, if an employee defrauds the Council, disciplinary action, prosecution and civil recovery action may all be taken.
- 2.5 When considering a case for prosecution it is generally accepted that there are two "tests" to be applied – the evidential test and the public interest test. These are currently set out in the Code for Crown Prosecutors 2018. The Evidential Stage test must be considered prior to the Public Interest Stage.

### **3. Evidential Stage Test**

- 3.1 Investigators and prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be. The evidence must be acquired in a form which can be used by the court and be admissible and there must be enough evidence to form a realistic prospect of conviction.
- 3.2 In order to ensure that a “realistic prospect of conviction” exists, Investigation Officers will at all times ensure that investigations are conducted in accordance with all relevant legislation and Codes of Practice with regard to evidence gathering, interviewing and rules of disclosure.
- 3.3 The evidence gathered will be examined in the first instance by the investigator and their manager. When both are satisfied that sufficient evidence exists to successfully prosecute and that the Public Interest Stage is also satisfied the case file will be passed on to either the Council’s Legal Services, agent solicitors, or the Crown Prosecution Service. All prosecutors will then apply their own inspection of the evidence to ensure that both tests are met. Alternatively the case file may be passed to the police, other law enforcement agencies or regulators if appropriate.

### **4. Public Interest Test**

- 4.1 A prosecution will usually take place unless the prosecutor is sure that public interest factors tending against prosecution outweigh those tending in favour. The more serious the offence or the offender’s record of criminal behaviour, the more likely it is that a prosecution will be required in the public interest. Aggravating and mitigating factors will be taken into consideration when deciding on the appropriate sanction as set out in the Code for Crown Prosecutors.

### **5. Sanctions Available**

- 5.1 Legislation enables the Council to apply formal sanctions where appropriate these include:
- Imposing a financial penalty where a person has supplied incorrect information, failed to supply information requested or failed to notify the Council of a change of circumstances.
  - Offering a financial penalty as an alternative to a prosecution, or
  - Instigating prosecution proceedings.

The Council will only apply a formal sanction where permitted by certain legislation. Cases may however, be referred to the police or other law enforcement agencies for investigation. This may subsequently result in referral to the Crown Prosecution Service or other prosecutor.

## 5.2 **Penalty as Alternative to Prosecution**

5.2.1 A financial penalty can be offered as an alternative to prosecution. This will be offered usually in circumstances not deemed serious enough for prosecution and where the evidence indicates that:

- It was a first offence, or
- There was no planning involved, or
- There was no other person involved, and
- The person's circumstances and demeanour towards the offence indicates that a financial penalty would be the most appropriate action.

5.2.2 In these circumstances the Council may make an offer of a financial penalty as an alternative to prosecution in addition to requiring full repayment of the overpayment. However, there must be sufficient evidence to justify a prosecution. An individual does not have to admit an offence has been committed for a financial penalty to be offered as an alternative to prosecution. If a person refuses the offer of a financial penalty as an alternative to prosecution the case will be recommended for prosecution. The decision to issue a financial penalty as an alternative to prosecution, where permitted by certain legislation, will lay with the Divisional Manager – Audit, Procurement & Operational Finance.

## 5.3 **Financial penalty**

5.3.1 A financial penalty is a penalty that can be imposed where a person has negligently supplied incorrect information or failed to supply information that affects the amount of council tax support paid or council tax billed. An individual does not have to admit an offence has been committed for a Financial Penalty to be applied.

5.3.2 The decision to issue a financial penalty, where permitted by certain legislation, will lay with the Divisional Manager – Audit, Procurement & Operational Finance.

## 5.4 **Prosecution**

5.4.1 Prosecution proceedings will usually be instigated only after the evidential and public interest tests are satisfied as detailed in the Code for Crown Prosecutors.

5.4.2 Prosecution will be considered where:

- It was not a first offence, or
- The fraud has been deliberate and calculated, or
- The fraud had continued over a long period; or

- The person has failed to attend an interview under caution; or
- There were other persons involved in the fraud, or
- The person has declined the offer of a Financial Penalty or withdrawn agreement to pay a Financial Penalty.

5.4.3 The Council recognises that prosecution is a serious step to take and the decision to refer cases for prosecution will not be taken lightly. The ultimate decision on prosecution will be taken by the prosecuting body. In some cases this will be the Council, through the Council's Legal Services or agent solicitors, and in others the Crown Prosecution Service. The decision to refer cases to a prosecuting body will be taken by the Operational Director – Finance, the Strategic Director – Enterprise, Community and Resources or the Chief Executive.

## 5.5 **Referrals to police, other law enforcement agencies or regulators**

5.5.1 Referrals to police, other law enforcement agencies or regulators may occur in cases of staff fraud or the fraud is complex and/or of a serious nature. The decision to refer cases to the police or other agencies for investigation will be taken by the Operational Director – Finance, the Strategic Director – Enterprise, Community and Resources or the Chief Executive.

## 6. **Publicity**

6.1 It is the Council's intention to positively promote this policy as well as the outcome of any prosecutions, which will deter others from fraudulent activity.

## 7. **Reporting and Review**

7.1 An annual report on fraud and corruption matters will be produced for the Audit and Governance Board. This will provide a summary of actions taken under this Policy.

7.2 The Policy will be subject to periodic review and approval by the Audit and Governance Board, which is responsible for monitoring and reviewing the adequacy of the Council's anti-fraud and corruption policies and arrangements.

**Anti-Fraud, Bribery & Corruption Policy****1 Introduction**

- 1.1 Halton Borough Council (the Council), has a duty to ensure that it safeguards the public money for which it is responsible. The Council expects the highest standards of conduct and integrity from all that have dealings with it, including employees, elected members, contractors, volunteers and the public.
- 1.2 The Council is committed to the elimination of fraud and corruption and to ensuring that all activities are conducted ethically, honestly and to the highest possible standard of openness and accountability so as to protect public safety and public money.

**2 Policy Statement**

- 2.1 The Council has a zero tolerance approach to fraud, bribery and corruption. This Policy outlines how the Council delivers an effective approach to managing the risk of fraud, bribery and corruption.
- 2.2 The aim of this Policy is to:
- Help prevent fraud, bribery and corruption;
  - Promote early detection and ensure its effective investigation;
  - Apply sanctions where appropriate and
  - Ensure the recovery of any financial loss where possible.

**3 Scope**

- 3.1 The responsibility to control the risk of fraud, bribery and corruption occurring resides at all levels of the organisation.
- 3.2 This Policy applies to all employees and elected members. For the purpose of this Policy the term 'employee' refers to all full-time and part-time employees, temporary employees, agency workers, contractors and consultants.
- 3.3 This Policy should be read in conjunction with the Fraud Response Plan, Confidential Reporting Code (Whistleblowing Policy) and the Fraud Sanction and Prosecution Policy.

**4 Definitions**

- 4.1 The following definitions can be found at Appendix 1.
- Fraud
  - Bribery
  - Corruption
  - Money Laundering

## **5 Aims & Objectives**

5.1 In ensuring that necessary steps are taken to ensure that the public's assets and interests are protected, the Council will:

- Actively seek out instances of fraudulent and corrupt practices and pursue the perpetrators to the full extent of the law;
- Encourage people with concerns about potential fraud, bribery and corruption to inform the Council of their suspicions;
- Treat complaints of potential fraud, bribery and corruption positively, fairly and equitably;
- Regularly review its own procedures to ensure they offer effective protection of the Council's interests and reputation.

5.2 Delivery of these aims and objectives requires the establishment, communication and maintenance of:

- Top level commitment to prevent fraud, bribery and corruption;
- An anti-fraud, bribery and corruption culture;
- Supporting policies and strategies;
- Proportionate procedures to prevent fraud, bribery and corruption;
- Reporting and investigation arrangements;
- Access to information and publicity;
- Communication and awareness training.

## **6.0 CULTURE**

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

6.2 The Council will ensure that any allegations received, including by anonymous letter or telephone call, will be taken seriously and investigated in an appropriate manner. The Council has a Confidential Reporting Code (Whistleblowing Policy) that sets out the approach to dealing with these types of allegation in more detail.

6.3 The Council will deal firmly with those who defraud or attempt to defraud the Council or who are corrupt, or where there has been financial malpractice. Any sanctions applied will be in compliance with the Council's Fraud Sanction and Prosecution Policy and or the Council's Disciplinary Policy.

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

## **7 Responsibilities**

- 7.1 All elected members, employees, consultants, contractors, service users and any other external partner organisations play a key role in the prevention and detection of fraud and corruption. They all have responsibility for ensuring they comply with the Council's policies, procedures and controls, which are intended to prevent and or identify fraud and corruption within the Council.
- 7.2 The Council expects all elected members, employees, consultants, contractors, service users and any other external and partner organisations to uphold the highest standards of integrity in their dealings for, and on behalf of the Council.
- 7.3 Key officers and service areas within the Council have specific responsibilities for the prevention, detection, and investigation of fraud and corruption. The responsibilities for the following officers and service areas can be found detailed at Appendix 2.

## **8. Reporting and Review**

- 8.1 An annual report providing an update on fraud and corruption matters will be presented to the Audit and Governance Board, which is responsible for monitoring and reviewing the adequacy of the Council's anti-fraud and corruption policies and arrangements.
- 8.2 This Policy forms part of the Council Constitution and is therefore subject to annual review. Any significant revisions will however be reviewed and endorsed by the Audit and Governance Board.

## Definitions

### Fraud

Fraud can be broadly described as acting dishonestly with the intention of making a personal gain or a gain for another, or inflicting a loss (or a risk of loss) on another; this includes but is not limited to:

- Dishonestly making a false representation
- Dishonestly failing to disclose to another person, information which they are under a legal duty to disclose
- Committing fraud by abuse of position, including any offence as defined in the Fraud Act 2006.

### Bribery

The Bribery Act 2010 defines bribery as ‘the inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages whether monetary or otherwise’.

There are four key offences under the Bribery Act 2010:

- Offence of bribing another person
- Being bribed
- Bribery of foreign public officials
- Failure of commercial organisation to prevent bribery

Bribing another person; offences are committed where a person:

- Offers, promises or gives a financial, or other advantage to another person, and intends the advantage to induce a person to perform improperly a relevant function, or activity or to reward a person for the improper performance of such a function or activity or
- Offers, promises or gives a financial or other advantage to another person and knows or believes that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity

Being bribed; offences are committed where a person:

- Requests, agrees to receive or accepts a financial or other advantage intending that, in consequence, a relevant function or activity should be performed improperly
- Requests, agrees to receive or accepts a financial or other advantage and the request, agreement or acceptance itself constitutes the improper performance of the person of a relevant function or activity
- Requests, agrees to receive or accepts a financial or other advantage as a reward for the improper performance of a relevant function or activity; or



- In anticipation of or in consequence of the person requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly

Bribery of foreign public officials; offences are committed where a person:

- Intends to influence a foreign official in their official capacity and intends to obtain or retain business or an advantage in the conduct of business; or
- Offers, promises or gives any financial or other advantage to a foreign public official

Failure of commercial organisation to prevent bribery; a relevant commercial organisation is guilty of an offence:

- If a person associated with the organisation bribes another person intending to obtain or retain business for the organisation or to obtain or retain an advantage in the conduct of business for the organisation and the organisation fails to take reasonable steps to implement adequate procedures to prevent such.

### **Corruption**

Corruption can be defined as the misuse of public power for private gain, by those in positions of power, such as Council officers or elected members.

Corruption can incorporate many types of dishonest behaviours including offering, giving, soliciting or accepting of an inducement or reward, which may influence the action of any person, and misuse of public assets.

### **Money Laundering**

Money laundering is the process by which criminally obtained money or other assets (criminal property) are exchanged for 'clean' money or other assets with no obvious link to their criminal origins. It also covers money, however come by, which is used to fund terrorism. Money laundering takes many forms including:

- Handling the proceeds of crimes such as theft, fraud and tax evasion;
- Handling stolen goods;
- Being knowingly involved in any way with criminal or terrorist property;
- Entering into arrangements to facilitate laundering criminal or terrorist property.

The Council is required to ensure that effective anti-money laundering controls and monitoring are in place to prevent the Council from being used for money laundering.

## **Responsibilities**

### **Chief Executive**

The Chief Executive has overall responsibility for the operations and activities of the Council. This includes overall responsibility to ensure that the Council's arrangements in respect of fraud, bribery and corruption are adequate and effective.

### **Audit and Governance Board**

The Audit and Governance Board is responsible for monitoring and reviewing the adequacy of the Council's anti-fraud, bribery and corruption arrangements.

### **Strategic Directors**

Strategic Directors will establish and maintain sound internal control systems, procedures and records within their areas of responsibility. The system of internal control should be designed to respond to and manage the whole range of risks which the Council faces, including minimising the scope for fraud, bribery and corruption.

Strategic Directors should immediately inform Internal Audit if they become aware of, or suspect, any matter that may indicate fraud, bribery or corruption.

### **Operational Director - Finance**

The Operational Director of Finance has a statutory responsibility under Section 151 of the Local Government Act 1972 to make sure that proper arrangements are made for the Council's affairs. As such, the Operational Director of Finance has the key role of ensuring that proper arrangements are in place in respect of fraud, bribery and corruption.

In accordance with the Accounts & Audit Regulations 2015, the Operational Director - Finance, as the Responsible Financial Officer, must determine the financial control system which includes measures to enable the prevention and detection of inaccuracies and fraud.

### **Divisional Manager - Audit, Procurement and Operational Finance**

The Divisional Manager - Audit, Procurement and Operational Finance is delegated the role of Chief Audit Executive as defined in the Public Sector Internal Audit Standards. In accordance with this role, the post holder is responsible for reviewing how the Council manages fraud, bribery and corruption risks and ensuring that the potential for these to occur is evaluated.

The Divisional Manager - Audit, Procurement and Operational Finance is also responsible for establishing, maintaining, reviewing and monitoring the:

- Anti-Fraud, Bribery & Corruption Policy,
- Fraud, Bribery & Corruption Risk Assessment
- Fraud Response Plan
- Fraud Sanction and Prosecution Policy

The Divisional Manager - Audit, Procurement and Operational Finance will also advise the Audit and Governance Board on matters relating to fraud, bribery and corruption.

### **Investigations Team**

The Investigations Team will liaise with the Single Fraud Investigation Service (SFIS), managed by the Department for Works & Pensions, and ensure that any Housing Benefit fraud is reported to SFIS for investigation.

