

You are requested to attend a meeting of the Corporate Governance Committee to be held in The John Meikle Room, The Deane House, Belvedere Road, Taunton on 12 December 2011 at 18:15.

Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Corporate Governance Committee held on 26 September 2011 (attached).
- 3 Public Question Time.
- 4 Declaration of Interests
To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct.
- 5 Health and Safety Report. Report of the Health and Safety Advisor - approx 10 minutes (attached).
Reporting Officer: David Woodbury
- 6 Annual Report of the Standards Committee. Report of the Chairman of the Standards Committee - approx 10 minutes (attached).
Reporting Officer: Anne Elder
- 7 Audit Commission - Annual Audit Letter 2010/2011. Report from the Audit Commission - approx 20 minutes (attached).
Reporting Officer: Shirlene Adam
- 8 Internal Audit Plan - Progress Report. Report of the Internal Audit Manager - approx 20 minutes (attached).
Reporting Officer: Chris Gunn
- 9 Corporate Governance Action Plan Update. Report of the Performance & Client Lead - approx 10 minutes (attached).
Reporting Officer: Dan Webb
- 10 Debt Recovery Report - Report of the Performance and Client Lead - approx 10 minutes (attached).
Reporting Officer: Paul Harding

- 11 Anti-Fraud and Error Policy Report. Report of the Head of Revenues and Benefits Service - approx 10 minutes (attached).
Reporting Officer: Heather Tiso
- 12 Corporate Governance Committee Forward Plan - details of forthcoming items to be considered by the Corporate Governance Committee and the opportunity for Members to suggest further items (attached)

Tonya Meers
Legal and Democratic Services Manager

08 May 2012

Members of the public are welcome to attend the meeting and listen to the discussions.

There is time set aside at the beginning of most meetings to allow the public to ask questions.

Speaking under “Public Question Time” is limited to 4 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chairman will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate.

If a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chairman will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

This is more usual at meetings of the Council’s Planning Committee and details of the “rules” which apply at these meetings can be found in the leaflet “Having Your Say on Planning Applications”. A copy can be obtained free of charge from the Planning Reception Desk at The Deane House or by contacting the telephone number or e-mail address below.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

Full Council, Executive, Committees and Task and Finish Review agendas, reports and minutes are available on our website: www.tauntondeane.gov.uk

If you would like an agenda, a report or the minutes of a meeting translated into another language or into Braille, large print, audio tape or CD, please telephone us on 01823 356356 or e-mail us at: enquiries@tauntondeane.gov.uk



Lift access to the John Meikle Room and the other Committee Rooms on the first floor of The Deane House, is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available off the landing directly outside the Committee Rooms.



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter.

For further information about the meeting, please contact Democratic Services on 01823 356382 or email d.durham@tauntondeane.gov.uk

Corporate Governance Committee Members:-

Councillor B Denington	(Chairman)
Councillor A Wedderkopp	(Vice-Chairman)
Councillor A Beaven	
Councillor S Coles	
Councillor E Gaines	
Councillor A Govier	
Councillor T Hall	
Councillor J Hunt	
Councillor L James	
Councillor R Lees	
Councillor D Reed	
Councillor V Stock-Williams	
Councillor P Tooze	

Corporate Governance Committee – 26 September 2011

Present: Councillor Denington (Chairman)
Councillor A Wedderkopp (Vice-Chairman)
Councillors Beaven, Gaines, A Govier, Hunt, Morrell, Mrs Reed,
D Reed, and R Lees

Officers: Shirlene Adam (Strategic Director and Section 151 Officer), Paul Fitzgerald (Financial Services Manager), Chris Gunn (Internal Audit Manager), Maggie Hammond (Strategic Finance Officer), Dan Webb (Performance and Client Lead), David Woodbury (Health and Safety Advisor) and Keith Wiggins (Democratic Services Officer)

Also present: Brian Bethal and Peter Lappin (Audit Commission).

(The meeting commenced at 6.15 pm)

52. Apologies/Substitutions

Apologies: Councillors Coles, Hall, Miss James, Mrs Stock-Williams and Tooze

Substitution: Councillor Mrs Reed for Councillor Hall
Councillor Morrell for Mrs Stock-Williams

53. Declaration of Interests

Councillor A Govier declared a personal interest as a Member of Somerset County Council.

54. Health and Safety Report

The Chairman, prior to the discussion of this item, expressed concerns that a number of agenda item reports were not available on publication of the meeting agenda and stated that it was not acceptable for reports to be submitted after the publication deadline.

Considered report previously circulated, concerning progress in implementing the Health and Safety Action Plan. The Health and Safety Advisor explained that overall progress was good, with no new significant risks or incidents to report.

Members heard that there had been one reportable incident, a case of repetitive strain injury (RSI) operating a road hammer.

There had been an increase in the number of injury accidents to children within the new play areas. This had been recognised as a possible outcome of the revised Play Strategy but each incident needed to be reviewed to ensure that the inspection and maintenance regime was correct.

In response to questions about the responsibilities for health and safety and repairs at swimming pools, the Health and Safety Advisor explained that the pools were run by Tone Leisure who, as a separate company, had their own health and safety obligations. He also agreed to contact Tone Leisure about the specific issues raised.

Resolved to note:

- the progress on the revised Action Plan;
- the accident report summary;
- that there were no new significant risks or incidents.

55. Audit Commission Annual Governance Report 2010/2011

Considered covering report previously circulated, which had introduced the Annual Governance report for 2010/2011 prepared by external auditors the Audit Commission.

The Strategic Director explained that, although the Council had received an unqualified opinion on the 2010/2011 accounts, there had been several issues that had emerged from the audit process that would help the Council improve its procedures for future years

Brian Bethal and Peter Lapin from the Audit Commission highlighted key areas of their forty page Annual Governance report for the Council. These included:

- The improvement in closedown procedures;
- Different accounting standards for the year;
- A retrospective and one-off change to pension liabilities, caused by Government decision to base increases on the Consumer Price Index;
- Sale and lease back arrangements for some DLO vehicles;
- Tenant arrears;
- Value for Money.

Members were promised a written response to questions on debt recovery for tenant arrears.

Resolved to:

- note the unadjusted misstatements in the Accounts set out in Appendix 3 of the Audit Commission report;
- note the action plan as set out in Appendix 5 of the Audit Commission report;
- approve the letter of representation on behalf of the Council as set out in Appendix A to the covering report.

56. Approval of the Statement of Accounts for 2010/2011

Considered covering report and full 96 page Statement of Accounts previously circulated.

The Accounts and Audit Regulations 2011 required the Statement of Accounts to be approved by a resolution of a nominated Committee, following completion of the external audit. The Council had devolved this responsibility to the Corporate Governance Committee. The annual accounts had to be signed by the Council's S151 Officer and the Chairman of the Committee.

The format of the Statement of Accounts had changed for 2010/2011 due to the introduction of International Financial Reporting Standards (IFRS). IFRS had significantly changed the presentation of some key statements and in particular both the 2008/2009 and 2009/2010 Balance Sheets had been restated to take into account the changes.

The Financial Services Manager and Principal Accountant made a brief presentation on the main changes and major areas of the Statement of Accounts, whose format was prescribed by CIPFA.

The Audit Commission had reviewed the draft Statement of Accounts for 2010/2011 and accompanying working papers. As a result they had identified and requested amendments to the Statements. The few material amendments that had been made were shown in the report. The Council's resulting final Statement of Accounts had been audited by the Audit Commission and they had issued an unqualified opinion.

Members discussed the Movement in Reserves and Balance Sheet and were assured that, despite the changed format, there were no instances of "double counting" within the Statements.

Questions were asked and comments made related to:

- Council housing stock valuation;
- Rent arrears;
- Officers' remuneration and termination benefits;
- Southwest One.

The account preparation and overall audit process was summarised by the Financial Services Manager.

Resolved that the Statement of Accounts for 2010/2011, as attached to the report, be approved.

57. Risk Management Update

Considered report previously circulated, updating Members on the current position of Risk Management. This was the process by which risks were identified, evaluated and controlled and was one of the key elements of the Corporate Governance framework.

The annual review of the Corporate Risk Register had been completed by the Corporate Management Team in February 2011 and had undergone a six-monthly review on 5 September. Particular emphasis had been placed on the

consideration of risks arising from the significant cuts to the Government Grant Settlement and Government Reforms.

The overall Risk Exposure (shown in the Summary Risk Profile) remained unchanged from the last review in February, with two risks remaining in the “red zone”. However some minor changes and additions had been made to the Risk Register.

During the discussion of this item, Members made the following comments and statements and asked questions:

- How could effective leadership be improved (risk 1)?
- An overall working Council Business Plan should be created covering all corporate aims (risk 2);
- Partnerships were too short sighted and did not look at the longer term (risk 5);
- Why was Tone Leisure not shown separately (risk 5)? *The Performance Team did maintain details for each partner but the overall risk should be the aggregated data.*

Resolved to note the updated Corporate Risk Register and progress with Risk Management.

58. Internal Audit Plan – Progress Report

Considered report previously circulated, which provided an update on the significant findings and recommendations since March 2011.

Details of the six operational audits started during the period were reported, together with details of three governance audits.

Members heard that the auditors were on target to complete audits as planned. For the audits completed to report stage each report contained an action plan with a number of recommendations which were given service priorities.

Council management had responded positively to internal audit suggestions for improvements and corrective action had already been taken in a number of cases.

Resolved that the report be noted.

59. Anti-Bribery Policy

Considered report previously circulated, concerning a new Council policy document in the light of the Bribery Act 2010 coming into force in July 2011.

The policy would confirm that Taunton Deane Borough Council did not and would not pay bribes or offer improper inducements to anyone for any purpose, nor did we or would we accept bribes or improper inducements.

Councils were expected to demonstrate they had implemented “adequate procedures” in order to prevent bribery. Having adequate procedures in place provided a defence to the corporate offence of failing to prevent bribery.

It was essential that the Council’s policies were up to date, reflected the requirements of this new legislation and were sufficiently robust to prevent bribery and to mitigate the risk of committing a bribery offence.

There were no requirements for extensive written documentation or policies, particularly as it was acknowledged that an organisation may already have proportionate procedures through existing policies.

The Council had in place an Anti-Fraud and Corruption Policy along with a Whistleblowing policy and an employee code of conduct.

The new policy was intended to allow “business as usual” whilst making officers, members and the public aware of the Bribery Act 2010.

Questions were asked about how contractors and the public would be aware of the new policy. A written response was promised on inducements to Members and officers.

Resolved that the Anti-Bribery Policy be adopted.

60. Corporate Governance Committee Forward Plan

Submitted for information the proposed Forward Plan of the Corporate Governance Committee.

Resolved that the Corporate Governance Committee Forward Pan be noted

(The meeting ended at 8.15 pm).

Taunton Deane Borough Council

Corporate Governance Committee – 12 December 2011

Update on the TDBC Health and Safety Forward Plan – Priority issues and accident reports.

Report of the Corporate Health and Safety Advisor

(This matter is the responsibility of the Chief Executive, Leader of the Council, Health and Safety Champion.)

1. Executive Summary

Work continues on the delivery of the H&S priority issues.
The Committee are asked to note the accident information within the report.
There are no significant risks or incidents to report.

2. Background

This update report is a standing agenda item to ensure that the Council's health and safety performance is a priority and remains visible in the Council's considerations and actions.

3. Health and safety forward plan – Priority issues -2011

1. Priority H&S Issues

1. Review and publish the Council's Health and Safety Management System (H&SMS) on Sharepoint.
 - **Action** to review and simplify all policies and guidance by end 2011.

Update: Work is on target for the end of December 2011.

2. Mandate that all managers attend the relevant 'H&S Essentials' training sessions and complete their local roles and responsibilities document by end 2011.
 - **Action** to review completion as part of the PRED review process, start June 2011.

Update: Good level of uptake by managers; situation will be reviewed in January 2012.

3. The introduction of an H&S Competency framework for all levels of employee, held in a central training data base by end 2011.
 - **Action** to produce and populate the framework end August 2011.

Update: Council wide implementation by March 31st 2012.

4. Implement a 'Generic and Dynamic Risk Assessment' approach for all operational service areas.
 - **Action** Theme Managers to ensure all operations have current risk assessments in place by end 2011.

Update: The National Decision Model developed and recently introduced by the Police is being looked at as a potential corporate approach

5. Provide a structured programme of 'Byte sized' training and 'Tool box' talks for all employees.
 - **Action** Publish programme and start sessions by end of June 2011.

Update: Programme of short training sessions for the Core Council has been deferred to 2012r.

6. **Accident, incident data and lessons implemented**

- All accident and incident data captured and where appropriate management actions implemented to prevent a re-occurrence:

DLO – 1 September – 30 November 2011				
Classification	Highways	Parks	Building	Public
Reportable	0	0	1*	1
Non-reportable	1	3	4	1
Near Miss				
Period total	1	3	5	2

* Slip/fall on low set of steps exiting site caravan

Previous period- DLO – 1 April -31 August 2011				
	6	6	4	5
Total30.11.11	7	9	9	7

Core Council				
Classification	Kilkenny	Themes		
Reportable	1**	0		
Non-reportable	0	1		
Near Miss	0	0		
Period total	1	1		

** slipped and fell in kitchen area

Total RIDDOR Reportable	1April – 30November 2011			
DLO	2			
Core Council	1			
Public	3***			

*** Uncertainties with actual numbers of incidents reported by the public.

Trends:

- The most obvious trend within the majority of the employee accidents is around training and correct use of PPE, a number of follow up actions have been identified.
- The reported public incidents are play related.
- Near Miss reporting for the Core Council needs to be developed.

4. Finance Comments

Unchanged -Any emerging issues or additional training will have to be funded from existing budgets. Line managers are expected to prioritise and refer any difficulties to CMT.

5. Legal Comments

Unchanged -Failure to meet or maintain minimum legal compliance will increase Corporate and individual risk, with the potential for criminal and civil actions

6. Links to Corporate Aims

Unchanged- Competent employees working safely in the delivery of the Council's services form an essential contribution to the Corporate Aims.

7. Environmental and Community Safety Implications

Unchanged- As in 6 above

8. Equalities Impact

Unchanged- There are no equalities impact over and above those already identified in the Theme delivery plans and existing arrangements.

9. Risk Management

Unchanged- Failure to meet minimum H&S statutory requirements has been identified in the Corporate Risk Register.

10. Partnership Implications

There are no partnership implications with respect to the content of this report.

11. Recommendations

The Committee are asked to note there are no significant risks or incidents to report.

Contact:	Officer Name	David Woodbury
	Direct Dial No	01823 356578
	<u>e-mail</u> address	<u>d.woodbury@tauntondeane.gov.uk</u>

Taunton Deane Borough Council

Corporate Governance Committee – 12 December 2011

Annual Report of the Standards Committee - 2010/2011

Report of the Chairman of the Standards Committee

1. Introduction

- 1.1 The Council's Standards Committee has been in operation since 2000. Although our meetings are open to the public and the minutes are available on the website, we feel it is good practice to produce an annual report so that Councillors and the public are made fully aware of our activities.
- 1.2 In the past our reports have sought to cover only a complete year (say 2009) whereas from now on it is intended to report on periods covered by financial years – between 1 April and 31 March (or just beyond!).

2. Membership

- 2.1 Membership of the Committee still stands at 13 Members comprising seven independent Members, three Parish Council representatives and a Councillor from each of the two main political groups which form the Taunton Deane Borough Council, together with one further Councillor representing the Labour and Independent Groups.
- 2.2 We have always ensured that the Committee has a majority of independent Members. We have also always ensured that the Chairman is chosen from those independent Members. Although this is now a requirement of all Standards Committees, it is something we have been practising since the Committee's inception.
- 2.3 Anne Elder was re-appointed Chairman of the Standards Committee in June 2010 with Peter Malim OBE appointed as Vice-Chairman.
- 2.4 Within a month of his appointment, Peter had to sadly resign from the Committee. He had been co-opted onto his local Parish Council at Stogursey and, despite the fact that this was in the Sedgemoor District rather than Taunton Deane, it was decreed by Standards for England that his membership of a Parish Council meant he could not continue to serve on this Council's Standards Committee.
- 2.5 Alan Cottrell was subsequently appointed Vice-Chairman.
- 2.6 The vacancy, following Peter's departure, was advertised and Terry Bowditch was appointed to the Committee. Until his retirement in 2009, Mr Bowditch worked for the Audit Commission dealing with the Councils

in Somerset and was a familiar face at meetings of Taunton Deane's Corporate Governance Committee.

- 2.7 Unfortunately, our full complement of seven independent Members on the Committee did not last very long.
- 2.8 Maurice Stanbury who had been a Member of the Committee since its inception over 10 years ago and had served as Vice-Chairman for several years, confirmed his intention to stand down and did so in May 2011.
- 2.9 Our thanks go to Maurice for his extensive contribution to the work of the Committee over the years. His experience and wisdom will be greatly missed. A replacement for him on the Committee is currently being sought.
- 2.10 It is pleasing to report that after many months, the vacancy for an additional Parish representative on the Committee was filled by Henry Davenport who is a Member of the Bishops Lydeard and Cothelstone Parish Council.
- 2.11 The full membership of the Committee is as follows:-

Anne Elder (Chairman)
Alan Cottrell (Vice-Chairman)
Terry Bowditch
Dick Macey JP
W Lynn Rogers
Robert Symons
One vacancy

Parish representatives:-
Henry Davenport
Mike Marshall
David Wilson

Council representatives:-
Councillor Mrs Allgrove
Councillor Brooks
Councillor Gaines.

- 2.12 Officer support is provided by Tonya Meers (Monitoring Officer) and Richard Bryant (Democratic Services Manager) and David Greig (Parish Liaison Officer).

3. Terms of Reference

- 3.1 The Committee's terms of reference remain unchanged, as follows:-
- (a) To advise on the adoption and monitoring of the local Code of Conduct for all Members within the Authority (Borough, Town and Parish Councillors);

- (b) To be responsible for training of all Councillors within the Authority on ethical conduct; and
- (c) To promote and maintain high standards of conduct in the Authority and assist the Authority's Members to observe the Code of Conduct.

4. Functions of the Committee

4.1 In accordance with Section 54 of the Local Government Act 2000, the Committee is responsible for:-

- Promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- Assisting the Councillors and co-opted Members to follow the Code of Conduct;
- Advising the Council on the adoption or revision of the Code of Conduct;
- Monitoring the effectiveness of the Code of Conduct;
- Training or arranging to train Councillors and any co-opted Members on matters relating to the Code of Conduct;
- Assessing and reviewing complaints about Members;
- Conducting Determinations' Hearings;
- Granting dispensations to Councillors and any co-opted Members with prejudicial interests; and
- Granting exemptions for politically restricted posts.

Review of the Year

5. The future of the Standards Regime

5.1 The big news of the year arose following the General Election in June 2010.

5.2 Having taken office, the new Coalition Government decided to carry out its pre-election threat of reviewing the Quangos that operated throughout England and Wales.

5.3 One of the early casualties was Standards for England, the national body which had been responsible for implementing the Code of Conduct for Councillors and putting in place the Local Assessment Framework which gave Councils like Taunton Deane the ability to investigate complaints against both its Councillors and Parish Councillors within the district.

- 5.4 Alongside the abolition of Standards for England, the Coalition Government published its Localism Bill which amongst a whole host of proposals sought to sweep away both the Code of Conduct and Standards Committees.
- 5.5 The Bill sought to replace the sanctions which can currently be imposed against a Councillor who has been found to have breached the Code of Conduct with a means of issuing prosecution proceedings in respect of activities such as not declaring prejudicial interests.
- 5.6 In view of the outraged public reaction to the “expenses scandal” of certain Members of Parliament, it was more than a little surprising that the Coalition Government was so keen to dismantle something that, over the years, had kept the behaviour of Councillors “in check”.
- 5.7 The unfortunate affect of the Government’s actions was to create a situation where Standards Committees felt that they were unable to operate fully – like being “in limbo” – waiting for the proposals in the Localism Bill to either be brought into effect or not.
- 5.8 For several months, this was the case at Taunton Deane and, as a result two scheduled meetings of the Standards Committee were cancelled. However, once it was realised that the progress of the Localism Bill through Parliament was likely to take many months the Committee took the decision that it was still very much in existence and it was agreed to continue “business as usual” for the foreseeable future.
- 5.9 Early indications from across the country are that many Councils value the Code of Conduct and wish to retain their Standards Committees with suitable sanctions to deal with breaches of the Code. Whether Parliament will pay heed to this groundswell of opinion, time will tell.

