Bracknell Forest Council

NOTICE OF MEETING

Governance & Audit Committee
Tuesday 29 January 2013, 7.30 pm
Council Chamber, Fourth Floor, Easthampstead House, Bracknell

To: The Governance & Audit Committee

Councillor Ward (Chairman), Councillor Wade (Vice-Chairman), Councillors Allen, Ms Brown, Heydon, McCracken, Thompson, Worrall and Mr G S Anderson

cc: Substitute Members of the Committee

Councillors Mrs Ballin, Blatchford, Mrs Hayes, Leake, Mrs McCracken and Mrs Temperton

ALISON SANDERS
Director of Corporate Services

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If you require further information, please contact: Priya Patel
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Published: 21 January 2013

Governance & Audit Committee
Tuesday 29 January 2013, 7.30 pm
Council Chamber, Fourth Floor, Easthampstead House, Bracknell

AGENDA

8. **Code of Conduct for Members**

This report seeks the Committee's endorsement to a draft revised Code of Conduct for Members ("the draft Code") which is set out at Annexe A of the attached report. 59 - 78

9. **Scheme of Delegation to Officers - Certificate of Lawful Use**

This report proposes that power to determine applications for Certificates of Lawful Use made under the Town and Country Planning Act 1990 ("the 1990 Act") should be delegated to the Chief Officer: Planning and Transport notwithstanding that such an application might attract objections from more than three households and/or organisations. 79 - 82

10. **Annual Governance Statement Preparation**

To nominate a Member to attend the meeting of the Governance Working Group which formulates the Annual Governance Statement (AGS) and the AGS Action Plan. 83 - 84

11. **Date of Next Meeting**

26 March 2013.

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GOVERNANCE & AUDIT COMMITTEE
6 NOVEMBER 2012
7.30 - 9.00 PM

Bracknell Forest Council

Bracknell Forest Borough Council:
Councillors Ward (Chairman), Allen, Ms Brown, Heydon, McCracken, Worrall, Blatchford (Substitute) and Leake (Substitute)

Independent Members:
Gordon Anderson

Apologies for absence were received from:
Councillors Thompson and Wade

21. **Substitute Members**

The Committee noted the attendance of the following Substitute Members:

Councillor Blatchford for Councillor Thompson
Councillor Leake for Councillor Wade

22. **Declarations of Interest**

There were no declarations of interest.

23. **Minutes of Previous Meeting**

RESOLVED that the minutes of the meeting held on 25 September 2012 be approved as a correct record and signed by the Chairman.

24. **Annual Audit Letter 2011/12**

Helen Thompson, District Auditor, presented the Audit Commission's Annual Audit Letter 2011/12 to the Committee. The Annual Audit Letter focused on the Council's financial statements and its arrangements to secure economy, efficiency and effectiveness in the use of resources.

The Annual Audit Letter contained three recommendations which would be implemented before the 2012/13 audit:

- Keep up improvements in valuation of property, plant and equipment by ensuring evidence to support valuations is timely, reviewed and consistent
- Continue to improve processes for recording related party transactions
- Strengthen controls over the authorisation of journals

The District Auditor confirmed that the 2011/12 Audit was now complete and thanked Members and officers for their support and co-operation throughout the audit process.

Members took the opportunity to ask the District Auditor about the new external audit arrangements which had now come into effect. It was noted that there had been no changes in personnel.

RESOLVED that the Annual Audit Letter 2011/12, at Appendix A of the report, be noted.

25. **Treasury Management Strategy Statement and Annual Investment Strategy - Mid-Year Review Report 2012/13**

The Chief Technical Accountant presented the Treasury Management Strategy Statement and Annual Investment Strategy Mid-Year Review Report 2012/13. The mid-year report had been prepared in compliance with CIPFA's Code of Practice and included an economic update for the first six months of 2012/13, a review of the Treasury Management Strategy Statement and Annual Investment Strategy, the Council's capital expenditure (prudential indicators), a review of the Council's investment portfolio for 2012/13 and a review of compliance with Treasury and Prudential Limits for 2012/13.

There were initial signs that economic growth may have returned after three quarters of recession but, worldwide, there remained huge uncertainties in economic forecasts.

It was reported that there were no policy changes to the Treasury Management Strategy Statement. The approved limits within the Annual Investment Strategy were not breached during the first six months of 2012/13 and no changes to these limits were proposed.

The report detailed the Council's current investment counterparty selection criteria, the key criteria being the credit ratings supplied by the three main credit ratings agencies. However, the financial crisis following the Lehman's collapse and the recent sovereign credit-worthiness difficulties, almost all financial institutions had experienced a substantial cut in their credit-ratings, often to a level that would render most counterpart criteria unsuitable for practical purposes. In addition, it was widely acknowledged that credit-ratings, on their own, were nor sufficient in capturing and evaluating the relative levels of risk attached to a counterparty. Accordingly, the Council's Treasury Management advisers had developed a more sophisticated mode utilising credit ratings supplemented with overlays of credit watches and outlooks in a weighted scoring system which was combined with Credit Default Swap (CDS) spreads. An annex to the report outlined how the existing Counterparty List might look under the proposed changes.

In response to Members' questions, the Chief Technical Accountant reported that:

- The new model had been in operation for about three years.
- CDS data was updated daily
- The financial markets were still volatile. The new model suggested the maximum duration of three months for investments with the exception of those UK part-Nationalised Banks where investments of up to 364 days would be permissible.

It was agreed that a key be added to the annex to explain what the various ratings meant. It was also agreed that the next Treasury Management report should provide details of where the Council's £41.7m portfolio was invested.

The Committee requested that its appreciation of the work of the Council's Treasury Management team be recorded.

RESOLVED that

I. the Mid-Year Review Report be shared with members of the Full Council.

II. Officers note the Committee's comments on the proposed approach to the future selection of investment counterparties.

26. **The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012**

The Borough Solicitor presented a report outlining the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 issued in September.

The Regulations were not subject to any consultation with local authorities and, whilst Council procedures could be revised to meet the new requirements regarding Key Decisions and Notice of Meetings to be held in private, concerns had been expressed throughout local government about the new requirements for the Recording of Decisions by Officers.

The previous Regulations contained provisions which required individual Members, when making any decision and officers when making Key Decisions to make a record of the decision. However the new Regulations extend the requirement to make a record to all "Executive Decisions" made by officers and to publish those decisions on the Councils web-site. The Borough Solicitor reported that if the Council had to publish a record of all "operational decisions" for Executive functions, it would entail publishing details of many hundreds of routine decisions each month Accordingly he recommended that the Corporate Management Team formulate for approval by the Chairman of the Committee criteria as to when officer non-Key Decisions should be recorded and published.

Whilst recognising the practical difficulties that the new Regulations had caused, Members expressed the view that a balance needed to be struck between practicality of implementation and the desire to secure transparency Accordingly it was agreed that the proposed provisions relating to the recording of decisions taken by officers be submitted to the Committee for approval.

RECOMMENDED to Council that the Borough Solicitor be authorised to amend the Council's Constitution to reflect the Regulations save that provisions relating to the recording of decisions taken by officers be submitted to the Governance and Audit Committee for approval.

27. **Internal Audit Assurance Report April - September 2012**

The Head of Audit & Risk Management presented the Internal Audit report which provided a summary of Internal Audit activity during the period April to September 2012.

The report stated that, during this period, 8 full reports with an opinion had been finalised, 15 had been issued in draft awaiting management responses and, in 10 cases, audit work was in progress. However, since the publication of the report, 6 of the 15 draft reports had been finalised. Of the reports issued, limited assurance opinions had been given for 4 audits.

Further to the weaknesses identified by the External Auditors on the 2009/10 Housing Benefit and Council Tax Subsidy grant claim, the report detailed results of unannounced spot check visits during 2011/12 and 2012/13. In response to Members' questions the District Auditor reported that significant progress had been made in reducing systemic errors since the weaknesses had been identified. Given the complexity of some of the calculation it was inevitable that some errors would occur.

The Committee noted that three of the limited assurance conclusions related to schools and expressed concern that the weaknesses identified appeared to be regarding basic matters that should not have given rise to difficulties. It was acknowledged that school governing bodies were responsible for financial management.

RESOLVED that the Internal Audit Assurance Report, April – October 2011 be noted.

28. **Date of Next Meeting**

29 January 2013.

CHAIRMAN

TO: GOVERNANCE AND AUDIT COMMITTEE
29 JANUARY 2013

EXTERNAL AUDIT MATTERS
Borough Treasurer

1 PURPOSE OF REPORT

1.1 To receive the external auditor's Annual Certification Report on claims and returns for 2011/12.

1.2 To note the Annual Audit Fee for 2012/13.

2 RECOMMENDATIONS

That the Governance and Audit Committee:

2.1 Receive the external auditor's Annual Certification Report on claims and returns for 2011/12, and

2.2 Note the Annual Audit Fee for 2012/13.

3 REASONS FOR RECOMMENDATIONS

3.1 To advise the Governance and Audit Committee of the external auditor's conclusions and recommendations following the completion of the annual audit of claims and returns for 2011/12.

3.2 To advise the Governance and Audit Committee of the Annual Audit Fee for 2012/13.

4 ALTERNATIVE OPTIONS CONSIDERED

4.1 None

5 SUPPORTING INFORMATION

Annual Certification Report

5.1 The Council claims significant sums of money from the Government and the external auditor is required to undertake certification work to provide assurance that the Council's claims for grant are made properly and that the information contained in financial returns is reliable. In Bracknell Forest this work is focussed in three areas:

- Housing and council tax benefit
- National non-domestic rates
- Teachers' pensions

5.2 The external auditor's Annual Certification Report on claims and returns for 2011/12 is attached at Annex A and Helen Thompson, Director, Ernst and Young will attend the meeting to present the report and answer questions.

Annual Audit Fee 2012/13

5.3 Ernst and Young have been awarded a five year contract to audit public bodies in the South East and are now the Council's external auditors. The fee for 2012/13 has been set by the Audit Commission as part of that procurement exercise and will not increase unless there is a change in the scope of the external auditor's work.

5.4 The letter attached at Annex B sets out the scope of the external auditor's work and the assumptions underpinning their fee. The Total Code audit fee (£138,564) represents a reduction of £92,000 when compared to previous years and this saving has been incorporated within the draft budget proposals that are currently out for consultation. No savings have been anticipated from the work associated with the certification of claims and returns at this stage as these costs have proven to be more volatile in the past. The recent improvements that have been made in the Council's approach to compiling grant claims and returns should, however, result in an additional saving in the future.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 Nothing to add to the report.

Borough Treasurer

6.2 The costs associated with the certification of claims and returns for 2011/12 can be met from the budget for external audit fees.

6.3 A saving was anticipated from the award of the external audit contract to Ernst and Young. The details are set out in Annex B and summarised in paragraph 5.4 above.

Equalities Impact Assessment

6.3 Not applicable

Strategic Risk Management Issues

6.4 The change of external auditor represents a potential risk as the Council will need to adapt to the requirements of Ernst and Young. This risk is being mitigated by effective communication between the Council, Ernst and Young and Deloitte (the Council's internal audit provider), whose work Ernst and Young will place reliance upon.

Other Officers

6.5 Not applicable

7 CONSULTATION

Principal Groups Consulted

7.1 Not applicable

Method of Consultation

7.2 Not applicable

Representations Received

7.3 Not applicable

Background Papers
None

Contact for further information
Alan Nash, Corporate Services - 01344 352180
Alan.nash@bracknell-forest.gov.uk

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Annual Certification Report (2011/12)
Bracknell Forest Council

Report to those charged with governance

January 2013

Ernst & Young LLP

ERNST & YOUNG

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The Members of the Governance and Audit Committee
Bracknell Forest Council
Easthampstead House
Town Square
Bracknell
Berkshire
RG12 1AQ

18 January 2013

Dear Members

Annual Certification Report (2011/12)

We are pleased to attach our annual certification report for the forthcoming meeting of the Governance and Audit Committee. This report summarises the results of certification work that we have undertaken at Bracknell Forest Council on 2011/12 claims and returns.

Scope of work

Local authorities claim large sums of public money in grants and subsidies from central government and other grant-paying bodies and are required to complete returns providing financial information to government departments. Often these grant-paying bodies require certification from an appropriately qualified auditor of the claims and returns submitted to them.

Certification work is not an audit. Certification work involves executing prescribed tests which are designed to give reasonable assurance that claims and returns are fairly stated and in accordance with specified terms and conditions.

Under section 28 of the Audit Commission Act 1998, the Audit Commission may, at the request of authorities, make arrangements for certifying claims and returns because scheme terms and conditions include a certification requirement. When such arrangements are made, certification instructions issued by the Audit Commission to Ernst & Young, as appointed auditors of the Council, set out the work we must undertake before issuing our certificate. We certify grants and claims as they arise throughout the year to meet the audited claim/return submission deadlines set by the grant-paying bodies.

Statement of Responsibilities of Auditors and Audited Bodies

In March 2010 the Audit Commission issued a revised version of the 'Statement of responsibilities of auditors and audited bodies' ('Statement of responsibilities'). It is available from the Chief Executive of each audited body and via the Audit Commission website.

The statement of responsibilities serves as the formal terms of engagement between the Audit Commission's appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

This Annual Certification Report is prepared in the context of the statement of responsibilities. It is addressed to the Governance and Audit Committee, and is prepared for the sole use of the audited body. We, as appointed auditor, take no responsibility to any third party.