The Investigations Team is responsible for ensuring investigations are conducted into suspected fraud or irregularity. They will liaise with Chief Officers, the Monitoring Officer, Human Resources, Legal Services, employees, other agencies and the Police as appropriate.

The Investigations Team will plan, co-ordinate and report on the Council's participation in the National Fraud Initiative.

### **Internal Audit**

Internal Audit will assist in the detection and prevention of fraud, bribery and corruption by examining and evaluating the effectiveness of controls in line with the annual Internal Audit Plan.

Internal Audit will assist the Investigations Team in conducting investigations where appropriate.

### **Managers**

Managers are responsible for assessing risks to their service area and ensuring that an adequate system of internal control is effectively maintained to mitigate all risks, including minimising the scope for fraud, bribery and corruption.

Managers are responsible for ensuring all employees in their service area adhere to this Policy and all associated policies and procedures and have undertaken all relevant training.

Managers have a responsibility to ensure that all suspected irregularity is reported to Internal Audit in a timely manner.

### **Employees and Elected Members**

Employees and elected members are responsible for complying with this Policy and all associated policies and procedures, and for reporting any suspected irregularities, corruption and money laundering to an appropriate person as detailed in the Council's Confidential Reporting Code (Whistleblowing Policy).



# ANTI-FACILITATION OF TAX EVASION POLICY

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## HALTON BOROUGH COUNCIL

### ANTI-FACILITATION OF TAX EVASION POLICY

#### 1. Policy statement

- 1.1 Part 3 of the Criminal Finances Act 2017 creates a new corporate criminal offence where a corporate entity fails to prevent the facilitation of tax evasion by its staff, agents and contractual associates. This statement sets out Halton Borough Council's policy in relation to tax evasion.
- 1.2 The Council has a zero tolerance approach to all forms of tax evasion, whether under UK law or under the law of any foreign country. Employees of the Council, its agents and contractual associates must not undertake any transactions which:
- Cause the Council to commit a tax evasion offence; or
  - Facilitate a tax evasion offence by a third party.
- 1.3 The Council is committed to acting professionally, fairly and with integrity in all its business dealings and relationships wherever it operates and implementing and enforcing effective systems to counter tax evasion facilitation.
- 1.4 At all times, Council business should be conducted in a manner such that the opportunity for, and incidence of, tax evasion is prevented.

#### 2. Scope of the policy

- 2.1 The purpose of this policy is to:
- set out the Council's responsibilities, and the responsibilities of those working for the Council, in observing and upholding our position on preventing the criminal facilitation of tax evasion; and
  - provide information and guidance to those working for the Council on how to recognise and avoid tax evasion.
- 2.2 If the Council fails to prevent its employees, workers, agents or service providers facilitating tax evasion, the Council can be criminally prosecuted, subject to a large fine and incur reputational damage. The Council therefore takes its legal responsibilities seriously.

#### 3. Prevention measures

- 3.1 It is a defence to the corporate criminal offence of facilitating tax evasion if the Council can prove that it has in place such prevention procedures as it is reasonable to expect in the circumstances. Government guidance suggests an appropriate set of prevention measures which gives due recognition to the following:
- risk assessment;
  - the proportionality of risk-based prevention procedures;
  - top level commitment;
  - due diligence;
  - communication (including training);
  - monitoring and review.

- 3.2 **Risk assessment** - The Council's systems of control are designed to ensure regularity. Management is expected to consider risks from the Anti-Facilitation of Tax Evasion Policy within their established risk assessment procedures. The Council also operates a continuous internal audit function that provides ongoing assurance over the Council's financial and non-financial systems.
- 3.3 **Proportionality of risk-based prevention procedures** - The Council has governance processes and procedures to address specific counter fraud risks:
- The Audit and Governance Board is responsible for monitoring and reviewing the adequacy of the Council's anti-fraud and anti-corruption arrangements. It receives an annual report on the Council's anti-fraud, bribery and corruption arrangements.
  - This policy, the Anti-Fraud, Bribery and Corruption Policy, Whistleblowing Policy, Fraud Response Plan and Fraud Sanction and Prosecution Policy comprise the Council's suite of anti-fraud related plans and policies;
  - The Council is an active participant in the National Fraud Initiative;
  - The Council runs regular fraud awareness campaigns encouraging members of the public and employees to raise any concerns about fraud and corruption;
  - The Council collaborates with other local authorities across the region and shares best practice in regard to tackling fraud and corruption;
  - The Council maintains an effective system of internal control, which includes relevant policies and systems, e.g. Procurement Standing Orders, Finance Standing Orders, etc.
- 3.4 **Due Diligence** - Reasonable care and caution is exercised when processing all financial transactions, particularly high value/high risk payments. Regular monitoring takes place and particular caution is exercised when making payments to new suppliers. Specific controls are maintained in relation to payments being processed through the Council's Accounts Payable function which undertakes checks on suppliers prior to payments being made.
- 3.5 **Communication and training** - The Council is committed to ensuring that mandatory training on this policy is offered to those staff who have been identified as being at risk of exposure to criminal tax evasion. This may include staff involved with procurement, commissioning, invoice processing, property transactions, Bacs payments, Payroll and Pensions. Training will be provided through the completion of specific on-line training modules. All staff will be made aware of the Council's Anti-Facilitation of Tax Evasion Policy through internal briefing communications.
- The Council's zero-tolerance approach to tax evasion and foreign tax evasion must be communicated to all suppliers, contractors and business partners at the outset of our business relationship with them and as appropriate after that. This will be done by making reference to the Council's Anti-Facilitation of Tax Evasion Policy on our Supplier Set Up and Supplier Amendment forms and tender documentation.
- 3.6 **Monitoring and review** - The Operational Director – Finance (S151 Officer) will monitor developments that are relevant to the Anti-Facilitation of Tax Evasion Policy and the policy itself will be reviewed at least annually. Revisions will be published on the Council's Intranet and staff will be made aware through the usual channels.
- 3.7 **Top level commitment** – This policy is subject to review and approval by the Council's Audit and Governance Board.

#### **4. Who must comply with this policy?**

- 4.1 This policy applies to all persons working for the Council or on the Council's behalf in any capacity, including employees at all levels, directors, officers, agency workers, seconded workers, volunteers, interns, agents, contractors, external consultants, third-party representatives and business partners, sponsors, or any other person associated with the Council, wherever located.

#### **5. Who is responsible for this policy?**

- 5.1 The Audit and Governance Board has overall responsibility for ensuring this policy complies with the Council's legal and ethical obligations, and for taking steps to ensure that all those under our control comply with it.
- 5.2 The Operational Director - Finance has responsibility for implementing this policy, monitoring its use and effectiveness, dealing with any queries about it, and auditing internal control systems and procedures to ensure they are effective in preventing the facilitation of tax evasion.
- 5.3 Management at all levels are responsible for ensuring those reporting to them understand and comply with this policy and are given adequate and regular training on it.

#### **6. What is the facilitation of tax evasion?**

- 6.1 Tax evasion means the offence of cheating the public revenue or fraudulently evading UK tax, and is a criminal offence. The offence requires an element of fraud, which means there must be deliberate action or omission with dishonest intent.
- 6.2 Foreign tax evasion means evading tax in a foreign country, provided that conduct is an offence in that country and would be a criminal offence if committed in the UK. As with tax evasion, the element of fraud means there must be deliberate action or omission with dishonest intent.
- 6.3 Tax evasion facilitation means being knowingly concerned in, or taking steps with a view to, the fraudulent evasion of tax (whether UK tax or tax in a foreign country) by another person, or aiding, abetting, counselling or procuring the commission of that offence. Tax evasion facilitation is a criminal offence, where it is done deliberately and dishonestly, but not where it is done negligently or inadvertently.
- 6.4 Under the Criminal Finances Act 2017, a separate criminal offence is automatically committed by a corporate entity or partnership where tax evasion is facilitated by a person acting in the capacity of an "associated person" to that body. For the offence to be made out, the associated person must deliberately and dishonestly take action to facilitate the tax evasion by the taxpayer. If the associated person accidentally, ignorantly, or negligently facilitates the tax evasion, then the corporate offence will not have been committed. The organisation does not have to have deliberately or dishonestly facilitated the tax evasion itself; the fact that the associated person has done so creates the liability for the organisation.
- 6.5 Tax evasion is not the same as tax avoidance or tax planning. Tax evasion involves deliberate and dishonest conduct. Tax avoidance is not illegal and involves taking steps, within the law, to minimise tax payable (or maximise tax reliefs).

## **7. What you must not do**

- 7.1 It is not acceptable for any person acting on behalf of the Council to:
- engage in any form of facilitation of tax evasion or foreign tax evasion;
  - aid, abet, counsel or procure the commission of a tax evasion offence or foreign tax evasion offence by another person;
  - fail to promptly report (i) any request or demand from any third party to facilitate the fraudulent evasion of tax (whether UK tax or tax in a foreign country), or (ii) any suspected fraudulent evasion of tax (whether UK tax or tax in a foreign country) by another person, in accordance with this policy;
  - engage in any other activity that might lead to a breach of this policy; or
  - threaten or retaliate against another individual who has refused to commit or facilitate a tax evasion offence or a foreign tax evasion offence or who has raised concerns under this policy.

## **8. Your responsibilities**

- 8.1 You must ensure that you read, understand and comply with this policy. It is the responsibility of all staff to ensure they understand and comply with the Council's Anti-Facilitation of Tax Evasion Policy, with particular emphasis on those staff that are involved with invoice processing, property transactions, BACS payments, payroll and pensions, procurement and commissioning.
- 8.2 The prevention, detection and reporting of tax evasion and foreign tax evasion, or the facilitation of the same, are the responsibility of all those working for the Council or under our control. You are required to avoid any activity that might lead to, or suggest, a breach of this policy.
- 8.3 You must notify the Operational Director - Finance as soon as possible if you know or suspect that a conflict with this policy has occurred, or may occur in the future. For example, if an employee or supplier asks for payment to be made into an offshore bank account, without good reason, or a supplier asks to be paid in cash, indicating that this will mean the payment is not subject to VAT. Further "red flags" that may indicate potential tax evasion are set out in section 12.

## **9. How to raise a concern**

- 9.1 You are encouraged to raise concerns about any issue or suspicion of tax evasion or foreign tax evasion, or facilitation of the same, at the earliest possible stage.
- 9.2 Preferably the disclosure will be made and resolved internally (e.g. to a line manager or head of department). Alternatively concerns can be raised with the Operational Director – Finance.
- 9.3 If you are unsure about whether a particular act constitutes tax evasion or foreign tax evasion, you should raise it with the Operational Director - Finance as soon as possible. You should note that the corporate offence is only committed where you deliberately and dishonestly take action to facilitate tax evasion or foreign tax evasion. If you do not take any such action, then the offence will not be made out. However, a deliberate failure to report suspected tax evasion or foreign tax evasion, or "turning a blind eye" to suspicious activity could amount to criminal facilitation of tax evasion.



- 9.4 The Council is committed to ensuring that there is a safe, reliable, and confidential way of reporting any suspicious activity, and wants each and every member of staff to know how they can raise concerns. There are multiple channels to help raise concerns. Please refer to the Council's Whistleblowing Policy and determine the favoured course of action. The Whistleblowing Policy makes reference to the following four officers you can raise a concern with:
- Operational Director and Monitoring Officer (Legal and Democratic Services);
  - Strategic Director – Enterprise, Community and Resources
  - Head of Internal Audit
  - Chair of the Standards Committee (who can be contacted by a letter addressed to the Chair of the Standards Committee and sent to the Municipal Building, Kingsway, Widnes, WA8 7QF)
- 9.5 Additionally, staff can call the Council's freephone confidential fraud hotline on **0800 034 5995** or access the [online confidential reporting](#) facility on the Council website.

## 10. Protection

- 10.1 Individuals who raise concerns or report another's wrongdoing, are sometimes worried about possible repercussions. The Council aims to encourage openness and will support anyone who raises genuine concerns in good faith under this policy, even if they turn out to be mistaken.
- 10.4 The Council is committed to ensuring no one suffers any detrimental treatment as a result of:
- refusing to take part in, be concerned in, or facilitate tax evasion or foreign tax evasion by another person;
  - refusing to aid, abet, counsel or procure the commission of a tax evasion offence or a foreign tax evasion offence by another person; or
  - reporting in good faith their suspicion that an actual or potential tax evasion offence or foreign tax evasion offence has taken place, or may take place in the future.

## 11. Breaches of this policy

- 11.1 Any employee who breaches this policy may face disciplinary action, which could result in dismissal for misconduct or gross misconduct.
- 11.2 The Council may terminate its relationship with other individuals and organisations working on our behalf if they breach this policy.

## 12. Potential risk scenarios “red flags”

- 12.1 The following is a list of possible red flags that may arise during the course of Council work and which may raise concerns related to tax evasion or foreign tax evasion. The list is not intended to be exhaustive and is for illustrative purposes only.
- 12.2 If you encounter any of these red flags while working for us, you must report them promptly to your manager, to the Operational Director – Finance or using the procedure set out in the Whistleblowing Policy or the online confidential reporting facility.
- 12.2.1 You become aware, in the course of your work, that a third party has made or intends to make a false statement relating to tax, has failed to disclose income

or gains to, or to register with, HMRC (or the equivalent authority in any relevant non-UK jurisdiction), has delivered or intends to deliver a false document relating to tax, or has set up or intends to set up a structure to try to hide income, gains or assets from a tax authority;

- 12.2.2 You become aware, in the course of your work, that a third party has deliberately failed to register for VAT (or the equivalent tax in any relevant non-UK jurisdiction) or failed to account for VAT;
- 12.2.3 A third party requests payment in cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made;
- 12.2.4 You become aware, in the course of your work, that a third party working for us as an employee asks to be treated as a self-employed contractor, but without any material changes to their working conditions;
- 12.2.5 A supplier or other subcontractor is paid gross when they should have been paid net, under a scheme such as the Construction Industry Scheme;
- 12.2.6 A third party requests that payment is made to a country or geographic location different from where the third party resides or conducts business;
- 12.2.7 A third party to whom the Council has provided services requests that their invoice is addressed to a different entity, when the Council did not provide services to such entity directly;
- 12.2.8 A third party to whom we have provided services asks us to change the description of services rendered on an invoice in a way that seems designed to obscure the nature of the services provided;
- 12.2.9 You receive an invoice from a third party that appears to be non-standard or customised;
- 12.2.10 A third party insists on the use of side letters or refuses to put terms agreed in writing or asks for contracts or other documentation to be backdated;
- 12.2.11 You notice that the Council has been invoiced for a commission or fee payment that appears too large or too small, given the service stated to have been provided;
- 12.2.12 A third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to us.