6. The Standards Committee

- 6.1 The full Committee has met on only five occasions during the year, for the reasons outlined in section 5 above.
- 6.2 The operation of the Local Assessment Framework (considered in detail in the next section) has meant meetings of the Assessment and Consideration and Hearing Sub-Committees having to be held to deal with complaints against Councillors. In 2010/2011 a total of five sub-committee meetings have had to be arranged.
- 6.3 There have been a wide variety of topics considered by Members over the past 12 months at each main meeting. These have included:-
- (1) The Member Officer Protocol;
 - (2) Guidance on Personal and Prejudicial Interests;
 - (3) Dispensation to Members of West Monkton Parish Council;
 - (4) Performance Indicators for the Committee;
 - (5) Audit Reports into the Register of Interests for Members and the Register of Interests for Staff;
 - (6) The future of the Local Standards Framework;

- (7) A Protocol for Local Authority Partnership Working; and
- (8) Regular update reports on the progress being made with complaints received against Councillors.

6.4 With regard to item (4), the development of Performance Indicators was something in last year's report which was a priority issue. The good news is that the Performance Indicators (a copy of which is appended to this report) were finally agreed by the Committee in June 2010. The bad news is that with the demise of Standards for England and the uncertainty surrounding the future of the Code of Conduct, quite a few of the Indicators will need re-drafting once we know what the future holds!

7. Local Assessment Framework

7.1 The introduction of the Local Assessment Framework in May 2008 significantly changed the way in which the Committee now operates.

7.2 The Standards Committee (England) Regulations 2008 require Committees to deal with complaints made against both Borough Councillors and Parish Councillors.

7.3 Such complaints have to be assessed, investigated (where appropriate), with the findings then considered to establish if the Code of Conduct has been breached and whether a formal hearing into the complaint should be held.

7.4 The Standards Committee was also given a range of sanctions which it could impose on a Councillor who was found to have breached the Code.

7.5 As reported previously, a framework for dealing with complaints has been put in place and to ensure complaints are dealt with in a timely fashion, an accompanying flowchart with agreed deadlines has been developed by the Committee.

7.6 The bulk of the work involved in investigating complaints normally falls on the independent Members of the Committee who have to make up two thirds of the sub-committees which have been formed to deal with the various complaint stages.

7.7 During 2010/2011, the Committee received a total of **three** complaints compared with the five which were received between January 2009 and March 2010. All of these complaints were made in respect of Borough Councillors.

7.8 All three were initially considered by an Assessment Sub-Committee comprising independent Members and an elected Councillor. Two of the complaints were referred for investigation by an external investigator.

7.9 Currently, one of the complaints is still being investigated and another is awaiting a response from the subject Councillor as to a possible course of action to resolve the complaint.

7.10 After a very detailed investigation, the third complaint was brought before a Consideration Sub-Committee meeting towards the end of January 2011. The Sub-Committee again comprised two independent Members and a Councillor.

- 7.11 The Sub-Committee, having considered the external investigator's report, decided that no breach of the Code of Conduct had occurred and the complaint was not therefore upheld.
- 7.12 In the last Annual Report it was considered that the low number of complaints received by the Council was due in the main to Councillors knowing and respecting their obligations under the Code of Conduct. This appears still to be the case reflected by the receipt of only three complaints throughout the past 12 month period.
- 7.13 An update on the progress of all complaints is reported to every meeting of the full Standards Committee. As well as monitoring performance, the details provided also enable Members to identify any particular trends emerging.
- 7.14 There is no escaping the fact that potentially the Local Assessment Framework could take considerable time and effort to ensure it is operated properly and the procedures are followed exactly.
- 7.15 Thankfully, the level of complaint in Taunton Deane has continued to be low. However, other authorities have not been so fortunate and dealing with a far higher level of complaints has inevitably led to far more time and costs having to be devoted to the matter.

8. Working with the Town and Parish Councils

- 8.1 The Committee has continued to develop and strengthen our links with the Town and Parish Councils during the year. This is something we have always aspired to and we consider we have made further progress in this area.
- 8.2 Following the introduction of the new Code of Conduct in 2007, the Committee set out to inform all Parish Councils that standards and the ethics and probity regime were there for the protection of both the Clerk and the Councillors themselves. We also wanted to make all Parish Councils aware of the advice and support we were able to give them.
- 8.3 This has been largely achieved through training sessions which have been delivered to every Parish Council by David Greig, our Parish Liaison Officer.
- 8.4 Follow-up training has been on offer to "mop up" those Parish Councillors who were unable to attend the initial training session and plans were put in place by David to ensure new Parish Councillors elected at the Local Elections in May 2011 were made aware of the importance of the Code of Conduct.
- 8.5 The delivery of the training has proved to be highly successful with no complaints again being received against Parish Councillors in Taunton Deane during 2010/2011.

- 8.6 Our future relationship with the Town and Parish Councils will depend entirely on the outcome of the Localism Bill. As mentioned earlier, the original proposals outlined by the Government call for the abolition of the Code of Conduct which currently applies to all Councillors in England, including Parish Councillors.
- 8.7 It remains to be seen if a national Code of Conduct will be retained. If not, it is possible that local Codes might be introduced or ones that could be adopted by District Councils. However, there might not be any requirement for the Parishes to remain bound by a Code of Conduct unless it was thought appropriate to do so.

9. Raising the profile of the Standards Committee

- 9.1 The Committee has continued its efforts to raise its profile within Taunton Deane.
- 9.2 Invitations were sent to the Group Leaders at the start of the year to attend meetings of the Standards Committee to address Members and answer any questions on matters within the Committee's remit.
- 9.3 It is pleasing to report that the Leader of the Council, Councillor John Williams, has attended the Committee on two occasions and sought to re-assure Members that most of the Councillors welcomed the role carried out by the Standards Committee and the pragmatic way in which it operated.
- 9.4 Councillor Williams also felt that it was important that a Code of Conduct for Councillors should exist and reassured Members of the Committee that there would be one whilst he remained as Leader of the Council.
- 9.5 The independent Members have continued to make further appearances at many of the formal meetings of the Council aimed at raising the profile of the Committee in the minds of Councillors.
- 9.6 Attendance has given those observing a further opportunity to gain an appreciation of the workings of the Council and its Committees and to see at first hand how Councillors deal with matters on which they have to declare an interest.
- 9.7 At some stage in the future, it is possible that the Committee will wish to re-instate the "goodwill" visits to Parish Councils which were received so well a couple of years ago. However, this is unlikely to occur until we know what the Localism Bill is finally going to contain.
- 9.8 Last year, the Committee felt there was scope to develop our presence on the Taunton Deane website. This has now been addressed with far more informative pages, access to the Annual Report and pictures of the Members of the Committee!!

10. Training

- 10.1 The Committee continues to be conscious of the need for its own Members to be as well trained and as up to date with developments as possible.
- 10.2 Unfortunately, the hiatus caused by the dismantling of Standards for England and the introduction of the Localism Bill has seriously affected the opportunities for Members of the Committee to attend relevant training courses on matters relating to Standards.
- 10.3 This situation is likely to prevail for some time yet until certainty as to the future of the current Standards Regime returns.
- 10.4 Training has been equally important in relation to our Borough Councillors since the introduction of the Code of Conduct. Ethics and probity training sessions have continued to be offered at least on an annual basis and a special session will be made available to our newly elected Councillors as part of their induction process. Independent Members have been involved with the Monitoring Officer in the delivery of these sessions.
- 10.5 The success of this training has been illustrated by the number of enquiries that have been forthcoming from Members and the eagerness to declare interests at meetings.

11. Looking Ahead

- 11.1 The constant thread through this Annual Report is the uncertainty that surrounds the current Standards Regime which, in the main, has been accepted as something worthwhile by the majority of Taunton Deane's Borough and Parish Councillors.
- 11.2 Looking ahead too far is therefore a particularly hard thing to do bearing in mind the position of flux we are currently in.
- 11.3 One thing is certain however, that in the foreseeable future, Taunton Deane's Standards Committee will continue to operate as before to the best of our abilities. Any complaints against Councillors will also continue to be dealt with in accordance with the agreed procedures.

12. Resources

- 12.1 Although the Committee's duties have been undertaken to an acceptable level, there is only so much that can be achieved within the limited resources available to the Committee.
- 12.2 In an attempt to spread the workload, Members themselves have again taken on various tasks during 2010/2011 to support the officers serving the Committee which has been gratefully accepted.

13. Conclusion

- 13.1 Taunton Deane has a Standards Committee that is committed to promoting high standards amongst Councillors both at Borough and Parish levels. For the time being, we will continue to look at ways in which we, as a Committee, can improve and serve both the Council and the community by delivering an effective service.

Anne Elder
Chairman,
Taunton Deane Borough Council Standards Committee

December 2011

Performance Indicators Appendix – Annual Report of the Standards Committee 2010/2011

Objective	Indicator	Target	How/why measured?	Achieved? Yes/No?
Good Governance practices				
	Adherence to the Standards for England Guidelines for the operation of the Committee.	To make sure the Committee is operating in accordance with the latest guidelines.	Annual assessment against the guidelines.	
	Training of Members of the Committee to maintain full awareness of latest Code of Conduct requirements and Standards for England guidance.	<ul style="list-style-type: none"> (1) Keeping Members informed of the latest information, for example the Standards for England newsletters; (2) Provision of Member training into the new Code of Conduct or other relevant guidance/information; (3) Feedback from external training events to be submitted to the next scheduled meeting of the Standards Committee to ensure other Members are able to share newly acquired information/ideas. 	To ensure the knowledge of Members on matters relating to Standards is kept up to date.	

Performance Indicators Appendix – Annual Report of the Standards Committee 2010/2011

Objective	Indicator	Target	How/why measured?	Achieved? Yes/No?
Training and the promotion of high ethical standards				
	Training for all new Borough Councillors and Clerks to Parish Councils.	90% to receive suitable training on the Code of Conduct within three months of election and 100% within six months.	By keeping an accurate training record.	
	Training for all new Parish Councillors.	100% to receive suitable training on the Code of Conduct within twelve months of election.	By keeping an accurate training record.	
	Provision of refresher Code of Conduct training, as appropriate, for existing Members of Councils in Taunton Deane.	Refresher training to be arranged on an annual basis to ensure Members are fully aware of the Code of Conduct.	By keeping an accurate training record.	

Performance Indicators Appendix – Annual Report of the Standards Committee 2010/2011

Objective	Indicator	Target	How/why measured?	Achieved? Yes/No?
Awareness Raising				
	Taunton Deane Committee meetings to be attended by independent Standards Committee Members.	To raise awareness of the work of the Standards Committee with Members of the Council.	Attendance log to be kept.	
	Meetings with Group Leaders and Chief Executive.	To provide Members of the Committee with the opportunity to meet and discuss issues with the political Group Leaders and the Chief Executive on at least an annual basis.		
	Parish Council meetings attended by Independent Standards Committee Members	To raise awareness of the work of the Standards Committee with Members of the Parish Councils in Taunton Deane.	Attendance log to be kept.	
	Evidence of Member awareness of Code of Conduct	To ensure Members of the Council are fully aware of the Code of Conduct and its implications.	By way of the Ethical Governance Questionnaire.	
	Number of complaints made against Members of the Borough and Parish Councils resulting in adverse publicity.	No more than two incidents in total against Borough or Parish Council Members.	Reference to the complaints spreadsheet presented to each meeting of the Standards Committee.	

Performance Indicators Appendix – Annual Report of the Standards Committee 2010/2011

Objective	Indicator	Target	How/why measured?	Achieved? Yes/No?
Efficiency				
	Compliance with the timescales set out in the protocol established to deal with complaints received against Councillors.	All complaints to be dealt with within protocol timescales.	Reference to the complaints spreadsheet presented to each meeting of the Standards Committee.	
	Ensure recommendations made by the Standards Committee are included in the Corporate Improvement Plan with the aim of their adoption by the Council.	Adoption of recommendations within a reasonable timescale. (It is recognised that the timescale will vary depending on the nature of specific recommendations.) It also needs to be noted that the adoption of recommendations is outside the direct control of the Standards Committee.	To ensure properly made recommendations have been considered and, where appropriate, adopted by the Council.	

TAUNTON DEANE BOROUGH COUNCIL

CORPORATE GOVERNANCE COMMITTEE 12th DECEMBER 2011

Report of the Strategic Director (Shirlene Adam).

This matter is the responsibility of the Leader of the Council, Cllr John Williams

Executive Summary

This report introduces the Annual Audit Letter 2010/11 – prepared by our external auditors, the Audit Commission (and set out in and Appendix to this report).

The report, which will be presented by the Audit Commission, summarises their findings from their 2010/11 audit work.

1. Background

1.1 Each year the Audit Commission is required to make arrangements for the production of an audit letter for each local authority. The letter outlines the following:

- A conclusion on the Statement of Accounts and annual governance statement;
- A conclusion on Value for Money;
- The fees charged by the Audit Commission compared to those budgeted.
- Current and Future Challenges
- Action Plan

1.2 Members will note that they have already seen at previous meetings, or will see at this meeting, the detailed reports referred to in this report.

1.3 Members are advised that, following the retirement of Brian Bethell, we have a new Audit Commission “appointed auditor” (district Auditor) – Stephen Malyn. Stephen will be attending the meeting on 12th December 2011.

2. Financial Issues / Comments

2.1 As reported previously, the additional external audit fee of £10,000 will have to be met from existing budgets as part of the budget monitoring process.

3. Legal Comments

3.1 There are no legal implications from this report.

4. Links to Corporate Aims

4.1 No direct implications.

5. Environmental and Community Safety Implications

5.1 No direct implications.

6. Equalities Impact

6.1 No implications.

7. Risk Management

7.1 Any risks identified will feed in to the corporate risk management process.

8. Partnership Implications

8.1 The Strategic Director and the Internal Audit Team (SWAP – South West Audit Partnership) will take the findings of this report into account when identifying the areas of risk to be audited next year.

9. Recommendation

9.1 Members are requested to note the Annual Audit Letter 2010/11.

Contact Officers:

Shirlene Adam Strategic Director 01823 356310 s.adam@tauntondeane.gov.uk	Maggie Hammond Strategic Finance Officer 01823 358698 m.hammond@tauntondeane.gov.uk
---	--

Annual Audit Letter

Taunton Deane Borough Council

Audit 2010/11



Contents

- Key messages.....3**
 - Audit opinion and financial statements.....3
 - Value for money3
- Financial challenges4**
- Financial statements and annual governance statement.....5**
 - Overall conclusion from the audit.....5
 - Significant weaknesses in internal control.....5
 - Whole of Government Accounts.....6
- Value for money.....7**
 - National Fraud Initiative (NFI)8
- Closing remarks9**
- Appendix 1 – Fees10**
- Appendix 2 – Action plan.....11**
- Appendix 3 – Glossary.....13**

Traffic light explanation

Red  Amber  Green 

Key messages

This report summarises the findings from my 2010/11 audit. My audit comprises two elements:

- the audit of your financial statements; and
- my assessment of your arrangements to achieve value for money in your use of resources.

I have included only significant recommendations in this report. The Council has accepted these recommendations.

Key audit risk	Our findings
Unqualified audit opinion	●
Proper arrangements to secure value for money	●

Value for money

I issued an unqualified value for money conclusion for 2010/11. This means that I am satisfied that there are proper arrangements in place for securing economy, efficiency and effectiveness in your use of resources.

Audit opinion and financial statements

I issued an unqualified opinion on the Council's financial statements on 28 September 2011. In my opinion, the Council's financial statements were free from material error or omission and comply with the relevant accounting standards.

Financial challenges

The Council is facing significant financial challenges, similar to the rest of the public sector. In December 2010 the Secretary of State announced that there would be reductions in government grants for local government. The Government reduced Taunton Deane's revenue grants by £0.91 million (13.2 per cent) for 2011/12 and a further £0.67 million (11.2 per cent) in 2012/13.

The Council's general fund balance stood at £2.9m at 31 March 2011 and is well above the minimum level determined by the Strategic Director of £1.25m. The Council has deliberately kept reserves high in order to fund the costs of redundancies or investment in technology.

However, the Council is reporting budgetary pressures in the current financial year (2011/12) and a forecast overspend of £0.8 million for the year. It is estimating that general fund balances will reduce to £2.2 million by 31 March 2012 which will affect the Council's ability to finance the one off costs of longer term budget reductions.

Although the Council has been successful in achieving efficiency savings in recent years, it has identified that it has a budget gaps of £1.2 million and £2.8 million in 2012/13 and 2013/14 respectively.

Councillors are considering various options to reduce the Council's revenue expenditure to achieve a balanced budget for 2012/13 and beyond. The Council will need to take difficult decisions to close the budget gap and my audit for 2011/12 will review the Council's progress to achieve the required savings.

Recommendation

R1 Ensure that future budgets are balanced by closing the gap between expenditure and projected income.

Financial statements and annual governance statement

The Council's financial statements and annual governance statement are an important means by which the Council accounts for its stewardship of public funds.

Overall conclusion from the audit

I issued an unqualified opinion on the Council's financial statements on 28 September 2011.

I commented in my Annual Governance Report in September that the Council had improved its closedown process since 2009/10. However, the Accounts and Audit Regulations 2011 require the Responsible Financial Officer (the Strategic Director) to sign by 30 June that the accounts present a true and fair view of the Council's financial position. There were delays in the production of the Council's draft financial statements and the Strategic Director was not able to sign her statement until 5 July 2011. I will work with the Council to further improve arrangements for 2011/12 so that the Council produces its financial statements by the statutory deadline of 30 June 2012.

Significant weaknesses in internal control

I reported the results of my review of the financial controls to the Corporate Governance Committee at its meeting in June 2011. I reported the actions taken by management to mitigate these weaknesses in my Annual Governance Report in September 2011.

In summary, the Council has improved controls over non pay expenditure during 2010/11. However, I carried out substantive testing (testing of transactions) for the earlier part of the year when the new controls were not yet operational. I also carried out substantive testing where there were weaknesses in controls, such as car park income and expenditure at the direct service organisation.

I recommended that the Council review its bad debt provision for those debts, totalling £291,000, which are more than two years old and for which there is no bad debt provision. These were mainly arrears from former tenants.

I made a number of recommendations to improve the control environment and the Council needs to ensure that they are implemented for 2011/12.

Whole of Government Accounts

External auditors of local authorities are required to provide a statement of assurance for the Council and Comptroller and Auditor General regarding the accuracy of financial submissions to the Department of Communities and Local Government for preparation of the accounts for the whole public sector. I have to certify that Taunton Deane Borough Council's submission is consistent with its audited accounts and that it has been properly prepared in accordance with HM Treasury Guidance. This work includes a review of the Council's disclosure of 'counter party' transactions (ie income and expenditure, debtors and creditors with other public bodies, whose accounts are also included in the national accounts). For 2010/11, the certification and reporting process was more detailed than in previous years and the Council made a number of amendments to the return. My team spent more time on this certification than I had planned. For 2011/12 the Council needs to improve its arrangements for ensuring the accuracy of its submission.

Recommendations

- R2** Further improve the closedown process so that the draft financial statements are prepared in time to meet the statutory deadline of 30 June.
 - R3** Strengthen the arrangements to ensure the accuracy of the whole of government accounts submission.
-

Value for money

I considered whether the Council is managing and using its money, time and people to deliver value for money. I assessed your performance against the criteria specified by the Audit Commission and have reported the outcome as the value for money (VFM) conclusion.

I assess your arrangements to secure economy, efficiency and effectiveness in your use of resources against two criteria specified by the Audit Commission. My overall conclusion is that the Council has adequate arrangements to secure, economy, efficiency and effectiveness in its use of resources.