Results of certification work

For the period 1 April 2011 to 31 March 2012 we certified three claims and returns with a total value of £96.207 million.

Although there have been continuing improvements in the Council's approach to compiling grant claims, it was still necessary to qualify and amend the Housing and Council Tax Benefit claim. Details of the qualification matters are included in section 2. Adjustments to subsidy may arise due to this. The amendment to the claim increased the grant due to the Council by £1,380.

All deadlines for submission of certified claims and returns were met.

Fees for certification work are summarised in appendix A.

We welcome the opportunity to discuss the contents of this report with you at the Governance and Audit Committee meeting scheduled for 29 January 2013.

Yours faithfully
For and on behalf of Ernst & Young LLP

David Wilkinson
Ernst & Young LLP

Contents

1. Summary of 2011/12 Certification Work

Claim or return	Certificate Instruction (CI) Reference	2011/12 Claim Value £000s	Qualification (Q) Amendment (A) Neither (-)	Reason for issue, and financial effect.
Housing and council tax benefit scheme	BEN01	37,544	(Q) (A)	See section 2 below – the main issues arising related to calculation of earnings and classification of overpayments. Progress has been made since 2010/11 in reducing classification errors.
National non-domestic rates return (NNDR3)	LA01	52,342	-	Not applicable
Teachers' pension return	PEN05	6,321	-	Not applicable

2. Qualifications in respect of 2011/12 certification work

The certificate that we issue to the grant-paying body is qualified where there is disagreement or uncertainty over an item or items in the claim or return, or the Council has not complied with the scheme terms and conditions. Details of the qualifications made during 2011/12 are provided below.

Claim/Return	Issue and risk arising	Officers' comments and agreed action plan
Housing and council tax benefit scheme	Errors in the calculation of income can lead to underpayments or overpayments to claimants. If benefit is overpaid the Council may receive a lower subsidy. From the initial sample of 60 claims, we identified two claims where an underpayment of benefit arose and a further claim where, although there was no impact on entitlement, the income calculation was incorrect. As errors in the calculation of income have arisen in the past, we were required to extend our testing. This identified a further seven claims with errors – four led to underpayments of benefit, one had no impact and two led to an overpayment of benefit. This was reported in the qualification letter. The Council should continue to focus on reducing errors in this area.	A programme exists for checking 10% of all assessment officer work and all high payments are checked. Issues identified in calculating income are identified and addressed at one to one supervision with staff and training offered. The software that selects the random sample to be checked now provides a higher percentage of claims which include earnings to address this issue. This programme has seen a steady increase in the quality of assessments over the last year and will be continued.
	Once overpayments have occurred the impact on subsidy varies depending on the cause and therefore classification of the overpayment. Problems with the classification of council tax overpayments have been identified in the past. We were therefore required to carry out additional work in this area, and identified • one misclassified case relating to the overpayment of benefit when a claimant dies. This was reported in the qualification letter. The officers do not agree with our interpretation of the guidance and we included their comments in the letter to the DWP.	The Council's benefit software is written to comply with statutory instrument 1998/562 in determining the nature of technical overpayment for council tax benefit purposes. As such the Council does not agree with the auditors' interpretation of the misclassification of the error. Nevertheless, the introduction of the "Tell Us Once" programme means that following registration of deaths claims will automatically be suspended in the future thus avoiding this situation arising.

	• one amendment was required to correct the classification of a different type of overpayment for council tax. This was determined to be an isolated case due to the nature of the claim. Overall, fewer errors with overpayments were identified than in 2010/11. The classification of backdated claims has also improved. As there were several errors in classifying backdates for rent allowances in 2010/11, we carried out additional testing in 2011/12 and found one error. The claim was amended for this. We identified the following areas where the Council should continue to improve:	
	• two amendments were made to cells to correctly reflect the underlying working papers. This had no impact on the subsidy	The errors identified in working papers were due to transposition of numbers and are not regarded as systematic error.
	• the entries on the claim form should reconcile with each other. We found discrepancies of £15,000 and, as in 2010/11, we reported this	
	• cases for claimants living in mobile homes properties had been misclassified. This had no impact on the subsidy and the cases were moved to the correct part of the claim. This has been reported in previous years.	The Council regularly reviews the classification of claims based on advice from experts and other local authorities. Where there are judgements to be made on the appropriate classification of claims the Council will rely upon this advice and discussion with the auditor to inform classification.

3. Progress on previous auditor recommendations

Progress on recommendations from 2010/11 grant certification work is detailed below.

Agreed action	Deadline	Current status
Keep the focus on reducing the level of errors in awarding and claiming subsidy for Housing Benefit and Council benefit.	Ongoing	Scope for some further improvement We noted improvements during our testing of the 2011/12 claim although work is still required on reducing errors in earnings calculations.
Continue to reduce the level of errors in assessing earnings Ensure there is a clear trail of how assessments have been made.	1 April 2012	Scope for improvement Based on our samples we found ten errors in 2011/12. In 2010/11 three errors were found, so this remains an area for the Council to focus on. Scope for some further improvement We noted improvements during our testing of the 2011/12 claim but there is still scope to make the trail clearer. As well as supporting the certification audit it would also save time needed for the Council's own management checks.
Reduce the level of errors in classification. Review the classification of cases in Northgate, in particular for errors found in 2010/11 such as non HRA rent rebates, regulated tenancies and overpayments.	Ongoing	Scope for some further improvement Much work has been carried out on regulated tenancies and in 2011/12 the Council's own checks identified an error before the claim was submitted. Overpayment classification has improved in 2011/12. There remains further scope to eliminate errors. Audit adjustments were still required for non HRA rent rebates in respect of claimants in mobile homes.

Agreed action	Deadline	Current status
Ensure changes in benefit regulations, are reflected in the software and subsidy claim. This relates to the change in regulations for classifying Council Tax benefits overpayments when a claimant dies.	Ongoing	Scope for improvement One error was found with an overpayment due to the death of a claimant. The Council disagrees with our view and we have included their comments in our report to the DWP.
Investigate why there are start date errors and provide training if required.	Ongoing	Implemented Additional testing in 2011/12 identified no issues to report.
As audit queries are raised ensure staff are clear on what is required so action is planned to clear them promptly and effectively.	Implemented	Implemented We noted improvements during our testing of the 2011/12 claim.

Appendix A Certification Fees

Claim/Return	2011/12 Actual £	2010/11 Actual £	Reasons for changes in fee greater than +/- 10 per cent
Housing and council tax benefit scheme	63,714	70,677	There were fewer errors and continued improvement in how officers responded to queries and carried out additional testing.
National Non-domestic Rate (NNDR3)	1,144	5,034	The fee was higher in 2010/11 due to the change of system mid year
Teachers Pension return	2,216	1,215	The fee was higher in 2011/12 as fuller testing is required every 3 years
Sure start, early years and childcare grant and aiming high for disabled children grant	-	2,167	Not requiring certification in 2011/12
Disabled facilities	-	120	Not requiring certification in 2011/12
Planning and reporting	5,135	4,189	Estimate
Total	**72,209**	**83,402**	

Ernst & Young LLP

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17 December 2012

Ref: HT/BFC/27723607

Direct line: 07974 007332

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Dear Tim

Annual Audit Fee 2012/13

We are writing to confirm the audit work that we propose to undertake for the 2012/13 financial year at Bracknell Forest Council. The fee reflects the risk-based approach to audit planning set out in the Code of Audit Practice and the work mandated by the Audit Commission for 2012/13. The audit fee covers the:

- Audit of the financial statements;
- Value for money conclusion; and
- Whole of Government accounts.

Our fee has been set by the Audit Commission as part of the recent 5 year procurement exercise and consequently is not liable to increase in that period without a change in scope.

Indicative audit fee

For 2012/13 the Audit Commission has set the scale fee for each audited body. The 2012/13 scale fee is based on certain assumptions, including:

- The overall level of risk in relation to the audit of the financial statements is not significantly different from that of the prior year;
- We are able to place reliance on the work of internal audit to the maximum extent possible under auditing standards;
- The financial statements will be available to us in line with the agreed timetable;
- Working papers and records provided to us in support of the financial statements are of a good quality and are provided in line with our agreed timetable; and
- Prompt responses are provided to our draft reports.

Meeting these assumptions will help ensure the delivery of our audit at the indicative audit fee.

The indicative audit fee set out in the table below has initially been set at the scale fee level as the overall level of risk in relation to the audit of the financial statements is not significantly different from that of the prior year .

Ernst & Young

	Indicative fee 2012/13 £	Planned fee 2011/12 £	Actual fee 2010/11 £
Total Code audit fee	138,564	230,940	256,600
Certification of claims and returns*	48,600	60,000	77,500

*The indicative fee for 2012/13 and the planned fee for 2011/12 relate to the certification of grant claims and returns for the years ended 31 March 2013 and 31 March 2012 respectively. The certification fees for 2010/11 are the actual fees for the year ended 31 March 2011.

Any additional work that we may agree to undertake (outside of the Audit Code of Practice) will be separately negotiated and agreed with you in advance.

Our audit plan for the audit of the financial statements will be issued in March 2013. This will detail the significant financial statement risks identified, planned audit procedures to respond to those risks, and any changes in fee. It will also set out the risks identified in relation to the value for money conclusion. Should we need to make any significant amendments to the audit fee during the course of the audit, we will discuss this in the first instance with the Borough Treasurer and, if necessary, prepare a report outlining the reasons for the fee change for discussion with the Governance and Audit Committee.

Billing

The indicative audit fee will be billed in quarterly instalments of £46,791.

Audit team

The key members of the audit team for 2012/13 are:

Helen Thompson **Director**	HThompson2@uk.ey.com	Tel: 07974 007332
Catherine Morganti **Manager**	CMorganti@uk.ey.com	Tel: 07779 576414
Rachel Cobley **Executive**	RCobley@uk.ey.com	Tel: 07966 400980

We are committed to providing you with a high quality service. If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, please contact me. If you prefer an alternative route, please contact Steve Varley, our Managing Partner, 1 More London Place, London, SE1 2AF. We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. Should you remain dissatisfied with any aspect of our service, you may of course take matters up with our professional institute.

Yours sincerely

Helen Thompson

Helen Thompson
Director
Ernst & Young LLP
United Kingdom

cc. Alan Nash, Borough Treasurer
Cllr Alan Ward, Chair of the Governance and Audit Committee

Agenda Item 6

TO: GOVERNANCE AND AUDIT COMMITTEE
29 JANUARY 2013

TREASURY MANAGEMENT REPORT
(Borough Treasurer)

1 PURPOSE OF DECISION

1.1 To review the Treasury Management Report.

2 RECOMMENDATIONS

2.1 That the Committee review the Treasury Management Report prior to its approval by Council.

3 REASONS FOR RECOMMENDATIONS

3.1 The reasons for the recommendations are set out in the report.

4 ALTERNATIVE OPTIONS CONSIDERED

4.1 The Code of Practice requires the Council's annual Treasury Strategy to be examined and reviewed by a responsible body. The Governance and Audit Committee has been nominated by Council to be that body.

5 SUPPORTING INFORMATION

5.1 The Local Government Act 2003 requires a local authority to "have regard to" guidance issued by, or specified by, the Secretary of State. As such, the Council is required to have regard to the Prudential Code and Code of Practice on Treasury Management in the Public Sector, both issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).

5.2 Under the requirements of the Prudential Code, the Council must set Prudential Indicators for the next three years to ensure that the Council's capital investment plans are affordable, prudent and sustainable. The attached Treasury Management Report outlines the Council's Prudential Indicators for 2013/14 to 2015/16 and sets out the expected treasury operations for this period.

5.3 The Code of Practice recommends that a responsible body be nominated by the Council and having examined and assessed the effectiveness of the treasury management strategy and policies recommend them to Council. At its meeting on 2 March 2011 Council nominated the Governance and Audit Committee as the responsible body.

5.4 The attached Treasury Management Report (annex A) was approved by the Executive, as a part of the Council's overall budget proposals, on 11 December 2012. The Executive requested that the Governance and Audit Committee review each of the key elements. Following this review the Treasury Management Report and associated documents will be presented to Council for approval on 29 February 2013, as a part of the overall budget package and resolution on the Council Tax for 2013/14.

Counterparty Selection

5.5 The Committee reviewed the 2012/13 half-yearly report in November 2012 and included in that review was the recommendation that the Council should consider adopting an amended approach to selecting the Counterparties used for investments. The reasons behind this change were highlighted to the Committee and can be best summarised as follows

- The Council maintains a low risk approach to counterparty selection and there is no intention on diverging from this, however over recent years there has been a shift in the reliance placed purely in credit-ratings on counterparty selection.
- As a result of the recent financial crisis and the sovereign creditworthiness difficulties, almost all financial institutions, and indeed countries, have experienced a substantial cut in their credit-ratings, almost to a level that would render most counterparty criteria unsuitable for practical purposes.
- It is widely acknowledged that credit-ratings on their own are not sufficient in capturing and evaluating the relative levels of risk attached to a counterparty. The CIPFA code recommends that Councils do not place sole reliance on credit-rating scores but use other techniques and financial analysis to evaluate credit-worthiness.
- A widely-recognised additional indicator is the Credit Default Swap (CDS) which is a marketable instrument whereby the seller will compensate the buyer in the event of a loan default. However CDS are tradable and a huge market exists ($25tn) and they are actively used to monitor how the market views the credit risk of any entity for which a CDS is available.
- In light of the changing economic backdrop the Council's Treasury Management advisers (Sector) have developed a modelling approach utilising credit ratings from the three main credit rating agencies supplemented with overlays of credit watches and outlooks in a weighted scoring system which is then combined with CDS spreads for which the end product is a series of colour coded bands which indicate the relative creditworthiness of counterparties.