### 13. Useful links

Halton Borough Council's Whistleblowing Policy

<http://councillors.halton.gov.uk/documents/s58285/Whistleblowing%20Policy%20FINAL.pdf>

Halton Borough Council's Ant-Fraud, Bribery and Corruption Policy

<http://councillors.halton.gov.uk/documents/s58287/AntiFraud%20Bribery%20and%20Corruption%20Policy%20FINAL.pdf>

Halton Borough Council's Fraud Response Plan

<http://councillors.halton.gov.uk/documents/s58286/Fraud%20Response%20Plan%20FINAL.pdf>

Halton Borough Council's Fraud Sanction and Prosecution Policy

<http://councillors.halton.gov.uk/documents/s58288/Fraud%20Prosecution%20Policy%20FINAL.pdf>

Criminal Finances Act 2017, Part 3 – Corporate Offences of Failure to Prevent Facilitation of Tax Evasion <http://www.legislation.gov.uk/ukpga/2017/22/part/3/enacted>

**WHISTLE-BLOWING POLICY**

**June 2021 (Updated)**

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## WHISTLE-BLOWING POLICY

### 1.0 INTRODUCTION

- 1.1 Individuals working within or for an organisation are often the first to realise that there may be something seriously wrong within it. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the organisation. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 Whistle-blowing is the term used when someone who works within or for an organisation raises a concern about a possible fraud, crime, danger or other serious risk that could threaten customers, colleagues, the public or the organisation's own reputation. Blowing the whistle is more formally known as 'making a disclosure in the public interest'.
- 1.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, elected members and contractors who have serious concerns about any aspect of the Council's work, to come forward and voice those concerns.
- 1.4 This policy sets out the ways in which individuals may raise concerns that they have and explains how those concerns will be dealt with. It also gives protection to the person raising concerns.
- 1.5 The policy applies to all employees, elected members, ex-employees (within 3 months of cessation of their employment with Halton Borough Council), volunteers, or contractors working for the Council on Council premises (for example, agency staff, builders and drivers). It also covers suppliers and those providing services under a contract with the Council in their own premises, for example, care homes.
- 1.6 This policy has been developed taking into account:
- The Public Interest Disclosure Act 1998, which protects whistle-blowers who report concerns, from subsequent harassment, victimisation and other unfair treatment arising out of the disclosure. The Act is incorporated into the Employment Rights Act 1996, which already protects employees who take action over, or raise concern about, health and safety at work.
  - The sections of the Enterprise and Regulatory Reform Act 2013 relating to protected disclosures.
- 1.7 This policy has been discussed with the relevant trade unions and has their support.

## **2.0 AIMS OF THIS POLICY**

### **2.1 This policy aims to:**

- encourage individuals to feel confident in raising serious concerns and to question and act upon concerns about practice and procedures;
- provide avenues for individuals to raise those concerns and receive feedback on any action taken;
- ensure that individuals receive a response to their concerns and are aware of how to pursue them if not satisfied;
- reassure individuals that they will be protected from possible reprisals or victimisation from those working within or for the Council if they have a reasonable belief that they have made any disclosure in good faith.

### **2.2 The Policy of Conduct for Local Government Employees states that**

*“Employees will be expected through agreed procedures and without fear of recrimination to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedure.”*

### **2.3 This policy supports that statement.**

## **3.0 SCOPE OF THIS POLICY**

### **3.1 It is important to know the difference between a ‘Whistle-blow’ and a ‘grievance.’ A Whistle-blow has a public interest aspect to it, as it puts at risk others. A grievance by contrast has no public interest factors, as it is a complaint about a particular employment situation. A grievance should be reported using the Grievance Policy, not this policy.**

### **3.2 This policy is not a substitute for and does not replace other relevant policies within the Council. Where the concerns raised relate to a breach of one of those policies they will be investigated under that policy. This policy is not intended to be used where other more appropriate procedures are available. These may include, but are not limited to:**

- Disciplinary Procedure
- Child and Adult Safeguarding Policies and Procedures
- Dignity at Work Policy
- Grievance Procedure
- Single Equalities Scheme
- Corporate Complaints Policy

### **3.3 This policy supports the Council's Anti-Fraud and Anti-Corruption Strategy and the Fraud Response Plan. It is intended to help anyone working within or for the Council, if they have major concerns over any wrong-doing within the**

organisation, to raise concerns internally rather than overlooking the problem or blowing the whistle externally unless the whistle blower feels that is the most appropriate way. However, the Council will support you in raising a matter externally if you feel this is the best course of action.

3.4 Specific examples of concerns that could be raised under this policy, if a reasonable belief that one or more of them may have occurred, could include:

- Concerns relating to matters covered by internal Council policies and procedures, such as;
- Actions or behaviour that make you feel uncomfortable in terms of falling below established standards of practice or which amount to improper conduct
- Actions in breach of the Council's Standing Orders and policies;
- Damage to the environment;
- Dangerous procedures or practices risking health and safety, including risks to the public, service users and to other employees;
- Other unethical conduct;

Concerns relating to matters that may, following investigation, need to be dealt with under policies and procedures external to the Council, such as;

- Conduct which is a criminal offence or a breach of the law;
- Disclosures related to miscarriages of justice;
- The unauthorised use of public funds;
- Fraud and corruption;
- Sexual or physical abuse of service users;
- Other unethical conduct;

3.5 These are known as qualifying disclosures under the Public Interest Disclosure Act 1998

3.6 This list is not meant to be exhaustive but gives examples of potential malpractice. The overriding concern should be that it is in the public interest for the potential malpractice to be corrected and sanctions taken if need be

3.7 This policy will be referenced where relevant and made available for inspection and use as part of the awarding of any Council contracts.

#### **4.0 SAFEGUARDS AND PROTECTION**

4.1 The Council recognises that the decision to report a concern can be a difficult one to make. The Council will not tolerate any harassment, victimisation



(including informal pressures), disadvantage, detrimental action or deliberate failure to act. The Council will take appropriate action to protect you when you raise a concern which you have a reasonable belief to be in the public interest and has disciplinary policies, including those on Harassment & Bullying at Work, which are designed to protect Whistle-blowers from all forms of harassment in the workplace.

- 4.2 Any investigation into allegations of potential malpractice will normally not be interrupted by any employment procedures that may already be underway. It is not the Council's intention to delay action taken under the disciplinary or other policies, pending the completion of investigations taken in accordance with this policy, unless the Council considers that the merits of a particular case warrant this, or unless the matter becomes a police matter which prevent further internal processes.
- 4.3 In all cases, the provisions of The Public Interest Disclosure Act (PIDA) will be adhered to. However, the Enterprise & Regulatory Reform Act (ERRA) introduces a Public Interest test requirement on Whistle-blowers. In order to receive the protection of PIDA, whistle-blowers will be required to show that they reasonably believed that the disclosure they are making is in the Public Interest. This should be done through the evidence they present when raising their concern. The procedure for making allegations is set out in Section 7 of this policy. Further information on the ERRA can be found at [www.legislation.gov.uk](http://www.legislation.gov.uk)
- 4.4 If an allegation is made that is reasonably believed to be in the public interest, but it is not confirmed by the investigation, no action will be taken against the person making the allegation. If it is found, however, during the investigation that an allegation has been made vexatiously, maliciously or for personal gain, disciplinary action may then be taken.
- 4.5 As a whistle blower, legal protection is also given by the Public Interest Disclosure Act 1998. If a whistleblower makes what is known as a "qualifying disclosure" under the 1998 Act to their employer or certain other persons/bodies, and this is done reasonably and in the public interest, it will be unlawful to subject them to any detriment.
- 4.6 If a case progresses to an Employment Tribunal, compensation may be awarded if the Council breaches the 1998 Act, following a successful claim for 'detrimental treatment'. Compensation may be reduced however if the allegation was not made in good faith.

## **5.0 CONFIDENTIALITY**

- 5.1 All concerns will be treated in confidence and every effort will be made not to reveal the identity of the person making the allegation if they so wish (subject to any legal requirements or decisions). This cannot be guaranteed however if a person needs to come forward as a witness. For example, if a hearing is

needed, either by law, or under a Council procedure, the employee disclosing the concern may be required to give evidence.

- 5.2 The employee disclosing a concern should ensure that they only inform the person(s) identified in part 7 below.
- 5.3 If the nature of the whistle blow requires disclosure to other people to conduct an investigation, then the employee who originally disclosed this will be informed that this needs to happen.

## **6.0 ANONYMOUS ALLEGATIONS**

- 6.1 This policy encourages those making the allegation to put their name to your disclosure and receive the protection of PIDA whenever possible. Concerns expressed anonymously are much less powerful but will be considered where there is enough detail to justify further investigation.
- 6.2 Any anonymous concerns or allegations received under this policy will be referred to the Head of Internal Audit and will be logged and investigated as far as possible under the process outlined in section 8 of this policy.

## **7.0 HOW TO RAISE A CONCERN**

- 7.1 As a first step, the person making the allegation should normally raise concerns with their immediate manager or the supervisor of their manager. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if the person making the allegation believes that their own manager is involved, they should approach one of the following:
- Operational Director and Monitoring Officer (Legal and Democratic Services);
  - Strategic Director – Policy and Resources
  - Head of Internal Audit
  - Chair of the Standards Committee (who can be contacted by a letter addressed to the Chair of the Standards Committee and sent to the Municipal Building, Kingsway, Widnes, WA8 7QF)
- 7.2 These individuals may also provide advice and guidance on matters of concern under this policy.
- 7.3 Concerns may be raised verbally or in writing. Individuals who wish to make a written report are invited to use the following format:
- the background and history of the concern (giving relevant dates);
  - the reason why you are particularly concerned about the situation.

- 7.4 The earlier a concern is expressed, the easier it is to take action. Although a person is not expected to prove beyond doubt the truth of an allegation, they should demonstrate to the person contacted that there are reasonable grounds for the concern.
- 7.5 The person making the allegation is able to invite a trade union representative, professional association representative or a colleague to be present during any meetings or interviews in connection with the concerns raised.
- 7.6 Wherever possible concerns or allegations should be reported internally. If the person making the allegation is unwilling or unable to report the matter internally there are a number of other agencies they may be able to report their concerns to and which can be accessed at the following link:

[List of prescribed people and bodies](#)

- 7.7 The Small Business, Enterprise and Employment Act 2015 amends the Employment Rights Act to require "prescribed persons" under the whistleblowing legislation to produce annual reports on all whistleblowing disclosures made to them. These reports will not contain the names of the people who made the disclosures.
- 7.8 The full list of prescribed people and bodies is included at Appendix 2 in the version of this policy published on the Councils intranet.
- 7.9 A new Whistleblowing Advice Line ran by the NSPCC Helpline has officially launched. This has been developed to provide support to employees wishing to raise concerns over how child protection issues are being handled in their own or other organisations. The NSPCC Whistleblowing Advice Line can be reached on 0800 028 0285.
- 7.10 The advice line is not intended to replace any current practices or responsibilities of organisations working with children. The helpline advisors would encourage professionals to raise any concerns about a child to their own employer in the first instance. However, the advice line offers an alternative route if whistleblowing internally is difficult or professionals have concerns around how matters are being handled.

## **8.0 HOW THE COUNCIL WILL RESPOND**

- 8.1 The Council will respond to and investigate any concerns raised under this policy. All allegations and concerns raised under this policy will be formally recorded and logged in a secure register held by the Responsible Officer (or their designated representative) identified in section 9 of this policy.

8.2 Matters raised may be:

- Investigated by management;
- Investigated by internal audit;
- Progressed through internal procedure;
- Referred to the Police;
- Referred to the external auditor;
- The subject of an independent enquiry;
- Dealt with via any other appropriate procedure, for example, child protection, abuse of vulnerable adults' procedure.

8.3 In order to protect anybody accused of misconduct, an initial review will be made to decide whether a full investigation is appropriate and, if so, what form it should take. If appropriate, Human Resources will be informed.

8.4 Some concerns may be resolved following an initial review without the need for full investigation.

8.5 Within ten working days of your concern being raised, the person making the allegation may be invited to a meeting in person to discuss your concern.

8.7 The Council will write to the person making the allegation:

- indicating how it plans to deal with the matter
- giving an estimate of how long it will take to provide a full response
- Supplying information on staff support mechanisms, for example welfare or Occupational Health

8.8 The amount of contact between the person making the allegation and any officers considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided.

8.9 If, following an initial review, a formal investigation of an allegation is required under this policy, this will be conducted in line with the process set out within the Council Disciplinary procedure.

8.10 The Council will minimise any difficulties which may be experienced as a result of raising a concern. For instance, if a person is required to give evidence in criminal or disciplinary proceedings the Council will arrange for them to receive advice about the procedure. It is important for whistle-blowers to understand that making a whistle-blowing allegation doesn't give them an automatic right to anonymity, but does give them protection from harassment or victimisation and that the Council will not tolerate any form of this from anyone working within or for the Council.