My conclusion on each of the two areas is set out below.

Value for money criteria and key messages

Criterion	Key messages
<p>1. Financial resilience</p> <p>The organisation has proper arrangements in place to secure financial resilience.</p> <p>Focus for 2010/11:</p> <p>The organisation has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future.</p>	<p>The Council's audited general fund balance of £2.9 million at 31 March 2011 is well above its minimum balance and higher than the forecast at the beginning of 2010/11 when the budget was set. However, the Council faces financial challenges for future revenue expenditure with significant reductions in Government revenue grants in 2011/12 and 2012/13. The Council's reserves have been kept deliberately high to support the Budget Review that is underway to deliver a sustainable ongoing budget position for the Council.</p> <p>The HRA balances of £1.6 million at 31 March 2011 decreased by £1 million over the year and are lower than forecast when the budget was agreed in February 2010. The Council reported that this is mainly because of overspending due to a higher than forecast level of negative subsidy.</p>

Criterion	Key messages
	<p>I reported in my Annual Governance Report that although HRA balances are above the minimum thresholds determined by the Council, the Council needed to take remedial action in 2011/12 to prevent balances falling below minimum levels. The Council is currently forecasting that HRA expenditure will remain within its 2011/12 budget and the balance will remain at around £1.5 million by 31 March 2012, above the minimum balance of £0.9 million determined by the Strategic Director.</p>
<p>2. Securing economy efficiency and effectiveness</p> <p>The organisation has proper arrangements for challenging how it secures economy, efficiency and effectiveness.</p> <p>Focus for 2010/11:</p> <p>The organisation is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.</p>	<p>In 2010/11 the Council achieved significant savings and a one-off refund, which have increased its balances. The Council needs to use comparative cost information to inform its drive for greater efficiencies. Furthermore members will need to prioritise the services that the Council can afford in order that its future expenditure can be met from its reduced income. (My recommendations are included in the Annual Governance Report, with the accompanying action plan agreed with management.)</p>

National Fraud Initiative (NFI)

The National Fraud Initiative is a data matching exercise to identify potential frauds across the public sector. In 2010/11 Taunton Deane had 4157 data matches in total, of which 54 per cent or 2228 were 'recommended' for investigation as a higher priority. Even with the higher priority cases, only a small minority are likely to lead to a fraud being identified. The Council has made reasonable progress in reviewing the data matches. To date the Council has not identified any frauds. There are other matches with queries outstanding, where there are notes on the file requesting further information from other organisations. The Council should complete this work so that it can close the higher priority cases.

Recommendation

R4 Complete the investigations into the higher priority NFI data matches.

Closing remarks

This letter has been agreed with the Strategic Director and it will be presented at the Corporate Governance Committee on 12 December 2011.

Further detailed findings, conclusions and recommendations in the areas covered by our audit are included in the reports issued to the Council during the year.

Report	Date issued
Audit Plan	March 2011
Audit of Financial Controls	June 2011
Annual Governance Report	September 2011

The Council has taken a positive and constructive approach to our audit. I wish to thank the Council staff for their support and co-operation during the audit.

Brian Bethell

District Auditor

October 2011

Appendix 1 – Fees

	Scale	Actual	Variance
Audit Fee	£120,300	£116,850	-£3450 below scale fee (communicated in audit fee letter - 6 April 2010)
Additional fee for testing of transactions because of weaknesses in controls in non pay expenditure, car park income, DLO expenditure. Additional controls testing following changes to creditor payments		£10,000	£10,000 (weaknesses and additional audit work communicated to Corporate Governance Committee in June and September 2011)
District Auditor time spent on challenge work		£1,000	£1,000 - objection from elector to the accounts regarding South West One
IFRS rebate from Audit Commission		-£7,112	-£7,112
Further rebate from Audit Commission of 1.5 per cent (December 2010)		-£2,120	-£2,120
Non-audit work - housing challenge		£1,785	£1,785
Total payable	£120,300	£120,403	£103
National Fraud Initiative	£1,100	£1,100	-

This analysis does not include fees for the certification of claims and returns to government departments, which I estimated at £34,250 in my audit fee letter of 6 April 2010.

Appendix 2 – Action plan

Recommendations

Recommendation 1

Ensure that future budgets are balanced by closing the gap between expenditure and projected income.

Responsibility Strategic Director

Priority High

Date 31 March 2012

Comments The Budget Review Project has raised awareness of the challenges ahead. Members are now reviewing options and will present savings plans for comment to Scrutiny in November 2011.

Recommendation 2

Further improve the closedown process so that the draft financial statements are prepared in time to meet the statutory deadline of 30 June.

Responsibility Financial Services Manager (Southwest One)

Priority High

Date 30 June 2012

Comments Agreed. The process will be improved to ensure the draft accounts are prepared to the Council's agreed timetable. A number of factors impacted in 2011, including the major task of IFRS implementation, information dependencies from services, and unplanned staff absences. The major changes for the move to IFRS are now embedded, and preparation will focus on mitigating other challenges. We will also continue to improve ways of working - building on the improvements already made in 2011 - and work with services to ensure dependencies are met.

Recommendation 3

Strengthen the arrangements to ensure the accuracy of the whole of government accounts submission.

Responsibility	Financial Services Manager (Southwest One)
-----------------------	--

Priority	Medium
-----------------	--------

Date	31 July 2012
-------------	--------------

Comments	Agreed. Arrangements for the preparation of the WGA will be reviewed and strengthened to ensure accuracy.
-----------------	---

Recommendation 4

Complete the investigations into the higher priority NFI data matches

Responsibility	Strategic Director
-----------------------	--------------------

Priority	High
-----------------	------

Date	31 December 2011
-------------	------------------

Comments	Agreed. The Strategic Director will progress with service managers.
-----------------	---

Appendix 3 – Glossary

Annual governance statement

Governance is about how local government bodies ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

It comprises the systems and processes, cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and where appropriate, lead their communities.

The annual governance statement is a public report by the Council on the extent to which it complies with its own local governance code, including how it has monitored the effectiveness of its governance arrangements in the year, and on any planned changes in the coming period.

Audit opinion

On completion of the audit of the financial statements, I must give my opinion on the financial statements, including:

- whether they give a true and fair view of the financial position of the audited body and its spending and income for the year in question; and
- whether they have been prepared properly, following the relevant accounting rules.

Opinion

If I agree that the financial statements give a true and fair view, I issue an unqualified opinion. I issue a qualified opinion if:

- I find the statements do not give a true and fair view; or
- I cannot confirm that the statements give a true and fair view.

Value for money conclusion

The auditor's conclusion on whether the audited body has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources based on criteria specified by the Audit Commission.

If I find that the audited body had adequate arrangements, I issue an unqualified conclusion. If I find that it did not, I issue a qualified conclusion.

If you require a copy of this document in an alternative format or in a language other than English, please call:
0844 798 7070

© Audit Commission 2011.

Design and production by the Audit Commission Publishing Team.

Image copyright © Audit Commission.

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors, members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.



Taunton Deane Borough Council

Corporate Governance Committee – 12 December 2011

Internal Audit Plan Progress 2011-12

Report of the Group Audit Manager – Chris Gunn

(This matter is the responsibility of Executive Councillor John Williams, the Leader of the Council).

1. Executive Summary

The Internal Audit function plays a central role in corporate governance by providing assurance to the Corporate Governance Committee, looking over financial controls and checking on the probity of the organisation.

The 2011-12 Annual Audit Plan is on track to provide independent and objective assurance on TDBC's Internal Control Environment. This work will support the Annual Governance Statement.

2. Background

This report summarises the work of the Council's Internal Audit Service and provides:

- Details of any new significant weaknesses identified during internal audit work completed since the last report to the committee in September.
- A schedule of audits completed during the period, detailing their respective assurance opinion rating, the number of recommendations and the respective priority rankings of these.

Members will note that the report concludes that the audit work carried out to date in 2011/12 has identified a number of weaknesses within the internal control environment that expose the council to unacceptable risk.

3. (Full details of the Report)

Please refer to the attached SWAP Progress Report.

4. Finance Comments

There are no specific finance issues relating to this report.

5. Legal Comments

There are no specific legal issues relating to this report.

6. Links to Corporate Aims

Delivery of the corporate objectives requires strong internal control. The attached report provides a summary of the audit work carried out to date this year by the Council's internal auditors, South West Audit Partnership.

7. Environmental Implications

There are no direct implications from this report.

8. Community Safety Implications (if appropriate, such as measures to combat anti-social behaviour)

There are no direct implications from this report.

9. Equalities Impact

There are no direct implications from this report.

10. Risk Management

Any large organisation needs to have a well-established and systematic risk management framework in place to identify and mitigate the risks it may face. TDBC has a risk management framework, and within that, individual internal audit reports deal with the specific risk issues that arise from the findings. These are translated into mitigating actions and timetables for management to implement. The most significant findings since the last committee report are documented in Appendix B.

11. Partnership Implications

There are no direct implications from this report.

12. Recommendations

Members are asked to note progress made in delivery of the 2011/12 internal audit plan and are invited to comment on the significant findings identified.

Contact: Alastair Woodland
01823 356160
Alastair.woodland@southwestaudit.gov.uk



Taunton Deane Borough Council

Report of Internal Audit Activity
December 2011/12 Progress Update

Contents

The contacts at SWAP in connection with this report are:

Gerry Cox

Head of Internal Audit
Partnership
Tel: 01935 462371
gerry.cox@southwestaudit.gov.uk

Chris Gunn

Group Audit Manager
Tel: 01823 356417
chris.gunn@southwestaudit.gov.uk

Alastair Woodland

Audit Manager
Tel: 01823 356160
Alastair.woodland@southwestaudit.gov.uk

Summary	2
Internal Audit Work Programme:	3
Operational Audits	4
Key Control Audits	4
Governance, Fraud and Corruption	5
IT Audit	5
Special Reviews	6
Future Planned Work	7
Conclusions	7

Our audit activity is split between:

- **Operational Audit**
- **Managed Audit**
- **Governance, Fraud & Corruption**
- **Special Reviews**

Role of Internal Audit

The Internal Audit service for Taunton Deane Borough Council is provided by South West Audit Partnership (SWAP). SWAP has adopted and works to the Standards of the Institute of Internal Auditors, but also follows the CIPFA Code of Practice for Internal Audit. The Partnership is also guided by the Internal Audit Charter approved by the Corporate Governance Committee at its meeting on 14th March 2011. Internal Audit provides an independent and objective opinion on the Council's control environment by evaluating its effectiveness. Primarily the work includes;

- Plan of Operational Reviews
- Annual Review of Key Financial System Controls (Managed Audits)
- Annual review of Key Governance and Fraud Controls

Overview of Internal Audit Activity

Internal Audit work is largely driven by an Annual Audit Plan. This is approved by the Section 151 Officer, following consultation with the Corporate Management Team and External Auditors. This year's Audit Plan was reported to the Corporate Governance Committee at its meeting in March 2011.

Audit assignments are undertaken in accordance with this Plan to assess current levels of governance, control and risk.

Quarter 2 Outturn:

We rank our recommendations on a scale of 1 to 5, with 1 being minor or administrative concerns to 5 being areas of major concern requiring immediate corrective action

Internal Audit Work Programme

The schedule provided at [Appendix A](#) contains a list of all audits as agreed in the Annual Audit Plan 2011/12. It is important that Members are aware of the status of all audits and that this information helps them place reliance on the work of Internal Audit and its ability to complete the plan as agreed.

Each completed assignment includes its respective “control assurance” opinions together with the number and relative ranking of recommendations that have been raised with management. The assurance opinion ratings have been determined in accordance with the Internal Audit “Audit Framework Definitions” as shown in [Appendix C](#).

Where assignments record that recommendations have been made to reflect that some control weaknesses have been identified as a result of audit work, these are considered to represent a less than significant risk to the Council’s operations. However, in such cases, the Committee can take assurance that improvement actions have been agreed with management to address these.

Quarter 2 Outturn:

Completed Audit Assignments In The Period

Operational Audits

Operational Audits are a detailed evaluation of a service's control environment. A risk evaluation matrix is devised and controls are tested. Where weaknesses or areas for improvement are identified, actions are agreed with management and target dated.

There were six operational audits scheduled for quarter 2 within the TDBC Audit Plan for 2011/12. These were:

- a) Heritage and Landscape Services
- b) Economic Development
- c) Leases - Rents Receivable
- d) Supporting People
- e) Housing Benefit Subsidy
- f) Legal Services

All quarter 2 operational audits are at least to draft with the exception of leases. The field work has been completed and the draft report is being produced. The Legal Services audit had been removed from the audit plan following discussion with the client. To make use of the available audit resource for the Legal Services audit we commenced an audit on Licensing Income in quarter 2 which was originally scheduled for quarter 4.

Key Control Audits

Key Control Audits are completed to assist the External Auditor in their assessment of the Council's financial control environment. Key control audits are scheduled for quarter 3. At the time of writing this report all key control audits with the exception of Housing Benefits were either in progress or at draft report stage. Please refer to [Appendix A](#) for audit progress details.

Quarter 2 Outturn:

Completed Audit Assignments In The Period

Governance, Fraud and Corruption Audits

Governance, Fraud and Corruption Audits focus primarily on key risks relating to cross cutting areas that are controlled and/or impact at a Corporate rather than Service specific level.

The TDBC Audit Plan for 2011/12 included three Governance audits which were scheduled for quarter 2. These were:

- a) Threat from Fraud and Corruption
- b) Information Governance
- c) Annual Governance Statement Review

The scope for the Annual Governance Statement review was amended to provide advice in the construction of the Statement and the number of days required was considerably reduced. The Threat from Fraud and Corruption review is at final report and the information governance review at draft.

We have a further 3 audits scheduled for quarter 4 which are : Equalities and Diversity, Safeguarding of Children and Vulnerable adults and Service Planning.

IT Audits

Since the September Internal Audit update work has commenced on the only IT audit scheduled for quarter 3, CoCo. This review is a form of gap analysis focusing on the controls the external Government Connect auditors do not cover in their annual compliance audit, our piece of work should ensure that the Council is not exposed to any other significant risks. There is one further IT audit scheduled for quarter 4 looking at the IT Strategy.

Quarter 2 Outturn:

Completed Audit Assignments In The Period

Special Reviews

Other reviews are carried out at the request of management in response to an identified issue or to a new and emerging risk. Internal audit are also sometimes asked to provide guidance or support in relation to projects being undertaken and also facilitate control and risk workshops.

Internal Audit has been involved in 3 special reviews to date. A special review was commenced in quarter 2 to examine the procedures in the granting of a licence over some land owned by TDBC. This review is at draft report. Internal audit are also undertaking a review on Project Taunton focusing on the governance and project management arrangements in place. This review has replaced the quarter 4 Housing Property Services - Contract Allocation/Monitoring audit. In addition to these two reviews, Internal Audit are also providing support to Democratic Services who are investigating the Disclosure of Confidential Information.

We keep our audit plans under regular review, so as to ensure we are auditing the right things at the right time.

Future Planned Work

The 2011-12 Internal Audit Plan is detailed in [Appendix A](#) and is obviously subject to any changes in agreement with the S151 officer.

Conclusions

Taunton Deane, in keeping with other public sector services, is in a process of significant change and SWAP itself has had some resource issues of its own, including the imminent departure of our IT Audit Manager. However, although delivery of the audit plan had slipped earlier in the year, progress has been made to bring it back on track and we are confident in our ability to deliver the plan as agreed.

Each audit report contains an action plan with a number of recommendations which are given service priorities. Definitions of these priorities can be found in the Categorisation of recommendations section in [Appendix C](#).

Of the twelve reviews completed to final, six have returned an audit opinion of 'partial assurance'. The most significant issues relate to weaknesses in the controls for robust contract management and monitoring. All audit report findings which have a priority score 4 or 5 are highlighted in [Appendix B](#) together with recommendations and management responses.

TDBC management have responded positively to internal audit suggestions for improvements and corrective action has already been taken in a number of cases.

Directorate/Service	Audit Area	Quarter	Status	Opinion	No. of recs	1 = Minor ← → 5 = Major				
						Recommendations				
						1	2	3	4	5
Governance, Fraud & Corruption	Safeguarding of Children and Vulnerable Adults (Theme Audit)	4								
Governance, Fraud & Corruption	Service Planning (Theme Audit)	4								
IT Audits	IT Strategy	4								
Operational Audits	Housing Property Services - Contract Allocation/Monitoring	4	Dropped							
Operational Audits	Licensing Income	4	Draft Report							
Operational Audits	Planning Fees	4								
Operational Audits	Waste and Recycling (Contribution to SWP Plan)	4								

Additional Reviews

Special Review	Sale of Land	2	Draft Report							
IT Audits	IT Asset Management	2	Draft Report							
Special Review	Disclosure of confidential information	3	In Progress							
Special Review	Project Taunton	3	In Progress							

Schedule of Key Actions from 2011/12 Internal Audit Work completed by SWAP (since the September 2011 Progress Report)

Date.	Name of Audit	Weakness Found	Risk Identified	Recommended Action	Management's Agreed Action	Agreed Date of Action
October 2011	Threat from Fraud or Corruption (Policy Review)	There is no Counter Fraud and Corruption Policy/Strategy in place.	Without an up-to-date Counter Fraud and Corruption Policy and Strategy there is a risk that an effective framework is not in place and that stakeholders may not be clear on reporting arrangements in the event of identifying a potential fraud.	I recommend the Legal and Democratic Services Manager ensures that a Corporate Counter Fraud and Corruption Policy and Strategy is developed and approved and disseminated to all stakeholders.	Agreed – A policy will be developed and approved.	April 2012
October 2011	Contract Management Monitoring	Contract Standing Orders have not been updated since 2006. They do not reflect the Partnership with Southwest One.	There is a risk that if Contract Standing Orders do not reflect current procurement procedures (Southwest One) and are not relevant to the current priorities of the Council then procurement activities may not be correctly authorised, governed or achieve best value.	I recommend that the Legal & Democratic Services Manager ensures that Contract Standing Orders are reviewed and revised to ensure that they reflect the Authority's current practices in regards to procurement.	This is noted and will be rectified.	April 2012

Date.	Name of Audit	Weakness Found	Risk Identified	Recommended Action	Management's Agreed Action	Agreed Date of Action
October 2011	Contract Management Monitoring	There is currently no central contract register in place.	<p>There is a risk that without a contracts register in place there is no corporate method of monitoring all the Authority's current contracts. This could mean that procurement and works with suppliers continue after a contract has ended potentially resulting in a loss of best value.</p> <p>There is an additional risk that if Southwest One are not aware of all the Authority's current contracts then when a contracts register is created there will be no assurance that all contracts have been registered.</p>	a) I recommend that the Chief Procurement Officer - Southwest One ensures that a contracts register is appropriately designed and created.	SPS have an obligation to maintain a contract register but recognise this does not currently exist. SPS has now developed a template for the purposes of building such a database, which can be used for TDBC.	31 December 2011

Date.	Name of Audit	Weakness Found	Risk Identified	Recommended Action	Management's Agreed Action	Agreed Date of Action
October 2011	Contract Management Monitoring	As above	As above	b) I recommend that the Performance and Client Lead in liaison with the Chief Procurement Officer - Southwest One ensure an exercise commences to ensure that all contracts currently in place with the authority are established in preparation for entry onto the contract register.	A recent request has been made of all Theme Managers within the Council to identify all contracts which are in place for spend over the OJEU threshold. This is in the process of being collated (in relation to a FOI request). A further request will be made of all services to provide SPS with details of all contracts below that threshold for inclusion onto a register. SPS will also populate the register with details of all contracts which it has let on behalf of TDBC.	Commence 31 December 2011
October 2011	Contract Management Monitoring	Suppliers are still being used where contracts have expired.	Due to suppliers being used which are not contracted, there is a risk that the authority is not able to demonstrate that best value is being achieved.	I recommend that the Chief Procurement Officer - Southwest One ensures that all expired contracts are retendered to ensure that best value is being achieved.	This is dependent upon services providing SPS with details of current contracts, which they have in place and making SPS aware of the expiration date.	31 December 2011

Date.	Name of Audit	Weakness Found	Risk Identified	Recommended Action	Management's Agreed Action	Agreed Date of Action
October 2011	Managing complaints	From a sample of ten complaints tested, six were not responded to within the ten day time target period. Of these six, no evidence was found of correspondence being sent to the complainant warning them of the delays that were being faced.		I recommend that the Face to Face Operational Manager issues a reminder to all relevant Officers to state that when the target ten day period is not adhered to, evidence is retained of Officer acknowledgement of the complaint, and correspondence sent to the complainant acknowledging the delay. Telephone correspondence should be logged on the SAP CRM system.	Agreed Action plan being developed, including new staff guidance, plan to share draft with Leads meeting in January 2012 and go live February 2012. Interim measure will be reminder on all CF emails of the response target date for Managers guidance.	February 2012
October 2011	Managing complaints	From a sample of ten complaints received locally (not by the central customer contact centre), it was found that none of them had been recorded onto the SAP system by appropriate officers.		I recommend that Taunton Deane Senior Management issue a reminder to all responsible Officers of the requirement to upload all complaints received onto the SAP system in a timely and accurate manner.	Agreed Interim measure will be email by TD Snr Management to all Managers reminding them to forward all CF & correspondence received by Service to Face to Face Operational Manager for uploading to SAP CRM.	February 2012

Date.	Name of Audit	Weakness Found	Risk Identified	Recommended Action	Management's Agreed Action	Agreed Date of Action
October 2011	Choice Based Lettings	The CBL system currently is not capable of deleting completed personal housing applicant records from the system.	At present, the Borough is at an elevated risk in respect of the body of 'old' personal data held within the CBL Abrisas system in respect of DPA compliance.	I recommend that the Strategic Director maintain pressure on the developers of the Abrisas system through the Somerset partnership for the implementation of an upgrade that will allow the deletion of old, completed application records.	Agreed – to be advanced through the quarterly Homefinder Somerset quarterly Monitoring Board.	30 October 2012

Audit Framework Definitions

Control Assurance Definitions

Comprehensive	▲ ★★★	I am able to offer comprehensive assurance as the areas reviewed were found to be adequately controlled. Internal controls are in place and operating effectively and risks against the achievement of objectives are well managed.
Reasonable	▲ ★★	I am able to offer reasonable assurance as most of the areas reviewed were found to be adequately controlled. Generally risks are well managed but some systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
Partial	▲ ★	I am able to offer Partial assurance in relation to the areas reviewed and the controls found to be in place. Some key risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
None	▲	I am not able to offer any assurance. The areas reviewed were found to be inadequately controlled. Risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.

