

Public Document Pack



MEETING:	Audit and Governance Committee
DATE:	Wednesday 15 November 2023
TIME:	2.00 pm
VENUE:	Council Chamber, Barnsley Town Hall

AGENDA

1. Declarations of Pecuniary and Non-Pecuniary Interest
2. Minutes (*Pages 3 - 10*)
To receive the minutes of the meeting held on 20 September 2023.
3. Informing the Audit Risk Assessment (*Pages 11 - 44*)
4. Report to those charged with Governance (ISA 260) 2022/23 (*To Follow*)
5. Annual Governance Statement 2022/23 (*Pages 45 - 72*)
6. Audited Statement of Accounts 2022/23 (*To Follow*)
7. Head of Internal Audit, Anti-Fraud and Assurance Annual Report 2022/23 (*Pages 73 - 98*)
8. Internal Audit Progress Report (*Pages 99 - 112*)
9. Strategic Risk Register (*Pages 113 - 116*)
10. Corporate Anti-Fraud Team Update Report (*Pages 117 - 124*)
11. Contract Procedure Rules (*Pages 125 - 182*)
12. Information Governance and Cyber Security Update (*Pages 183 - 188*)
13. Data Protection Officer Assurance Report (*Pages 189 - 192*)
14. Constitution Review (*Pages 193 - 200*)
15. External Audit Progress Report (*Verbal Report*)
16. Audit Committee Work Plan 2023/24 (*Pages 201 - 208*)
17. Exclusion of the Public and Press
To consider if the public and press should be excluded from this meeting during the consideration of the following items because of the likely disclosure of exempt information.
18. SEND Quarter 1 Performance and Finance Report (*Pages 209 - 218*)

Reason restricted:

Paragraph (2) Information which is likely to reveal the identity of an individual.

To: Chair and Members of Audit and Governance Committee:-

Councillors Lofts (Chair), Barnard, Richardson and C. Wray; together with Co-opted members Dr R Adams, Ms K Armitage, Mr G Bandy, Mr P Johnson and Mr S Wragg

Sarah Norman, Chief Executive

All Executive Directors

Wendy Popplewell, Executive Director Core Services

Neil Copley, Director of Finance (S151 Officer)

Rob Winter, Head of Internal Audit, Anti-Fraud and Assurance

Alison Salt, Corporate Governance and Assurance Manager

Sukdave Ghuman, Service Director Law and Governance (Monitoring Officer)

Michael Potter, Service Director Business Improvement, HR and Communications

Council Governance Unit – 3 copies

Please contact Daisy Thorpe on email governance@barnsley.gov.uk

Tuesday 7 November 2023

MEETING:	Audit and Governance Committee
DATE:	Wednesday 20 September 2023
TIME:	2.00 pm
VENUE:	Council Chamber, Barnsley Town Hall

MINUTES

Present Councillors Lofts (Chair), Barnard and Richardson together with Independent Members – Dr R Adams, Ms K Armitage, Mr G Bandy and Mr P Johnson

32. DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTEREST

There were no declarations of interest from Members in respect of items on the agenda.

33. MINUTES

The minutes of the meeting held on the 26 July 2023 were taken as read and signed by the Chair as a correct record.

34. REPORT OF MONITORING OFFICER INTO LGSCO CASE

S Ghuman, Monitoring Officer and Service Director Legal and Governance, presented the Report of Monitoring Officer into LGSCO Case.

It was noted that report was brought to the Committee to comply with the Committee Terms of Reference, in which the Committee should consider any payments in excess of £2,000 or provide other benefits in cases of maladministration by the authority.

Members were informed that in addition to robust quality assurance measures, dip sampling of those teams involved in the case was ongoing, and various learning and development would be implemented across the directorate.

RESOLVED that:-

- (i) The Committee is asked to receive and consider the report, and acknowledge the actions already taken and plans to address the LGSCO's recommendations.
- (ii) That the Committee note the requirement for the Council to make compensation payments totalling £3,000 to Mr. D and Ms B.

35. STRATEGIC RISK REGISTER

M O'Neill, Executive Director Growth and Sustainability, attended to present the Strategic Risk Register concerning Zero Carbon and Inclusive Economy.

In regard to Zero Carbon, Action One was rated green, Actions Two through to Six were rated amber and Actions Six and Seven were rated green.

In regard to Inclusive Economy, Actions One through to Three were rated green and Actions Four through Eight were rated amber.

The following key points of the report were noted:

- The Strategic Risk Register was reviewed by the Senior Management Team (SMT) on 5th September and there were no changes to the number or ratings given to the 13 strategic risks.
- The Positive Climate Partnership had taken shared ownership of the zero-carbon agenda at a Borough wide level.
- The Council continued to work closely with Berneslai homes to develop a retrofit strategy.
- The Council would ensure that carbon literacy was a key principle of its procurement strategies and social value requirements for key contracts.
- The impact of the Covid-19 pandemic and the cost-of-living crisis continued to have a significant impact on the local economy. The Council had developed a robust response to support local businesses.
- The membership of the Inclusive Economy Board was currently being reviewed to ensure that it was fit for purpose.
- Footfall in the borough had increased with a strong performance reported in quarter one of this year.
- The borough continued to see retail contraction due to national high street chains going into administration.