- 8.11 If urgent action is required, for example if there is an urgent health and safety or safeguarding concern, this will be taken before any investigation is conducted.
- 8.12 This process is set out in the form of a flowchart and attached at Appendix 1 of this policy

## **9.0 THE RESPONSIBLE OFFICER**

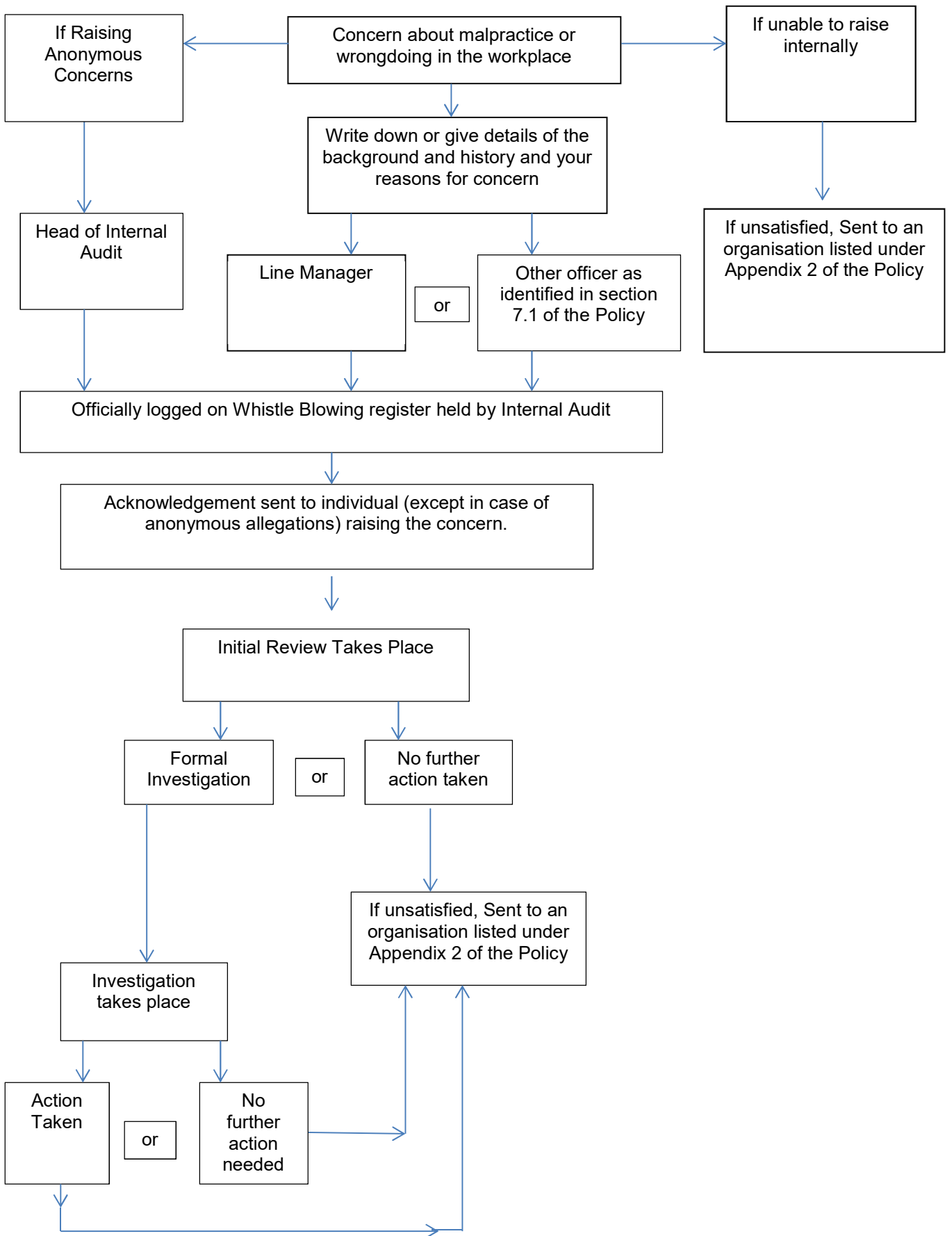
- 9.1 The Head of Internal Audit has overall responsibility for the maintenance and operation of this policy and will maintain a record of all concerns raised and any outcomes. This record will be in a form which does not compromise your confidentiality and may be officially delegated to a named officer to maintain. The Head of Internal Audit will report as necessary to the Council.

## **10.0 HOW THE MATTER CAN BE TAKEN FURTHER**

- 10.1 If the person making the allegation feels it is right to take the matter outside the Council, the following are possible contact points:
- the external auditor
  - Citizens' Advice Bureau
  - relevant professional bodies or regulatory organisations
  - a relevant voluntary organisation
  - the police
  - organisations prescribed from time to time by the Secretary of State for the purpose of protected disclosure under the Public Interest Disclosure Act
- 10.3 The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any potential wrongdoing in the workplace. In the majority of cases it should not be necessary to alert anyone externally.
- 10.4 The law recognises however, that in some circumstances it may be appropriate to report your concerns to an external body, such as a regulator. A list of these agencies and contacts are linked to at paragraph 7.6 and again at Appendix 2 of this policy as published on the intranet.
- 10.5 If the matter is taken outside the Council, confidential information should not be exposed, for example such as that covered by the Data Protection Act 1998. It is advised that advice is sought before reporting a concern externally. The independent whistle blowing charity, [Public Concern at Work](#), operates a confidential hotline (020 7404 6609) and can provide advice as necessary.

## **11.0 REVIEW OF THE POLICY**

- 11.1 This policy will be reviewed annually, and changes made to the policy as deemed appropriate following necessary consultation with interested parties.



**REPORT TO:** Audit & Governance Board

**DATE:** 7 July 2021

**REPORTING OFFICER:** Strategic Director – Enterprise, Community & Resources

**SUBJECT:** Draft Annual Governance Statement - 2020/21

**PORTFOLIO:** Resources

**WARD(S):** Borough-wide

### **1.0 PURPOSE OF REPORT**

- 1.1 Regulation 6 of the Accounts and Audit (England) Regulations 2015 requires that ‘a relevant authority must, each financial year conduct a review of the effectiveness of the system of internal control required by regulation 3, and prepare (and approve) an Annual Governance Statement’.
- 1.2 Best practice recommends that the review of the internal control system and the production of the Annual Governance Statement be reviewed and subsequently endorsed by an appropriate committee. The Council’s Constitution delegates this responsibility to the Audit & Governance Board.
- 1.3 This report, therefore, presents the Annual Governance Statement for 2020/21 for the Board’s approval.

### **2.0 RECOMMENDATIONS:**

**That the Board:**

- (i) **Considers and approves the 2020/21 Annual Governance Statement subject to any changes or additions that members feel appropriate;**
- (ii) **Delegates authority to the Strategic Director – Enterprise, Community and Resources to make any further minor amendments to the Annual Governance Statement prior to the inclusion of the final version in the Statement of Accounts.**

### **3.0 SUPPORTING INFORMATION**

- 3.1 The Council is responsible for ensuring that its business is conducted in accordance with legal requirements and proper standards, and that public money is safeguarded, properly accounted for, and used economically, efficiently and effectively.
- 3.2 The Council also has a duty under the Local Government Act 1999, to make arrangements to secure continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.



- 3.3 In discharging these responsibilities, the Council is responsible for ensuring that there is a sound system of governance (incorporating the system of internal control) and maintaining proper arrangements for the governance of its affairs, which facilitate the effective exercise of its functions, including the management of risk.
- 3.4 The governance framework 'Delivering Good Governance in Local Government' was produced during 2016 by CIPFA/SOLACE (Society of Local Authority Chief Executives). The framework sets the standard for local authority governance in the UK. As such, the Council's draft Annual Governance Statement for 2020/21 has been developed with reference to this guidance. Reference was also made to the CIPFA Bulletin 06 'Application of the Good Governance Framework 2020/21', which concerned the impact of the Covid-19 pandemic on governance in local government bodies.
- 3.5 The Annual Governance Statement provides an overview of the governance framework in place for 2020/21 and up to the date the financial statements are signed off by the Council's external auditor. A key aspect of the Annual Governance Statement is the identification of any areas where the Council's governance arrangements need to be developed further and to provide a commitment to addressing those issues.
- 3.6 The process followed in producing the draft AGS has been the same as in previous years, being led by a group of officers who have key roles in the maintenance and development of the Council's governance framework:
- Strategic Director - Enterprise, Community & Resources
  - Operational Director - Finance
  - Operational Director - Legal & Democratic Services
  - Divisional Manager - Audit, Procurement & Operational Finance
- 3.7 In producing the draft Annual Governance Statement consideration has been given to various sources of assurance over the Council's governance arrangements. These include:
- The work of Internal Audit, reported to the Audit and Governance Board (formerly the Business Efficiency Board) through regular progress reports and the Annual Internal Audit Opinion;
  - The work of the Council's external auditors through regular progress reports to the Audit and Governance Board, the Annual Audit Letter and Value for Money opinion;
  - The operation of the Council's risk management arrangements;
  - The Council's performance management framework, including performance information reported to the Policy and Performance Boards.
- 3.8 The draft Annual Governance Statement has been reviewed and agreed by Management Team. The document was also shared with the Chair of the Audit and Governance Board for input and comment.

- 3.9 The Council's Constitution delegates the responsibility to review and approve the AGS to the Audit and Governance Board. As such, the final version of the Annual Governance Statement will take into account any feedback from the Board. Once approved, the document will be signed by the Council Leader and Chief Executive and published on the Council's website.
- 3.10 The Council's external auditor will review the draft Annual Governance Statement as part of the audit of the Statement of Accounts for 2020/21.

#### **4.0 POLICY, FINANCIAL AND OTHER IMPLICATIONS**

- 4.1 In accordance with the Accounts and Audit Regulations 2015, the Council is required to conduct an annual review of its system of internal control and publish an Annual Governance Statement with the Statement of Accounts. The process is a key mechanism for ensuring that the Council has an effective system of internal control and governance, and that any areas for development are identified and addressed.
- 4.2 The powers and duties of the Audit and Governance Board include responsibility for considering the Council's corporate governance arrangements and agreeing necessary actions to ensure compliance with best practice. The Annual Governance Statement provides a commitment to address the governance challenges identified by the Council.
- 4.3 There are no direct financial implications arising from this report, although the Annual Governance Statement makes reference to the key financial challenges faced by the Council.

#### **5.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

##### **5.1 Children and Young People in Halton**

Good governance leads to good management, good performance and good stewardship of public money. It therefore enables the Council to implement its vision in accordance with its values and to engage effectively with its citizens and service users and ensure good outcomes for them.

##### **5.2 Employment, Learning and Skills in Halton**

See 5.1 above

##### **5.3 A Healthy Halton**

See 5.1 above

##### **5.4 A Safer Halton**

See 5.1 above

##### **5.5 Halton's Urban Renewal**

See 5.1 above

**6.0 RISK ANALYSIS**

6.1 The Annual Governance Statement provides assurance that the Council has a sound system of risk management, control and governance. The document provides a public statement of how the Council directs and controls its functions and relates to its community.

**7.0 EQUALITY AND DIVERSITY ISSUES**

7.1 The Council has to have regard to the elimination of unlawful discrimination and harassment and the promotion of equality under the Equalities Act 2010 and related statutes. Proper governance arrangements will ensure that equality and diversity issues are appropriately addressed.

**8.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

Document	Place of Inspection	Contact
CIPFA / SOLACE – Delivering good governance in Local Government: Framework (2016)	Halton Stadium, Widnes	Merv Murphy
CIPFA / SOLACE - Delivering good governance in Local Government: Guidance note for English authorities (2016)		
CIPFA Bulletin 06 - Application of the Good Governance Framework 2020/21		

# 2020/21

## HALTON BOROUGH COUNCIL - ANNUAL GOVERNANCE STATEMENT



# What is Governance?

Governance is about how we ensure that we are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. Good governance leads to:

- Effective leadership
- Good management
- Good performance
- Good stewardship of public money
- Good public engagement, and
- Good outcomes for our citizens and service users.

The governance framework comprises the culture, values, systems and processes by which an organisation is directed and controlled. The framework brings together an underlying set of legislative requirements, good practice principles and management processes.

Halton Borough Council acknowledges its responsibility for ensuring that there is a sound system of governance. The Council has developed a Local Code of Corporate Governance that defines the principles that underpin the governance of the organisation. The Local Code forms part of the Council Constitution and can be accessed on the Council's website.

The Council's governance framework aims to ensure that in conducting its business it:

- Operates in a lawful, open, inclusive and honest manner;
- Makes sure that public money is safeguarded, properly accounted for and used economically, efficiently and effectively;
- Has effective arrangements for the management of risk;
- Secures continuous improvements in the way that it operates.

The system of internal control is a significant part of the Council's governance framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness. The Council's system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the Council's policies, aims and objectives, to evaluate the likelihood of those risks occurring and the impact should they happen, and to manage them efficiently, effectively and economically.

# What is the Annual Governance Statement?

The Council is required by the Accounts & Audit (England) Regulations 2015 to prepare and publish an annual governance statement. This is a public document that reports on the extent to which the Council complies with its own code of governance and explains how the Council has reviewed the effectiveness of its systems of internal control.

In this document the Council:

- Acknowledges its responsibility for ensuring that there is a sound system of governance;
- Summarises the key elements of the governance framework and the roles of those responsible for the development and maintenance of the governance environment;
- Describes how the Council has monitored and evaluated the effectiveness of its governance arrangements in the year, and on any planned changes in the coming period;
- Provides details of how the Council has responded to any issue(s) identified in last year's governance statement;
- Reports on any significant governance issues identified from this review and provides a commitment to addressing them.

The annual governance statement reports on the governance framework that has been in place at Halton Borough Council for the year ended 31 March 2021 and up to the date of approval of the statement of accounts.

During 2020/21 the Council was required to initiate an emergency response to the COVID-19 pandemic. By necessity this involved significant changes and disruption to the manner in which Council services are normally delivered. It also required some temporary changes to the Council's governance arrangements, which were implemented as part of the COVID-19 response. These changes included implementing robust measures to support proper decision making and continued transparency and accountability. This document therefore explains how the Council's governance arrangements have operated during the year, including any changes made to adapt to the impact of the pandemic.

# How has the Annual Governance Statement been prepared?

The initial review of the Council's governance framework was carried out by a group of officers. This group comprised:

- **The Strategic Director – Enterprise, Community & Resources**

This post is designated as the Council's Statutory Scrutiny Officer as required under Section 31 of the Local Democracy, Economic Development and Construction Act 2009.

This role involves promoting and supporting the Council's Overview and Scrutiny Committees.

- **The Operational Director – Legal and Democratic Services**

This post is designated as the Council's Monitoring Officer under section 5 of the Local Government and Housing Act 1989, as amended by paragraph 24 of schedule 5 Local Government Act 2000.

The Monitoring Officer is responsible for ensuring that that the Council acts and operates within the law.

- **The Operational Director – Finance**

This post is designated as the s151 Officer appointed under the 1972 Local Government Act.

The Operational Director – Finance is the Council's Chief Financial Officer and carries overall responsibility for the financial administration of the Council.

- **The Divisional Manager – Audit, Procurement & Operational Finance**

This post is responsible for the Council's internal audit arrangements, including the development of the internal audit strategy and annual plan and providing an annual audit opinion on the Council's governance, risk management and control processes.

In preparing the annual governance statement the Council has:

- Reviewed the Council's existing governance arrangements against its Local Code of Corporate Governance;
- Considered any areas where the Local Code of Corporate Governance needs to be updated to reflect changes in the Council's governance arrangements and best practice guidance;
- Taken account of various sources of assurance over the operation of the Council's governance framework;
- Assessed the effectiveness of the Council's governance arrangements and highlighted any planned changes in the coming period;

- Considered the impact of COVID-19 in terms of changes made to the Council's governance arrangements.

Management Team, which is chaired by the Chief Executive, has also reviewed the annual governance statement and considered the significant governance issues facing the Council.