5.6 The Committee agreed, after discussing the attributes of the recommended Sector model, to support the amended approach to Counterparty selection and as such the 2013/14 Treasury Management Strategy, included within the 2013/14 Budget Proposals, recommended such an approach.

5.7 At the time of the November meeting there was still considerable uncertainty in global economic markets, with particular concern regarding the weaker Euro Zone countries (Greece and to a lesser extent Spain and Italy) and the impending American "Fiscal Cliff" which alluded to the difficult situation facing the United States administration in agreeing a fiscal budget by the end of December 2012. Given these continuing risks, the Sector Model maintained the approach adopted in September 2011 to limit for all but a few exceptions maximum durations of 3 months.

5.8 The Council's own Investment Criteria limits all investments to 364 days and £7m in any one institution, but operationally the majority of maturities are limited to 3 months, and as such was broadly in step with the Sector model.

5.9 However these temporary restrictions within in the Sector Model are to be lifted, and with the recommended full adoption of the Model in 2013/14 it is appropriate that the reasons behind this are explained to the Committee. It should be made clear that there will be no changes made to the underlying Treasury Management Strategy of the Council. Maturities will not extend beyond 364 days, however operationally, if cash flow permits it, investments can be extended beyond 3 months for financial institutions meeting the strict credit criteria adhered to by the Council.

5.10 Since the impositions to the temporary revisions Sector have maintained a constant oversight of market conditions and believe that given the underlying improvements in these as outlined below, the need for a more stringent limit on duration is no longer necessary. This does not mean that problems within financial markets are fully resolved; however it is a reflection that some of the excess fears surrounding the continued existence of the Eurozone have subsided and that liquidity in financial markets is now significantly improved.

5.11 There have been a number of clear reasons for the marked improvement in financial markets as follows:

- The decision by the European Central Bank to announce unlimited support for sovereigns subject to stringent requirements, via its Outright Monetary Transaction programme, who request external aid. Although no country has, as yet, sought help, just the offer of such backing has seen yields on peripheral government bonds fall back materially in the second half of 2012.
- There were two major UK funding announcements in 2012. The first was the Extended Collateral Term Repo facility which provided institutions, via regular auctions, access to 6 month funding at Bank Rate plus 0.25%. The second was the Funding for Lending scheme which also allowed financial institutions access to low cost funding for an extended period.
- The partial success in the US of averting the “fiscal cliff” via an agreement on tax changes in the opening moments of 2013.

5.12 However the outlook for 2013 remains mixed at best. The UK is expected to struggle to generate positive growth and this may lead one or more of the main rating agencies to cut our “AAA” sovereign rating. Although evidence from others who have been cut before from AAA would suggest that the impact may not be severe, it may add to market nervousness. In addition, the US fiscal situation is far from resolved and the final key element of market concern will remain the Eurozone. Fresh issues in Spain and Greece will always have the ability to raise concerns as well.

5.13 However the improvement in market metrics seen since the second half of 2012 and the more recent stability are enough for Sector to lift the temporary suggested investment cap put in place in September 2011 within its Model realising the potential for the Council to extend maturities over the coming months. However, this is a sign of markedly improved stability, not a signal that the ills of the financial crisis are gone. Conditions will likely remain volatile for some time, but within more reasoned levels than seen previously.

Understanding Credit Ratings

5.14 The Committee asked, at its meeting in November, for an explanation of the various Credit Ratings used by the Council in its Counterparty selection. The Sector Model uses a combination of all three of the main Credit Ratings Agencies who each use slightly different terminology. In order to examine and explain the ratings used by the Council, this summary focuses on those used by Fitch. A more comprehensive description of each category and its ratings is given in Annex B

- Sovereign Credit Rating
  Fitch assigns a long term credit rating to the country in which the financial institution being rated is domiciled. This credit rating assesses the economic health of the country including its ability to service its debt and also its capacity to support the banking system in that country should financial support be required. The assessment follows the normal long term rating scale, the highest rating being AAA with anything below BBB being non investment grade i.e. “junk bond status”. The UK has a AAA rating and the Council’s policy is to invest only in UK institutions.

- International Long - Term Credit Ratings
  Long - term credit ratings are an attempt to assess the ongoing stability of an institution’s prospective financial condition given such factors as sensitivity to fluctuations in market conditions and the capacity for maintaining profitability or absorbing losses in a difficult operating environment. Traditionally they look beyond a 12 month horizon. Investment grade ratings range from AAA to BBB, the full range is given in Annex B

  The minimum rating that BFC will use is A- which is mid range in the ratings referred to above. **A** ratings denote a low expectation of credit risk. The capacity for timely payment of financial commitments is considered strong.

- International Short - Term Credit Ratings
  A short - term rating has a timescale of less than 12 months for most obligations and thus places greater emphasis on the liquidity necessary to meet financial commitments in a timely manner. The minimum rating that BFC will use is F1. This indicates the strongest capacity for timely payment of financial commitments. The ratings range from F1 through to D.

- Viability Ratings
  Viability ratings are a relatively new introduction by Fitch and effectively replace the old Individual ratings. The viability rating represents the capacity of a bank to maintain ongoing operations and to avoid failure in the absence of external e.g. Governmental support , Thus, viability ratings permit an evaluation separate from any consideration of outside support. The Council’s old minimum individual rating was B/C. The nearest equivalent Viability rating is BB+ which denotes moderate but acceptable prospects for ongoing viability. The bank’s fundamentals are adequate such that there is a low risk that it would have to rely on extraordinary support to avoid default. However, adverse business or economic conditions are more likely to impair this capacity rather than say an A rating.

- Support Indicator
  This indicator gives an indication as to how much external support, predominately from the state, a bank could expect to receive if it were to run into difficulties. The range is from 1 to 5 with 1 being the highest degree of support and 5 the lowest. 1 is assigned only to banks for which there is an extremely high probability of external support e.g. Barclays Bank in the UK. The potential provider of support is very highly rated in its own right and has a very high propensity to support the bank in question e.g. the UK Government which is rated AAA. BFC will invest in institutions with a Support Indicator in the range of 1 to 3.

Level of Investments

5.15 Investments are governed by the level of cash available to the Council, those institutions that meet the Council's current investment criteria and the cash-flow requirements of the Council. The table below indicates the investments held on the 18th January 2013.

Investment	Maturity	Amount (£)	Average Rate (%)
Money Market Funds			
Prime Rate	1 Day	6,979,000	0.46
Ignis	1 Day	6,973,100	0.45
Golman Sachs	1 Day	6,981,000	0.38
RBS	1 Day	6,835,000	0.33
Black Rock	1 Day	1,075,000	0.31
		28,843,100	
Fixed Term Deposits			
RBS	31/01/2013	3,500,000	1.85
Lloyds	31/01/2013	3,500,000	2.50
Nationwide	07/02/2013	3,500,000	0.83
Nationwide	19/04/2013	3,500,000	0.45
RBS	17/05/2013	3,500,000	1.06
Lloyds	16/08/2013	3,500,000	2.85
		21,000,000	
Total Investments		**49,843,100**	

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 None.

Borough Treasurer

6.2 The financial implications are contained within the report.

Equalities Impact Assessment

6.3 None.

Strategic Risk Management Issues

6.4 The Treasury Management Report deals directly with the strategic management of risk associated with the Council's treasury management activities

7 CONSULTATION

Principal Groups Consulted

7.1 The Overview & Scrutiny Commission was consulted on the budget proposals, including the Treasury Management Strategy, in December. The timetable for the approval of the 2013/14 Budget is as follows

Executive agree proposals as basis for consultation	11 December 2012
Consultation period	12 December 2012 - 22 January 2013
Executive considers representations made and recommends budget.	13 February 2013
Council considers Executive budget proposals	27 February 2013

Background Papers

None

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TREASURY MANAGEMENT REPORT

1.1 The Local Government Act 2003 requires the Council to "have regard to" the Prudential Code and to set Prudential Indicators for the next three years to ensure that the Council's capital investment plans are affordable, prudent and sustainable.

1.2 This report outlines the Council's prudential indicators for 2013/14 – 2015/16 and sets out the expected treasury operations for this period. It fulfils four key legislative requirements:

- The reporting of the prudential indicators setting out the expected capital activities at Annex A(i) (as required by the CIPFA Prudential Code for Capital Finance in Local Authorities).
- The Council's Minimum Revenue Provision (MRP) Policy at Annex A(ii), which sets out how the Council will pay for capital assets through revenue each year (as required by Regulation under the Local Government and Public Involvement in Health Act 2007);
- The Treasury Management Strategy Statement which sets out how the Council's treasury service will support the capital decisions taken above, the day to day treasury management and the limitations on activity through treasury prudential indicators. The key indicator is the Authorised Limit, the maximum amount of debt the Council could afford in the short term, but which would not be sustainable in the longer term. This is the Affordable Borrowing Limit required by s3 of the Local Government Act 2003 and shown at Annex A(iii);
- The Annual Investment Strategy which sets out the Council's criteria for choosing investment counterparties and limiting exposure to the risk of loss. This strategy is in accordance with the CLG Investment Guidance and is shown in Annex A(iv).

The Capital Prudential Indicators 2013/14 – 2015/16

The Local Government Act 2003 requires the Council to adopt the CIPFA Prudential Code and produce prudential indicators. Each indicator either summarises the expected capital activity or introduces limits upon that activity, and reflects the outcome of the Council's underlying capital appraisal systems.

Within this overall prudential framework there is an impact on the Council's treasury management activity – as it will directly impact on borrowing or investment activity and as such the Treasury Management Strategy for 2013/14 to 2015/16 complements these indicators. Some of the prudential indicators are shown in the treasury management strategy to aid understanding.

The Capital Expenditure Plans

The Council's capital expenditure plans are summarised below and this forms the first of the prudential indicators. A certain level of capital expenditure is grant supported by the Government; any decisions by the Council to spend above this level will be considered unsupported capital expenditure. This unsupported capital expenditure needs to have regard to:

- Service objectives (e.g. strategic planning);
- Stewardship of assets (e.g. asset management planning);
- Value for money (e.g. option appraisal);
- Prudence and sustainability (e.g. implications for external borrowing and whole life costing);
- Affordability (e.g. implications for the council tax);
- Practicality (e.g. the achievability of the forward plan).

The revenue consequences of capital expenditure, particularly the unsupported capital expenditure, will need to be paid for from the Council's own resources.

This capital expenditure can be paid for immediately (by applying capital resources such as capital receipts, capital grants etc., or revenue resources), but if these resources are insufficient any residual capital expenditure will add to the Council's borrowing need.

The key risks to the plans are that the level of Government support has been estimated and is therefore maybe subject to change. Similarly some estimates for other sources of funding, such as capital receipts, may also be subject to change over this timescale. For instance anticipated asset sales may be postponed due to the impact of the recession on the property market, similarly the proceeds from the Right-to-Buy sharing agreement with Bracknell Forest Homes will also be impacted on by the wider economy.

The Council is asked to approve the summary capital expenditure projections below. This forms the first prudential indicator:

Capital Expenditure	**2013/14 Estimate £000**	**2014/15 Estimate £000**	**2015/16 Estimate £000**
Capital Expenditure	23,462	19,242	12,939
Financed by:			
Capital receipts	5,000	3,000	3,000
Capital grants & Contributions	11,272	10,239	6,008
Revenue	1,100	0	0
Net financing need for the year	**6,090**	**6,003**	**3,931**

The Council's Borrowing Need (the Capital Financing Requirement)
The second prudential indicator is the Council's Capital Financing Requirement (CFR). The CFR is simply the total outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is essentially a measure of the Council's underlying borrowing need. The capital expenditure above which has not immediately been paid for will increase the CFR. Due to the nature of some of the capital expenditure identified above (ie grant), an element will be immediately impaired or will not qualify as capital expenditure for CFR purposes. As such the net financing figure above may differ from that used in the CFR calculation.

The Council is required to pay off an element of the accumulated General Fund capital spend each year through a revenue charge (the Minimum Revenue Provision - MRP), although it is also allowed to undertake additional voluntary payments (VRP). No additional voluntary payments are planned.

The Council is asked to approve the CFR projections below:

	2013/14 Estimate £000	**2014/15 Estimate £000**	**2015/16 Estimate £000**
Capital Financing Requirement			
Total CFR	**55,413**	**59,641**	**61,691**
Movement in CFR	**5,009**	**4,244**	**2,066**

Movement in CFR represented by			
Net financing need for CFR purposes **#**	6,620	6,003	3,931
Less MRP/VRP and other financing movements	-1,612	-1,759	-1,865
Movement in CFR	**5,009**	**4,244**	**2,066**

***#** 2013/14 includes impact of carry-forward from 2012/13*

CLG Regulations have been issued which require full Council to approve an MRP Statement in advance of each year. The Council is recommended to approve the MRP Statement attached in Annex A(ii)

Affordability Prudential Indicators

The previous sections cover the overall capital and control of borrowing prudential indicators, but within this framework prudential indicators are required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the Council's overall finances. The Council is asked to approve the following indicators:

Estimates of the ratio of financing costs to net revenue stream.