Categorisation Of Recommendations

When making recommendations to Management it is important that they know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. No timeframes have been applied to each Priority as implementation will depend on several factors, however, the definitions imply the importance.

Priority 5: Findings that are fundamental to the integrity of the unit's business processes and require the immediate attention of management.

Priority 4: Important findings that need to be resolved by management.

Priority 3: The accuracy of records is at risk and requires attention.

Priority 2: Minor control issues have been identified which nevertheless need to be addressed.

Priority 1: Administrative errors identified that should be corrected. Simple, no-cost measures would serve to enhance an existing control.

Definitions of Risk

Risk	Reporting Implications
Low	Issues of a minor nature or best practice where some improvement can be made.
Medium	Issues which should be addressed by management in their areas of responsibility.
High	Issues that we consider need to be brought to the attention of senior management.
Very High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.

Taunton Deane Borough Council

Corporate Governance Committee – 12 December 2011

Corporate Governance Action Plan

Report of Performance & Client Lead

(This matter is the responsibility of Executive Councillor Stock-Williams)

1. Executive Summary

This report shows progress against the Corporate Governance Action Plan as at the end of November 2011.

2. Background

- 2.1 Each year, the Council receives a number of reports and assessments which result in recommendations for improvement. These normally contain individual action plans which can prove challenging to manage and monitor. Therefore an aggregated plan provides the Council with details, in one place, of the scale of improvements required and progress against them.
- 2.2 The Corporate Governance Action Plan has undergone a full review by the Strategic Director / Section 151 Officer and has been updated to include the most recent audit recommendations. These are in addition to 8 actions from previous audits that remain outstanding or are still considered as priorities for improvement.
The 14 new recommendations are from the following sources:
 - Annual Audit Letter 2010/11 (Audit Commission , Oct 2011)
 - Annual Governance Report 2010/11 (Audit Commission, Sept 2011)
- 2.3 Actions progress monitoring is undertaken quarterly by Theme Managers and a summary features in the Corporate Performance Scorecard. The Corporate Governance Group provides an overview of the plan, and may request further actions to be added (for example, significant findings from Internal Audits).
- 2.4 A summary of the Corporate Governance Framework and Process (for monitoring and reporting) is found at appendix B.

3. Progress (as at November 2011)

3.1 The Corporate Governance Action Plan currently lists **22 actions**. Progress monitoring against implementation by the target dates has revealed the following:

Priority	On Target / Complete ☺	Some Concern ☹	Off Target ☹
High	5 (50%)	5 (50%)	
Medium	9 (90%)	1 (10%)	
Low	2 (100%)		
Total	16 (73%)	6 (27%)	

This indicates a similar position compared to the previous report in June 2011, where 72% of actions were 'on target', 25% of actions with 'some concern', and 3% were 'off target'.

Most actions are on course to be completed by the target date.

There are however 5 'High Priority' actions items with an 'Amber' status (this represents 50% of all the high priority actions). These actions are shown in the table in appendix A.

Key to alerts:

☺ (Green)	Planned actions are on course to be achieved by target date, or have been completed
☹ (Amber)	Some uncertainty or concern in meeting planned actions by target date
☹ (Red)	Planned actions are off course, or have not been achieved by target date

3.2 Following discussions with the Strategic Director / Section 151 Officer and the Audit Manager (SWAP), it has been agreed that the Performance & Client Lead will liaise with SWAP to monitor both our external and internal audit recommendations from January 2012. Future reports to this committee on the Corporate Governance Action Plan will therefore also be able to include progress against 'High Risk'* Internal Audit recommendations.

* 'High risk' recommendations are those defined as: *"Findings that are fundamental to the integrity of the unit's business processes and require immediate attention of management"*

4. Finance Comments

Recommended improvement actions in relation to Managing Finances are included in the Corporate Governance Action Plan.

5. Legal Comments

Recommended improvement actions in relation to legal / Corporate Governance issues are included in the Corporate Governance Action Plan.

6. Links to Corporate Aims

The Corporate Governance Action Plan supports all aspects of the Council's corporate aims and operations.

7. Environmental and Community Safety Implications

Recommended improvement actions in relation to Climate Change are included in the Corporate Governance Action Plan.

8. Equalities Impact

Recommended improvement actions in relation to Equalities & Diversity are included in the Corporate Governance Action Plan.

9. Risk Management

There are a number of risks associated with not completing the recommended actions within the Corporate Governance Action Plan (eg External Audit opinion, reputation, financial). Recommended improvement actions in relation to Risk Management are included in the Corporate Governance Action Plan.

10. Partnership Implications

Recommended improvement actions in relation to partnership working, are included in the Corporate Governance Action Plan.

11. Recommendations

It is recommended that Members scrutinise progress of the Corporate Governance Action Plan.

Contact:

Dan Webb

Performance and Client Lead

01823 356441

Ext: 2504

d.webb@tauntondeane.gov.uk

List of all HIGH priority actions with 'AMBER' status

Item	Improvement / recommendation	Proposed / Planned activities	Target date	Lead Officer	Success criteria	Progress	As at (date)
1	Complete Business Continuity (BC) and IT disaster recovery planning (including SW1 services)	1. Ensure adequate BC plans in place at corporate and service level, including key partners. 2. Annual testing of BC plans	Mar-12	John Lewis / Alison North	Plans in place & tested	SW1 IT Services Disaster Recovery Plan completed. Draft TDBC Corporate BC Plan seen by CMT Feb 2011. Work continuing on service specific plans. Testing regime to be agreed - probably desktop. Discussions ongoing with Police re building in security aspects. Target date pushed back from Dec 11 to March 12.	Nov-11
2	Update the IT Strategies and ensure there are clear links from these to financial planning.	Establish an IT work group	Apr-12	Shirlene Adam Alison North & SW1 IT	Fit for purpose IT strategy	We are working with SW1 to obtain strategies in time for budget setting.	Nov-11
3	Update the Workforce Strategy (ensuring there are clear links to financial planning) and complete & agree a new workforce plan	August 2011 - review statistical data in draft workforce strategy. By November 2011 - Revised workforce strategy to compliment four year budget strategy.	Mar-11	Shirlene Adam Martin Griffin & SW1 HR	Fit for purpose Workforce Development Plan - refer to L2	We are working with SW1 HR to agree a realistic timescale for this. We would aim to have this in place during 2012	Nov-11
16	Determine spending priorities and reduce expenditure to ensure that future budgets are balanced		Mar-12	Shirlene Adam		This recommendation is in hand and will be dealt with as part of the Medium Term Financial Plan and budget setting for 2012/13. As at Nov 2011 we still have a budget gap for 2012/13	Nov-11
19	Ensure that future budgets are balanced by closing the gap between expenditure and projected income		Mar-12	Shirlene Adam		As at November 2011, savings plans shared do not close the 2012/13 budget gap	Nov-11

TDBC Corporate Governance Framework

What is Corporate Governance?

Governance is about how the Council ensures that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

It comprises systems and processes – together with the cultures and values by which the Council is directed and controlled and through which it accounts to, engages with, and where appropriate, leads its communities.

Principles of good Corporate Governance

TDBC has adopted a Code of Corporate Governance which is drawn from the CIPFA/SOLACE guidance “Good Governance in Local Government – a Framework”. The six principles are:

- Community Focus
- Service Delivery Arrangements
- Standards of Conduct
- Effective Decision-Making
- Capacity & Capability
- Accountability

This Code sets out the six core principles and against each outlines the approach that the Council is committed to in order to achieve those principles and the actions that need to be taken.

Accountability and responsibility

Corporate Governance Committee

This committee is charged with taking a strategic approach to openness, integrity and accountability in the running of the Council. The purpose of the committee is to monitor the Council’s approach to corporate governance. Specific roles and responsibilities are to:

- Consider the adequacy and effectiveness of the Council’s internal control environment
- Monitor and review the effectiveness of the Council’s internal audit function
- Monitor and review the effectiveness of the Council’s external audit service and respond to its findings
- Monitor the arrangements for the identification, monitoring and control of strategic and operational risks within the Council
- Review and approve the annual Statement of Accounts

Corporate Governance Group

The core group will be made up of the three Statutory Officers of the Council – the Head of Paid Service, the Monitoring Officer, and the Section 151 Officer. The group will encourage best practice in governance and ensure that staff and members are aware and trained in governance through articles in Core Brief, briefings at Leads meetings, induction and other training.

Key reports & documents

- TDBC Code of Corporate Governance (and review of compliance)
- TDBC Annual Governance Statement
- Annual Governance Report (Audit Commission)
- Annual Audit Letter (Audit Commission)
- TDBC Corporate Governance Action Plan

Monitoring & reporting process

External (Audit Commission) and Internal (SWAP) Audit recommended actions

STEP 1
Corporate Governance Action Plan
Progress updates (quarterly)

Process:

- i. SWAP send action plan (External & Internal Audit recommendations) to Performance & Client (P & C) Lead
- ii. P & C Lead distributes action plan to relevant responsible managers
- iii. Managers complete a progress update & 'RAG' status, and return to P & C Lead
- iv. P & C Lead collates all progress updates, and returns completed update list to SWAP
- v. SWAP update database (MKI system) and produces MKI system report split down by audit type (External, Internal - by 'priority' level) - and sends detailed report to P & C Lead
- vi. P & C Lead produces summary report for Strategic Director & Corporate Governance Group



STEP 2
Corporate Governance Group
Consider overall position (quarterly)

The Corporate Governance Group will review the summary report and will focus on any 'exceptions' identified, ie actions with 'High Priority' and given a Red or Amber 'RAG' status. Further action will be recommended, or additional information requested as appropriate.



STEP 3
Corporate Governance Committee
Review overall position and 'exception' report (bi-annually)

The bi-annual report for the Corporate Governance Committee will include:

- an overview summary of all actions broken down by Priority (High, Medium, Low), and 'RAG' status (Red, Amber, Green)
- a summary of all closed actions
- a summary of all new actions
- details of actions progress and issues by exception only (ie 'High' priority, and with Red or Amber alert)

Taunton Deane Borough Council

Corporate Governance Committee – 12 December 2011

DEBT RECOVERY UPDATE

Report of the Performance & Client Lead


(This matter is the responsibility of Executive Councillor Vivienne Stock-Williams)

1. Executive Summary

This report provides members with an update on how the Council is managing the collection of its invoiced debts at the **midway point** of the 2011/12 financial year.

The report provides a comparison with the corresponding time in 2010 in order that the performance trend can be established between last year and this.

2. Sundry Debts

Debt Type	Responsibility	1 Oct 2010	1 Oct 2011	Performance Trend at mid point 2011/12
Sundry Debts in SAP	Southwest One Accounts Receivable Service & TDBC Services	Overdue: £ 2.64m	Overdue: £ 2.23m	

Southwest One's Accounts Receivable team provide a key service in managing the sundry debt recovery process on the Council's behalf.

Since 1st April 2009 the majority of the Council's sundry debts have been administered using the SAP computer system.

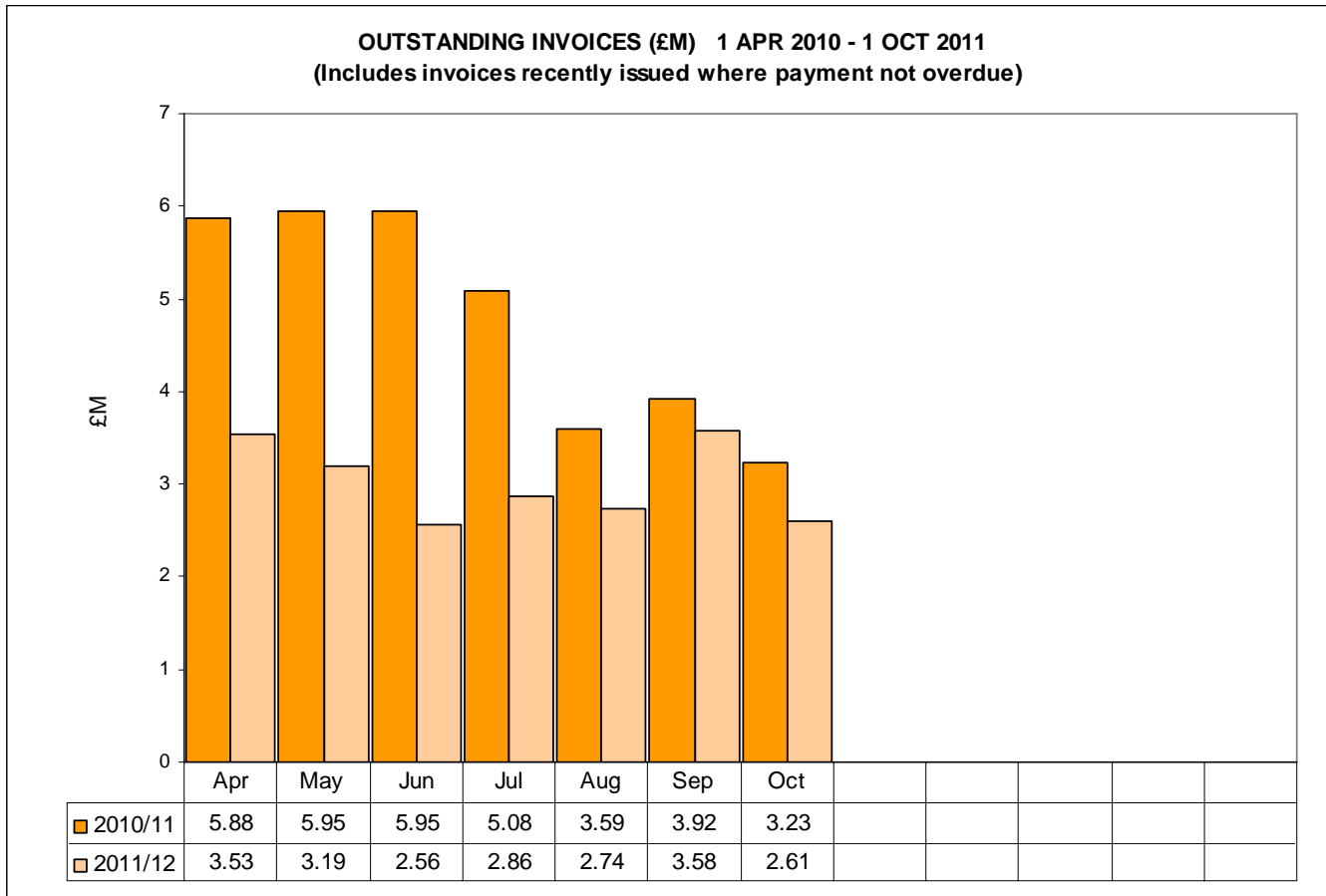
The Council's Performance and Client team regularly monitor the level of sundry debt arrears and the level of sundry debt arrears in SAP is reported quarterly to the Executive and Corporate Scrutiny committee as part of the Council's quarterly corporate scorecard.

The audit opinion on how we manage sundry debts is reported to the 'Annual Statement of Governance' published with the annual accounts.

Tables 1 & 2 below provide some further insight into the direction of travel relating to sundry debt collection for the first half of the financial year.

Table 1 below shows the overdue balance at the beginning of each month between 1 Apr 10 and 1 Oct 2011.

TABLE1

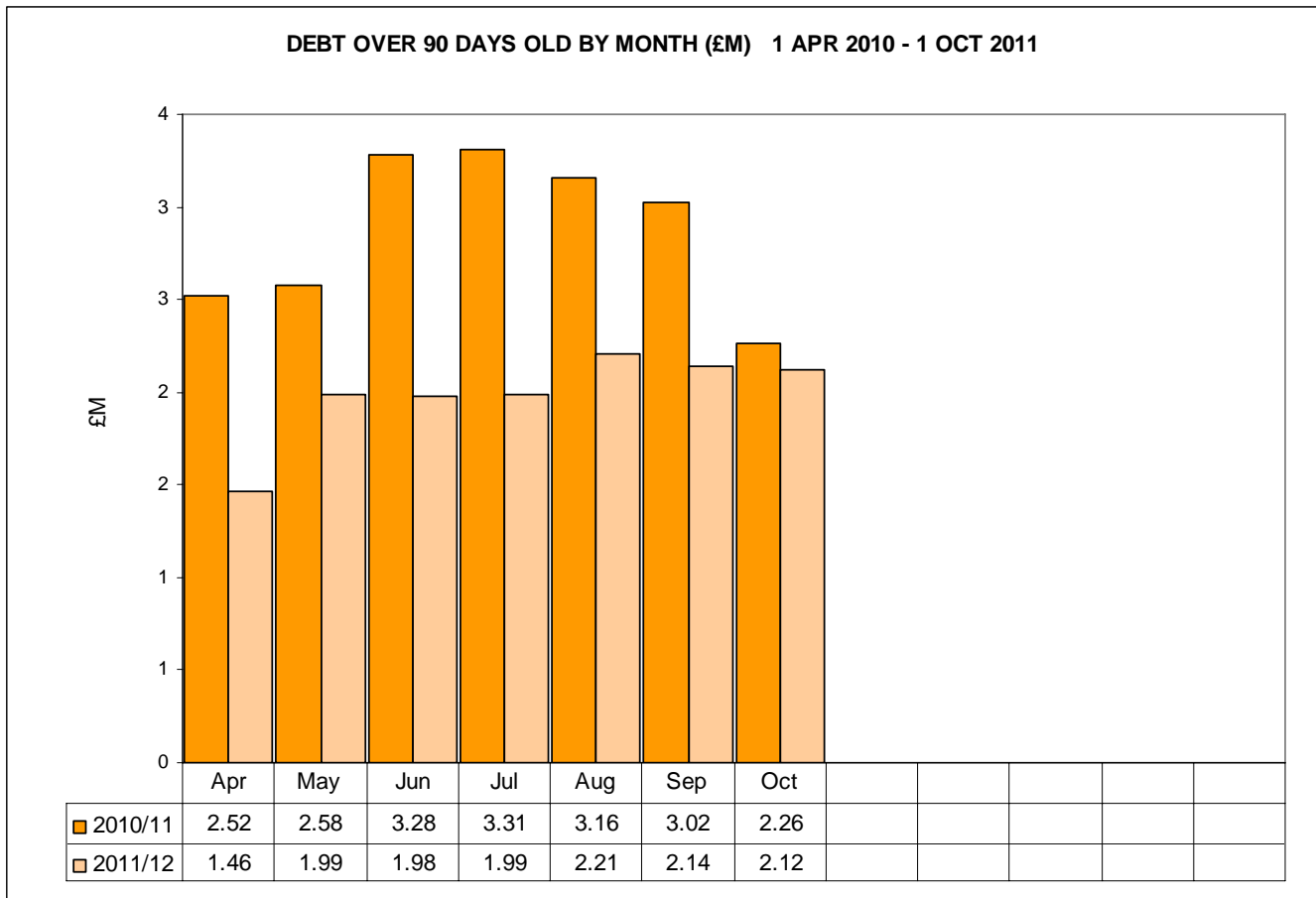


As can be seen from table 1, the value of overdue balances at 1st October 2011 was 15% (or £410K) lower than at the corresponding time in 2010. As can also be seen, the overdue sum for each month so far of the 2011/12 year, has been significantly lower than the corresponding month in 2010/11.