The Audit & Governance Board (formerly the Business Efficiency Board) provides assurance to the Council on the effectiveness of its governance arrangements, risk management framework and internal control environment. As part of this role the Board reviews and approves the annual governance statement.



# What are the key elements of the Council's Governance Framework?

The Council aims to achieve good standards of governance by adhering to the following key principles set out in the best practice guidance 'Delivering Good Governance in Local Government: Framework 2016':

- Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law;
- Ensuring openness and comprehensive stakeholder engagement;
- Defining outcomes in terms of sustainable economic, social and environmental benefits;
- Determining the interventions necessary to optimise the achievement of the intended outcomes;
- Developing the Council's capacity, including capability of its leadership and the individuals within it;
- Managing risks and performance through robust internal control and strong public financial management;
- Implementing good practices in transparency, reporting, and audit to deliver effective accountability.

The following pages provide a summary of key elements of the Council's governance framework and how they relate to these principles.

**KEY PRINCIPLE:**

**Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law**

**SUPPORTING PRINCIPLES:**

- Behaving with integrity
- Demonstrating strong commitment to ethical values
- Respecting the rule of law

**EXAMPLES OF HOW WE DID THIS IN 2020/21:**

- The Council has a Constitution that sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, proportionate, transparent and accountable. The Constitution was reviewed and updated in May 2020.
- The Council had a Standards Committee with co-opted independent members during the year. The role of the Committee is to promote high standards of member conduct. No matters were brought to the attention of the Monitoring Officer during the year which required formal investigation. It is intended that the powers & duties of the Standards Committee will be transferred to the Audit & Governance Board (formerly the Business Efficiency Board) in 2021/22.
- Elected members follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Monitoring Officer provides training to new elected members on the Code of Conduct. Due to the postponement of the elections in May 2020 there were no new elected members during 2020/21.
- Officer behaviour is governed by the Employees' Code of Conduct. All new employees attending the corporate induction process were made aware of the Code. Due to the COVID-19 pandemic the corporate induction was adapted to be delivered via an e-learning module rather than face to face.
- Roles and responsibilities relating to the Council's executive and non-executive functions are defined in the Council's Constitution. During 2020/21 the COVID-19 pandemic gave rise to unforeseen challenges in terms of the Council's decision-making processes and its traditional meeting structure, with elements of normal decision-making processes of the Council being suspended during the early part of the year. Arrangements were however already in place providing the Chief Executive with emergency delegated powers in consultation with the Leader of the Council, Monitoring Officer and s151 Officer as appropriate. In accordance with the Local Government Transparency Code 2015, a formal notification record of officer decisions was maintained to record decisions taken and ensure transparency. The traditional meeting structure of the Council and related decision making processes resumed in July 2020 with meetings taking place remotely as provided for in emergency legislation.



#### **EXAMPLES OF HOW WE DID THIS IN 2020/21:**

- The Council takes fraud, corruption and maladministration seriously and has established a suite of policies and processes which aim to prevent or deal with such occurrences. On 23 September 2020 the Business Efficiency Board received an annual report summarising the operation of the Council's counter fraud and corruption arrangements
- A corporate complaints procedure operated throughout the year to receive and respond to any complaints received.
- Arrangements exist to ensure that members and officers are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders. These include:
  - Registers of disclosable pecuniary interests were maintained
  - Registers of gifts and hospitality were maintained
  - Opportunities to declare disclosable pecuniary interests and disclosable other interests were provided at the start of meetings
- The Operational Director – Legal and Democratic Services provided legal advice to the Council as the Council's Monitoring Officer. One of the key functions of that role is to ensure the lawfulness and fairness of decision-making.

## KEY PRINCIPLE:

**Ensuring openness and comprehensive stakeholder engagement**

## SUPPORTING PRINCIPLES:

- Openness
- Engaging comprehensively with institutional stakeholders
- Engaging with individual citizens and service users effectively

## EXAMPLES OF HOW WE DID THIS IN 2020/21:

- Information on the Council's performance, finances and the democratic running of the Council is routinely published on the Council's website. The Council also fully complies with the reporting requirements of the Local Government Transparency Code 2015.
- The Council engages with key partners and institutional stakeholders in various ways. Formal partnerships include the Health and Wellbeing Board, the Safer Halton Partnership, the Halton Children's Trust and the Halton Learning Alliance. An executive director from the Halton Clinical Commissioning Group (CCG) is also a member of the Council's Management Team.
- The Council is part of the Cheshire and Merseyside Health and Care Partnership (C&MHCP), which is working towards formal designation as an Integrated Care System (ICS). An ICS is a partnership that brings together providers and commissioners of NHS services across a geographical area with local authorities and other local partners to collectively plan health and care services to meet the needs of their population. On 25 February 2021, the Council agreed a Memorandum of Understanding, which was developed to capture the required commitment across Cheshire & Merseyside to work together and play an active role in shaping the journey to becoming an ICS.
- The Health and Wellbeing Board provides a key forum for public accountability of the NHS, Adult Social Care, Children's Services, Public Health and other commissioned services relating to the wider determinants of health in Halton. The Board met remotely on three occasions throughout the year (7 October 2020, 20 January 2021 and 24 March 2021) with the scheduled 8 July 2020 meeting being cancelled due to the pandemic.
- During 2020/21 the Council and Halton CCG updated the Joint Working Agreement to cover the period 1 April 2020 to 31 March 2023. The document provides the basis for collaboration and sets out a shared ambition, governance arrangements and funding arrangements in regard to the activities covered by the pooled budget.

### **EXAMPLES OF HOW WE DID THIS IN 2020/21:**

- Engagement with citizens and service users is carried out using a variety of methods, including a range of survey techniques and sampling techniques. During 2020/21 the Council consulted on a range of issues, which included:
  - School Travel consultation – engaging with parents about school travel during COVID
  - Runcorn Town Deal consultation – consulting the public on the proposed funding opportunities within Runcorn
  - Supported Housing consultation – consultation with residents/carers about the service they receive
  - Special Educational Needs and Disabilities (SEND) strategy consultation – seeking views on the SEND Strategy 2021–2025
- In setting its budget the Council listens to the views of the public and the experience of elected members through their ward work. Individual consultations took place in respect of specific budget proposals and equality impact assessments were completed where necessary.

## KEY PRINCIPLE:

**Defining outcomes in terms of sustainable economic, social and environmental benefits**

## SUPPORTING PRINCIPLES:

- Defining outcomes
- Sustainable economic, social and environmental benefits

## EXAMPLES OF HOW WE DID THIS IN 2020/21:

- The long-term vision for Halton is set out in the Council's Corporate Plan, which defines the Council's priorities and how it hopes to achieve them. It also explains the Council's values and principles.
- The Council's Corporate Planning Framework provides the means by which the Council's activities are developed and monitored. As the Council's priority was responding to the pandemic the normal pattern of quarterly monitoring did not take place but reporting did resume later in the year. These reports recorded progress against key business plan objectives and targets. These were reported to the Council's Management Team, to the Executive Board and to the Policy and Performance Boards. The Policy and Performance Boards met virtually during the year other than the first meeting of the year for each Board being cancelled due to the pandemic.
- Directorate Business Plans for 2020/21 were rolled forward from the previous year in the light of the Council responding to the pandemic. These described key developments and emerging issues relating to each department of the Council. The plans formally set out key objectives, milestones and measures for each business area.
- The Executive Board approved the Council's Medium Term Financial Strategy (MTFS) at its meeting on 19 November 2020. The MTFS represents the "finance guidelines" that form part of the medium term corporate planning process. These guidelines identify the financial constraints which the Council will face in delivering its key objectives, and are an important influence on the development of the Corporate Plan, Service Plans and Strategies.
- The Council routinely publishes information on the Council's vision, strategy, plans, finances and performance on its website. During the pandemic the main focus of communications with the public was about ensuring that appropriate guidance and clear messages were available to members of the public regarding Covid.

## KEY PRINCIPLE:

**Determining the interventions necessary to optimise the achievement of the intended outcomes**

## SUPPORTING PRINCIPLES:

- Determining interventions
- Planning interventions
- Optimising achievement of intended outcomes economic, social and environmental benefits

## EXAMPLES OF HOW WE DID THIS IN 2020/21:

- The Council's Corporate Planning Framework in operation during the year provided the means by which the Council's activities were developed and monitored.
- There is a well-established overview and scrutiny framework with six Policy and Performance Boards (PPBs) aligned to the Council's six corporate plan priorities. During the year they held the Executive to account, scrutinised performance and developed policy proposals for consideration by the Executive.
- Performance monitoring reports were produced throughout the year recording progress against key business plan objectives and targets. These reports were presented to the Council's Management Team, to the Executive Board and to the Policy and Performance Boards.
- The Council operates a corporate complaints procedure and specific complaints procedures for Adult Social Care, Children's Social Care, schools and complaints relating to elected members. These procedures allow the Council to identify areas where things may have gone wrong and to put them right and prevent them from happening again.
- The Council aims to ensure that the purchase or commissioning of goods, services or works required to deliver services is acquired under Best Value terms. The Council's procurement activity is undertaken in line with the Council's Procurement Strategy and within clearly defined rules set out in Procurement Standing Orders. Where emergency procurement activity took place in response to COVID-19 a detailed record of decisions and actions was maintained. This will allow the Council to justify its actions if necessary in the event of a legal challenge. The records set out the reason for the decision, alternative options considered and rejected, background documents and any consultation undertaken. All such emergency decisions were reported retrospectively to the Executive Board and published on the Council's website.



**EXAMPLES OF HOW WE DID THIS IN 2020/21:**

- The Council's internal audit team carried out a comprehensive programme of audits during the year reviewing both front line and support services. Changes to the planned programme of work were however made in order to respond to the changed risk landscape resulting from the COVID-19 pandemic. The implementation of recommendations arising from this work assisted the Council in identifying and managing risks that may impact on the achievement of intended outcomes.

## KEY PRINCIPLE:

**Developing the Council's capacity, including capability of its leadership and the individuals within it**

## SUPPORTING PRINCIPLES:

- Developing capacity
- Developing leadership
- Developing the capability of individuals

## EXAMPLES OF HOW WE DID THIS IN 2020/21:

- The Council retained the NW Charter for Elected Member Development Exemplar Level status. Elected members were also provided with the opportunity for an annual review to identify their development requirements, which are set out in a Member Action Plan.
- Members of the Business Efficiency Board received regular training throughout the year to assist them in their role as the Council's Audit Committee.
- The Council's Organisational Development Strategy was updated during the year to cover the period 2020–2023. It focuses on seven key development categories and associated behavioural statements linked to each category. The behavioural statements demonstrate the attitudes and approaches to be taken whilst at work. They state how we do things, how we treat each other, what we say and how we say it and how we expect to be treated. The behaviour statements will support the Council to celebrate our achievements, communicate our achievements, talk about our aspirations and express how we would like to develop.
- The Council operates ongoing processes to identify the personal development needs of employees. The information gained from these processes is used to inform the design of the corporate training programme and to source specialised professional training.
- The Council's Organisational Development Team offers continuous leadership development through its accreditation with ILM (City & Guilds). Specific qualifications have been delivered during 2020/21, however the numbers were reduced due to the pandemic. ILM Level 5 Leadership & Management was delivered virtually and a number of virtual modular sessions have been delivered that included:
  - Behavioural Science and How it Can Support Remote Working
  - Ensuring High Performance Remotely
  - Conflict Resolution in a Remote Working Environment
  - Remote Change Management during COVID 19 Pandemic
  - Stress Management Whilst Working Remotely During COVID 19 Pandemic

#### **EXAMPLES OF HOW WE DID THIS IN 2020/21:**

- The Council has developed a Leadership and Management Framework to ensure continuous development of the senior leadership team and wider management. Implementation of the framework was delayed as a result of the pandemic but it was launched across the Council in May 2021 with 30 managers starting and an additional 39 due to start in September 2021.
- The Council continued to offer its employees the opportunity to apply for funding to support their academic development that is linked to the Council's priorities thereby increasing individual capacity and supporting succession planning. During 2020/21, the Council supported 12 employees to gain a variety of academic qualifications, such as Masters Degrees, BA Degrees and Diplomas.
- The Council is maximising the Apprenticeship Levy by supporting 10 MBA Degrees and 10 MSc Degrees in Leadership & Management to employees that will support leadership succession planning as identified in the Organisational Development Strategy.

## KEY PRINCIPLE:

**Managing risks and performance through robust internal control and strong public financial management**

## SUPPORTING PRINCIPLES:

- Managing risk
- Managing performance
- Robust Internal Control
- Managing data
- Strong Public Financial Management

## EXAMPLES OF HOW WE DID THIS IN 2020/21:

- The Council provides decision-makers with full and timely access to relevant information. The executive report template requires information to be provided explaining the policy, financial and risk implications of decisions, as well as implications for each of the corporate priorities and any equality and diversity implications.
- The Council has a well-established Audit Committee (the Business Efficiency Board), which met regularly during 2020/21. The Board has clearly defined responsibilities and provides oversight and challenge in regard to the Council's governance, risk management, audit, procurement and counter fraud and corruption arrangements.
- The Council has embedded risk management arrangements. Directorate and corporate risk registers outline the key risks faced by the Council, including their impact and likelihood, along with the relevant mitigating controls and actions. The annual review and update of the Corporate Risk Register was approved by the Business Efficiency Board on 21 July 2020. The Council's risk management processes are also used to inform the work of internal audit.
- The Council has a Head of Internal Audit and a continuous internal audit service, which has been externally assessed as conforming to the Public Sector Internal Audit Standards. Internal audit plays a key role in reviewing and improving the effectiveness of the Council's risk management, governance and control arrangements. The pandemic impacted the nature of internal audit work undertaken during the year and changes were made to planned work in order to respond to new risks resulting from COVID-19.
- The Head of Internal Audit provides an annual opinion on the Council's risk management, control and governance processes. The annual opinion is based upon the internal audit work completed during the year. The opinion covering 2020/21 was presented to the Audit & Governance Board on 7 July 2021.