This indicator identifies the trend in the cost of capital (borrowing and other long term obligation costs net of investment income) against the net revenue stream.

	2013/14 Estimate	2014/15 Estimate	2015/16 Estimate
Ratio	-0.56%	+0.07%	+0.26%

The estimates of financing costs include current commitments and the proposals in the Capital Programme Budget report.

Incremental impact of capital investment decisions on the Council Tax

This indicator identifies the revenue costs associated with proposed changes to the three year capital programme compared to the Council's existing approved commitments and current plans. The assumptions are based on the budget, but will invariably include some estimates, such as the level of Government support, which are not published over a three year period.

	Forward Projection 2013/14	Forward Projection 2014/15	Forward Projection 2015/16
Council Tax - Band D	£1.35	£1.32	£1.70

Minimum Revenue Provision (MRP) Policy Statement

The concept of the Minimum Revenue Provision (MRP) was introduced when the Local Government Capital Finance System was changed on 1 April 1990. This required local authorities to assess their outstanding debt and to make an annual charge to the General Fund of 4% of the General Fund Debt.

These regulations have now been amended and Department for Local Government & Communities (DCLG) issued new regulations in 2008 which require a local authority to calculate for the current financial year an amount of MRP which it considers "prudent". The broad aim of a prudent provision is to ensure that debt is repaid over a period that is reasonably commensurate with that over which the capital expenditure provides benefits or in the case of borrowing supported by government, reasonably commensurate with the period implicit in the determination of the grant. The Council can choose to charge more than the minimum.

It is a requirement of these new regulations that full Council approve an annual MRP Statement of its policy on making MRP.

As capital expenditure is incurred which cannot be immediately financed through capital receipts or grant the Council's borrowing need (its Capital Financing Requirement) will be positive and an MRP will be required. In practice the Council is unlikely to need to borrow externally in the medium term as it has sufficient revenue investments, arising from the Council's reserves and balances to cover this expenditure. However it will still need to make a charge to revenue for this "internal borrowing".

The move to International Financial Reporting Standards (IFRS) in local government is expected to bring more PFI schemes on balance sheet and to result in some leases (or parts of leases) being reclassified as finance lease instead of operating leases. These contracts would become subject to the requirement to provide MRP. IFRS requires these changes to be accounted for retrospectively. With the result that an element of the rental or service charge payable in previous years will be taken to the balance sheet to reduce the liability. On its own this change would result in a one-off increase to the capital financing requirement, and an equal increase in revenue account balances. This is not seen as a prudent course of action and as such the guidance recommends the inclusion in the annual MRP charge of an amount equal to the amount that has been taken to the balance sheet to reduce the liability, including the retrospective element in the first year.

The guidance sets out four options for making MRP. It envisages that authorities can distinguish between borrowing that is "supported" (through the RSG system) and other "unsupported or prudential" borrowing. The first two methods should only be used for "supported" borrowing

1) The regulatory method. This involves following the existing practice outlined in the former DCLG regulation. For the Council this is essentially the same as the CFR method.
2) The CFR Method. This involves setting the MRP equal to 4% of the Capital Financing Requirement at the end of the preceding year.
3) The Asset Life Method. This method requires MRP to be charged over the asset life. The asset life is determined in the year MRP commences and is not changed. MRP will not be charged until the asset becomes operational.

Therefore it will be possible to take an MRP holiday for those assets in construction.

4) The Depreciation Method. This requires the MRP to equal the actual depreciation based on standard accounting procedures.

Recommended Policy

In setting the 2013/14 budget and beyond the following policy is recommended:

1) There will be a presumption that capital receipts will be allocated to the appropriate assets in relation to the constraints of the medium term financial strategy.
2) The Council will identify the level of "supported borrowing" and use the CFR Method i.e. 4% of this figure as part of the MRP charge. The supported borrowing will be used in full irrespective of the service block the funding was allocated in the grant settlement and will also be allocated to the appropriate assets in relation to the constraints of the medium term financial strategy. For the remaining "unsupported borrowing" the Council will use the asset life method.

The actual charge made in the year will be based on applying the above policy to the previous year's actual capital expenditure and funding decisions. Therefore the 2013/14 charge will be based on 2012/13 capital out-turn.

TREASURY MANAGEMENT STRATEGY STATEMENT

The Treasury Management service is an important part of the overall financial management of the Council's affairs. The prudential indicators in Annex A(i) consider the affordability and impact of capital expenditure decisions, and set out the Council's overall capital framework. The Treasury Management service considers the effective funding of these decisions. Together they form part of the process which ensures the Council meets its balanced budget requirement under the Local Government Finance Act 1992.

The Council's treasury activities are strictly regulated by statutory requirements and a professional code of practice - 2011 revised CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes ("the CIPFA TM Code"). This Council adopted the Code of Practice on Treasury Management in March 2002, and will adopt the revised Code.

As a result of adopting the Code the Council also adopted a Treasury Policy Statement. This adoption is the requirement of one of the prudential indicators.

The Code of Practice requires an annual strategy to be reported to Council outlining the expected treasury activity for the forthcoming 3 years. A key requirement of this report is to explain both the risks, and the management of the risks, associated with the treasury service. A further treasury report is produced after the year-end to report on actual activity for the year, and a new requirement of the revision of the Code of Practice is that there is a mid-year monitoring report.

This strategy covers:

The Council's debt and investment projections;
The Council's estimates and limits on future debt levels;
The expected movement in interest rates;
The Council's borrowing and investment strategies;
Treasury performance indicators;
Specific limits on treasury activities;

Debt and Investment Projections 2013/15 – 2015/16
The borrowing requirement comprises the expected movement in the CFR and any maturing debt which will need to be re-financed. The Council does not anticipate any external borrowing over 2013/14, but projects that it may require to borrow externally from 2014/15 onwards, however the timing of this very much depends on progress made in delivering on the Capital Programme in 2013/14 and the level of capital receipts achieved in the next 18 months. As such there is some uncertainty as to when exactly the Council will be required to undertake borrowing. The table below highlights the expected change in investment balances.

£'000	2013/14 Estimated	2014/15 Estimated	2015/16 Estimated
External Debt			
Debt at 31 March	0	5,000	12,000
Investments			
Investments at 31 March	5,000	0,000	0

Limits to Borrowing Activity
Within the prudential indicators there are a number of key indicators to ensure the Council operates its activities within well defined limits. For the first of these the Council needs to ensure that its total borrowing net of any investments, does not, except in the short term, exceed the total of the CFR in the preceding year plus the estimates of any additional CFR for 2013/14 and the following two financial years. This allows some flexibility for limited early borrowing for future years, but ensures that borrowing is not undertaken for revenue purposes.

The Borough Treasurer reports that the Council has complied with this prudential indicator in the current year and does not envisage difficulties for the future. This view takes into account current commitments, existing plans, and the proposals in this budget report.

The Authorised Limit for External Debt
A further key prudential indicator represents a control on the overall level of borrowing. This represents a limit beyond which external debt is prohibited, and this limit needs to be set or revised by full Council. It reflects the level of external debt which, while not desired, could be afforded in the short term, but is not sustainable in the longer term.

This is the statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all councils' plans, or those of a specific council, although no control has yet been exercised.

The Council is asked to approve the following Authorised Limit:

Authorised limit £000	2013/14 Estimate	2014/15 Estimate	2015/16 Estimate
Borrowing	45,000	48,000	51,000
Other long term liabilities	16,000	16,000	16,000
Total	61,000	64,000	67,000

Operational Boundary for External Debt
The Authority is also recommended to approve the Operational Boundary for external debt for the same period. The proposed Operational Boundary is based on the same estimates as the Authorised Limit but reflects directly the estimate of the most likely but not worst case scenario, without the additional headroom included within the Authorised Limit to allow for unusual cash movements.

Operational Boundary £m	2013/14 Estimate	2014/15 Estimate	2015/16 Estimate
Borrowing	40,000	44,000	47,000
Other long term liabilities	16,000	16,000	16,000
Total	56,000	60,000	63,000

Borrowing in advance of need.
The Borough Treasurer may do this under delegated power where, for instance, a sharp rise in interest rates is expected, and so borrowing early at fixed interest rates will be economically beneficial or meet budgetary constraints. Whilst the Borough

Treasurer will adopt a cautious approach to any such borrowing, where there is a clear business case for doing so borrowing may be undertaken to fund the approved capital programme or to fund future debt maturities. Risks associated with any advance borrowing activity will be subject to appraisal in advance and subsequent reporting through the mid-year or annual reporting mechanism. However given the finely balanced projected position in 2014/15 any borrowing in advance of need will be kept under review on a monthly basis.

Expected Movement in Interest Rates

The Council has appointed Sector as its treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. The following table gives the Sector central view on the future levels of the Bank Rate

Medium-Term Rate Estimates (averages)

Annual Average %	Bank Rate	PWLB Rates*		
		5 year	25 year	50 year
Dec 2012	0.50	1.50	3.70	3.90
Mar 2013	0.50	1.50	3.80	4.00
June 2013	0.50	1.50	3.80	4.00
Sept 2013	0.50	1.60	3.80	4.00
Dec 2013	0.50	1.60	3.80	4.00
March 2014	0.50	1.70	3.90	4.10
June 2014	0.50	1.70	3.70	4.10
Sept 2014	0.50	1.80	4.00	4.20
Dec 2014	0.50	2.00	4.10	4.30
March 2015	0.75	2.20	4.30	4.50

* Borrowing Rates

After a very uncertain and economically challenging start to the year, there are the initial signs that economic growth may have returned after three quarters of recession. However the normal economic indicators used to evaluate the financial health of the country have been impacted by a range of unique circumstances, including the Queen's Jubilee and associated additional bank holidays followed closely by the London 2012 Olympics, which combined with the climatic challenges faced by the country this summer have clouded many of the economic forecasts.

3rd quarter GDP growth was positive for the first quarter in a year, and both industrial production and the overall trade deficit have posted some encouraging numbers. This return to growth has also been supported by a continuing recovery in the jobs market whilst pay growth has remained modest.

Inflation has struggled to make further downward progress in the last quarter, and whilst inflation should continue to drop to around 2% in the latter half of this year, further falls over the remaining part of the year look unlikely.

As a result of the above, GDP posted a healthy quarterly rise of 1% in Quarter 3, however this is unlikely to contribute enough to generate positive growth for the year as whole and as such 2012 is likely to be seen as adding to the worst and slowest recovery from recession of any of the five recessions since 1930.

There remain huge uncertainties in economic forecasts due to the following major difficulties:

- the impact of the Euro-zone crisis on financial markets and the banking sector
- the impact of the UK Government's austerity plan on confidence and growth
- Monetary policy action failing to stimulate growth in western economies
- the potential for weak growth or recession in the UK's main trading partners – the EU and the US

The overall balance of risks remains weighted to the downside. Given the weak outlook for economic growth, the prospect for any interest rate changes before the end of 2014 are very limited.

Borrowing Strategy 2013/14

Given the level of current investments, the Council does not envisage any long-term borrowing in 2013/14 although the Authorised Limit for External Debt has been set to enable the Council to manage its cash flow effectively through the use of temporary borrowing, in the unlikely event that this should be necessary.

Investment Strategy 2013/14 – 2015/16

Investment Policy
The Council's investment policy has regard to the CLG's Guidance on Local Government Investments ("the Guidance") and the 2011 revised CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes ("the CIPFA TM Code").

Key Objectives
The Council's investment strategy primary objectives are safeguarding the re-payment of the principal and interest of its investments on time first and ensuring adequate liquidity second – the investment return being a third objective. Following the economic background outlined in the Treasury Management Strategy, the current investment climate has one over-riding risk consideration that of counterparty security risk. As a result of these underlying concerns officers are implementing an operational investment strategy which maintains the tightened controls already in place in the approved investment strategy.

Investment Counterparty Selection Criteria
The primary principle governing the Council's investment criteria is the security of its investments, although the yield or return on the investment is also a key consideration.

After this main principle the Council will ensure:

- It maintains a policy covering both the categories of investment types it will invest in, criteria for choosing investment counterparties with adequate security, and monitoring their security. This is set out in the Specified and Non-Specified investment sections below.
- It has sufficient liquidity in its investments. For this purpose it will set out procedures for determining the maximum periods for which funds may prudently be committed. These procedures also apply to the Council's prudential indicators covering the maximum principal sums invested.

In accordance with the Investment Guidance, the Council will, in considering the security of proposed investments, follow different procedures according to which of two categories, Specified or Unspecified, the proposed investment falls into.

Specified Investments offer high security and high liquidity and are:

- ♦ Denominated, paid and repaid in sterling;
- ♦ Not long term investments, i.e. they are due to be repaid within 12 months of the date on which the investment was made;
- ♦ Not defined as capital expenditure; and
- ♦ Are made with a body or in an investment scheme which has been awarded a high credit rating by a credit rating agency or are made with the UK Government or a Local Authority in England, Wales, Scotland or Northern Ireland.

Non-Specified Investments are those which do not meet the definition of Specified Investments.

The authority employs a counterparty selection criteria approved annually by Council that sets out the financial institutions that the organisation can deposit funds with. The key criteria used are the credit ratings supplied by the three main credit rating agencies. The Council maintains a low risk approach to counterparty selection and there is no intention on diverging from this, however over recent years there has been a shift in the reliance placed purely in credit-ratings on counterparty selection. As such it is considered appropriate to review the current methodology and to adopt a more sophisticated model of counterparty selection.