Table 2, over the page, provides a month by month analysis of the value of debts in SAP which were more than 90 days old.

The latest set of figures available at the point of drafting this report (29th November), show that £2.37m is outstanding (£3.25m was due at 1st December 2010)

TABLE 2



The value of debt more than 90 days old at 1st October 2011 was 6% (or £140K) lower than at the corresponding time in 2010.

It can be seen that the level of debt over 90 days old, for each month so far of the 2011/12 year, has been lower than the corresponding month in 2010/11.


On 9th November 2011 Shirlene Adam instructed each Theme Manager to review and identify irrecoverable debts within their themes, with a particular focus on debts which were now more than 2 years old in order that they are not carried forward into the new financial year. The effect of this exercise has not yet been felt.

Since 1st April 2011 £45,663.06 of irrecoverable has been written-off.

Operationally, there have been some issues which the Council are working with Southwest One Accounts Receivable team to address. These relate in the main to excessive delays in reviewing accounts on hold and reviewing accounts which have an instalment plan. Southwest One are reviewing their debt recovery processes across all clients and will share details of their proposals with the clients shortly for review / agreement.

The latest set of figures available at the point of drafting this report (29th November), show that £1.85m debt over 90 days old was outstanding (£1.51m was due at 1st December 2010).

2.1 Council Tax

Debt Type	Responsibility	30 Sept 2010	30 Sept 2011	Performance Trend at mid point 2011/12
Council Tax (In-year)	Southwest One Revenues & Benefits Service	Billed for year: £50,800,667	Billed for year: £51,556,012	
		63.93% Collected at 30/09/10.	63.53% Collected at 30/09/11.	


Council Tax is a key source of income to the Council and consequently Council Tax collection is a key performance indicator within the Southwest One contract. Collection performance at the end of the first half of 2011/12 showed a slight dip from the corresponding point in 2010/11.

Council Tax collection is monitored daily by the Southwest One Revenues & Benefits team. The latest set of figures available at the point of drafting this report (29th November), show that 76.71% of the years Council Tax had been collected. The Revenues & Benefits service are confident that, based on collection performance so far, they will achieve the collection target which has been set.

The target for the year is 97.8% to be collected at 31st March 2012.

£8,390.70 of the current year's Council Tax has been written-off so far this financial year.

2.2 Business Rates

Debt Type	Responsibility	30 Sept 2010	30 Sept 2011	Performance Trend at mid point 2011/12
2. Non-Domestic Rates (In-year)	Southwest One Revenues & Benefits Service	Billed for year: £35,226,078	Billed for year: £38,141,221	
		64.92% Collected at 30/09/10.	64.55% Collected at 30/09/11.	

Unlike with Council Tax, the collection of Non-Domestic Rates has no direct financial impact on TDBC as any shortfall on collection is met by the central Non-Domestic rating pool. However, poor performance would have a negative impact on the Council's reputation. For this reason, Non-Domestic Rate Council collection is a key performance indicator within the Southwest One contract.

Businesses continue to struggle in the current economic climate. Performance is however only slightly down on the corresponding time last year. Robust action continues to be taken to collect the sums which are due.


Non-Domestic Rate collection is monitored daily by the Southwest One Revenues & Benefits team. The latest set of figures available at the point of drafting this report (29th November) 78.47% of the years Rates had been collected. The Revenues & Benefits service are confident that based on collection performance so far they will achieve the collection target which has been set.

Collection performance is monitored monthly by the Client & Performance team. The collection target for the year is 98.4% at 31st March 2012.

£4,133.58 of the current year's Business Rates has been written-off so far this financial year.

2.3 Recoverable Overpaid Housing Benefit

A recoverable overpayment occurs, for example, where customers delay reporting changes in their circumstances (or sometimes when the council is at fault) and results in too much benefit being paid. Regulations define which overpayments are recoverable and from whom they can be recovered. Recovery of the debt will be made by deduction from ongoing housing benefit payments, from certain other welfare benefits (at the discretion of the Department for Work and Pensions) or by invoice if the entitlement to benefit has ended. Where allowed, in instances where the overpayment had been made direct to a landlord, the Revenues & Benefits service make deductions from subsequent payments, in respect of other tenants, that are due to that landlord.

Debt Type	Responsibility	30 Sept 2010	30 Sept 2011	Performance Trend at mid point 2011/12
Recoverable Housing Benefit Overpayments	Southwest One Revenues & Benefits Service	Outstanding 30 Sept 10: £939,482.05	Outstanding 30 Sept 11: £989,402.34	
		Collection rate* 22.5%	Collection rate* 24.33%	

*The collection rate quoted in the table above is calculated by adding the value of overpaid housing benefit which is brought forward at the start of the financial year to the value of new overpayments identified during the financial year and dividing this by payments received during the financial year.

The overall value of debt outstanding will inevitably increase given that this is a cumulative debt and the maximum weekly amount that can be recovered from individuals still receiving benefit is very limited.

The total outstanding included 25 debts totalling £53,398.31 that were created prior to 31 March 2006, for which we are still receiving payment. The Government state we can only recover at less than £12 a week. This could take 16 years or so to collect a £10k debt.

Collection performance is monitored quarterly by the Client & Performance team through Performance Indicators measuring the recovery of in-year and all year Housing Benefit overpayment debt. The next quarterly figures will be available at end December 2011.

Performance against these Performance Indicators is reported to the Client & Performance team as well as being shared with the 151 Officer and the Executive and Shadow Portfolio holders.

Recoverable Housing Benefit overpayments, which the Council identifies, are in full or in part reimbursed to the Council through subsidy. Good recovery of overpaid Housing Benefit will bring in additional income to the Council as we are permitted to keep all that we collect.

The collection target is 37.5% of all HB overpayments to have been recovered within the financial year at 31st March 2012.

2.4 Housing Rent

Debt Type	Responsibility	30 Sept 2010	30 Sept 2011	Performance Trend at mid point 2011/12
Housing Rent (current tenancies)	TDBC Housing Services	£333,708.62 Arrears	£391,181.17 Arrears	← →
		96.63% collected	96.59% collected	

At end Qtr 2 2011/12, 96.59% of rent due to that point had been collected. At the corresponding point last year 96.63% of rent due had been collected. This shows a very slight reduction in performance in % terms.

It is important to recognise however that the Council increased rents by approx 6% in 2011/12 so, in monetary terms, the housing section have in excess of £1m extra to collect than for 2010/11 just to 'stand still'.

Current years gross rent payable is £23m.

Rent collection performance is included in the Community Scorecard and presented to CMT, the Executive and Corporate Scrutiny committee. Performance figures are also presented at the Housing Briefing meeting and Tenant Services Management Board.

Performance is monitored by team targets and individual officer targets; results of the targets are displayed in the Estate Management Office. Arrears levels are discussed at the weekly team meeting and high level arrears are discussed with the Housing Services Lead.

The Target for 2011/12 is to close the year with £300k, or less, in rent arrears. The latest set of figures available, at the point of drafting this report (29th November) was that rent arrears stood at £348,382. The housing estates team are confident that they will reach the target by the end of financial year.

Staff role changes during August allow for arrears collection to be a priority for the team, who are continually working on actions to ensure they maximise income.

£643.33 of rent for current tenants has been written-off so far during 2011/12.

3. Finance Comments

The efficient collection of debts due to the Council is a major part of the Council's overall financial strategy and robust collection arrangements are clearly essential in order to maximise Council income.

4. Legal Comments

There are no legal implications associated with this update report.

5. Links to Corporate Aims

Efficient management and collection of debt underpins the Council's ability to afford initiatives supporting the Council's corporate aims.

6. Environmental Implications

There are no Environmental implications associated with this update report.

7. Community Safety Implications

There are no community safety issues associated with this update report.

8. Equalities Impact

There are no equalities issues associated with this update report.

9. Risk Management

Performance management arrangements are in place in respect of all debt types due to the Council in order to mitigate financial risks and reputation risks associated with non-collection.

10. Partnership Implications

Council Tax, Non-Domestic Rates, Housing Benefit overpayments and sundry debts within SAP are administered on the Council's behalf by Southwest One, one of the Council's key partnerships.

11. Recommendations

That members note the largely positive collection trends against the backdrop of the significant economic downturn.

Contact: Paul Harding, Performance & Client Lead
01823 356309
p.harding@tauntondeane.gov.uk

Taunton Deane Borough Council

Corporate Governance Committee - 12 December 2011

Anti-Fraud & Error Policy

Report of the Head of Revenues & Benefits

(This matter is the responsibility of Executive Councillor Vivienne Stock-Williams)

1. Executive Summary

Members are asked to support the attached Anti-Fraud & Error policy that has been refreshed in line with best practice and continues to clearly outline the Council's position on fraud and error in services administered and delivered by the Revenues & Benefits Service.

2. Background

- 2.1. The Anti-Fraud and Error Policy was originally approved by Council in July 2003. Since then, it has been subject to regular review and updating, with the last such review being in 2009.
- 2.2. Our Anti-Fraud and Error Policy (Appendix 2) has been changed to reflect updated guidance and good practice. In particular, our revised policy now includes information on how we will deal with Single Person Discount fraud
- 2.3. The proposed changes within the UK Government's Welfare Reform Bill include the introduction of Universal Credit from 2013. Universal Credit will replace income related benefits (including Housing Benefit) over the period 2013 to 2017 and will be administered by the DWP. As part of this reform a Single Fraud Investigation Service (SFIS) will be created in April 2013 to investigate Social Security Benefits, Tax Credits and Universal Credit. Ultimately, this will lead to a cessation of Local Authorities autonomous powers to investigate benefit fraud for Housing and Council Tax Benefit.

3. Finance Comments

- 3.1. Annual expenditure on Housing and Council Tax Benefit in 2010/2011 was in excess of £35m. The Council has a duty to protect the public purse and the Anti Fraud and Error Policy assists in minimising potential loss to the Council.
- 3.2. The government provides Administrative Subsidy to the Council for the Benefits service, some of which is intended to be used to offset the cost of anti fraud measures.
- 3.3. In Somerset, the cost of Council Tax collection and fraud investigation is borne by District Councils. The County Council receives a larger share of the Council Tax and would therefore receive the greatest part of the additional income that arises from identifying single person discount fraud. However, the County does not contribute financially to the cost of identifying any fraud.

- 3.4. With regard to Single Person Discount Fraud, any income collected from penalties raised would be kept by Taunton Deane Borough Council. The cost of prosecutions under the Fraud Act would be borne by Taunton Deane Borough Council and as such, prosecutions should only be taken where it is financially viable to do so.

4. Legal Comments

- 4.1. The legislation concerning matters within the Revenues & Benefits Service's Anti-Fraud and Error Policy is mainly contained in:
- Social Security Administration Act 1992
 - The Fraud Act 2006
 - Regulation of Investigatory Powers Act.
 - Local Government Finance Act 1992
 - Police and Criminal Evidence (PACE) Act and the Criminal Procedure and Investigations Act.

5. Links to Corporate Aims

- 5.1. Tackling Fraud & Error is most closely linked with the corporate aim of Tackling Deprivation & Sustainable Community Development.

6. Environmental and Community Safety Implications

- 6.1. None

7. Equalities

- 7.1. An Equality Impact Assessment has been completed and is shown in Appendix 1

8. Risk Management

- 8.1. There is a risk that fraud and error will occur. However this is managed through the controls and policies that Taunton Deane Borough Council have in place.

9. Partnership Implications

- 9.1. The Revenues & Benefits Service is delivered by Southwest One on behalf of Taunton Deane Borough Council. However, elements of decision making regarding investigations, sanctions and prosecution rests with the Head of Service as part of the retained function. Therefore the decision making on such issues remains with Taunton Deane Borough Council.

10. Recommendations

- 10.1. The Committee supports and approves the revised Anti-Fraud & Error policy.

Contact: Heather Tiso, Head of Revenues & Benefits
Direct Dial: 01823 356541 (Internal Ext: 2245)
[e-mail address: h.tiso@tauntondeane.gov.uk](mailto:h.tiso@tauntondeane.gov.uk)

Impact Assessment form

What are you completing this impact assessment for? E.g. policy, service area	Revenues & Benefits Service - Anti Fraud & Error Policy		
Section One – Aims and objectives of the policy /service			
<p>Taunton Deane Borough Council is committed to ensuring that claimants receive the benefits and discounts to which they are entitled and will ensure that benefits and discounts are taken up by those people who need access to the service. However, the Council recognises that some people will try to obtain benefits and discounts to which they are not entitled. The Council will not tolerate abuse of the system and will take proactive and reactive steps to prevent and detect fraud and recover overpayments.</p> <p>This Policy details our approach to reduce the opportunity for fraud and error to occur and sets out our commitment to use all legal sanctions available, including prosecution</p>			
Section two – Groups that the policy or service is targeted at			
<p>We have a statutory duty to provide benefit or discounts regardless of the gender, sexual orientation, religion or belief or ethnicity of the customer. People of all ages will be our customers. However statutory provisions will apply in the calculation of Housing Benefit or Council Tax Benefit dependent on age. Additional Housing Benefit or Council Tax Benefit is payable where there is a specific impairment/disability benefit in payment. Discounts for Council Tax will be applied where there is a specific impairment/disability to be considered.</p>			
Section three – Groups that the policy or service is delivered by			
Taunton Deane Borough Council's Revenues & Benefits Service delivered in partnership with Southwest One.			
Section four – Evidence and Data used for assessment			
Annually we carry out a satisfaction survey of Revenues & Benefit customers. Data provided shows no evidence of dissatisfaction as a direct or indirect result of how we deliver our service in meeting our duties under the Equality Act 2010.			
Section Five - Conclusions drawn about the impact of service/policy/function on different groups highlighting negative impact or unequal outcomes			
<p>The Anti-Fraud & Error Policy aims to prevent, detect and deter Housing Benefit, Council Tax Benefit and Council Tax Discount Fraud in Taunton Deane Borough. It provides:</p> <ul style="list-style-type: none"> • Assurance to residents of Taunton Deane Borough Council that those who attempt to defraud will be sanctioned; • Consistency of approach in dealing with cases of proven fraud • Guidance for Officers • Ensures good stewardship and that we are proactive in addressing fraud <p>As the policy will be applied consistently regardless of the gender, sexual orientation, religion or belief or ethnicity of the customer, there should be no negative or unequal outcome on different groups.</p>			
Section six – Examples of best practise			
<p>Our policy has been developed taking into consideration advice given by the DWP HB/CTB Good Practice Guide, "Carrying out Counter Fraud Activities"</p> <p>http://www.dwp.gov.uk/local-authority-staff/housing-benefit/performance-and-good-practice/hbctb-good-practice-guide/part-one-good-practice/carrying-out-counter-fraud/</p>			
Signed: Manager completed by		Signed: Group Manager/Director	



REVENUES & BENEFITS SERVICE

**Anti-Fraud
and Error
Policy**

Anti-Fraud & Error Policy

© Taunton Deane Borough Council 2011
The Deane House • Belvedere Road • Taunton • Somerset TA1 1HE
Telephone (01823) 356356 • Fax (01823) 356386

Revision history

Version number	Date	Summary of changes	Author
V1.0	15/01/2009	Initial creation of document	Simon Doyle
V1.1	28/09/2011	Refresh and updating of policy	Helen Vile

Approvals

This document has been approved by the following people.

Name	Role
Heather Tiso	Head of Revenues and Benefits

Table of Contents

POLICY.....	2	DUTIES & CONSIDERATION OF OFFICERS AND MEMBERS	20
Statement of Intent	2	Responsibilities of the Head of Revenues & Benefits.....	20
Introduction	2	Duties of the Principal Benefits Officer	20
Legislation	3	Duties of the Principal Revenues Officer	21
Definition of Fraud.....	4	Duties of the Investigation, Overpayment & Support Services Team Leader.....	21
When Fraud occurs.....	5	Duties of Investigation Officers.....	22
Retention of Documents	5	Duties of Prosecuting Officers	22
Whistle Blowing Policy.....	5	Elected Members	22
Data Protection Act 1992	6	All Employees.....	23
Monitoring and Review	6	Protection of employees.....	24
BASIC PRINCIPLES	7	SANCTIONS & PROSECUTION.....	25
Prevention	8	Background	25
Detection	9	Single Person Discount Fraud	26
Deterrence	10	Housing & Council Tax Benefit Fraud	27
ANTI-FRAUD MEASURES.....	11	Formal Caution	27
Verification	11	Administrative Penalty.....	30
Anti-Fraud Investigations Team	12	Prosecution	33
Data-Matching	12	Deciding the relevant sanction	33
Interventions	13	Review and Discontinuance	34
Publicity.....	13	Accepting Guilty Pleas.....	34
Fraud Referral Tool	13	Criteria to Apply for Prosecution or Sanction Action.....	34
Documentation	13	Sufficient Evidence	35
Random Checking	13	Public Interest.....	36
Electronic Payments	13	Summary Offences.....	38
Telephone Hot Line	14	Indictable Offences.....	38
Training.....	14	Triable either-way Offences	38
Employees' Duty to Report	14	REDRESS	39
Working in Partnership.....	15	Action on overpayment of benefit	40
Service Level Agreements (SLAs)	15	Action on Overpayments to Landlords.....	41
Targeting Specific Groups	15	APPENDIX A - Code Of Conduct For Investigators	42
Redirected Benefit Mail	15		
INVESTIGATIONS	16		
Intelligence Gathering	17		
Home Visits	17		
Appointment of Authorised Officers.....	18		
Use of surveillance.....	18		
Joint-working.....	19		
Recording and checking previous cautions and administrative penalties	19		
Recording and checking previous convictions	19		

Policy

Statement of Intent

Taunton Deane Borough Council is committed to ensuring that claimants receive the benefits and discounts to which they are entitled and will ensure that benefits and discounts are taken up by those people who need access to the service.

However, the Council recognises that some people will try to obtain benefits and discounts to which they are not entitled. The Council will not tolerate abuse of the system and will take proactive and reactive steps to prevent and detect fraud and recover overpayments.

This Policy details our approach to reduce the opportunity for fraud and error to occur and sets out our commitment to use all legal sanctions available, including prosecution.

Introduction

Local authorities have a statutory duty under section 151 of the Local Government Act 1972 to arrange for the proper administration of their financial affairs. This statutory duty includes the prevention, detection and deterrence of fraud.