### EXAMPLES OF HOW WE DID THIS IN 2020/21:

- The Council's spending during 2020/21 was dominated by the additional pressures resulting from the COVID-19 pandemic. Additional costs and income losses relating to COVID-19 totalled approximately £25m, which was funded by a combination of general and specific Government grants. Processes were put in place to ensure this funding was properly managed, utilised for the correct purposes, separately accounted for and correctly reported upon. The position was monitored throughout the year through reports to Management Team, the relevant Policy and Performance Boards and Executive Board. Effective action was taken to control spending as far as possible and mitigate overspends. As a result, total outturn spending for 2020/21 was below the Council's revenue budget for the first time in a number of years. However, this is a one-off situation due to the Council's focus being upon dealing with the COVID-19 pandemic. Many of the previous cost pressures were exacerbated by the pandemic and have therefore been funded by COVID-19 grants, which has taken pressure off the core revenue budget. Across all services spending has been tightly managed; there have been cost reductions where services have been unable to operate or have operated differently, and savings have been achieved from some of the different working arrangements introduced in response to the pandemic. However, it is highly likely that the previous cost pressures, particularly in social care, will return during 2021/22. Despite significant funding reductions and increasing demand for services the Council managed to set a balanced budget for 2021/22 via a robust process led by the Members' Budget Working Group.

## KEY PRINCIPLE:

**Implementing good practices in transparency, reporting, and audit to deliver effective accountability**

## SUPPORTING PRINCIPLES:

- Implementing good practice in transparency
- Implementing good practice in reporting
- Assurance and effective accountability

## EXAMPLES OF HOW WE DID THIS IN 2020/21:

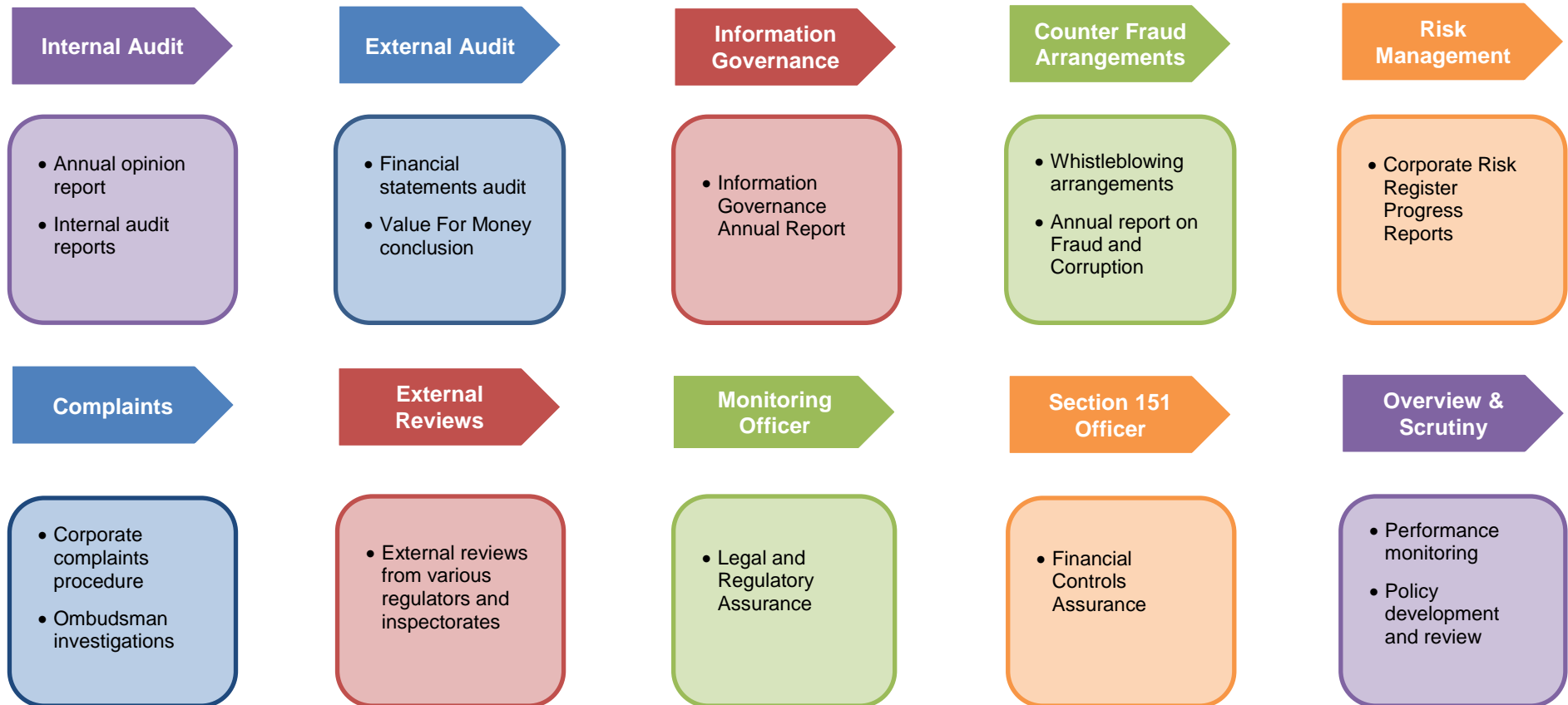
- The Council fully complies with the Local Government Transparency Code 2015 and publishes a wide range of information on its website. This includes details of meetings, minutes and agendas, policies and plans, the Council Constitution, the Statement of Accounts, details of members' allowances and expenses (including the outcome of the independent triennial review of the Members' Allowance Scheme which took place during the year), details of senior staff pay, contract awards, and details of land and building assets.
- The Council operates clear and effective processes for dealing with Freedom of Information (FOI) requests and Subject Access Requests (SAR).
- All Council meetings are open and can be attended by members of the public with the exception of those where confidential or personal matters may be disclosed. Due to the pandemic, meetings were held remotely during 2020/21 with arrangements being made so that members of the public could virtually.
- The Council's external auditor provides an annual assessment on how well the Council is managing and using its resources to deliver value for money and better and sustainable outcomes for local people.
- The Council has established various ongoing arrangements that provide effective assurance. These include the work of internal audit, the Council's risk and performance management arrangements, the work of the Information Governance Group, the work of the Policy and Performance Boards and the work of the Standards Committee.
- The Council operates a whistleblowing procedure and has well-publicised arrangements for employees and the wider community to raise any concerns relating to fraud, misconduct or other issues. One whistleblowing complaint was received during the year and 87 referrals were received from members of the public. All whistleblowing complaints and referrals received are assessed and investigations undertaken where sufficient information is provided.

# What are the roles of those responsible for developing and maintaining the Governance Framework?

<p><b>Council</b></p>	<ul style="list-style-type: none"> <li>- Approves the Corporate Plan</li> <li>- Approves the Constitution</li> <li>- Approves the policy and budgetary framework</li> </ul>
<p><b>Executive Board</b></p>	<ul style="list-style-type: none"> <li>- The main decision-making body of the Council</li> <li>- Comprises ten members who have responsibility for particular portfolios</li> </ul>
<p><b>Business Efficiency Board</b></p>	<ul style="list-style-type: none"> <li>- Designated as the Council's Audit Committee</li> <li>- Provides assurance to the Council on the effectiveness of its governance arrangements, risk management framework, procurement strategy and internal control environment.</li> </ul>
<p><b>Standards Committee</b></p>	<ul style="list-style-type: none"> <li>- Promotes high standards of member conduct</li> <li>- Assists members and co-opted members to observe the Council's Member Code of Conduct</li> </ul>
<p><b>Policy &amp; Performance Boards</b></p>	<ul style="list-style-type: none"> <li>- There are six Policy &amp; Performance Boards aligned to the Council's six Corporate Plan priorities</li> <li>- They hold the Executive to account, scrutinise performance and develop policy proposals for consideration by the Executive</li> </ul>
<p><b>Management Team</b></p>	<ul style="list-style-type: none"> <li>- Implements the policy and budgetary framework set by the Council and provides advice to the Executive Board and the Council on the development of future policy and budgetary issues</li> <li>- A wider management group has been meeting since March to manage the Council's response to the Covid-19.</li> </ul>
<p><b>Internal Audit</b></p>	<ul style="list-style-type: none"> <li>- Provides assurance over the Council's governance, risk management and control framework</li> <li>- Delivers an annual programme of audits</li> <li>- Makes recommendations for improvements in the management of risk and value for money</li> </ul>
<p><b>Managers</b></p>	<ul style="list-style-type: none"> <li>- Responsible for maintaining and developing the Council's governance and control framework</li> <li>- Contribute to the effective corporate management and governance of the Council</li> </ul>

# How does the Council monitor and evaluate the effectiveness of its governance arrangements?

The Council annually reviews the effectiveness of its governance framework including the system of internal control. The key sources of assurance that inform this review are outlined below:





# How has the Council addressed the governance issues from the 2019/20 Annual Governance Statement?

The 2019/20 annual governance statement contained four key governance issues. Details of these issues and how they were addressed are provided below:

## What the issue was:

### **Funding**

The Council continues to face significant funding reductions whilst demand for Council services, particularly within Social Care is rising and there are income shortfalls across many service areas. The COVID-19 pandemic has exacerbated the situation, along with huge uncertainty regarding the Government's plans for the future funding of local government.

This makes financial planning extremely difficult at the current time. However, the Medium Term Financial Strategy forecasts that the Council may need to identify £13m of budget savings in order to set a balanced budget for 2021/22. In light of these financial pressures, a key challenge for the Council is to maintain sufficient service capacity and robust governance arrangements in order to continue to deliver its corporate objectives and strategic priorities for 2021/22 and beyond.

## What we did:

Spending during 2020/21 was closely monitored and reported upon, especially in respect of that related to the COVID-19 pandemic. The Council's robust governance arrangements were essential in this respect and contributed to the outturn underspend against the revenue budget.

The Member's Budget Working Group met regularly during 2020/21 to consider budget saving proposals in the context of the Council's corporate objectives and strategic priorities. Fundamental to the Budget Working Group's assessment was a desire to protect the Borough's most vulnerable residents and the services provided to them.

Despite significant funding constraints and increasing demand for services, resulting in the need to make budget savings, the Council was able to set a balanced budget for 2021/22.

It has become increasingly difficult to find efficiency or cost savings and as a result a number of one-off savings were required to set a balanced budget. These will increase the forecast budget gap for the following year to over £15m.

### What the issue was:

#### **Decision making**

The COVID-19 pandemic gave rise to unforeseen challenges in terms of the Council's decision-making processes and its traditional meeting structure, with elements of normal decision-making processes of the Council being suspended.

Arrangements were already in place providing the Chief Executive with emergency delegated powers in consultation with the Leader of the Council, Monitoring Officer and s151 Officer as appropriate. In accordance with the Local Government Transparency Code 2015, a formal notification record of officer decisions has been maintained to record decisions taken and ensure transparency.

### What we did:

In the early stages of the pandemic the Council's traditional meeting structure and decision-making processes were affected by elected member meetings being suspended. In particular, the absence of meetings of Executive Board during the initial COVID-19 crisis resulted in a number of urgent decisions being necessary.

The Council's Constitution gave authority to the Chief Executive to take any urgent decisions required, in consultation with the Leader of the Council and the Operational Director Finance and/or the Operational Director Legal and Democratic Services, where necessary.

A list of these decisions was reported to the Executive Board when elected member meetings resumed and full details were published on the Council's website.

### What the issue was:

#### **Elected Member meetings**

The Coronavirus Act 2020 enables all local authority meetings before 7 May 2021 to be held remotely and removed the requirement for the annual Council meeting in 2020. The Council has made arrangements for all its Boards and Committees to meet on a virtual basis for the foreseeable future.

From September 2020, the Council is to revert to the usual cycle of meetings. This will ensure that key executive decisions will be made by Elected Members, and that they will be subject to the formal scrutiny arrangements of the Council. This will replace the emergency arrangements that have been in place and restore the usual governance arrangements of the Council.

To support this process, Microsoft Teams is to be made available for Members and those officers who support the Boards and Committees from September.

### What we did:

Meetings of the Council's Boards and Committees resumed in July 2020. In order for the meetings to take place safely, arrangements were made for the meetings to be held on a virtual basis. Provision was also made for members of the public to attend in a virtual capacity.

The Council's normal cycle of meetings resumed in September with meetings continuing to be held successfully on a virtual basis for the remainder of the year.

The ability to conduct Council meetings on a virtual basis allowed the effective operation of the Council's normal governance arrangements.

## What the issue was:

### **COVID-19 Response**

Whilst the coronavirus pandemic is not a specific governance issue the operational and financial impact of the crisis caused the Council to experience significant organisational disruption during 2020/21. All Council services were affected and business continuity arrangements saw much of the workforce working from home and resources being redeployed to support essential frontline services.

The response to the pandemic was the Council's overriding priority in 2020/21 with the main emphasis being on protecting the most vulnerable and maintaining essential services.

## What we did:

Throughout the response period the Council gave priority to maintaining effective governance arrangements. Major incident response practices, developed for such situations, were implemented and helped the Council to adapt, at pace, to new challenges and new responsibilities.

Through the Council's partnerships across Cheshire and the Liverpool City Region, and as part of the Cheshire Resilience Forum, the Council worked to deliver a co-ordinated regional response. Working with local health partners, emergency services and the military, the Council put in place robust local testing arrangements and established arrangements to prevent and manage local outbreaks.

The Council prioritised supporting the most vulnerable in the community. Critical services continued to be delivered successfully. Through the 'shielded hub' the Council provided food, medicine and support. Accommodation was secured for homeless individuals and families. The Council also worked with social care providers to look after people living in residential and nursing homes or in receipt of domiciliary care. Waste collection services continued to run to normal timetables throughout the year.

The Council was, and continues to be, the conduit to deliver various Government support schemes and to provide advice to local businesses to help them survive and protect local jobs.

The Council's robust response to the pandemic has provided additional assurance in regard to the effectiveness of the Council's business continuity arrangements, communication strategy and overall governance arrangements.

### What the issue was:

#### **2018-19 Audit of Accounts**

There was a significant delay in the finalisation and external audit of the Council's 2018/19 statement of accounts. A number of issues arose during the audit process which, in the main, centred on the valuation and accounting treatment for the Mersey Gateway bridge project, which is highly complex and unique in nature.

The external auditor made a number of recommendations in the 2018/19 Audit Findings report which the Council agreed to implement. The Council also undertook to work closely with the External Auditors to improve processes, communications and arrangements for preparing the financial statements for 2019/20 and beyond, to ensure they were prepared in accordance with the Code of Practice on Local Authority Accounting.

### What we did:

The issues which arose during the audit of the 2018/19 statement of accounts were all resolved as part of preparing the 2019/20 statement of accounts. All of the external auditors' recommendations were implemented and Council officers have worked closely with the external auditors to improve processes and especially communications. As a result, the 2019/20 Audit Findings report was complimentary regarding the improvements delivered and provided the Council with a very positive outcome regarding the 2019/20 statement of accounts and value for money assessment.