As a result of the financial crisis following the Lehman's collapse and the recent sovereign credit-worthiness difficulties, almost all financial institutions, and indeed countries, have experienced a substantial cut in their credit-ratings. The Council's 2012/13 criteria limits investments in only two UK financial institutions willing to deal in the size of transactions available to the Council. This list was supplemented in 2011/12 with the inclusion of part-nationalised banks, which whilst not meeting the Council's strict credit-rating criteria are seen to offer low levels of risk given the support they are afforded through the UK Government. Whilst such a criteria mitigates a particular level of risk, it increases the risk associated with lack of diversification, resulting in a much higher weighting in low-yielding AAA rated overnight deposits.

In addition it has been widely acknowledged that credit-ratings on their own are not sufficient in capturing and evaluating the relative levels of risk attached to a single counterparty. The CIPFA code recommends that Councils do not place sole reliance on credit-rating scores but use other techniques and financial analysis to evaluate credit-worthiness. There is a wide range of such information, much of which is provided by the Council's Treasury Management advisers.

One such technique is the use of a Credit Default Swap (CDS) which is a marketable instrument or agreement whereby the seller of the CDS will compensate the buyer in the event of a loan default. In simple terms the buyer of the CDS makes a payment to the seller and in exchange receives a payoff if the company defaults. However CDS are tradable and a huge market exists ($25tn) and they are actively used to monitor how the market views the credit risk of any entity for which a CDS is available. On their own, the risk reflected by the level of a CDS is complex to evaluate however they can be used in tracking their relative movement and more importantly their movement against an index of industry peers.

In light of the changing economic backdrop, the shift in the relative importance of credit-ratings and the sector's requirement for a more sophisticated approach to counterparty selection, the Council's Treasury Management advisers have developed a modelling approach utilising credit ratings from the three main credit rating agencies supplemented with overlays of credit watches and outlooks in a weighted scoring system which is then combined with CDS spreads for which the end product is a series of colour coded bands which indicate the relative creditworthiness of counterparties. This service uses a wider array of information than just primary ratings and by using a risk weighted scoring system does not give undue preponderance to just one agency's ratings.

The minimum credit rating that the Council will use will be a short term rating of F1 and a long term rating of A-, with Viability ratings of BB+ and a Support rating of 3. The existing criteria differs only in the Support Rating where the current limit is 2 and as such the recommended change in criteria represents a slight increase in risk.

The definition as provided by Fitch for a support level 2 compared to a support level 3 is documented below;

- Support Level 2: A bank for which there is a high probability of external support. The potential provider of support is highly rated in its own right and has a high propensity to provide support to the bank in question.
- Support Level 3: A bank for which there is a moderate probability of support because of uncertainties about the ability or propensity of the potential provider of support to do so.

The Support Rating is an assessment of a potential supporter's propensity to support a bank and of its ability to support it and as such does not assess the intrinsic credit quality of a bank, but rather communicates the agency's judgement on whether the bank would receive support should this become necessary. Support ratings have been significantly impacted by both the large number of sovereign rating cuts and the acceptance that sovereign nations will be unable to support all banks should the global economic conditions deteriorate substantially.

However this minor lowering of the support level is offset to a large extent through the additional use of CDS spreads which adds an additional level of risk evaluation not currently used by the Council. All credit ratings will be monitored weekly and the Council will be alerted to changes in ratings through the use of its adviser's creditworthiness service. Furthermore sole reliance will not be placed on the use of this external service. In addition the Council will also use market data and information on government support for banks and the credit ratings of that government support.

The Council's investment criteria will continue to limit deposits in only UK banks, up to a limit of £7m, and whilst it will continue to limit investments to less than 1Year it will make use of the more sophisticated model provided by its advisers to limit individual institutions by duration.

The suggested adoption of this new model has many positive attributes; it broadly maintains the Council's risk exposure and explicitly identifies a clear list of approved counterparties. However a major benefit of this sophisticated model is that it provides a robust and methodical approach to the quantification of risk through both credit-ratings and market-generated risk assessment that can be clearly followed and communicated.

In addition to the criteria above part nationalised UK Banks (Lloyds Bank and Royal Bank of Scotland) will also be included within the Council's counterparty list. These banks can be included if they continue to be part nationalised or they meet the ratings above. The Council will also continue to invest in the following highly rated investment instruments

- Money Market Funds – AAA Rating Sterling Denominated
- UK Government (including gilts and Debt Management Account Deposit Facility (DMADF))
- UK Local Authorities

Country and sector considerations.
Due care will be taken to consider the country, group and sector exposure of the Council's investments. The current investment strategy limits all investments to UK Banks and Building Societies.

Time and Monetary Limits applying to Investments.
The maximum time and monetary limits for institutions on the Council's Counterparty List are as follows and will be supplemented on an individual institutional basis by the SECTOR criteria model referred to above (the monetary limits will cover both Specified and Non-Specified Investments):

	Money Limit	Time Limit
UK Banks and Building Societies	£7m	364 days
Money Market Funds	£7m	n/a
UK Government	unlimited	364 days
UK Local Authorities	£7m	364 days

The proposed criteria for Specified and Non-Specified investments are attached to this document.

In the normal course of the council's cash flow operations it is expected that both Specified and Non-specified investments will be utilised for the control of liquidity as both categories allow for short term investments.

The use of longer term instruments (greater than one year from inception to repayment) will fall in the Non-specified investment category. These instruments will only be used where the Council's liquidity requirements are safeguarded however the current investment limits for 2013/14 restrain all investments to less than 1 year. Any amendment to this strategy will require the credit-criteria to be amended to include a long-term rating. This will be addressed through the formal approval by Council of a revised Treasury Management Strategy and Annual Investment Strategy.

Economic Investment Considerations

Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates. The UK Bank Rate is forecast to remain unmoved through to late 2014. However, should the pace of growth pick up more than expected there could be upside risk, particularly if Bank of England inflation forecasts for two years ahead exceed the 2% inflation target.

The criteria for choosing counterparties set out above provide a sound approach to investment in "normal" market circumstances. Whilst Members are asked to approve this base criteria above, under the exceptional current market conditions the Borough Treasurer may temporarily restrict further investment activity to those counterparties considered of higher credit quality than the minimum criteria set out for approval. These restrictions will remain in place until the banking system returns to "normal" conditions. Similarly the time periods for investments will be restricted.

Examples of these restrictions would be the greater use of the Debt Management Deposit Account Facility (a Government body which accepts local authority deposits), Money Market Funds, and strongly rated institutions. The credit criteria have been amended to reflect these facilities.

Icelandic Bank Investments
The Council had deposited £5m in Icelandic Banks at the time of the collapse of the Icelandic banking system, being £2m with Heritable Bank and £3m with Glitnir Bank.

<u>Heritable Bank</u>
Heritable Bank was put into administration in the UK. The receiver (Ernst & Young) has followed a strategy of managing the outstanding debts of the bank (mostly mortgages) and paying a dividend every 6 months to the creditors as monies are recovered. To date the Council has received £1,530,379, the total claim admitted by the Council was for £2,052,490 (being £2m principal and interest of £52,490). The total recovered represents 75 pence in the pound. The administrator believes the final recovery amount to be in the region of 86 to 90 pence in the pound, however no time scale has been proposed for the final recovery. At 86p/£ the total recovery would be £1.765m

<u>Glitnir Bank</u>
The administration of Glitnir has been undertaken in Iceland and has been significantly more complex than that associated with Heritable. However, following the Icelandic Supreme Court's decision in December 2011 to recognise the Council as a priority creditor, the Winding-Up-Board undertook the process of distributing deposits to creditors.

The total owed to the Council amounts to £3,192,371 (being £3m principal and £192,371 interest). However at the date of administration the amount due was converted into Icelandic Krona at the existing exchange rate – amounting to some 609,998,348Kr. This has been used as the amount to be redistributed in all future decisions by the Bank's Winding-Up-Board.

The recovery has been complicated by current Icelandic legislation covering currency transactions and the fact that the Bank held deposits in a wide variety of currencies. The result of this has been that approximately 80% of the Council's deposit was paid to the Council in a basket of currencies on the 14th March 2012. Once these had been exchanged into Sterling, the Council received a total of £2,521,455. This leaves an outstanding balance of 116,387,685Kr (£450,000 approx) which the bank is currently holding in an escrow account. Unexpectedly, on the 13th March, the Icelandic Parliament enacted further Currency Control legislation covering the movement and exchange of Icelandic Krona and all other foreign currencies. Fortunately this did not impact on the distribution on the 14th March 2012, however it will impact on the monies held in the escrow account. We are currently working alongside our legal representatives and the LGA to facilitate the recovery of these monies as efficiently and effectively as possible. The final value of this amount is uncertain given the currency controls and the weakness of the Icelandic currency at present.

Sensitivity to Interest Rate Movements
Future Council accounts will be required to disclose the impact of risks on the Council's treasury management activity. Whilst most of the risks facing the treasury management service are addressed elsewhere in this report (credit risk, liquidity risk, market risk, maturity profile risk), the impact of interest rate risk is discussed but not quantified. The table below highlights the estimated impact of a 1% change in interest rates to the estimated treasury management income for next year. That element of the investment portfolio which is of a longer term, fixed interest rate nature will not be affected by interest rate changes.

	2013/14 Estimated + 1%	2014/15 Estimated - 1%
Revenue Budgets	**£'000**	**£'000**
Investment income	+225	-225

Treasury Management Limits on Activity
There are four further treasury activity limits, which were previously prudential indicators. The purpose of these are to contain the activity of the treasury function within certain limits, thereby managing risk and reducing the impact of an adverse movement in interest rates. However if these are set to be too restrictive they will impair the opportunities to reduce costs/improve performance. The indicators are:

Upper limits on variable interest rate exposure – This identifies a maximum limit for variable interest rates based upon the debt position net of investments

Upper limits on fixed interest rate exposure – Similar to the previous indicator this covers a maximum limit on fixed interest rates.

Maturity structures of borrowing – These gross limits are set to reduce the Council's exposure to large fixed rate sums falling due for refinancing, and are required for upper and lower limits.

Total principal funds invested for greater than 364 days – These limits are set with regard to the Council's liquidity requirements and to reduce the need for early sale of an investment, and are based on the availability of funds after each year-end.

The Council is asked to approve the limits:

	2013/14	2014/15	2015/16
Interest rate Exposures			
	Upper	**Upper**	**Upper**
Limits on fixed interest rates based on net debt	£40m	£40m	£41m
Limits on variable interest rates based on net debt	£16m	£20m	£21m
Maturity Structure of fixed interest rate borrowing 2013/14			
		Lower	**Upper**
Under 12 months		0%	100%
12 months to 2 years		0%	0%
2 years to 5 years		0%	0%
5 years to 10 years		0%	0%
10 years and above		0%	0%
Maximum principal sums invested > 364 days			
Principal sums invested > 364 days	£m 0	£m 0	£m 0

Performance Indicators
The Code of Practice on Treasury Management requires the Council to set performance indicators to assess the adequacy of the treasury function over the year. These are distinct historic indicators, as opposed to the prudential indicators, which are predominantly forward looking. For 2013/14 the Council does not expect to enter into any borrowing and as such the relevant benchmark will relate only to

investments and will be the “7 Day LIBID Rate”. The results of these indicators will be reported in the Treasury Annual Report.

Treasury Management Advisers
The Council uses Sector as its treasury management consultants. The Council recognises that responsibility for treasury management decision remains with the organisation at all times and will ensure that undue reliance is not placed upon our external service providers.

It also recognises that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources. The Council will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented, and subject to regular review.

Member and Officer Training
The increased Member consideration of treasury management matters and the need to ensure officers dealing with treasury management are trained and kept up to date requires a suitable training process for Members and officers. Following the nomination of the Governance and Audit Committee to examine and assess the effectiveness of the Treasury Management Strategy and Policies, initial training was provided and additional training was given to the Committee in 2012. Officer training is carried out in accordance with best practice and outlined in TMP 10 Training and Qualifications to ensure that all staff involved in the Treasury Management function are fully equipped to undertake the duties and responsibilities allocated to them

SPECIFIED INVESTMENTS

All investments listed below must be sterling-denominated.