This policy represents a commitment by Taunton Deane Borough Council to carry out a robust anti-fraud strategy to protect public funds and to ensure benefits and discounts are delivered to those who have a true entitlement to them.

This policy outlines the mechanisms whereby the Council will deliver the above commitment to its customers and shows how it meets its duty to prevent, detect and deter fraud as required in law.

Our policy is based on the principles of fairness, integrity, honesty and equality. It is important that in encompassing these principles we encourage an ever-stronger culture among employees and the public that fraud is illegal, unacceptable and irresponsible and we will not tolerate it.

Most of our customers are honest and law-abiding but the sheer expenditure combined with the complex nature of benefit and Council Tax administration leaves the system susceptible to fraud and error.

Overpaid benefit or incorrect liability for Council Tax occurs through either:

- Fraudulent activity by customers or
- Other non-intentional failure/action by customers and on occasions processing staff.

We need a robust and effective Anti-Fraud and Error Policy to ensure:

- We minimise the opportunity for fraud or abuse of Council Tax discounts or Housing Benefit and Council Tax Benefit schemes and
- Where fraud or abuse does occur, we detect it and deal with it efficiently and effectively.

Taunton Deane Borough Council could be subjected to both internal and external fraud and corruption. It is important the Anti-Fraud & Error Policy is read with and complements the Council's Whistle-Blowing Policy.

Legislation

For the purposes of this policy, all members and officers will be expected to comply with all codes of practice, legislation and corporate policies when dealing with issues relating to benefit fraud. These include:

- Codes of conduct for employees and members.
- Social Security legislation including the Housing and Council Tax Benefit Regulations.
- Fraud Act 2006 and supporting Circulars.
- Verification guidance and codes of practice.
- Public Interest Disclosure Act.
- Regulation of Investigatory Powers Act.
- Local Government Finance Act 1992
- Financial Regulations and Standing Orders.
- Corporate Customer Care policy.
- Whistleblowing policy.
- Equalities legislation.
- Human Rights Act
- Data Protection Act.
- Police and Criminal Evidence (PACE) Act and the Criminal Procedure and Investigations Act.
- Local Authority Fraud Investigators' Code of Practice produced by the Department for Work and Pensions.(DWP)
- Disciplinary policy.
- Any other relevant policies.

Definition of Fraud

The Fraud Act 2006 came into force on the 15th January 2007. This introduced a defined offence of fraud which is broken into three sections

- Fraud by false representation
- Fraud by failing to disclose information
- Fraud by abuse of position

Fraud by false representation

Representation must be made dishonestly, and is made with the intention of making a gain or causing a loss or risk of loss to another. A representation is defined as false if it is untrue or misleading and the person making it knows that it is, or might be, untrue or misleading. Representation can be stated by words or communicated by conduct i.e. written, spoken or by electronic means.

Fraud by failing to disclose information

Fraud by failing to disclose information details that a fraud will have been committed, if a person fails to declare information which he/she has a legal duty to disclose. There is a requirement that the person acts dishonestly and intends to make a gain for himself/herself, cause a loss to another or expose another to a risk of loss.

Fraud by abuse of position

Fraud by abuse of position requires a person who is in a privileged position to act dishonestly by abusing the position held; and by doing so, fails to disclose to another person, information which he/she is legally required to disclose. The dishonest act must be with the intention of making a gain for him/her or another. Alternatively it may be with the intention of causing a loss or risk of loss to another. The offence may be committed by omitting to make a declaration as well as by an act.

The introduction of the Fraud Act 2006 does not prevent the prosecution of the offences under the various Theft Acts and Forgery and Counterfeiting Act, e.g. theft, counterfeiting and falsification of documents.

When Fraud occurs

Housing Benefit & Council Tax Benefit

We tell customers claiming Housing Benefit or Council Tax Benefit it is their responsibility to tell us of changes in circumstance that could affect their benefit.

Where we consider a person has not reported a change to gain more benefit than they are legally entitled to, we may take punitive sanction action dependent on criteria detailed in Prosecution section of this policy.

Landlords may also be committing offences if they fail to tell us of changes about a tenant's occupation of the property or rent liability if they know the change is one likely to affect benefit (or could reasonably be expected to know).

Partners and appointees of the customer as well as advisors of the customer or appointees may also commit offences on benefit claims.

Fraud may also occur when customers make false statements in completing benefit forms or by omitting full details of their circumstances as the form asks.

Single Person Discount (Council Tax)

We tell those liable to pay Council Tax and receiving a Single Person Discount that they are under a duty to tell the Council within 21 days if they think they no longer qualify for a discount

Councils have the power to impose civil penalties where taxpayers fail to inform us within 21 days that the discount should not apply. The Council may impose a penalty of £70 for such a failure on the first occasion and £280 for each subsequent occasion in relation to the same information.

The Council can choose to prosecute under Section 2 of the Fraud Act 2006 where the Council Tax payer has committed a fraud by false representation but only where it is in the Council's financial interests to do so.

Retention of Documents

The Revenues & Benefits Service will retain evidence and documentation for fraud investigations in accordance with legislation, policy, best practice and internal procedures.

Whistle Blowing Policy

Taunton Deane Borough Council has a Whistle Blowing Policy that has measures to protect staff and Members who suspect fraud or inappropriate behaviour in the Council.

Council employees and Elected Members are required to tell the Council of any abuse of power perpetrated by colleagues. The Council will follow the procedures set out in its whistle-blowing policy when dealing with all such allegations.

Data Protection Act 1992

Taunton Deane Borough Council is registered under Purpose 058 of the Data Protection Act. Where applicable, the Revenues & Benefits Service will use Exemption 28, to protect organisations that supply information in connection to investigating fraudulent benefit claims.

Revenues & Benefits Service staff will always take proper action to preserve confidentiality. When responding to requests for information, officers will always be mindful of the requirements under the Data Protection Act e.g. the enquiry is for the prevention and detection of a crime.

Monitoring and Review

To help in achieving the aims outlined above, it is essential we to keep our strategies and procedures under constant review.

Performance in anti-fraud and error is communicated in an information report through the Corporate Scrutiny Committee to all Members.

We seek annual endorsement of our Anti-Fraud & Error Policy through the Executive Portfolio Holder for Corporate Resources.

Basic Principles

We have based our Anti-Fraud & Error Policy on some simple but important principles that over recent years both Local Authority and Department for Work and Pensions counter-fraud policy makers have developed.

The basic principles are:

- **Getting it right** - ensuring claims are correct from the day one and secure the gateway to claiming benefit from the first application onwards
- **Keeping it right** - ensuring we adjust claims as circumstances change to ensure they remain correct
- **Putting it right** - detecting and investigating fraud and error and taking prompt action to correct claims, with suitable penalties to prevent reoccurrence
- **Making sure things work** - checking progress, evaluating counter fraud strategies and adjusting them because of experience.

From these principles we have drawn three main Anti-Fraud & Error Strategy elements namely

- Prevention
- Detection
- Deterrence

Prevention

Fraud and error prevention is in the words of the former Benefit Fraud Inspectorate:

"minimising the opportunity for someone to commit internal or external fraud".

There are many factors we need to consider to maximise our ability to prevent fraud and error entering the system and in particular the following:

- A regular review of Council Tax discounts and exemptions to ensure the taxpayer remains eligible;
- Compliance with the good practice set down in the DWP's Verification Framework - this provides a robust validation of documents and evidence provided by customers in support of their claims;
- Check 4% (minimum) of new benefit claims prior to informing the customer of their entitlement. In addition, we sample a further 500 claims post-determination to correct awards. In addition to checks on benefit claims, we sample work carried out by Revenues Officers. Our checks enable us to correct errors and identify training needs.
- Risk-based intervention of existing claims through intelligence gathered locally as well as prioritising cases identified through the Housing Benefit Matching Service;
- Positively encouraging our customers to tell us quickly of changes in their circumstances, e.g. all our claim forms and letters, as well as various leaflets, remind customers of their responsibilities. We also promote swift notification of changes through our website, Newsletters, articles in the Deane Dispatch and the annual booklet accompanying Council Tax and NNDR bills;
- Suitable consideration on the design and format of claim forms to ensure we achieve a balance between simplicity (helping take-up) and the need to get accurate information and prevent customers putting in fraudulent claims;
- All Revenues & Benefits Service staff are subjected to checks undertaken by the Criminal Records Bureau (CRB);
- Suitable training in Council Tax and benefits legislation and fraud awareness issues for all relevant staff;
- Our ability and willingness to respond to recommendations on good practice by the Audit Commission, the South West Audit Partnership (SWAP) and our own evaluation to improve performance;
- Using integrated Document Management - we store all documents we receive in our administration of benefits, Council Tax and NNDR electronically to enable instant viewing access. This reduces risk of loss and helps in to investigate any fraudulent activity.

Detection

This covers our arrangements to identify, investigate and detect benefit and discount fraud and error. There are many activities and procedural arrangements we have to maximise detection of fraud and error. For example:

- The existence of a dedicated Investigations Team in the Revenues & Benefits Service;
- Adherence to the good practice detailed in the DWP's Verification Framework;
- The Revenues & Benefits Service Fraud Hotline so members of the public can anonymously give information on suspected fraudulent claims;
- Participation in the National Benefits Fraud Hotline Service;
- Operating the mail "Do Not Redirect Scheme" - the Post Office also tells us the address the mail would have been forwarded to;
- Closer working initiatives with Department for Work and Pensions (DWP) colleagues;
- A robust fraud referral and risk assessment;
- Participation in Data Matching* exercises including:
 - Housing Benefit Matching Service (HBMS);
 - National Fraud Initiative (NFI);
 - Local matches with large local employers or agencies;
 - The Council's own databases including those holding information on Members and staff (we will consult with recognised trade unions before data matching on Members and employees);
 - Access to the DWP database through the Customer Information System (CIS);
- * We adhere to the principles set out in the Data Protection Act;
- Providing relevant training and feedback to promote awareness and understanding of fraud and error issues;
- Relevant training to keep all appropriate officers abreast of legislative changes;
- Membership and participation in the Local Authority Investigation Officers Group and the National Anti-Fraud Network (NAFN);
- Using all relevant and legal opportunities available to us to gather evidence and information;
- Our wish to improve performance by responding to good practice recommendations by the Audit Commission, SWAP and our own evaluation;
- Strong performance management to identify administrative and investigative weaknesses.

Deterrence

Fraud deterrence covers activities designed to discourage customers from putting in fraudulent claims or to commit fraud as well as deterrent factors "employed". These include:

- Being visibly active in anti-fraud and error activities - an obvious anti-fraud stance undoubtedly has a great deterrent effect. For example:
 - Compliance with the good practice detailed in the DWP's Verification Framework;
 - Public awareness of the existence of a dedicated Investigations Team
- All staff employed in the Revenues & Benefits Service annually complete and sign a Declaration of Interest where they declare:
 - Details of any property in the TDBC area that they rent to tenants;
 - Any connection to any claim for Housing or Council Tax;
 - They will not amend any benefit claim, Council Tax or Non-Domestic Rate (NNDR) where they have any connection.
- Taunton Deane Borough Council's Whistle-blowing policy where Members and staff must tell the Council of any abuse of power perpetrated by colleagues;
- A clear message we will not tolerate fraud and we will take suitable punitive action when necessary against those individuals found to have committed fraud (refer to our separate Sanction/Prosecution policy for more details);
- A robust and effective benefit overpayment recovery procedure;
- Suitable publicity on successful prosecution cases.
- Training to ensure we keep staff up-to-date with ever changing legalisation and procedural amendments.

Anti-Fraud Measures

The following are some of the anti-fraud measures taken to prevent, detect and deter fraud in the Revenues & Benefits Service:

Verification

The Benefit Regulations allow rather than require Local Authorities to ask for such verification as is needed to put benefit into payment, subject to what it is reasonable to request.

We believe it is important to discourage and prevent fraud and error from entering the system. To achieve this, the Revenues & Benefits Service will impose rigorous procedures for verifying claims under the guidelines given in the Department for Work and Pension's Verification Framework.

We obtain original documentation when assessing benefit and proof of identity when the claimant first applies. All employees responsible for receiving and verifying documents are trained on the latest evidence requirements including identifying false documents. We use UV scanners to verify the validity of documents.

The scrutiny and verification of each claim will not interfere with our commitment to provide a modern, efficient and cost-effective service focused on meeting our customers' needs in a friendly, timely and accurate manner. We will ensure our service remains readily accessible to everyone in the community to maximise social inclusion, minimize barriers to work and help people to live in decent housing.

Our Housing & Council Tax Benefit claim form has questions and instructions in "Plain English" clearly stating what we need. The form includes warnings and information so the customer is aware of the risks involved in misinforming us of their circumstances. Our form contains all the information the customer needs to understand their rights and responsibilities.

We have systems in place allowing the customer to seek help to complete claim forms and report changes of their circumstance to us.

Anti-Fraud Investigations Team

We have a dedicated team of investigation officers who are accredited Counter Fraud Officers through the National Professionalism in Security qualifications (foundation and advanced). They are also 'Authorised Officers' therefore able to use investigative powers under the Social Security Administration Act 1992.

Data-Matching

Taunton Deane Borough Council's benefits data is matched against other data sources (internal and external) to identify inconsistencies that may suggest the existence of incorrectness on a Housing Benefit or Council Tax Benefit award.

We take part in Data Matching* exercises including:

- Housing Benefit Matching Service - this is an exercise where our benefit records are compared to DWP records for various government benefits paid (through the Single Housing Benefit Extract (SHBE)). If there is a discrepancy between the two sets of records a file is created and sent to us to investigate the discrepancy. From 27 June 2011, data matching is also carried out with information held by the Credit Reference Agency.
- The National Fraud Initiative - this is the Audit Commission's data matching exercise in which participants across the UK from Local Government, Central government and the NHS provide data which is then matched to help reduce the level of benefit fraud, occupational pension fraud and tenancy fraud. The information regarding possible matches is referred to Local Authorities from the Audit Commission for further enquiries.
- Local matches with large local employers or agencies;
- The Council's own databases including those holding information on Members and staff (we will consult with recognised trade unions before data matching on Members and employees);
- Access to the DWP database through the Customer Information System (CIS);

* We adhere to the principles set out in the Data Protection Act

The Revenues & Benefits Service will undertake pro-active initiatives designed to make use of data already held to ensure good quality evidence, and expedient investigations, for example:

- Council house purchases under the right to buy scheme
- Landlord/tenant collusion

We use data extracted from our benefit system to identify larger overpayments (over £1,000) and use this to decide if an investigation is appropriate.

Interventions

Inevitably there will be some changes not reported by customers and not identified through data matching. The Revenues & Benefits Service will use risk based data on claims as provided monthly by the DWP and local risk based criteria to review existing benefit claims. We will undertake specific checks on claims and request ad hoc data scans.

Publicity

The Revenues & Benefits Service takes every opportunity to remind claimants to report changes in their circumstances. We use various methods to publicise the need to report changes.

The Investigations Team maximises the use of publications to tell Taunton Deane Borough Council's residents of successful investigations as well as providing information about how to report a suspected fraud.

The Revenues & Benefits Service will actively publicise any case it believes will act as a deterrent to others who are thinking of committing fraud - including naming any individual where fraudulent intent has been proven.

We give out anti-fraud posters and literature to relevant organisations as well as displaying them at Taunton Deane Borough Council offices.

Fraud Referral Tool

We have an easily accessible Fraud Referral tool available on the Taunton Deane Borough Council website as well as publicising anti-fraud information and updates through the Internet.

Documentation

We aim to provide all documentation in plain English and in a format that claimants can understand, to ensure that they are aware of their responsibilities to provide accurate and timely information. Facilities are also available to have documents translated or made available in large print.

Random Checking

Regular random checking of claims is undertaken to ensure that claims have been processed correctly and that all supporting documentation is correct.

Electronic Payments

Claimants and landlords are encouraged to accept payments by electronic transfer, so payments are made directly to bank/building society accounts.

Telephone Hot Line

The public is encouraged to disclose information, confidentially or otherwise, that may help in identifying potentially fraudulent claims. Providing the dedicated 'telephone hot line' assists this aim.

Training

It is important we recognise the success and credibility of our Anti-Fraud and Error Policy depends in part, on the effectiveness of training and in turn the alertness and responsiveness of our staff to signs of fraud and error.

Effective training and awareness programmes are important components affecting performance. It would be ill-advised to consider only Investigation Officers need training in anti-fraud and error. It is important we train and inform all relevant staff in an anti-fraud and error culture. To promote this, the Revenues & Benefits Service provides:

- Staff reviews of training needs;
- Fraud awareness training for all new staff (Corporate Induction);
- Annual fraud awareness refresher training to relevant staff;
- Shadowing of Investigation Officers when suitable;
- Time for self-training through reading and on-line learning (e.g. the Meritec e-learning tool on the Taunton Deane Borough Council's intranet site);
- Accredited Counter-Fraud Officers training to all Investigation Officers - all Investigation Officers should hold a relevant qualification or study for a relevant qualification such as Professionalism in Security (PiNs);
- Legislation training to ensure we keep staff up-to-date with ever changing legalisation and procedural amendments.

Employees' Duty to Report

All employees have a duty to report any suspicious circumstances which may affect a customer's right to benefits or discounts and to report this to the Investigation Team. The Council's Disciplinary Procedure applies in all such cases. Failure to report suspicious circumstances may result in disciplinary action taken against the officer who failed to carry out their duty to report.

The Council has an agreed Code of Practice for Confidential Reporting (also known as the 'Whistleblowing Policy') which encourages and protects members and employees who wish to raise concerns or disclose irregularities.

Working in Partnership

The Revenues & Benefits Service will actively work with other agencies to support their anti-fraud activities. These agencies include:

- Local Authorities Investigation Officers Group (LAIOG)
- National Anti-Fraud Network (NAFN)
- The Department for Works and Pensions (DWP)
- Other Local Authorities and County Councils
- HM Revenues & Customs
- The Home Office
- Other Council departments
- The Police

Whenever possible we work in partnership with these agencies in targeted fraud drives and in sharing information and conducting joint investigations.

Service Level Agreements (SLAs)

We have agreed a Partnership Agreement with the DWP. This agreement sets out the principles for effective partnership working between the DWP Fraud Investigation Team and Investigation Officers for Taunton Deane Borough Council. The agreement covers the main aspects of how each organisation will work together on matters of Administration, Security and Fraud on claims which have a joint Jobcentre Plus and TDBC interest. It sets out the reasons we should work together and what we are jointly trying to achieve in doing so.

Targeting Specific Groups

Under Human Rights legislation, it is not considered to be good practice to target or pursue unjustified reviews on specific groups of people. However, if a high-level of benefit fraud is established within a particular area or among a particular group, it may be suitable to carry out a detailed review to ensure there are no further cases.

Redirected Benefit Mail

Taunton Deane Borough takes part in the Royal Mail 'Do Not Redirect' scheme, whereby benefits correspondence is sent out using distinctive envelopes. Any benefit recipient who has moved away from the address where he or she was claiming will not have any mail sent on to their forwarding address and the correspondence will be returned to the Benefits Service for further investigation. In using the mail "Do Not Redirect Scheme" - the Post Office also tells us the address the mail would have been sent to.

Investigations

Any investigation we conduct will be based on the following criteria:

- To find out the facts
- To gather enough evidence to support any sanction we may apply
- To ensure we award the correct discount or pay the correct Housing Benefit or Council Tax Benefit

During an investigation, we may suspend a discount or benefit payment pending further enquiries.

The Revenues & Benefits Service will aim to focus on investigations to ensure the best use of available resources. We will thoroughly examine each case and give proper consideration to appropriate closure or sanction. We will follow all potential lines of enquiry when gathering evidence. We will check and verify all potential information sources and interview all relevant witnesses.

Investigations are to be undertaken under agreed written procedures and always with full consideration of the Human Rights Act. At all times, it must be possible to show the investigation is necessary, that enquiries are not excessive (i.e. are proportionate to the potential fraud) and there is no harassment of individual claimants.

The Investigation Officers are expected to always treat all people suspected of benefit fraud with respect and courtesy, in line with the Council's policies on customer care.