### What the issue was:

#### **Brexit**

The Council is closely monitoring the potential impact of Brexit on its activities. It has a separate risk register which is monitored by an internal group chaired by the Strategic Director – Enterprise, Community & Resources. The minutes of the meetings of that group are submitted to the Council's Management Team and the appropriate Portfolio Holder is kept briefed.

The Council takes an active role in the Cheshire Local Resilience Forum, which in turn responds to Government requirements and requests for update reports on potential impacts.

### What we did:

The Council closely monitored the potential impact of the UK exiting from the European Union. It did this both internally and with its partners on the Cheshire Local Resilience Forum. This monitoring was stepped up, particularly, during January and February 2021. The Council was particularly concerned about availability of supplies, increasing costs and the impact on local businesses. As it transpired the Council saw no significant increase in cost nor did it experience any supply shortages that impacted on the delivery of services. The monitoring arrangements ceased at the end of March 2021.

The Council also worked alongside the Halton Chamber of Commerce and the Liverpool City Region Combined Authority to ensure that information and support was available to local businesses.

# What are the governance issues for 2021/22?

The Council is satisfied that its corporate governance arrangements are adequate and operating effectively and there are no significant issues that need to be addressed. However, the Council's governance arrangements are kept under constant review and the following Action Plan sets out key areas of focus for the Council in maintaining and developing its governance arrangements in 2021/22.

Issue	Lead Officer	Timescale
<p><b><u>Funding</u></b></p> <p>The Council continues to face significant funding reductions whilst demand for Council services, particularly within Social Care is rising and there are income shortfalls across many service areas. The COVID-19 pandemic temporarily changed the Council's focus and the related grant funding has assisted with containing 2020/21 spending within budget.</p> <p>Looking towards 2021/22 and beyond there remains huge uncertainty regarding the Government's plans for the future funding of local government. A number of proposed changes to the funding regime have been deferred, including the Fair Funding Review and the national roll-out of business rates retention. It is unclear whether or not Government will return to these proposals.</p> <p>This makes financial planning extremely difficult at the current time. The Medium Term Financial Strategy forecasts that the Council may need to identify £15m of budget savings in order to set a balanced budget for 2022/23. In light of these financial pressures, a key challenge for the Council is to maintain sufficient service capacity and robust governance arrangements in order to continue to deliver its corporate objectives and strategic priorities for 2022/23 and beyond.</p>	<p>Strategic Director – Enterprise, Community &amp; Resources</p>	<p>Ongoing</p>

Issue	Lead Officer	Timescale
<p><b><u>CIPFA Financial Management Code</u></b></p> <p>The CIPFA Financial Management Code (The Code) is designed to support good practice in financial management and to assist local authorities in demonstrating their financial sustainability. The Code therefore sets the standards of financial management for local authorities.</p> <p>The Code is based on a series of principles supported by specific standards and statements of practice which are considered necessary to provide the strong foundation to manage:</p> <ul style="list-style-type: none"> <li>• the short, medium and long-term finances of a local authority</li> <li>• financial resilience to meet foreseen demands on services</li> <li>• unexpected shocks in their financial circumstances.</li> </ul> <p>Each local authority is required to demonstrate that the requirements of the Code are being satisfied. Demonstrating this compliance with the Code is a collective responsibility of elected members, the Chief Finance Officer and their professional colleagues in the leadership team.</p> <p>The Code applies a principle-based approach. It does not prescribe the financial management processes that local authorities should adopt. Instead, the Code requires that a local authority demonstrate that its processes satisfy the principles of good financial management for an authority of its size, responsibilities and circumstances. Good financial management is proportionate to the risks to the authority's financial sustainability posed by the twin pressures of scarce resources and the rising demands on services.</p> <p>Work will be undertaken during 2021/22 to ensure that the Council complies with the CIPFA Financial Management Code.</p>	<p>Ed Dawson – Operational Director, Finance</p>	<p>April 2022</p>



Issue	Lead Officer	Timescale
<p><b><u>Integrated Care System Implementation</u></b></p> <p>The Integrated Care White Paper sets out the approach to create Integrated Care System bodies within the NHS at a regional level by April 2022. The aim is to bring about greater integration of Health and Social Care, based upon “place”.</p> <p>There will be a regional body for Cheshire and Merseyside, below which each of the nine council areas will each have an Integrated Care System Partnership. In Halton, the current roles and funding of Halton CCG will be passed to the regional body, who will decide which roles and funding to devolve to the Halton Integrated Care System Partnership.</p> <p>Work is underway with Halton CCG colleagues, to put in place the governance arrangements required to manage this new arrangement, along with identifying the services involved and related funding.</p>	<p>Strategic Director – Enterprise, Community &amp; Resources</p>	<p>April 2022</p>

# Certification

We have been advised on the implications of the review of the effectiveness of the governance framework by the Audit & Governance Board. The review provides good overall assurance that the Council's arrangements continue to be regarded as fit for purpose in accordance with the governance framework.

Specific opportunities to maintain or develop the Council's governance arrangements have been identified through this review. We pledge our commitment to addressing these issues over the coming year and we will monitor their implementation and operation as part of our next annual review.

Signed on behalf of Halton Borough Council:

**David Parr - Chief Executive**

**Mike Wharton - Leader of the Council**

<b>REPORT TO:</b>	Audit and Governance Board
<b>DATE:</b>	7 July 2021
<b>REPORTING OFFICER:</b>	Strategic Director Enterprise, Community and Resources
<b>PORTFOLIO:</b>	Resources
<b>SUBJECT:</b>	Members Code of Conduct
<b>WARDS:</b>	Borough Wide

## **1.0 PURPOSE OF THE REPORT**

- 1.1 The Local Governance Association (LGA) has published a model Code of Conduct for Members (the Model Code). This is attached as Appendix A. The LGA have stated that it is designed to encourage good conduct and safeguard the public's trust in local government. They have indicated that guidance is to follow.

## **2.0 RECOMMENDATION: That**

The Board is asked to

- a) Consider the new Code of Conduct for Members and recommend its adoption to full council.
- b) Approve the revised arrangements for dealing with standards allegations under the Localism Act 2011.

## **3.0 SUPPORTING INFORMATION**

- 3.1 The LGA has published a new model Code of Conduct for Members following a detailed and lengthy consultation exercise. This followed a recommendation from the Committee for Standards in Public Life to the LGA and Government.

Previously, reports on the adoption of a Code of Conduct would have been taken to Standards Committee in the first instance for consideration and recommendation to Council. However, Members will be aware that Council in May decided not to appoint to Standards Committee and a separate report on this agenda contains a recommendation that the powers and duties of that committee are transferred to this board, which has responsibility for consideration of the Council's arrangements for corporate governance and agreement of necessary actions to ensure best practice. Full Council has the responsibility for

adopting the Code.

The model code is designed for Local Authorities to accept either in whole or with local amendments. The Localism Act 2011 requires that all councils must adopt a Code of Conduct setting out the conduct expected of members and co-opted members when they are acting in that capacity. This must be consistent with the seven principles of public life

- Selflessness
- Integrity
- Objectivity
- Accountability
- Honesty
- Leadership

The code must also provide for the registration and disclosure of pecuniary interests and other interests.

The LGA review was carried out following recommendations made by the Committee on Standards in Public Life, and the resulting code was designed to clearly articulate the duties and expectations of persons in public office as well as their rights, in particular their right to be protected from abuse and intimidation resulting from their undertaking of public office.

The LGA's objectives were set out as to

- Articulate what Local Government believes are good standards for all in public office.
- Show leadership in good standards of conduct for those in public office, both elected and as employees.
- Achieve consensus between the stakeholders affected by Local Government conduct.
- Support its member Councils and partners in achieving good standards of conduct.
- Produce a code that is fit for purpose, useful and held in high regard.
- Enhance the reputation of Local Government and local Politicians.
- Support the good running of Councils.
- Support all democratically elected local representatives

to deliver their best on behalf of their local communities.

- Build on the good practice that already exists within Councils.

The model code is attached at Appendix A for the consideration of members, and contains a number of points of difference to the current code. The main areas can be summarised as

- The code applies to members when they are acting in their capacity as a Councillor, which may include when the position as a Councillor is misused.
- The members' actions would give the impression to a reasonable member of the public with knowledge of all the facts that he or she is acting as a Councillor.
- The code applies to all forms of communication and interaction including

Face-to-face meetings

Online or telephone meetings

In written communication

In verbal communication

In non-verbal communication

In electronic and social media communication, posts, statements and comments.

- The obligation to treat others with respect and not to bully is retained, but definitions are now provided, which is useful.
- There is a new obligation to undertake Code of Conduct training provided by the Council, and to co-operate with a Code of Conduct investigation and/or determination.

The appended draft has been considered by Monitoring Officers across the region, and has just been adopted by the Liverpool City Region Combined Authority and other councils in the area. This will assist with consistency across the region, and it contains very minor local amendments.

Monitoring Officers in Merseyside and Cheshire are now giving consideration to whether it would be possible to agree a standardised form of arrangements for dealing with Code of Conduct complaints across authorities. Whilst that work continues in progress, it is suggested that Halton's current arrangements are updated very slightly in anticipation of this Board and full Council approving a separate item on this agenda dealing with committee changes. These minor

revisions to the arrangements would ensure consistency with that. The revised version is attached to this report as Appendix B and is recommended for approval.

#### **4.0 POLICY AND FINANCIAL IMPLICATIONS**

- 4.1 The powers and duties and of Audit and Governance Board include responsibility for considering the Council's Corporate Governance arrangements and agreeing necessary actions to ensure compliance with best practice. The revised Code of Conduct is compliant with that responsibility. The Council has a legal duty under the Localism Act 2011 to adopt a Code of Conduct setting out what is expected of members and co-opted members when they are acting in that capacity. The code must be consistent with the seven principals of public life and ensure that there are appropriate provisions for dealing with pecuniary and other interests.
- 4.2 There are no direct financial implications arising from this report.

#### **5.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

##### **5.1 Children and Young People in Halton**

The revised code is designed to protect the democratic role of councillors and encourage good conduct, safeguarding the public's trust in Local Government. This would therefore assist the Council in meeting its values and engaging effectively with all stakeholders.

##### **5.2 Employment, Learning and Skills in Halton**

See 5.1 above

##### **5.3 A Healthy Halton**

See 5.1 above

##### **5.4 A Safer Halton**

See 5.1 above

##### **5.5 Halton's Urban Renewal**

See 5.1 above

**6.0 RISK ANALYSIS**

- 6.1 The revised Code of Conduct would provide assurance that the Council has an up-to-date and fit for purpose Code of Conduct for members, which would assist in the protection and accountability of members. The aim of the revised code is to protect the democratic role of Councillors, encourage good conduct and safeguard the public's trust in Local Government. This would apply across all sectors of the community.

**7.0 EQUALITY AND DIVERSITY IMPLICATIONS**

- 7.1 none.

**8.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

<b>Document</b>	<b>Place of Inspection</b>	<b>Contact Officer</b>
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There are no background papers within the meaning of the Act.

## Introduction

This Authority and others across the Liverpool City Region have adopted this Code of Conduct to promote and maintain high standards of conduct and underpin public confidence in the authority and its members and co-opted members. It is adapted from the Local Government Association (LGA) Model Councillor Code of Conduct 2020 published 19<sup>th</sup> January 2021.

The LGA Model Code was introduced by a Joint Statement from the political groups that:

*“The role of councillor across all tiers of local government is a vital part of our country’s system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.*

*As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.*

*Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.*

*This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public’s trust in local government.”*

The Code sets out general obligations about the standards of conduct expected of Members and co-opted members of the authority, together with provisions about registering and declaring interests. It has been adopted under section 27 of the Localism Act 2011 by the Authority on [ ].

The LGA Model Code is to be reviewed annually and is supported by Guidance [to be] issued.

## Definitions

For the purposes of this Code of Conduct, a “Member” means a member or co-opted member of a local authority [or a directly elected mayor]. A “co-opted member” is



defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who:

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

For the purposes of this Code of Conduct, “local authority” includes the upper tier councils, town or parish councils and the combined authorities across the Liverpool City Region.

### **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a Member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Members, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Members and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Member and local government.

### **General principles of Member Conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Members and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of Member.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Member.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person

- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Member or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Member.

This Code of Conduct applies to you when you are acting in your capacity as a Member which may include when:

- you misuse your position as a Member; or
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Member.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Member.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Members are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### **Standards of Member conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a Member. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## **General Conduct**

### **1. Respect**

#### **As a Member:**

**1.1 I treat other Members and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Members, where action could then be taken under the Member Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Member- officer protocol.

### **2. Bullying, harassment and discrimination**

#### **As a Member:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on

social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the local authority**

**As a Member:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a Member:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**

- i. I have received the consent of a person authorised to give it;
- ii. I am required by law to do so;
- iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
- iv. the disclosure is:
  1. reasonable and in the public interest; and
  2. made in good faith and in compliance with the reasonable requirements of the local authority; and
  3. I have consulted the Monitoring Officer prior to its release.

**4.2 I do not improperly use knowledge gained solely as a result of my role as a Member for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a Member:**

**5.1 I do not bring my role or local authority into disrepute.**

As a Member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Members and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Members to account and are able to constructively challenge and express concern about decisions and processes

undertaken by the local authority whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

### **As a Member:**

**6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

### **As a Member:**

**7.1 I do not misuse local authority resources.**

**7.2 I will, when using the resources of the local or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless 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 I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Member.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a Member:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a Member to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **9. Interests**

#### **As a Member:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Members of the local authority.

You need to register your interests so that the public, local authority employees and fellow Members know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Members when making or taking part in decisions, so that decision

making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## 10. Pre-Determination or Bias

### As a Member I:

- 10.1 **Never place myself under any financial or other obligation to outside individuals or organisations who might seek to influence me in the performance of my official duties.**
- 10.2 **Consider all matters with an open mind and make decisions based upon weighing the best evidence before me, fairly and on merit.**

Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you should not be prohibited from participating in a decision in your role as Member. However, you must ensure that your integrity is not compromised.

You may be pre-disposed to a number of outcomes to a decision, based upon your, philosophy, beliefs or political allegiance (including any application of a Group whip), but this must not predetermine your actions or the outcome of a decision you are to make. You must always remain open to the potential for further evidence or argument to alter any previously expressed or held viewpoint at the time of making your decision. For this reason, particularly in relation to contractual matters or those affecting individuals' civil rights, it is often best to be cautious about how or if your views are expressed before coming to make a decision.