Investment	Share/ Loan Capital?	Repayable/ Redeemable within 12 months?	Security / Minimum Credit Rating **	Circumstance of use	Maximum period
Debt Management Agency Deposit Facility* (DMADF) * this facility is at present available for investments up to 6 months	No	Yes	Govt-backed	In-house	364 Days
Term deposits with the UK government or with Local Authority in England, Wales, Scotland or Northern Ireland with maturities up to 364 Days	No	Yes	High security although LAs not credit rated.	In-house and by external fund managers subject to the guidelines and parameters agreed with them	364 Days
Term deposits with credit-rated deposit takers (banks and building societies), including callable deposits, with maturities up to 364 Days	No	Yes	*See SECTOR list*	In-house and by external fund managers subject to the guidelines and parameters agreed with them	364 Days
Certificates of Deposit issued by credit-rated deposit takers (banks and building societies) : up to 364 Days. *Custodial arrangement required prior to purchase*	No	Yes	*See SECTOR list*	To be used by external fund managers only subject to the guidelines and parameters agreed with them	364 Days
Gilts : up to 364 Days	No	Yes	Govt-backed	To be used by external fund managers only subject to the guidelines and parameters agreed with them	364 Days

Investment	Share/ Loan Capital?	Repayable/ Redeemable within 12 months?	Security / Minimum Credit Rating **	Circumstance of use	Maximum period
Money Market Funds *These funds do not have any maturity date*	No	Yes	*AAA Rating by Fitch, Moodys or S&P*	In-house and by external fund managers subject to the guidelines and parameters agreed with them	The period of investment may not be determined at the outset but would be subject to cash flow and liquidity requirements
Forward deals with credit rated banks and building societies < 1 year (i.e. negotiated deal period plus period of deposit)	No	Yes	*See SECTOR list*	In-house and by external fund managers subject to the guidelines and parameters agreed with them. Tracking of all forward deals to be undertaken and recorded.	1 year in aggregate
Commercial paper *[short-term obligations (generally with a maximum life of 9 months) which are issued by banks, corporations and other issuers]* *Custodial arrangement required prior to purchase*	No	Yes	*See SECTOR list*	To be used by external fund managers only subject to the guidelines and parameters agreed with them	9 months
Treasury bills [*Government debt security with a maturity less than one year and issued through a competitive bidding process at a discount to par value*] *Custodial arrangement required prior to purchase*	No	Yes	Govt-backed	To be used by external fund managers only subject to the guidelines and parameters agreed with them	1 year

NON-SPECIFIED INVESTMENTS

All investments listed below must be sterling-denominated.

Investment	(A) Why use it? (B) Associated risks?	Share/ Loan Capital?	Repayable/ Redeemable within 12 months?	Security / Minimum credit rating **	Circumstance of use	Maximum maturity of investment
Deposits with Authority's Banker where credit rating has dropped below minimum criteria	Where the Council's bank no longer meets the high credit rating criteria set out in the Investment Strategy the Council has little alternative but to continue using them, and in some instances it may be necessary to place deposits with them, these deposits should be of a very short duration thus limiting the Council to daylight exposure only (i.e. flow of funds in and out during the day, or overnight exposure).	No	Yes	n/a	In-House	*364 Days*
Term deposits with credit rated deposit takers (banks and building societies) with maturities greater than 1 year	(A) (i) Certainty of rate of return over period invested. (ii) No movement in capital value of deposit despite changes in interest rate environment. (B) (i) Illiquid : as a general rule, cannot be traded or repaid prior to maturity. (ii) Return will be lower if interest rates rise after making the investment. (iii) Credit risk : potential for greater deterioration in credit quality over longer period	No	No	*See SECTOR list*	In-house and by external fund managers subject to the guidelines and parameters agreed with them	*5 Years*
Certificates of Deposit with credit rated deposit takers (banks and building societies) with maturities greater than 1 year *Custodial arrangement required prior to purchase*	(A) (i) Although in theory tradable, are relatively illiquid. (B) (i) 'Market or interest rate risk' : Yield subject to movement during life of CD which could negatively impact on price of the CD.	No	Yes	*See SECTOR list*	To be used by external fund managers only subject to the guidelines and parameters agreed with them	*5 years*

Investment	(A) Why use it? (B) Associated risks?	Share/ Loan Capital?	Repayable/ Redeemable within 12 months?	Security / Minimum Credit Rating?	Circumstance of use	Maximum maturity of investment
Callable deposits with credit rated deposit takers (banks and building societies) with maturities greater than 1 year	(A) (i) Enhanced income ~ Potentially higher return than using a term deposit with similar maturity. (B) (i) Illiquid – only borrower has the right to pay back deposit; the lender does not have a similar call. (ii) period over which investment will actually be held is not known at the outset. (iii) Interest rate risk : borrower will not pay back deposit if interest rates rise after deposit is made.	No	No	*See SECTOR list*	In-house and by external fund managers subject to the guidelines and parameters agreed with them	*5 years*
UK government gilts with maturities in excess of 1 year *Custodial arrangement required prior to purchase*	(A) (i) Excellent credit quality. (ii)Very Liquid. (iii) If held to maturity, known yield (rate of return) per annum ~ aids forward planning. (iv) If traded, potential for capital gain through appreciation in value (i.e. sold before maturity) (v) No currency risk (B) (i) 'Market or interest rate risk' : Yield subject to movement during life of sovereign bond which could negatively impact on price of the bond i.e. potential for capital loss.	No	Yes	Govt backed	To be used by external fund managers only subject to the guidelines and parameters agreed with them	*10 years including but also including the 10 year benchmark gilt*

Investment	(A) Why use it? (B) Associated risks?	Share/ Loan Capital?	Repayable/ Redeemable within 12 months?	Security / Minimum credit rating **	Circumstance of use	Maximum maturity of investment
Forward deposits with credit rated banks and building societies for periods > 1 year (i.e. negotiated deal period plus period of deposit)	(A) (i) Known rate of return over period the monies are invested ~ aids forward planning. (B) (i) Credit risk is over the whole period, not just when monies are actually invested. (ii) Cannot renege on making the investment if credit rating falls or interest rates rise in the interim period.	No	No	*See SECTOR list*	In-house and by external fund managers subject to the guidelines and parameters agreed with them. Tracking of all forward deals to be undertaken and recorded.	*5 years*
Deposits with unrated deposit takers (banks and building societies) but with unconditional financial guarantee from HMG or credit-rated parent institution : any maturity	(A) Credit standing of parent will determine ultimate extent of credit risk	No	Yes	*See SECTOR list*	In-house and by external fund managers subject to the guidelines and parameters agreed with them	*1 year*

FITCH ratings

Note: The modifiers "+" or "−" may be appended to a rating to denote relative status within major rating categories.

Long Term Ratings

AAA - Highest credit quality. 'AAA' ratings denote the lowest expectation of credit risk. They are assigned only in case of exceptionally strong capacity for payment of financial commitments. This capacity is highly unlikely to be adversely affected by foreseeable events.

AA - Very high credit quality. 'AA' ratings denote expectations of very low credit risk. They indicate very strong capacity for payment of financial commitments. This capacity is not significantly vulnerable to foreseeable events.

A - High credit quality. 'A' ratings denote expectations of low credit risk. The capacity for payment of financial commitments is considered strong. This capacity may, nevertheless, be more vulnerable to changes in circumstances or in economic conditions than is the case for higher ratings.

BBB - Good credit quality. 'BBB' ratings indicate that there is currently expectations of low credit risk. The capacity for payment of financial commitments is considered adequate but adverse changes in circumstances and economic conditions are more likely to impair this capacity. This is the lowest investment grade category.

Short Term Ratings

F1 - Highest credit quality. Indicates the strongest capacity for timely payment of financial commitments; may have an added "+" to denote any exceptionally strong credit feature.

F2 - Good credit quality. A satisfactory capacity for timely payment of financial commitments, but the margin of safety is not as great as in the case of the higher ratings.

F3 - Fair credit quality. The capacity for timely payment of financial commitments is adequate; however, near term adverse changes could result in a reduction to non investment grade.

B - Speculative. Minimal capacity for timely payment of financial commitments, plus vulnerability to near term adverse changes in financial and economic conditions.

C - High default risk. Default is a real possibility. Capacity for meeting financial commitments is solely reliant upon a sustained, favorable business and economic environment.

RD - Indicates an entity that has defaulted on one or more of its financial commitments, although it continues to meet other obligations.

D - Indicates an entity or sovereign that has defaulted on all of its financial obligations.

Viability Ratings

aaa: Highest fundamental credit quality
'aaa' ratings denote the best prospects for ongoing viability and lowest expectation of failure risk. They are assigned only to banks with extremely strong and stable fundamental characteristics, such that they are most unlikely to have to rely on extraordinary support to avoid default. This capacity is highly unlikely to be adversely affected by foreseeable events.

aa: Very high fundamental credit quality
'aa' ratings denote very strong prospects for ongoing viability. Fundamental characteristics are very strong and stable; such that it is considered highly unlikely that the bank would have to rely on extraordinary support to avoid default. This capacity is not significantly vulnerable to foreseeable events.

a: High fundamental credit quality
'a' ratings denote strong prospects for ongoing viability. Fundamental characteristics are strong and stable, such that it is unlikely that the bank would have to rely on extraordinary support to avoid default. This capacity may, nevertheless, be more vulnerable to adverse business or economic conditions than is the case for higher ratings.

bbb: Good fundamental credit quality
'bbb' ratings denote good prospects for ongoing viability. The bank's fundamentals are adequate, such that there is a low risk that it would have to rely on extraordinary support to avoid default. However, adverse business or economic conditions are more likely to impair this capacity.

bb: Speculative fundamental credit quality
'bb' ratings denote moderate prospects for ongoing viability. A moderate degree of fundamental financial strength exists, which would have to be eroded before the bank would have to rely on extraordinary support to avoid default. However, an elevated vulnerability exists to adverse changes in business or economic conditions over time.

b: Highly speculative fundamental credit quality
'b' ratings denote weak prospects for ongoing viability. Material failure risk is present but a limited margin of safety remains. The bank's capacity for continued unsupported operation is vulnerable to deterioration in the business and economic environment.

ccc: Substantial fundamental credit risk
Failure of the bank is a real possibility. The capacity for continued unsupported operation is highly vulnerable to deterioration in the business and economic environment.

cc: Very high levels of fundamental credit risk
Failure of the bank appears probable.

c: Exceptionally high levels of fundamental credit risk
Failure of the bank is imminent or inevitable

f: 'f' ratings indicate an issuer that, in Fitch's opinion, has failed, and that either has defaulted or would have defaulted had it not received extraordinary support or benefited from other extraordinary measures.

Viability Ratings

Support Ratings are Fitch Ratings' assessment of a potential supporter's propensity to support a bank and of its ability to support it. Its propensity to support is a judgment made by Fitch Ratings. Its ability to support is set by the potential supporter's own Issuer Default Ratings, both in foreign currency and, where appropriate, in local currency. Support Ratings do not assess the intrinsic credit quality of a bank. Rather they communicate the agency's judgment on whether the bank would receive support should this become necessary.

Definitions:

1:A bank for which there is an extremely high probability of external support. The potential provider of support is very highly rated in its own right and has a very high propensity to support the bank in question. This probability of support indicates a minimum Long-Term Rating floor of 'A-'.

2:A bank for which there is a high probability of external support. The potential provider of support is highly rated in its own right and has a high propensity to provide support to the bank in question. This probability of support indicates a minimum Long-Term Rating floor of 'BBB-'.

3:A bank for which there is a moderate probability of support because of uncertainties about the ability or propensity of the potential provider of support to do so. This probability of support indicates a minimum Long-Term Rating floor of 'BB-'.

4:A bank for which there is a limited probability of support because of significant uncertainties about the ability or propensity of any possible provider of support to do so. This probability of support indicates a minimum Long-Term Rating floor of 'B'.

5:A bank for which there is a possibility of external support, but it cannot be relied upon. This may be due to a lack of propensity to provide support or to very weak financial ability to do so. This probability of support indicates a Long-Term Rating floor no higher than 'B-' and in many cases, no floor at all.

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GOVERNANCE AND AUDIT COMMITTEE
29 JANUARY 2013

RECORDING OF OFFICER DECISIONS FOR EXECUTIVE FUNCTIONS
Director of Corporate Services – Legal

1 PURPOSE OF REPORT

1.1 This report seeks the approval of the Committee as to the criteria to be applied to determine which officer decisions should be recorded and published in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 ("the Regulations").

2 RECOMMENDATION

2.1 That the Committee approve the criteria proposed in paragraph 5.5.

3 REASONS FOR RECOMMENDATION

3.1 The proposed criteria are considered to strike a reasonable balance between the desire for transparency evinced by the Regulations and the practical need not to impose an unrealistic bureaucratic burden upon officers which would be detrimental to the efficient working of the Council. The criteria proposed have been endorsed by Corporate Management Team.

4 ALTERNATIVE OPTIONS CONSIDERED

4.1 The Council could require the recording of all Officer decisions under Executive functions as prescribed by the Regulations. However, such an option is considered to be unworkable.

5 SUPPORTING INFORMATION

5.1 At its last meeting the Committee considered a report on the Regulations. In particular, the report discussed the difficulties attendant upon the (possibly unintended) drafting of the Regulations which required all officer decisions in the discharge of an Executive function to be recorded as prescribed by the regulations. The Committee decided that it wished to approve the criteria for determining which non-Key officer decisions should be recorded in accordance with the Regulations.

5.2 The Regulations apply to all decisions made by officers in the discharge of Executive functions, excluding (probably) purely administrative functions such as ordering stationery. "Executive functions" covers all those functions other than those which are the responsibility of committees (Planning Development Control, Licensing and Employment) or full Council (approval of the budget and policy framework).

5.3 Under the Regulations, as soon as reasonably practicable after an officer has made a decision he/she should produce a written statement to include:-

- a record of the decision including the date it was made
- the reasons for the decision

- details of any alternative options considered and rejected by the officer when making the decision

- a record of any conflict of interest declared by any Executive Member who was consulted on the matter

- whether the Head of Paid Service (the Chief Executive) granted any dispensation in respect of a conflict of interest

The statement should be published on the Council's web-site.

5.4 To give the Regulations a literal interpretation would be to impose a very significant administrative burden on officers. Any benefits from an increase in transparency would be considerably more than offset by the consequent burden generated. However, it is accepted that the Regulations cannot be ignored and therefore in order to give effect to them in a practical manner criteria need to be developed as to which officer decisions should be published.