Written records of all investigations must be kept and updated with any supporting evidence as the investigation progresses. The outcome must also be recorded.

The Investigations Team will ensure they only disclose Council held information in line with the Data Protection Act and associated procedures on confidentiality.

The Investigation Team should always during an investigation, consider and observe the rights of any individual they are interviewing or investigating. It is the duty of the Investigation Officers to establish the facts of the case and not reach conclusions based solely on intuition or supposition.

Where fraud is suspected and it appears reasonable to prosecute under this policy, only employees trained in the Police and Criminal Evidence Act (PACE) procedures (as amended or substituted) must undertake the interview under caution (IUC) with the claimant. Where appropriate, interviews should be conducted with the police.

The PACE code of practice, a national standard produced under the Police and Criminal Evidence Act 1984 must be used to conduct interviews under caution and this will ensure compliance with the Human Rights Act. Copies of the code of practice are held by the Investigation Team and are available for examination on request.

Intelligence Gathering

The Revenues & Benefits Service subscribes to the National Anti-Fraud Network that supplies several intelligence gathering services, including:

- Credit searches
- Company director information
- DVLA information
- Financial information

The National Anti-Fraud Network also acts as our PINS 9A authorised body for getting information under the Social Security (Fraud) Act 1997. NAFN ensures all information is legally obtained and approved by the proper officers.

The Revenues & Benefits Service subscribes to the Local Authority Investigation Officers Group (LAIOG). LAIOG hold regular meetings updating officers on legislation and other relevant information. Officers are allowed to get and add information to the LAIOG website.

We also subscribe to the Experian product “Investigator On-Line” and will use this product to gather information in the support of our investigations.

Home Visits

It may be necessary to visit claimants/landlords in their own homes. Wherever possible, those involved will be notified by letter or telephone call, unless notification would jeopardise the investigation. This is in accordance with the Human Rights Act 1988, Article 8 (Right and respect for private and family life).

Appointment of Authorised Officers

Legislation allows the Council to appoint existing employees as “Authorised Officers”. An Authorised Officer is able to enter premises (such as the customer’s place of work) to enquire and examine records about any person believed to be a benefit claimant or after a test of reasonableness, a person who could supply information about the investigation, for example partners of claimants or employers . The Council can prosecute the company or any third-party who has relevant information but refuses to co-operate with such an investigation.

The Council has appointed officers in the Revenues & Benefits Service as Authorised Officers who have the same power to enter business premises as the DWP.

Use of surveillance

Any surveillance we carry out will comply with legislation contained in the Regulation of Investigatory Powers (RIPA) Act 2000. We will ensure we conduct all surveillance activities, including all authorisations, continuation and cancellations under Taunton Deane Borough Council’s RIPA Policy & procedures. We will keep all forms under that policy for inspection by approved bodies, i.e. the Surveillance Commissioner.

Surveillance will be undertaken by trained officers where it is justified and under the statutory code of practice. Corporate Surveillance Procedures will be adhered to.

All surveillance requests, agreements, cancellations and amendments must be recorded, signed and kept by the authorising officer where appropriate. All surveillance requests will be time-limited, and all amendments and renewals to authorised surveillance requests must be re-authorised by an authorising officer.

All records must be kept accurately and conveniently so they are readily available for inspection by the Office for the Commissioner for Surveillance or by the Audit Commission. A central record will be kept by the Solicitor to the Council of all authorised surveillance, and benefit fraud surveillance records will be part of the central record.

Joint-working

Due to the nature of the checking involved in correctly applying sanctions/prosecutions, it is recommended by the DWP that joint working is applied wherever possible.

The Council has agreed a Partnership Agreement with the DWP to aid joint-working.

In general, where there is a fraud investigation which involves more than one benefit, the organisation which discovers the fraud will take the lead with decisions on prosecution, cautions or administrative penalties.

The Council will abide by an agreed set of protocols for joint-working so all legal action which involves solicitors or investigations officers is undertaken in an agreed and efficient manner.

Recording and checking previous cautions and administrative penalties

Best practice on the application of sanctions/prosecutions states it is essential that records on previous convictions, cautions and administrative penalties are checked before a sanction/prosecution action is taken. It is also a requirement that all sanction/prosecution activity is logged to allow others to check an individual claimant's records.

The DWP keeps a sanctions and penalties database recording the issue and acceptance of cautions and administrative penalties. The database allows access to information on previous administration penalties and cautions administered by the DWP and other local authorities.

Basic disclosures of past convictions may be sought before the appointment of certain positions within the Council. Evidence of previous convictions for benefit fraud may be relevant to the decision to appoint individuals to vacant posts.

Recording and checking previous convictions

For checks on previous convictions, DWP fraud investigators get information, under agreement from the Home Office, through the DWP (Solicitors' Branch). Local authorities may not legally have access to this information independently. Therefore, to meet the need to check previous convictions on benefit cases, joint interviews under caution need to be carried out.

If no DWP benefits are involved, investigations officers must approach the local Police force which has access to previous convictions information.

Duties & Consideration of Officers and Members

Responsibilities of the Head of Revenues & Benefits

The Head of Revenues & Benefits must ensure:

- all employees within the Revenues & Benefits Service and those in related areas (i.e. Housing Advisory Officers) are trained in fraud awareness;
- Investigation Officers are fully familiar with fraud legislation and codes of practice; and
- all new Revenue & Benefits Officers are subject to strict pre-employment checks, to include reference to the Criminal Records Bureau.

Duties of the Principal Benefits Officer

The Principal Benefits Officer must ensure:

- data-matching is undertaken regularly with both internal and external systems and, in particular, through the Housing Benefit Matching Service to identify cases of potential benefit fraud, and to fully investigate all such cases;
- all Benefit Officers are trained in fraud awareness, legislation and codes of practice so high-quality referrals can be made to the Investigation Team;
- the calculations of fraudulent overpayments are undertaken within agreed timescales and under agreed procedures;
- that through liaison and close working arrangements with the Investigation, Overpayment & Support Services Team Leader an effective and efficient anti-fraud culture is established and maintained.

Duties of the Principal Revenues Officer

The Principal Revenues Officer must ensure:

- that a regular review of all Council Tax discounts and exemptions is carried out;
- customers claiming a Single Person Discount are advised when submitting their application of the consequences of submitting a false declaration or failing to inform the Council within 21 days that they no longer qualify for a discount;
- the calculations of revised Council Tax liability through the withdrawal of Single Person Discount are undertaken within agreed timescales and under agreed procedures;
- back-date the withdrawal of a single person discount to the date of the change and will impose a penalty in accordance with relevant legislations where the information supplied by a taxpayer is proven to be false or knowingly supplied to obtain pecuniary advantage

Duties of the Investigation, Overpayment & Support Services Team Leader

The Investigation, Overpayment & Support Services Team Leader must ensure that:

- all Investigation Officers are properly trained in legislation, legal procedures and practices and that their knowledge and skills are kept up to date;
- all investigations are undertaken fairly and legally and the investigators' powers are used appropriately;
- appropriate records are maintained supporting the outcome of an investigation and that any action is correctly classified for subsidy purposes;
- the caseload of each Investigation Officers is effectively managed and that individual targets are fulfilled;
- Sanction rewards are accurately recorded;
- resources are focused on reducing the level of fraud and, in particular, targeting in a positive but sensitive manner areas/groups where fraud is most likely to exist; and
- joint initiatives are undertaken with other agencies such as the DWP, Police, Inland Revenue, other authorities and other government organisations, to identify fraudulent claims.

Duties of Investigation Officers

Investigation Officers must ensure that:

- all claimants are genuine and that information supplied by landlords, tenants and agents is accurate and up to date by investigating claims where it appears the claimant has failed to disclose information which affects their initial entitlement or a change in circumstances;
- all claims are investigated where third parties may be providing false information which affects the entitlement of the claimant, e.g. a landlord colluding with the tenant to provide false rent payments;
- all claims are investigated where information has been received from members of the public or other sources that suggests that fraud may have taken place;
- work is carried out jointly with other organisations such as the DWP, Police or other authorities, to investigate cases that may lead to identifying fraudulent benefit claims; and
- where appropriate, offenders are prosecuted, penalised or cautioned following the guidelines provided in this policy.

Duties of Prosecuting Officers

Officers involved in a prosecution must take an independent view of the evidence in any prosecution:

- The decision to prosecute must not be influenced by the ethnic or national origin, sexual preferences, the sex, religious beliefs or political persuasion of offenders, witnesses or victims of any offence.
- They will always act in the interest of justice and it is therefore important officers are not subjected to any improper influence from any source, be it internal or external to the Council.
- They must place before the Court all relevant evidence, even evidence that helps the defence.

The Council is a public authority as defined by the Human Rights Act 1998. We must therefore vigorously apply all the principles contained in the Act and the European Convention on Human Rights.

Elected Members

The Council's Members Code of Conduct clearly stipulates the duties of elected Members. We ask Members to tell the Head of Revenues & Benefits of any interest they may have in any claim for Housing or Council Tax Benefit.

All Employees

All offers of gifts and hospitality made to Council Employees because of their role as a Council Officer must be reported to a senior officer and registered in the Register of Gifts and Hospitality under agreed procedures.

If any employee is involved in an offence under the Fraud Act 2006, the Social Security Administration Act 1992, the Theft Act 1968 or any other offence involving Single Person Discount Fraud or Benefit Fraud at

- Taunton Deane Borough Council
- any other Local Authority
- the Department for Work & Pensions or
- HM Revenues & Customs

They will be subject to disciplinary procedures as well as any resultant prosecution proceedings.

A conflict of interest applies where an employee is related to a claimant or landlord, or even if the claimant or landlord is merely personally known to the employee or member.

Where these circumstances apply, the Head of Revenues & Benefits must be made aware of the circumstances in accordance with the Declaration of Interest Procedure. If the employee would normally be involved in assessing a benefit or discount claim, the Head of Revenues & Benefits must appoint another employee to deal with the claim. Failure to tell the Head of Revenues & Benefits of a conflict of interest would be considered as a serious breach of an employee's duty to report, and would be likely to result in action being taken under the Council's Disciplinary procedures.

Where a conflict of interest applies and the employee processes the benefit or discount claim, the case will be investigated by the Investigation, Overpayment & Support Services Team Leader and, if appropriate advice will be sought from the Human Resources Service on any disciplinary action. Processing work where there has been a conflict of interest, without express authority, will be viewed as a serious breach of Council procedures and may result in dismissal or even criminal prosecution if a fraud has been perpetrated.

Where members of the Council or employees are involved in any capacity with a benefit or discount claim that is subject to an investigation, the Head of Revenues & Benefits must be informed. The Head of Revenues & Benefits and the Council's Monitoring Officer will decide on the methods of investigation and decide what action, if any, the Council should undertake.

Where an officer suspects another employee of committing fraud, then the officer has a duty to tell their manager immediately and in confidence. The Council's Monitoring Officer must be informed and the matter dealt with in accordance with the corporate strategy on fraud and corruption. Failure to report a suspicion of fraudulent behaviour is likely to result in action being taken against the employee under the Council's Disciplinary procedures.

Protection of employees

The Revenues & Benefits Service recognises customers may be aggressive or hostile during a fraud investigation. Officers are trained to recognise and defuse potentially violent situations. They must give priority to both their safety and others who may be affected by the incident.

Any cases of intimidation, verbal abuse or violence must be reported as soon as possible. A decision will then be taken on whether to record the customer involved as potentially violent, considering requirements under the Human Rights Act and Data Protection Act.

Sanctions & Prosecution

Background

After a full investigation and collection of evidence, including an interview under caution (IUC), a decision will be made on whether to prosecute or if another penalty is appropriate. Before making this decision, officers will have regard to all the factors and in particular to:

- the mental and physical condition of the claimant;
- the other social factors relating to the claimant or other members of the household;
- ensuring there is sufficient evidence for the prosecution and there has been no undue delay in completing the investigation;
- the administration of the benefit;
- the period of the overpayment;
- the overpayment and the entitlements to other benefits; and
- any previous history.

When considering the net loss to public funds, due regard will be given to the underlying entitlement to other public benefits. This is a factor the defendant could use in mitigation to minimise the offence.

A fraud carried out over a long period of time would be viewed as seriously as one involving a large sum, discovered shortly after it occurred.

The Investigation, Overpayment & Support Services Team Leader will ensure that enough evidence has been obtained and in a manner which will support a prosecution. This includes conducting interviews under caution where it is appropriate. All the evidence forming the basis of the prosecution must be admissible in a court of law and obtained within the current legislation and supporting regulations.

Any delay in starting the investigation or in conducting the investigation directly attributable to administration will be considered. A prosecution will not continue where the delay has been unreasonable.

Where the fraud has occurred or has been allowed to continue due to poor administration it would not normally be suitable to prosecute. Examples would include:

- where benefit has been paid on incomplete information;
- where the form has been poorly completed by the interviewing officer; or
- where there has been a failure to note flaws in a statement or document.

Cases thought suitable for prosecution may be passed to the Department for Work and Pensions Solicitor's Office under the existing Local Authority Prosecution arrangements. These cases are generally prosecuted under the Social Security Administration Act 1992.

Cases may also be dealt with in-house. Investigation Officers will present cases at plea and direction with the backing of private prosecution services to conduct cases where a not guilty plea has been entered. If a guilty plea has been entered Investigation Officers will proceed and conclude the hearing.

The initial recommendation on the suitable action to be taken in each case lies with the Investigation Officer. This will depend on the evidence they have gathered and the seriousness of the fraud.

The final decision on whether a case should be referred for prosecution will be made by the Head of Revenues & Benefits who will consider the factors outlined in this policy. This decision will be countersigned by the Investigation, Overpayment & Support Services Team Leader.

Officers with responsibility for prosecuting offenders have great scope to exercise discretion at various stages of the prosecution. We must use that discretion to serve the interests of justice, the public, victims, witnesses and offenders.

Single Person Discount Fraud

In cases involving Single Person Discount we have the power to impose civil penalties where taxpayers fail to inform us within 21 days that the discount should not apply. Under Schedule 3 of the Local Government Finance Act, we can impose a penalty of £70 for such a failure on the first occasion and £280 for each subsequent occasion in relation to the same information.

The Council can choose to prosecute under Section 2 of the Fraud Act 2006 where the debtor has committed a fraud by false representation but only where it is in the Council's financial interests to do so.

There is a right of appeal to The Valuation Tribunal against the imposition of a penalty. Where the penalty is subject to an appeal or arbitration, no amount is payable in respect of the penalty while the appeal or arbitration is outstanding.

Housing & Council Tax Benefit Fraud

In investigating Housing & Council Tax Benefit Fraud, we have 3 “sanction” options:

- Formal Caution
- Administrative Penalty
- Prosecution

Formal Caution

A formal caution is a serious matter. It is an admission by an offender that they have committed an offence. A caution may influence our decision to instigate proceedings if the person offends again. A caution may also be cited in any later Court proceedings within the period of three years from the date of the caution.

Suitably approved officers in the Revenues & Benefits Service have discretion to recommend a formal caution instead of prosecuting an offender.

It is impossible to list all the reasons that would lead an officer to caution for an offence as opposed to instigating prosecution proceedings. As the Home Office has recognised, the decision is essentially one of common sense. However, two questions should be asked in every case:

- Is the caution likely to be **effective**?
- Is the caution **appropriate** to the offence?

The purposes behind the caution are:

- To deal quickly with minor offences
- To prevent such offenders from unnecessary appearances in the criminal courts.
- To reduce the chances of re-offending.

Before an officer decides to caution an offender he or she must be satisfied:

- There is enough evidence to give a reasonable prospect of a conviction.
- The offender will admit the offence.
- The offender will understand the significance of the caution and give their informed consent to the caution.

A formal caution for Housing Benefit or Council Tax Benefit fraud should be only be administered by an authorised officer of the Revenues and Benefits Service.

A Formal Caution may be subsequently cited in court if the person to whom the Caution is given is later prosecuted for other benefit offences. However, it should only be cited if it is relevant to the offence under consideration and only where the offender has re-offended within three years from the date of the Caution. The officer who presents the case should clearly distinguish between cautions and convictions.

The Investigation Officer must consult the databases held by the Police and the Department for Work and Pensions. If an offender has been cautioned for such an offence in the past then a further caution should not normally be offered.

A Formal Caution is in effect a “warning” given in certain circumstances as an alternative to prosecution to a person who has committed an offence. To offer an individual a Formal Caution there must be enough evidence to justify (if necessary) instituting criminal proceedings and the person must have admitted the offence during “Interview under Caution”.

Cautioning is based on a principle that no prosecuting authority is under an obligation to prosecute - the use of the Formal Caution is administrative and no legislation exists covering its use.

Formal Cautions are considered a meaningful “penalty” and deterrent for those people where criminal prosecution proceedings are not a first option and Administrative Penalty action is not appropriate.

We should only consider a Formal Caution where offences are what might be termed minor e.g. small overpayments or the fraud continued for a relatively small period of time etc.

We must consider many factors in deciding if a Formal Caution is the correct form of disposal:

- a) Criminal proceedings are not a first option;
- b) Evidential and “public interest test” criteria have been fully considered;
- c) Person gives informed consent to being cautioned;
- d) The Offence was fully admitted during “Interview Under Caution”;
- e) The level of any overpayment;
- f) The time over which the fraud was perpetrated;
- g) The person’s age (Cautions can only be offered to people over 18 years old);
- h) The person has not offended before, or has offended before but offence was minor and the person was not cautioned/sanctioned/prosecuted and the current offence is minor;

- i) The willfulness with which the person committed the offence and their subsequent attitude at the discovery of the offence;
- j) The person has previously been sanctioned/prosecuted for a similar offence but this was over 5 years ago;
- k) If the person has been cautioned within the last 5 years then only in exceptional circumstances should we consider a further caution e.g. the overpayment is particularly small and/or indications are the person's personal circumstances in the second offence border on one or more of the mitigating factors that would normally exclude prosecution;
- l) There should be no caution considered if the individual has already been cautioned 2 or more times in the past 5 years (two or more cautions previously would indicate a lack of contrition for the offences committed and perhaps a repeated intent to commit benefit fraud);
- m) Administrative delays - Have there been any excessive or inexcusable delays in the investigation or administration of the case;
- n) Will our issue of a Caution be effective and have the desired deterrent effect.

Considering all the above it is not possible to set a "blanket policy" on issuing Formal Cautions. Every case will be considered on its own merits and the case as a whole.

A Formal Caution would not be appropriate if the overpayment was over £600 (generally if the overpayment exceeds £600 we would offer either an Administrative Penalty or instigate prosecution proceedings).

There is effectively no lower overpayment limit in caution cases - we can offer a Formal Caution where the offence has been an attempted fraud.

The longer a fraud has been perpetrated will to a degree, show the intent or wilful action of the individual to defraud. Therefore, a person committing a fraud over more than two years should not be offered a Formal Caution but instead be subject to greater punitive action.

An "offender" is not obliged to accept the offer of a Formal Caution but if they refuse or ignore the offer we will instigate criminal proceedings.

In **all** cases that involve a decision to give a caution for Housing Benefit or Council Tax Benefit, authority must be given and recorded. The Investigation, Overpayment & Support Services Team Leader is the officer designated to administer cautions, unless they have been present or involved with the IUC. In such a case, cautions should be administered by the Head of Revenues and Benefits.

Administrative Penalty

The legislation governing the use of penalties is contained in section 115A of the Social Security Administration Act 1992, as inserted by section 15 of the Social Security Administration (Fraud) Act 1997 and the Social Security (Penalty Notice) Regulations 1997.

An Administrative Penalty is a financial penalty offered to an individual as an alternative to prosecution proceedings. We cannot impose an Administrative Penalty on an individual, but if the offer of such a penalty is rejected or ignored, we should instigate prosecution proceedings.

Administrative penalties have no standing in Court. Therefore, if a person has previously agreed to pay an administrative penalty for an earlier overpayment, it cannot be mentioned in Court.