## 11. Gifts and hospitality

### As a Member:

- 11.1 **I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**



**11.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**

**11.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Member, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Member. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **Annex B Registering interests**

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**“Disclosable Pecuniary Interest”** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**“Partner”** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

**“Standard Dispensation”** means a dispensation that has been granted by the Authority relieving the member or co-opted member from the restrictions or obligations under this Code as detailed in **Table 3** below.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation.
3. Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### **Disclosure and Non-participation in case of disclosable pecuniary interest**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation or a Standard Dispensation applies. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

## Disclosure of Other Registerable Interests and Non-Registerable Interests (Personal and Prejudicial Interests)

### Personal Interests

6. Where a matter arises at a meeting which **affects**:
  - a. your own financial interest or well being;
  - b. a financial interest or well-being of a relative, close associate; or
  - c. a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing the interest the following test should be applied

### Prejudicial Interests

7. In the following instances, you must disclose the interest and you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

- a. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**).
- b. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate.
- c. Where a matter **affects** your financial interest or well-being:
  1. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;

2. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest
8. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

## **Overview and Scrutiny Committees**

9. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where:
  - (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's Cabinet, board or another of your authority's committees, sub-committees, joint committees or joint subcommittees; and
  - (b) at the time the decision was made or action was taken, you were a member of the Cabinet, board, committee, sub-committee, joint committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.
10. Paragraph 9 does not prevent you attending and participating in a meeting if you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the local authority) made to the Member during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a Member, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the Member or his/her spouse or civil partner or the person with whom the Member is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the Member or his/her spouse or civil partner or the person with whom the Member is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.

<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the Member's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the Member, or his/her spouse or civil partner or the person with whom the Member is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the Member's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Member, or his/ her spouse or civil partner or the person with whom the Member is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registrable Interests**

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

**Table 3: Standard Dispensations**

1. You will not be regarded as having a prejudicial interest in any business of your authority in respect of any Other Registerable Interest:
  - (a) where that business relates to:
    - (i) another local authority of which you are also a member;
    - (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
    - (iii) a body to which you have been elected, appointed or nominated by your authority, but only in the circumstance where the sole purpose of participating is to make representations, answer questions or give evidence relating to the business at the request of the [elected mayor, cabinet, cabinet member or] Committee meeting
    - (iv) your role as a school governor, unless it relates particularly to the school of which you are a governor; or
    - (v) your role as a member of a National Health Service board or governing body;
  - (b) except that no dispensation described in sub-paragraph (a) above will apply where the business to be transacted at the meeting is the determination of any regulatory approval, consent, licence, permission or registration (*for example, determination of an application for planning permission or consent or licence under the Licensing Act 2003*).



2. You will not be regarded as having a prejudicial interest in any business where that business relates to:
  - (a) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
  - (b) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
  - (c) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
  - (d) the functions of your authority in respect of an allowance or payment made under sections 22(5), 24(4) and 173 to 176 of the Local Government Act 1972, an allowance or pension under section 18 of the Local Government and Housing Act 1989 or an allowance or payment under section 100 of the Local Government Act 2000;
  - (e) any ceremonial honour given to one or more Members; or
  - (f) the setting of the authority's council tax requirement, council tax, levy or a precept under the Local Government Finance Act 1992 (except that this dispensation does not apply if you are two months or more in arrears with their Council Tax you must declare this to the meeting and must not vote on budget recommendations, as to do otherwise can be a criminal offence).

# Arrangements for dealing with standards allegations under the Localism Act 2011

## 1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority *[or of a parish council within its area]* has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority *[or of a parish council within the authority’s area]*, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member *[or a member or co-opted member of a parish council]* against whom an allegation has been made.

## 2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority’s website and on request from Reception at the Municipal Building Widnes.

*[Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.]*

## 3 Making a complaint

If you wish to make a complaint, please write or email to –  
“The Monitoring Officer  
Halton Borough Council  
Municipal Building

Kingsway  
Widnes  
WA8 7QF”

Or –

[mark.reaney@halton.gov.uk](mailto:mark.reaney@halton.gov.uk)

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members’ interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority’s website, next to the Code of Conduct, and is available on request from Reception at the Municipal Building.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

#### **4 Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. The question of whether to investigate will take into account whether it is in the public interest to do so. This decision will normally be taken within 28 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. *[Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council or your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.]*

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

## **5 How is the investigation conducted?**

The Council has adopted a procedure for the investigation of misconduct complaints. If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

## **6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned [*and to the Parish Council, where your complaint relates to a Parish Councillor*], notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

## **7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

### 7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit & Governance Board [*and the Parish Council*] for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

### 7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings,

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue

directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter..

## **8 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?**

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council [*or to the Parish Council*] for information;
- 8.3 Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Executive, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Monitoring Officer to [*or recommend that the Parish Council*] arrange training for the member;

- 8.6 Remove *[or recommend to the Parish Council that the member be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*;
- 8.7 Withdraw *[or recommend to the Parish Council that it withdraws]* facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 Exclude *[or recommend that the Parish Council exclude]* the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

## **9 What happens at the end of the hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member *[and to the Parish Council]*, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

## **10 Who are the Hearings Panel?**

The Hearings Panel is a Sub-Committee of the Council's Audit & Governance Board. The Audit & Governance Board has decided that it will comprise a maximum of three members of the Council, including not more than one member of the authority's Executive and comprising members drawn from at least 2 different political parties where possible. Subject to those requirements, it is appointed on the nomination of party group leaders in proportion to the strengths of each party group on the Council.

The Independent Person is invited to attend all meetings of the Hearings Panel and his views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **11 Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be “independent” if he/she –

11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;

11.2 Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority’s area, or

11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, “relative” means –

11.3.1 Spouse or civil partner;

11.3.2 Living with the other person as husband and wife or as if they were civil partners;

11.3.3 Grandparent of the other person;

11.3.4 A lineal descendent of a grandparent of the other person;

11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;

11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or

11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

## **12 Revision of these arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **13 Appeals**

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.



<b>REPORT TO:</b>	Audit and Governance Board
<b>DATE:</b>	7 July 2021
<b>REPORTING OFFICER:</b>	Strategic Director Enterprise, Community and Resources
<b>PORTFOLIO:</b>	Corporate Services
<b>SUBJECT:</b>	Revisions to Committee Structures
<b>WARDS:</b>	Borough wide

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To bring to the Board recommendations for revisions to Committees following consideration by a group of senior members and to seek appropriate recommendations to Council.

## **2.0 RECOMMENDATION: That**

It be recommended to Council that

- 1) The Audit and Governance Board assume responsibility for the work of the former Standards Committee and that its terms of reference be amended as set out in Appendix 1.
- 2) The composition of the Appeals Panel be amended as set out in paragraph 3.4 of this report.
- 3) A Taxi Sub-committee be set up with terms of reference as contained in Appendix 2.
- 4) That appropriate amendments to the Constitution are made in due course.

## **3.0 SUPPORTING INFORMATION**

- 3.1 Part of the responsibility of the Audit and Governance Board is the consideration of the Council's arrangements for Corporate Governance, and the agreement of any necessary actions to ensure compliance with best practice.
- 3.2 A small group of senior members has been considering the Council's committee structure and assessing ways in which improvements could be made.

- 3.3 Members will be aware that the Council meeting in May decided not to appoint to the Standards Committee and Appeals Panel this year, pending consideration of this report.

The group concluded that arrangements for dealing with standards issues would be strengthened by removing the previous Standards Committee which met once per year, and had a Hearings Panel to be drawn from its membership and comprising of representation from two political parties where possible. The work of the Standards Committee would be transferred to the Audit and Governance Board, whose amended terms of reference would be as sent out in Appendix 1. The Hearings Panel would remain, but would be populated from the membership of the Audit and Governance Board. The benefit of this new arrangement would be that standards issues could be considered more frequently than the previous one scheduled meeting per year, and the Audit and Governance Board would be the natural home for those areas of work, given its current responsibilities. The ability to call a Hearings Panel at short notice would remain, allowing for consideration of allegations that individual members may have broken the Code of Conduct.

- 3.4 The group also looked at the make-up of the Appeals Panel, and felt that arrangements would be streamlined by amending the composition so that three council members would be asked to attend each individual hearing as before, but that they be drawn from the membership of the Corporate Policy and Performance Board. This would mirror the composition of the previous Corporate Complaints Panel, and would ensure that the Panel would remain as an independent body, rather than being a sub-committee of the Corporate PPB, which would not be permissible under scrutiny rules. The chair for a hearing would be chosen the membership of the Panel on the day. It is not considered that any further amendments to the Appeals Panel's terms of reference are necessary at this stage, but that would be kept under review.

- 3.5 Members of the group also felt that there would be merit in the establishment of a Taxi Sub-Committee to be drawn from members of the Regulatory Committee. It would contain three members on each occasion, and it is felt that it would be able to deal with the taxi licensing issues presented to it in respect of individual drivers, operators etc. in an efficient manner, and in a forum which may be considered less intimidating than attendance before the full Regulatory Committee as at present. The proposed terms of reference are set out in Appendix 2 to this report.

If approved, these amendments will require changes to the Constitution and it is suggested that these are picked up at the appropriate time.

#### **4.0 POLICY IMPLICATIONS**

- 4.1 It is considered that the recommendations contained within this report would make improvements to the Council's Committee structure, for the reasons set out in the body of the report.

#### **5.0 FINANCIAL IMPLICATIONS**

- 5.1 The only financial implications arising from the report would a saving in terms of special responsibility allowances.

#### **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

- 6.1 **Children and Young People in Halton – None**
- 6.2 **Employment, Learning and Skills in Halton – None**
- 6.3 **A Healthy Halton – None**
- 6.4 **A Safer Halton – None**
- 6.5 **Halton's Urban Renewal – None**

Whilst there are no specific implications for the Council's priorities, it is beyond doubt that the most effective arrangements for Corporate Governance will benefit the whole authority and its residents and stakeholders.

#### **7.0 RISK ANALYSIS**

- 7.1 There are no matters requiring a full Risk Assessment. The Council is required to have an appropriate mechanism in place for considering complaints that members may have broken the Code of Conduct, under the terms of the Localism Act 2011.

**8.0 EQUALITY AND DIVERSITY ISSUES**

8.1 The proposed changes set out in the report will benefit all sectors of the community.

**9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

<b>Document</b>	<b>Place of Inspection</b>	<b>Contact Officer</b>
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9.1 None under the meaning of the Act.

**10. POWERS AND DUTIES OF THE AUDIT & GOVERNANCE BOARD**

**Efficiency and Improvement**

1. To draw up an Efficiency Programme for the Authority ensuring that it meets its statutory requirements for securing Best Value and complies with the requirements placed upon it in relation to reporting efficiency gains.
2. To draw up and oversee a programme of reviews aimed at securing continuous improvement in the efficiency and effectiveness of Council services.
3. To promote partnership working and collaboration with other public and private bodies where that supports the Council's Efficiency Programme.
4. To monitor the Council's performance against the Efficiency Programme, particularly in relation to the identification and realisation of efficiency gains.
5. To ensure the Council has processes in place to benchmark its activities and to learn from best practice to ensure continuous improvement in its performance.
6. To monitor and review the Council's procurement arrangements.
7. To oversee the Council's preparations for any organisational assessment process.

**Audit**

8. To approve, but not direct, internal audit's strategy, plan and monitor performance.
9. To review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary.
10. To consider the annual report of the Divisional Manager – Audit and Operational Finance.
11. To consider the external auditor's annual letter and relevant reports.
12. To ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.

**Accounts**

13. To review and approve the annual statement of accounts.
14. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

**Governance**

15. To consider the Council's arrangements for corporate governance and agree necessary actions to ensure compliance with best practice.
16. To be satisfied that the authority's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it.
17. To review and approve the Annual Governance Statement.
18. To ensure that the Council has effective processes in place to obtain value for money from its contractual arrangements with third parties.

**Risk Management**

19. To review the adequacy of arrangements for identifying and managing the Council's business risks, including the Council's Risk Management Policy and its implementation.
20. To review the robustness of the Corporate Risk Register and the adequacy of the associated risk management arrangements.
21. To receive and consider regular reports on the risk environment and associated management action.

**Anti-Fraud and Corruption arrangements**

22. To monitor and review the adequacy of the Council's anti-fraud and corruption **policies and arrangements.**

**Standards**

23. To promote and maintain high standards of conduct by the members and co-opted members of the authority.

24. To assist members and co-opted members of the authority to observe the authority's Code of Conduct.
25. To advise the authority on the adoption or revision of the Code of Conduct.
26. To monitor the operation of the authority's Code of Conduct.
27. To advise, train or arrange to train members of the authority on matters relating to the authority's Code of Conduct.
28. To maintain a Hearings Panel (comprised of 3 members of the Board drawn from 2 political groups if possible) to hear allegations made against an Elected Member or a Parish Councillor within the Borough Council's area.
29. To investigate or arrange investigation of any complaints made by Members, Officers or members of the public in relation to the authority's Code of Conduct.
30. To decide disciplinary matters within the competence of the Committee.
31. To consider applications from local authority employees for exemption from political restriction in respect of their posts.
32. Where appropriate, to issue directions requiring a local authority to include a post in the list of politically restricted posts it maintains.
33. To give general advice, following consultation with appropriate parties, on the application of criteria for designation of a politically restricted post.
34. To consider applications for dispensations from Members where appropriate.

## **Terms of Reference**

### **Taxi Licensing Sub-Committee**

The following matters are delegated to the Taxi Licensing-Sub Committee (a Sub-Committee of the Regulatory Committee)

Sitting as a panel comprising of 3 Members (drawn from the full Regulatory Committee)

To determine all matters relating to the grant, renewal or review of a Hackney Carriage and / or Private Hire Driver's Licence where the powers of a delegated officer no longer apply.

To determine all matters relating to the grant, renewal or transfer of a Hackney Carriage and / or Private Hire Vehicle Licence where the powers of a delegated officer no longer apply.

To determine all matters relating to the grant or renewal of a Private Hire Operator Licence where the powers of a delegated officer no longer apply.

In circumstances where the Operational Director (Legal and Democratic Services) deems it relevant the determination of an application for the grant or renewal of a Private Hire Operators Licence may be referred directly to the full Regulatory Committee.

### **Other information**

The Taxi Licensing Sub-Committee will sit on an ad hoc basis as agreed between the Operational Director (Legal and Democratic Services) and the Council's Committee Services and based on the availability of sufficient Regulatory Committee members and a suitable venue.

Only Committee Members who have undergone the relevant training will be able to sit and make determinations on the Taxi Licensing Sub-Committee.



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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