5.5 It is proposed that officer decisions falling within any of the categories below should be recorded as set out in the Regulations:-

(a) any decision to incur expenditure or the making of a saving of £10,000 or more

(b) any decision taken following public consultation

(c) any decision which would have a material impact upon ten or more persons

(d) any decision which is taken in exercise of an express delegation made to an officer by the Executive, an Executive Committee or an individual Executive Member

(e) a decision whether or not to list a property as an Asset of Community Value (the "Community Right to Bid" under the Localism Act)

(f) a decision whether or not to accept an expression of interest submitted under the Community Right to Challenge

5.6 It is not possible to predict with any degree of certainty how many decisions will fall within the categories set out in 5.5 above or what the impact will be of implementing the Regulations as proposed in this report. It would therefore be appropriate for the categories to be reviewed after an appropriate period has elapsed to allow the impact to be gauged.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 The Borough Solicitor is the author of this report.

Borough Treasurer

6.2 There are no financial implications directly arising.

Equalities Impact Assessment

6.3 Not required.

Strategic Risk Management Issues

6.4 Not relevant.

Other Officers

6.5 None.

7 CONSULTATION

Principal Groups Consulted

7.1 None.

Method of Consultation

7.2 Not Applicable.

Representations Received

7.3 Not Applicable.

Background Papers
None.

Contact for Further Information
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Doc. Ref.
AIJ/f/reports/Governance & Audit – Recording of Officer Decisions - 2013

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GOVERNANCE AND AUDIT COMMITTEE
29 JANUARY 2013

REVISED CODE OF CONDUCT FOR MEMBERS
Director of Corporate Services – Legal

1 PURPOSE OF REPORT

1.1 This report seeks the Committee's endorsement to a draft revised Code of Conduct for Members ("the draft Code") which is set out at Annexe A to this report.

2 RECOMMENDATION

2.1 That the Committee recommend to the Governance and Audit Committee that the draft Code of Conduct for Members, incorporating the amendments proposed by the Standards Committee, be submitted to Council for adoption.

3 REASONS FOR RECOMMENDATION

3.1 The draft Code is the outcome of the deliberations of a Member Working Group which was constituted to formulate a new revised Code of Conduct for Members. The draft Code has been considered by the Standards Committee which proposed a number of minor amendments.

3.2 The draft Code is considered to set out an appropriate framework for the conduct of Members and is consistent with the principles referred to in section 28 of the Localism Act 2011 ("the Act") which are set out in the Annexe to the draft Code.

4 ALTERNATIVE OPTIONS CONSIDERED

4.1 Both the Department for Communities and Local Government and the Local Government Association have issued draft model Codes of Conduct which were considered by the Member Working Group. The LGA model (which is similar to the CLG model) is attached as Annexe B to this report. However, the Working Group was unanimously of the view that a Code similar in format to the existing Code was much to be preferred over the CLG and LGA models which are considered to be somewhat aspirational in nature and fail to provide a definite framework for Member conduct which can be clearly understood by both Members and the public.

5 SUPPORTING INFORMATION

<u>Background</u>

5.1 The previous statutory regime for local authority Members standards which was set out in the Local Government Act 2000 required each Council to adopt a Code of Conduct in a form prescribed by statutory instrument. The Act abolished that regime. Instead, the Act (inter alia) requires each Council to adopt a Code dealing with the conduct that is expected of Members and co-opted Members when they are acting in such capacity. There is no prescribed form of Code but any Code adopted must, when viewed as a whole, be consistent with the Nolan principles (so called because they were first set out by the Committee for Standards in Public Life when the late Lord Nolan was chairman), namely:-

- selflessness
- integrity
- objectivity
- accountability
- openness
- honesty
- leadership

Also, the Code must include the provision which the Council considers appropriate in respect of the registration and disclosure of pecuniary and other interests. The Code should not contain anything which is inconsistent with the new provisions which the Act sets out in relation to Disclosable Pecuniary Interests (which term is defined in the Act and regulations made thereunder).

5.2 The provisions of the Act relating to Member conduct were brought in at short notice. Insufficient time was afforded to local authorities to give proper consideration as to the content of new Codes of Conduct. Accordingly, at its Annual Meeting in May, the Council adopted an interim Code (which essentially was in the same format as the previously prescribed Code but with alterations to reflect the new statutory requirements relating to Disclosable Pecuniary Interests). The report to Council indicated that subsequently consideration would be given to a new Code. To that end a member Working Group was formed comprising Councillors from the majority group, the minority group and non-group Members. The draft Code has been considered by Corporate Management Team, which suggested a small number of minor amendments, and by the Standards Committee at its meeting on 14 January 2013. The Standards Committee endorsed CMT's amendments and also proposed a number of minor amendments. The alterations cumulatively proposed by CMT and the Standards Committee are shown in italic script on the draft Code attached.

<u>The Draft Code</u>

5.3 The draft Code is in similar format to the previously prescribed Code. Section 3 of the draft Code ("General Obligations") is in identical form to the former Code save that paragraph 4.1(iv)(c) relating to the disclosure of exempt information spells out the requirements of the Council before such information can be disclosed (the former Code simply provided that any disclosure had to be "in compliance with the reasonable requirements of the Council"). The giving of two clear working days notice will allow the Chief Executive / Deputy Chief Executive / Borough Solicitor the opportunity (if appropriate) to counsel the Member against disclosure and in extremis to seek a court injunction precluding disclosure.

5.4 The main alterations to the former prescribed Code (and the current interim Code) are around the issue of the registration and disclosure of interests and the consequences of having an interest. The former prescribed Code defined a lengthy list of "Personal Interests" which required registration and disclosure. In addition, that Code provided that if a Personal Interest was such that a reasonable member of the public would reasonably conclude that the Member's judgement of the public interest in relation to the matter would be affected by the Personal Interest then the interest would also fall into the category of "Prejudicial Interest". The main consequences of having a Prejudicial Interest were that the Member was precluded from either participation in the decision making process or "improperly" seeking to influence a decision about the matter.

5.5 The Act replaced the concept of "Personal Interests" and "Prejudicial Interests" with "Disclosable Pecuniary Interests". The consequences of having a Disclosable Pecuniary Interest are similar to those previously pertaining to Prejudicial Interests but failure to comply now also constitutes a criminal offence. The extent to which the Police will seek to investigate any allegations remains to be seen. The interim Code retained the list of "Personal Interests" but currently the only requirement placed upon Members with such an interest (provided it does not also constitute a Disclosable Pecuniary Interest) is that it has to be registered.

5.6 One issue which Members of the Working Group felt particularly strongly about was that of membership of external organisations. In the nature of things, many Councillors are involved in the activities of other community groups or public bodies. It was felt that involvement in such organisations should not preclude a Member from involvement in the decision making process on a matter which affects such a group or body although if the Member is not appointed by the Council the Member should, in the interests of transparency, declare the interest (which would then be registered). If the Member has been appointed by the Council there should be no requirement to declare any interest as the appointment will already be a matter of public record (appointments to external organisations are set out each year in a report to the Annual Council Meeting). Paragraph 10 of the draft Code encapsulates the views of the Working Group relating to such interests. There is a possibility that in a limited number of instances the involvement of a Member with such an interest could infringe the common law relating to bias and for that reason paragraph 1.3 provides that when such circumstances obtain a Member should not involve themselves in the decision making process even though they may not have a Disclosable Pecuniary Interest or an "Affected Interest" (as to which see below).

5.7 The draft Code faithfully reflects the Act in so far as it relates to Disclosable Pecuniary Interests (paragraph 7 of the draft Code). However, under the Act, only the interest of the Member or his/her spouse or partner falls within the definition of Disclosable Pecuniary Interest. Accordingly, the interest of a child or close friend of the Member does not fall within the definition and therefore a Member would not be infringing the statutory requirements if, for example, he/she participated in a decision whether or not to approve an application for a planning permission or a grant submitted by such a person. Quite obviously, such a scenario would be repugnant to public confidence in the workings of the Council. In order to address that statutory lacuna the draft Code formulates the concept of an "Affected Interest" (see paragraph 8). The consequences under the Code of having an Affected Interest will be identical to those for having a Disclosable Pecuniary Interest and therefore it will not be necessary for Members to make a judgement as to which category an interest falls within (though of course, failure to comply with the provisions of the Code relating to an Affected Interest will not render a Member susceptible to criminal prosecution unless it also constitutes a Disclosable Pecuniary Interest).

5.8 The main variation to the draft Code formulated by the Member Working Group which has been proposed by the Standards Committee is that relating to the value of gifts or hospitality received by Members (paragraph 11). The previous prescribed Code specified a threshold of £25 (below which gifts/hospitality need not be registered). The Working Group considered that the threshold should be increased to £75. The suggestion gave rise to a significant level of debate at the Standards Committee, many Members of which felt that £75 would be too high a threshold. Although not ruling out an increase the Standards Committee recommended that the threshold should remain at £25 until such time as it is able to give more detailed consideration on receiving a report specifically addressing the issue.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 The Borough Solicitor is the author of this report.

Borough Treasurer

6.2 There are no financial implications directly arising.

Equalities Impact Assessment

6.3 Not required.

Strategic Risk Management Issues

6.4 None.

Other Officers

6.5 None.

7 CONSULTATION

Principal Groups Consulted

7.1 As set out in section 5 above, the draft Code has been formulated by a Member Working Group and has been considered by the Standards Committee and CMT.

Method of Consultation

7.2 Meetings of the Working Group, the Standards Committee and CMT.

Representations Received

7.3 As alluded to in section 5 above.

Background Papers
File of Borough Solicitor

Contact for Further Information
Alex Jack, Borough Solicitor – 01344 355679
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Doc. Ref
AJ/f/reports/Standard Committee – 14 January 2013 – Revised Code of Conduct for Members

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CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS BRACKNELL FOREST BOROUGH COUNCIL

1. INTRODUCTION

1.1 This Code of Conduct has been adopted by the Council pursuant to the Localism Act 2011 and the duty to promote and maintain high standards of conduct by Members and Co-opted Members of the Council.

1.2 Failure to comply with the requirements of Section 7 of this Code, other than paragraph7.3(c), constitutes a criminal offence for which you may be prosecuted. Failure to comply with any of the other sections of the Code or paragraph 7.3(c) may result in public censure of you by the Council.

1.3 Common law developed by the courts indicates that, at least in relation to "quasi-judicial" functions such as Licensing and Planning, Members should not participate if a reasonable member of the public who is neither complacent nor unduly sensitive or suspicious would in the circumstances conclude that there is a real possibility of bias. This Code requires Members to excuse themselves from involvement in decision making where they have a "Disclosable Pecuniary Interest" or an "Affected Interest" (as defined by the Code) in the matter under consideration. However, it is possible that when exercising such a "quasi-judicial" function interests other than Disclosable Pecuniary Interests or Affected Interests could lead a reasonable member of the public to conclude that there was a real possibility of bias on the part of a Member. In such circumstances the Member should not participate in the decision making process *(i.e. the Member should not vote nor, unless they are requested by the Chairman of the Committee on a point of clarification, speak on the matter).* In cases of doubt or difficulty advice should be sought from the Borough Solicitor.

2. APPLICATION

2.1 This Code of Conduct applies to you when you are acting as a Member or Co-opted Member of the Council. A Co-opted Member is a person who is not a Borough Councillor but who –

(a) is a Member of any Committee or sub-Committee of the Council; or
(b) is a Member of, and represents the Council on, any Joint Committee or joint Committee of the Council

and who is entitled to vote on any question that falls to be decided at any meeting of *the* Committee or sub-Committee.

Throughout this Code "Member" shall be deemed to refer also to Co-opted Members.

2.2 This Code of Conduct is consistent with and based upon the following principles:-

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

The above terms are expanded in the Annexe to this Code under the heading 'The Principles'.

3. GENERAL OBLIGATIONS

3.1 You must treat others with respect.

3.2 You must not:-

(a) do anything which may cause the Council to be in breach of any duty not to discriminate contained in the Equality Act 2012;

(b) bully any person;

(c) do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the Council;

(d) conduct yourself in a manner which could reasonably be regarded as bringing your office as a Member of the Council into disrepute;

(e) use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

4. ACCESS TO AND DISCLOSURE OF INFORMATION

4.1 Do not disclose information given to you in confidence by anyone (including exempt information provided to you by the Council) or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-

(i) you have the consent of a person authorised to give it
(ii) you are required to do so by law
(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person, or
(iv) the disclosure is:-

(a) in the public interest
(b) made in good faith
(c) in the case of exempt information provided to you by the Council, only made after giving two clear working days notice of the intention to disclose (in writing, specifying the information proposed to be disclosed) has been given to the Chief Executive or in his absence the Deputy Chief Executive.

"exempt Information" means information described either as such or as confidential.

4.2 Do not prevent another person from accessing information if that person is entitled to do so by law.

5. DECISION MAKING

5.1 When reaching decisions on any matter you must:-

(a) have regard to any advice provided to you by *the Head of Paid Service (the Chief Executive)* by the Borough Treasurer and/or the Monitoring Officer pursuant to their statutory duties, and

(b) give reasons for the decisions in accordance with any legal requirements or any additional requirements imposed by the Council.