Administrative penalties are made on behalf of the Secretary of State and there is no right of appeal against the decision nor can the person ask the Secretary of State to review the amount of the penalty which is prescribed in the legislation. Administrative penalties are made on behalf of the Secretary of State; they cannot be issued by the Police.

Administrative Penalties can only be for overpaid benefit (or part of overpayments) that accrued after the Administrative Penalty start date of 18 December 1997 and that arose as a result of benefit offences.

Please note that if the offender is a Council tenant, then the penalty cannot be added to their rent account or treated as rent arrears.

It is possible for the Revenues & Benefits Service to offer an Administrative Penalty to an employer (in relevant cases) for offences that occurred after 30 April 2002 that relate to an employer. Section 115A of the Social Security Administration Act 1992 details the legislation relating to "Customer" (i.e. Benefit Claimant) Administrative Penalties and likewise Section 115B the legislation relating to "Employers".

"Customer" Administrative Penalties are set at 30% of the relevant recoverable overpayment. We can offer an Employer Administrative Penalty to an employer who has committed an offence of:

- Making a false statement, or obstructing an Authorised Officer, or failing to provide the required information, or committing false accounting, when dealing with an enquiry about their employees e.g. under Section 109B or 109C of the Social Security Administration Act 1992.

The Administrative Penalty in the above instance is currently set at £1000. If, however, grounds exist for instigating proceedings because of incitement, conspiracy or aiding and abetting and the employer's conduct involved more than 5 employees the Penalty is set at £5,000. (If less than 5 employees the Penalty is £1,000 x the number of employees).

As with Formal Cautions, we would normally only consider an Administrative Penalty when instigating prosecution proceedings would not be our first option for dealing with the case and where the factors of the case do not warrant a Formal Caution.

We must consider the following factors in deciding if an Administrative Penalty is the correct form of disposal:

- a) Criminal proceedings are not our first option;
- b) We have taken full account of evidential and “public interest test” criteria;
- c) The amount of the overpaid benefit;
- d) The length of time over which the fraud was perpetrated;
- e) The person has not offended before, or has offended before but the offence was minor and the person was not cautioned/sanctioned/prosecuted and the current offence does not, as a first option, warrant prosecution;
- f) The willfulness with which the person committed the offence and the contrition they subsequently display;
- g) Administrative delays - have there been any excessive or inexcusable delays in the investigation or administration of the case.
- h) The person has been previously sanctioned/prosecuted for a similar offence but this was over 5 years ago;
- i) Will issuing the Administrative Penalty have the desired deterrent effect;
- j) We will generally consider repeat offences for prosecution (if they have occurred within the last 5 years). For “sanction” action to be effective we should deal with repeat offences with more severely than previous ones

We must consider each case on its own merits and consider the factors of the case as a whole and not in isolation of each other.

In Administrative Penalty cases (Section 115A cases) we must give serious consideration to the amount of overpaid benefit and the time over which the fraud was committed.

If offences occur resulting in overpayments from £600 to £1,500, an Administrative Penalty may be appropriate. NB In instances where the overpayment is over £1,500 we would generally instigate prosecution proceedings.

We would normally consider overpayments under £600 suitable for a Formal Caution but if the individual does not fully admitted the offence (in which case a Caution would be inappropriate), an Administrative Penalty may be suitable.

If a fraud has been committed over more than two years we must give serious consideration to instigating prosecution proceedings.

It should be noted the offer of a penalty should be made in a special interview. The offender should be told at the interview:

- It is not an interview under caution.
- Acceptance of the penalty is not a declaration of guilt.
- The recovery of the penalty will occur in the same way as the recovery of the overpayment.
- The offender has 28 days in which to change their mind should they accept the penalty - in the event of non-acceptance prosecution would be instituted.
- Failure to repay the debt or default on instalments will result in the offender facing civil proceedings for recovery.

The “offender” is not obliged to accept the offer of an Administrative Penalty but if they refuse or ignore the offer we will instigate criminal proceedings.

In **all** cases that involve a decision to give an Administrative Penalty for Housing Benefit or Council Tax Benefit, authority must be given and recorded. The Investigation, Overpayment & Support Services Team Leader is the officer appointed to give Administrative Penalties, unless they have been present or involved with the IUC. In such a case, Administrative Penalties should be administered by the Head of Revenues and Benefits.

Prosecution

When recommending prosecution proceedings we are effectively stating:

- Prosecution is the first option for dealing with the case and meets the policy on prosecution;
- The mitigating factors against prosecution do not apply;
- We have considered other sanction activity under our policy and it is not appropriate or, the customer has refused/failed to accept a sanction as an alternative to prosecution;
- There is enough legally admissible evidence to give a realistic prospect of conviction;
- We are satisfied the prosecution is in the “Public Interest”.

In all cases that involve a decision to institute prosecution proceedings for Housing Benefit or Council Tax Benefit, authority must be given and recorded by the Head of Revenues and Benefits.

The Investigation, Overpayment & Support Services Team Leader will review all cases recommended for prosecution. Case files will be produced, and these will include all the evidence that has been collated in a clear and orderly manner. A summary of the case and the charges that are recommended, including the relevant legislation that has been breached, will be included at the beginning of the case file.

Where the case involves evidence of DWP benefits, the case file will also contain enough information to enable the DWP benefit fraud to be considered.

Deciding the relevant sanction

There are specific factors we need to consider in our decisions on whether we should apply a relevant sanction:

- Fair and effective prosecution/sanction activity is essential to upholding law and order;
- Prosecution/sanction decisions must be fair and consistent;
- We must examine cases “critically” and with strict neutrality;
- It is essential we display vigorous application of the principles of the European Convention of Human Rights/ Human Rights Act 1998 in particular:
 - Article 6 – Right to a fair trial
 - Article 8 – Right to respect for private and family life

- In every potential prosecution case we must have enough legally admissible evidence to provide a realistic prospect of conviction and the prosecution must be in the public interest.
- As an alternative to prosecution, if we believe the offer of a Formal Caution or Administrative Penalty is the correct action to take then the required standard of “sufficient legally admissible evidence” remains unaffected.
- Investigative activity has been in full compliance with
 - Police and Criminal Evidence Act 1984
 - Criminal Procedure and Investigation Act 1996
 - Human Rights Act 1998
 - Regulation of Investigatory Powers Act 2000

Review and Discontinuance

We must continuously review all prosecutions from starting proceedings. Reviews are important especially when new evidence is found, or as details of the defence case emerges.

Officers must be resolute when made aware of new evidence or information and should not hesitate to recommend discontinuance proceedings in appropriate cases.

Accepting Guilty Pleas

In certain instances defendants may wish to plead guilty to some but not all the charges. Officers should only accept a guilty plea if they believe the Court is able to pass a sentence that matches the seriousness of the offence. Officers must never accept a guilty plea merely because it is convenient.

Criteria to Apply for Prosecution or Sanction Action

In every potential prosecution the officer needs to respond to the following questions:

- a) Is there enough evidence for the prosecution to proceed?
- b) Is the prosecution in the public interest?

If the officer decides there is not enough evidence, then no matter how important or potentially serious the fraud is, a prosecution cannot continue. It will also be improper to offer a formal caution or an administrative penalty to the suspect.

Therefore sanction action will only be suitable if there is enough evidence and it is in the public interest to prosecute.

Sufficient Evidence

In considering the case we must be satisfied there is enough evidence to provide a “realistic prospect of conviction” against every defendant on every charge.

Therefore, we should not start prosecution action unless we can place admissible, substantial and reliable evidence before the Court. Admissible evidence is evidence the Court would not exclude because it had been improperly gathered or obtained in breach of, for example, the Police and Criminal Evidence Act, the Regulation of Investigatory Powers Act, or the Data Protection Act.

The evidence must be substantial, i.e. it can be proved beyond reasonable doubt. The evidence must also be reliable so it stands up to scrutiny in any potential cross-examination by the Defence.

The officer responsible for investigating the case must consider the following:

- a) Any statutory requirements relating to the conduct of investigations and interviews, or codes of practice.
- b) If the case depends on admissions by the accused the officer must consider any evidence that supports or detracts from the reliability of the confession. They must consider the age, intelligence, understanding or other circumstances of the accused.
- c) If the accused gives an explanation, the officer must consider if it is credible in the light of the evidence as a whole.
- d) Officers must also consider any possible defence, e.g. due diligence or best practical means.
- e) If the identity of the accused is likely to be an issue, how strong is the evidence and have they applied correct procedures on identification and recognition?
- f) Are there any reasons to suggest a witness may be unreliable? For instance, is their memory faulty, or are they either friendly or hostile to the accused, or have they some other motive for forwarding their version of events.
- g) Are there matters that can be put to a witness by the Defence to attack their credibility?
- h) Is there a conflict between the evidence of the witnesses?
- i) Officers must not ignore evidence. They should consider all available evidence in deciding whether to prosecute, whether it supports a prosecution or not.

Public Interest

The rationale is the accused should not automatically be subject to prosecution proceedings. We should only instigate a prosecution if the public interest factors in favour of it outweigh those against such action.

There is a presumption in favour of not prosecuting people who are mentally ill or who suffer from severe physical illness. However, the presumption can be rebutted if the offence is sufficiently serious.

The officer should consider the wilfulness with which the offence was committed and the offender's subsequent attitude. Displaying regret and an apology and/or offering to put matters right may support a decision to use a formal caution.

Factors that should weigh for prosecution include:

- a) Any conviction is likely to result in a significant sentence.
- b) The accused was in a position of authority or trust, e.g. a public servant or a trustee.
- c) The accused was an organiser of the offence, where the offence was committed by a group of people.
- d) There are grounds to believe the offence is likely to be continued or repeated.
- e) The accused has allegedly committed the offence while under an order of the Court.
- f) The accused has been cautioned or has been convicted for similar or like offences in the past, or issued with an administrative penalty
- g) The importance of the case itself, i.e. whether it would set a legal precedent.

The factors that weigh against the prosecution and may lead officers to consider other methods of enforcement, such as formal cautions or an administrative penalty are:

- a) The offence is relatively minor.
- b) The Court is likely to impose a mere nominal penalty, such as a discharge or a small fine.
- c) The accused has already been convicted and sentenced by the Courts for a similar offence, and the further conviction is unlikely to result in imposing an additional sentence unless the matter is so serious that it requires further prosecution.
- d) The offence has been committed because of a genuine misunderstanding.
- e) The accused's positive attitude and willingness to prevent any recurrence

- f) The offence is “stale”, i.e. there has been some considerable delay between the offence taking place and the start of a prosecution. If the offence is triable summarily (that is it is triable only in the Magistrates Court) charges must be laid within six months (except for proceedings to which section 116 of the Social Security Administration Act 1992 applies). The Courts have the power to dismiss a case if there has been undue delay by the prosecution (even if started within statutory time limits). However if:
- the offence is serious, or
 - the delay has been caused or substantially caused by the accused, or
 - the offence has only recently been found, or
 - the offence is complex which has resulted in a long investigation,
- then serious consideration should be given to prosecuting the matter.
- g) The old age, illness or infirmity of the accused. However, officers must always be aware of the seriousness of the offence.
- h) The accused has rectified the loss or harm that they have caused. This should not be the sole reason not to prosecute.
- i) Any undertaking and/or valid explanation offered by the Defendant.

Having decided to prosecute a person for Housing Benefit or Council Tax Benefit fraud it is important to do so using the correct and appropriate charges. These should reflect the seriousness of the offence and in turn the Courts' sentencing powers.

The following legislation listed is by no means exhaustive but covers the main Acts under which Local Authorities currently and usually take proceedings:

- Social Security Administration Act 1992 – Section 112
- Social Security Administration Act 1992 – Section 111A
- Theft Act 1968
- Theft Act 1978
- Fraud Act 2006 – Section 2

Summary Offences

These cases can only be dealt with in the Magistrates Court and time bars for laying information apply.

Generally the time bar for summary offences is 6 months from the date the accused committed the offence. However, there are “extensions” for Housing Benefit and Council Tax Benefit Offences. In these cases (Section 112 Social Security Administration Act 1992) the time limit for the laying of information is 12 months from the date the offence was committed but see the “exception” below.

When considering proceedings under Section 112 it is possible that in a case meriting prosecution, if the information cannot be laid within 12 months of committing the offence (usually old offences where the fraud comes to light at a much later stage), for the Local Authority to issue a Certificate (Section 116 of the Social Security Administration Act 1992). If a Certificate has been issued, the information must be laid before the court within 3 months of the date on which “sufficient evidence” to justify proceedings comes to light (this will normally be the date of the Interview Under Caution).

Indictable Offences

These cases can only be dealt with in the Crown Court - time bars for laying information do not apply.

Triable either-way Offences

A group of offences exist which can be tried “either-way”. This means that they may be tried summarily at Magistrates Court or on indictment at Crown Court - time bars do not exist.

Examples of such offences would be those under Section 111A of the Social Security Administration Act 1992 and the Theft Act 1968.

Redress

Redress can be defined as the recovery or attempted recovery of assets lost or defrauded. This would include any type of financial recompense for the fraud. Where possible, the Council will follow cases through to redress. Whilst the Council aims to progress to a sanction, it will also attempt to recover any loss.

Types of redress and recovery examples are:

	Method of redress/recovery
Revenues	<ul style="list-style-type: none">▪ Imposing fines on false Single Person Discount claims▪ Prosecution for false statements▪ Attachment of earnings▪ Pursuing debts through legal proceedings▪ Using bailiff powers
Benefits	<ul style="list-style-type: none">▪ Recovery of overpayment from Landlord or Tenant by issuing an invoice or recovering from ongoing benefits;▪ Pursuing debts through legal proceedings▪ Attachment of earnings or benefits▪ Charges on property

Action on overpayment of benefit

To prevent excessive fraudulent overpayments, overpayments will be kept to a minimum by:

- ensuring that original evidence supports the application for benefit;
- accurately calculating the claim from the outset;
- undertaking reviews at suitable times; and
- encouraging claimants to report changes in their circumstances at the time they occur.

We will take robust steps to recover overpayments that relate to charges of fraud and in collecting any resulting administrative penalties.

In accordance with the Corporate Recovery and Collection Recovery Policy, when an instalment plan to recover a fraud overpayment is needed, we will seek to secure maximum recovery rates.

Deductions from continuing Housing Benefit will be set at the maximum rate outlined in the DWP's overpayment recovery guidelines, unless a reduced rate has been agreed on hardship grounds.

We will be equally robust in our collection of administrative penalties and collection of the penalty will start immediately following repayment in full of the fraud overpayment.

Where we find that a person has deliberately failed to tell us about a change of circumstances, we will:

- Fully investigate the circumstances of the case;
- Consider all the facts having obtained all relevant information using either our Authorised Officer Powers or by interviewing the claimant under caution;
- Make a decision in each case considering any mitigating circumstances;
- Apply a suitable sanction.

Where we do not consider it to be in the "public interest" to sanction a claimant who has either knowingly made a false claim or who has failed to declare a change of circumstances, we will always take steps to recover the overpaid benefit.

It is not our aim to place our customers in financial hardship and we will always agree any reasonable arrangement to repay a debt. However, failure to arrange payment may result in the Council taking civil action to recover the debt through the courts.

Action on Overpayments to Landlords

We sometimes pay Housing Benefit directly to the claimant's landlord. Where a landlord deliberately falsifies or aids a tenant to falsify a Housing Benefit claim we will consider instigating sanction action against the landlord.

If a tenant commits a fraud without their landlord's knowledge we will recover any overpayment from the tenant and not from the landlord's future Housing Benefit payments.

A landlord who receives Housing Benefit for his tenants has a duty to tell the Revenues & Benefits Service of any changes in the tenant's residency of the property. Failure to report such changes could result in the landlord receiving overpaid Housing Benefit.

We make landlords aware of their duty to report known changes to their tenants' circumstances and any failure to do so is an offence under Social Security legislation and they risk prosecution.

Where the landlord fails to tell us of their tenants' changes of circumstances we have to consider if they are a "fit and proper" landlord and if we can continue to pay Housing Benefit to them.

We will always seek to recover any overpaid benefit from a landlord where that landlord fails to report a known change of circumstance. Where possible we will recover any overpayment from continuing Housing Benefit being paid to the landlord for their other tenants (Blameless Tenant Recovery). Any failure to repay an overpayment may result in civil action to recover the debt through the courts.

We will prosecute anyone involved in a planned or organised fraud involving more than one person.

The Revenues & Benefits Service will use the powers granted to them by the Secretary of State for Social Security under the Social Security Administration (Fraud) Act 1997, namely the powers of inspection and the power to gain information from landlords.

Appendix A - Code of Conduct for Investigators

As well as complying with Taunton Deane Borough Council's Corporate Code of Conduct, Taunton Deane Borough Council expects its Investigators to observe the following standards of conduct:

1. Investigation Officers will declare all cases of alleged fraud where they hold an interest. An 'interest' is defined as a legal interest in any property involved in the alleged fraud, or a personal relationship with any persons involved in an alleged fraud.
2. Investigation Officers must inform the Investigation, Overpayment & Support Services Team Leader immediately of any summons, charge, criminal convictions or anything else which may compromise their ability to carry out investigations.
3. Investigation Officers will at all times follow the Home Office Codes of Conduct under the Police and Criminal Evidence Act (PACE) 1984. Under section 67(9) of PACE Fraud Investigators are persons charged with the investigation of crime and are subject to the same restraints as the police, particularly those contained in PACE.
4. Investigation Officers will gather sufficient evidence to support conclusions and if it is necessary to invoke prosecution or other sanctions. The evidence obtained must be admissible and to the criminal standard.
5. All interviews with persons suspected of committing an offence will be conducted under caution in accordance with PACE.
6. Investigation Officers must adhere to the code of conduct set out in the Criminal Procedures & Investigation Act (CPIA) 1996.
7. Investigation Officers will maintain separate fraud files for all investigations. They will keep any records that are needed for the purposes of disclosure under CPIA, Regulation of Investigatory Powers Act (RIPA) 2000 and the Data Protection Act (DPA) 1998.
8. Investigation Officers must ensure information is always disclosed in accordance with the DPA.
9. Investigation Officers will declare membership of any organisation that could influence the outcome of an investigation.
10. At all times, Investigation Officers will treat persons suspected of HB/CTB Fraud with respect and courtesy. They will remain vigilant to any potential risk to their own integrity and that of the Council.
11. Investigation Officers must consider and observe the rights of any individual they are interviewing or investigating as outlined in the Human Rights Act 1998 and RIPA.

12. Investigation Officers will exercise particular care when making visits on their own in the following circumstances and seek appropriate advice from a senior officer if necessary:
 - Visits to persons living alone
 - Visits after dark
 - Visits to hostels or accommodation providing 'Care in the Community'
 - Visits to young persons
13. Investigation Officers must be aware of the potential for violence from persons under investigation and should not place themselves in a situation where there is a risk of attack. Investigation Officers must always check Taunton Deane's Customer Liaison list prior to an interview. Investigation Officers must not carry out unaccompanied visits or interviews with known potentially violent persons.
14. Investigation Officers must maintain accurate records of all visits, interviews and telephone calls in an approved format. QB50 notebooks must be kept securely.
15. Investigation Officers must show their ID card before entering a person's home. If asked to leave, they must do so immediately.
16. A breach of the Code of Conduct will be treated as misconduct and will be dealt with under Taunton Deane Borough Council's disciplinary procedures.

Name of Investigator:

Signature:

Date:

12/12/2011, Report:Standards Committee - Review of 2010/2011
Reporting Officers:Anne Elder

12/12/2011, Report:Health and Safety update report
Reporting Officers:David Woodbury

12/12/2011, Report:Audit Commission - Annaul Audit Letter 2010/2011
Reporting Officers:Shirlene Adam

12/12/2011, Report:Internal Audit Plan - progress report
Reporting Officers:Chris Gunn

12/12/2011, Report:Corporate Governance Action Plan update
Reporting Officers:Dan Webb

12/12/2011, Report:Debt Recovery update
Reporting Officers:Paul Harding

12/12/2011, Report:Anti fraud and error policy
Reporting Officers:Heather Tiso

12/03/2012, Report:Risk Management update
Reporting Officers:Dan Webb