6. RESOURCES

6.1 When using or authorising the use by others of the resources of the Council you must:-

(a) act in accordance with the Council's requirements, and

(b) ensure that such resources are not used improperly for political purposes (including party political purposes);

6.2 You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

7. INTERESTS

<u>Disclosable Pecuniary Interests</u>

7.1 You have a Disclosable Pecuniary Interest if it falls within the description set out in the Schedule to this Code and either:-

(a) it is your interest, or

(b) it is an interest of your spouse or civil partner, a person with whom you are living as husband and wife/as if you were civil partners AND you are aware that such other person has an interest.

7.2 Within 28 days of becoming a Member you must notify the Monitoring Officer of any Disclosable Pecuniary Interests which you have. Where you become a Member as a result of re-election or re-appointment the requirement to notify the Monitoring Officer only applies in relation to Disclosable Pecuniary Interests not already notified.

7.3 If you are present at a meeting of the Council, a Committee, Sub-Committee, Joint Committee, the Executive or an Executive Committee and you are aware that you have a Disclosable Pecuniary Interest in any matter to be considered:-

(a) if the interest is not registered you must disclose the interest to the meeting **and** notify the Monitoring officer within 28 days;

(b) you must not participate in discussion of the matter, or vote on the matter **unless** you have been granted a dispensation by the Monitoring Officer or by the Governance and Audit Committee.

(c) if you are required by the Council's Standing Orders to withdraw from the meeting you should notify the Democratic Services Officer in attendance at the meeting that you are withdrawing as you have an Interest in the matter.

7.4 If you are an Executive Member acting alone in the discharge of a Council function (i.e. if the matter falls within the Executive Member's portfolio) and you have a Disclosable Pecuniary Interest in a matter:-

(a) you must not take any steps in relation to the matter other than for the purpose of enabling it to be dealt with by another Member, and

(b) if the interest is not registered you must notify the Monitoring Officer of the interest.

7.5 If you have a Disclosable Pecuniary Interest in a matter you must not seek improperly to influence a decision about it.

8. **Affected Interests**

8.1 You have an Affected Interest in a matter if:-

(a)

(i) a decision in relation to that matter might reasonably be regarded as affecting the financial position of an Affected Person to a greater extent than the majority of other residents in your Ward, or

(ii) it is an application for a Licence, permission or consent made by an Affected Person or which (to your knowledge) an Affected Person has made objection to the Council

AND

(b) a member of the public, who knows the relevant facts, would reasonably think that the interest is *so* significant that it would be likely to prejudice your judgement of the Public Interest.

The following are "Affected Persons":-

(a) you
(b) your spouse/partner
(c) your parents and grandparents and those of your spouse/partner
(d) your children and grandchildren and those of your spouse/partner
(e) your employer, business partner or any person whom you have undertaken work for in the previous two years, and
(f) your employee
(g) a company in which the total nominal value of the securities held by you/your spouse or partner exceeds £25,000 or more than ten per cent of the total issued share capital

(h) a person with whom you have a close association

8.2 If you are present at a meeting of the Council, a Committee, Sub-Committee, Joint Committee, or an Executive Committee and you are aware that you have an Affected Interest in a matter to be considered:-

(a) if the interest is not registered you must disclose the interest to the meeting **and** (unless you have previously notified the Monitoring Officer of the interest) notify the Monitoring Officer within 28 days (if the Monitoring Officer determines that the interest is a Disclosable Pecuniary Interest the interest shall be entered on the Council's register of interests).

(b) you must not participate in discussion of the matter or vote on the matter **unless** you have been granted a dispensation by the Monitoring officer or by the Governance and Audit Committee.

(c) if you are required by the Council's Standing Orders to withdraw from the meeting you should notify the Democratic Services Officer in attendance at the meeting that you are withdrawing as you have an interest in the matter.

8.3 If you are an Executive Member acting alone in the discharge of a Council function (i.e. if the matter falls within the Executive Member's portfolio) and you have an Affected Interest in a matter:-

(a) you must not take any steps in relation to the matter other than for the purpose of enabling it to be dealt with by another Member, and

(b) if the interest is not registered you must notify the Monitoring Officer of the interest

8.4 If you have an Affected Interest in a matter you must not seek improperly to influence a decision about it.

9. **Sensitive Interests**

9.1 If you have a Disclosable Pecuniary Interest or an Affected Interest but you consider that disclosure of the interest could lead to you or a person connected with you being subject to violence or intimidation **and** the Monitoring Officer agrees with that assessment then instead of disclosing the interest you need only disclose *the fact* that you have a Disclosable Pecuniary Interest or an Affected Interest (as the case may be) *without giving details of that interest.*

10. **Membership of External Organisations and Association**

10.1 This section of the Code applies where you are a member of or in a position of general control or management of any body:-

(a) exercising functions of a public nature
(b) directed to charitable purposes, or
(c) one of whose principal purposes includes the influencing of public or policy (including any political party or trade union)

and you have **not** been appointed or nominated in such capacity by the Council.

10.2 Within 28 days of becoming a Member you must notify the Monitoring Officer of your membership/position. Where you become a Member as a result of re-election or reappointment the requirement to notify the Monitoring Officer only applies in relation to a membership/position not already notified. The membership/position will be recorded on the Council's register of Member's interests.

10.3 If you are present at a meeting of the Council, a Committee, Sub-Committee, Joint Committee, the Executive or an Executive Committee at which a matter is to be considered which affects that body to a greater extent than the majority of residents in your Ward you shall disclose to the meeting your connection to the body immediately prior to consideration of the matter. You need not withdraw from the meeting but you should within 28 days notify the

Monitoring Officer of the membership/position unless notification has previously been given.

11. **Registration of Gifts and Hospitality**

You should promptly register any gifts or hospitality the value of which exceeds *£25* (or the reasonably estimated value of which exceeds *£25* where the value is not disclosed) which you and/or your spouse/partner receive because (or when it can reasonably be inferred because) you are a Member of the Council.

SCHEDULE

Categories of Disclosable Pecuniary Interests

Subject	**Prescribed Description**
Employment, office trade, professional or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a Member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992
Contracts	Any contract which is made between you or a relevant person (or a body in which you or a relevant person has a beneficial interest) and the Council – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
Land	Any beneficial interest in land which is within the Borough.
Licences	Any licence (alone or jointly with others) to occupy land in the Borough for a month or longer.

Subject	Prescribed Description
Corporate tenancies	Any tenancy where (to your knowledge) - (a) the landlord is the Council; and (b) the tenant is a body in which you or a relevant person has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to your knowledge) has a place of business or land in the Borough; and (b) either – (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or a person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Definitions

"body in which you or a relevant person has a beneficial interest" means a firm in which you or a relevant person is a partner or a body corporate of which you or a relevant person is a Director, or in the securities of which you or a relevant person has a beneficial interest.

"director" includes a member of the Committee of management of an industrial provident society.

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you or a relevant person (alone or jointly with another) to occupy the land or to receive income.

“relevant period” means the period of one year ending with the day on which you give a notification of your Disclosable Pecuniary Interests to the Monitoring Officer.

“relevant person” is a person falling within 7.1(b) above.

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

ANNEXE

THE PRINCIPLES

- Selflessness
  Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

- Honesty and Integrity
  Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour

- Objectivity
  Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

- Accountability
  Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

- Openness
  Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

- Leadership
  Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

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GOVERNANCE AND AUDIT COMMITTEE
29 JANUARY 2013

SCHEME OF DELEGATION TO OFFICERS – CERTIFICATES OF LAWFUL USE
Director of Corporate Services – Legal

1 PURPOSE OF REPORT

1.1 This report proposes that power to determine applications for Certificates of Lawful Use made under the Town and Country Planning Act 1990 ("the 1990 Act") should be delegated to the Chief Officer: Planning and Transport notwithstanding that such an application might attract objections from more than three households and/or organisations.

2 RECOMMENDATION

2.1 That the Scheme of Delegation to Officers set out in Table 1 Part 2 of the Council's Constitution be amended such that all applications for a Certificate of Lawful Use be determined by the Chief Officer: Planning and Transport (or such other officer within the Planning section as he may in writing delegate such function to).

3 REASONS FOR RECOMMENDATION

3.1 All applications for Certificates of Lawful Use must only be determined by reference to determined facts and the application of the law to those facts. Considerations as to the planning merits of the development in respect of which such an application is made are entirely irrelevant. There is no discretion upon which Members can bring to bear their planning judgement. Not infrequently such applications involve consideration of extensive amounts of evidence and/or legal issues of considerable complexity; in such circumstances it is unrealistic to anticipate that all of the relevant material can be placed before the Planning Committee.

4 ALTERNATIVE OPTIONS CONSIDERED

4.1 Not to change the Scheme of Delegation as proposed. However, the consequence would be that applications for Certificates of Lawful Use might have to be brought to Planning Committee if a single Member so requested or if there were objections from more than three households and/or organisations.

5 SUPPORTING INFORMATION

5.1 The 1990 Act provides for two types of Certificates of Lawful Use. The first, under Section 191, is a Certificate of Lawfulness of Existing Use or Development (often referred to as "CLEUD'S"). Such Certificates apply to development which has already taken place (i.e. there has already been a change of use or operational development has been carried out). The Council **must** (i.e. there is no discretion) if the development is "lawful". That term (lawful) is defined to mean:-

- that no enforcement action can be taken in respect of the development, because the period allowed for the Council to take enforcement action has expired or the development did not require planning permission, and

- the development is not in breach of any existing Enforcement Notice.

5.2 The second type of Certificate is a Certificate of Lawfulness of Proposed Use or Development (sometimes referred to as "CLOPUD'S"). An application for a CLOPUD is made by someone who wishes to ascertain whether a proposed development would be lawful. Again, if the proposed development would be lawful the Council **must** issue the Certificate. The criteria for assessing whether a development would be "lawful" are the same as for a CLEUD.

5.3 Certificates of Lawful Use applications are frequently supported by the submission of extensive volumes of information endeavouring to demonstrate that a development took place more than four or (depending upon the type of development) ten years ago. The evidence might, for example, take the form of a set of invoices, utility bills or statutory declarations. Such applications also frequently give rise to difficult issues of law. An example is whether a proposed development falls within one of the many specified categories of "Permitted Development". Under the processes agreed between the Borough Solicitor and the Chief Officer: Planning and Transport no application for a Certificate of Lawful Use can be determined without legal advice having been provided.

5.4 The Scheme of Delegation to officers as currently drafted provides that all "applications" (a term broad enough to encompass Certificate of Lawful Use applications) have to be brought to Planning Committee if a single Member so requests (supported by a valid "planning reason") or if "valid planning objections" are made by more than three households/organisations. Very often any objections to applications for a Certificate of Lawful Use are made on the basis of an issue of the planning merit of the development, which issues are entirely irrelevant to the determination of the application. Arguably, such objections are not "valid planning objections" or "a valid planning reason", but the matter is not beyond doubt. In one recent instance an application had to be placed on the agenda of the Planning Committee only for the Committee (in accordance with the officer recommendation) to delegate the decision to officers.

5.5 The recommendation does not propose any incursion into an area of decision making where Members can exercise their discretion on a matter of planning judgement.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 The Borough Solicitor is the author of this report.

Borough Treasurer

6.2 There are no financial implications directly arising.

Equalities Impact Assessment

6.3 Not required.

Strategic Risk Management Issues

6.4 None.

Other Officers

6.5 None.

7 CONSULTATION

Principal Groups Consulted

7.1 None.

Method of Consultation

7.2 Not applicable.

Representations Received

7.3 Not applicable.

Background Papers
None.

Contact for Further Information
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Alex.jack@bracknell-forest.gov.uk

Doc. Ref.
AIJ/f/reports/Governance & Audit – Scheme of Delegation to Officers
Certificates of Lawful Use – 2013

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GOVERNANCE AND AUDIT COMMITTEE
29 JANUARY 2013

ANNUAL GOVERNANCE STATEMENT PREPARATION
(Director of Corporate Services – Legal)

1 PURPOSE OF DECISION

1.1 This report seeks the nomination of a Member to attend the meeting of the Governance Working Group which formulates the Annual Governance Statement ('AGS')and the AGS Action Plan.

2 RECOMMENDATION

2.1 The Committee is invited to nominate a Member to attend the meeting of the Governance Working Group which formulates the Annual Governance Statement and resulting Action Plan, for submission to the Committee.

3 REASONS FOR RECOMMENDATION

Member input has been valuable in previous years and accordingly the Committee is requested to nominate a Member to assist in this year's preparation of the AGS.

4 ALTERNATIVE OPTIONS CONSIDERED

None.

5 SUPPORTING INFORMATION

5.1 The CIPFA/SOLACE guidance on Governance for Local Authorities which constitutes best practice for the Accounts and Audit Regulations requires the production of an AGS. The review of the Council's governing arrangements in the Annual Governance Statement leads to the formulation of an Action Plan to address any weaknesses identified.

5.2 For the past three years a Member of the Committee (Councillor Thompson) has been nominated to attend the meeting of the officer Governance Working Group which prepares the draft AGS and Action Plan. Member input has been found to be very helpful and accordingly the Committee is requested to nominate a Member to assist in this year's preparation of the AGS.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

6.1 The Borough Solicitor is the author of this report.

Borough Treasurer

6.2 There are no financial implications directly arising.

Equalities Impact Assessment

6.3 Not applicable

Strategic Risk Management Issues

6.4 None.

Other Officers

6.5 None.

7 CONSULTATION

7.1 Principle Groups Consulted

None.

7.2 Method of Consultation

Not applicable.

7.3 Representations received

Not applicable.

Background Papers
None.

Contact for Further Information
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Doc Ref
IKEN 038380