In the ensuing discussion the following key points were highlighted:

- The Carbon Management Group was already convened with various task and finish groups however it was noted that a broader membership across the Council was needed.
- The frequency and risk of abnormal weather events such as heavy rain and flooding continued to increase, the Council continued to monitor this via the Positive Climate Partnership.
- The Council was at the early stages of understanding the totality of data regarding carbon and therefore detailed reporting would be available in due course.
- The Council was committed to its Zero Carbon 40 and Zero Carbon 45 goals irrespective of any change in national government policy.
- The Committee would be provided with a financial breakdown of the costs associated with the Zero Carbon strategies however it was noted that this was captured in the Medium-Term Financial Plan and efficiencies had been created via carbon reduction strategies.
- Discussion arose regarding the most substantial threats to creating an inclusive economy. It was noted that economic inactivity can cause lack of growth, and that 28% of Barnsley residents were classed as economically inactive which was significantly higher than the Yorkshire and Humber average.
- The Inclusive Economy Board was independently chaired with senior officers fully involved in drafting the Inclusive Economy Strategy.

- Buy in from other Directorates in the Council regarding Inclusive Economy was noted, the risks identified were an SMT risk which required whole Council and partnership working via the Inclusive Economy Board.

RESOLVED that Committee note the update.

36. ANNUAL CUSTOMER COMPLAINTS AND COMPLIMENTS REPORT 2022-23

C Dobby, Customer Resolution Manager, presented the Annual Customer Complaints and Compliments Report 2022-23.

The key highlights of the report included:

- The number of compliments had increased and complaints had decreased.
- There had been a decrease in the number of complaints progressing to the next stage of procedures.
- 96% of complaints had met corporate and statutory timescales for completion.
- The Council continued to find an element of fault in most of its complaints, so learning from people's experiences and adapting services was essential alongside seeking a remedy with customers.
- The Council received the Local Government and Social Care Ombudsman's annual review letter on the 19 July 2023. A summary of performance was:
 - Performance in relation to complaints upheld shows that the Council was slightly above (78%) the average for similar organisations (77%).
 - The Council reported that the compliance with recommendations remained at 100% and was slightly above that of other similar organisations (99%), and performance on satisfactorily remedying complaints was 14% with the average of similar organisations at 10%.

Discussion arose regarding complaints received for events that would include a number of residents, for example a missed bin collection, compared to complaints that were individualised. It was noted that the Sustainability and Growth Directorate received the most compliments as well as complains due to the front facing nature of its services. Work with comms had been undertaken so residents could report instances such as missed bin collections rather than submitting a complaint.

RESOLVED that the update be noted.

37. ANNUAL HEALTH & SAFETY REPORT 2022-23

S Dobby, Head of Corporate Health, Safety and Emergencies presented the Annual Health & Safety report for the year 2022-23.

Key highlights of the report included:

- All audits showed a satisfactory level of compliance with governance arrangements for health and safety.
- There had been an improvement in compliance with requirements to develop risk assessments.
- The RIDDOR reportable accident performance when compared to national statistics remained favourable (around 45% lower than national rates at 1.8

incidents per 1,000 employees in the Council compared to 3.2 incidents per 1,000 employees nationally).

- An increase in reported accidents to 74 had been reported, this was albeit remaining below pre-pandemic levels and mirroring increases in reportable accidents nationally.

Member discussion arose regarding the pre-pandemic levels of performance as mentioned in the report. This information could be found in previous years reporting and it was agreed that the Members could be provided with a high-level summary of this.

RESOLVED that:

- (i) The Committee note the report; and
- (ii) That Members are provided with a summary of pre-pandemic levels of performance.

38. ANNUAL EMPLOYEE SICKNESS ABSENCE PERFORMANCE MANAGEMENT REPORT 2022-23

M Potter, Service Director Business Intelligence, HR and Communications, presented the Annual Employee Sickness Absence Performance Management Report for the year 2022-23.

The following key points were noted:

- The outturn figure reported was 11.09 days against a target of 7.5 days.
- The majority of reported absences were due to infectious diseases such as COVID-19 along with mental health in 2022-23.
- Public sector sickness was generally higher than in the private sector. This had been the case since 1995. An ONS report in 2022 found the days lost per worker in the private sector was 5.0 days, versus 7.1 days in local government and 10.7 days in healthcare.
- The report had been received by both SMT and Cabinet and had also been presented at the Scrutiny Committee.

In the ensuing discussion, the following key points were highlighted:

- Variation in numbers by quarter occurred regularly due to seasonal illnesses.
- In regard to the increase in absences, this could be mainly attributed to mental health absences however it was noted that in Q1 of this year these types of absences had fallen to pre-pandemic levels.
- Research was currently being undertaken on any links between the covid-19 pandemic and mental health. The Council had seen an increase in the number of requests for counselling due to difficulties accessing services via the NHS.
- The main priority for the Council was to reduce the number of sickness absences. Various initiatives had been undertaken including working towards wellbeing accreditation and becoming a menopause friendly employer.
- The Council had launched a new managing attendance procedure which included mandatory training for line managers.

- In regard to the PDR data, the Governance and Ethics Board was beginning to review the data and track variation trends. PDRs were undertaken on a 12-month rolling period and Power BI dashboards to monitor which PDRs were ready for review.

RESOLVED that:-

- (i) Members note the update; and
- (ii) That Members be provided with details of the percentage of staff on sickness leave and the average length of time off sick.

39. THE PEOPLE STRATEGY

M Potter presented the update in regard to The People Strategy.

The following key points were noted as follows:-

- Following the launch of The People Strategy and associated action plan in January 2022, the report provided an 18-month review of progress and achievements against the People Strategy Action Plan.
- The council was undergoing a significant period of transformation and the People Strategy would play an integral part in delivering change and meeting the 2030 ambitions as part of the Enabling Barnsley priority.
- The Council was awarded by Council of the Year at the LGC awards and Local Authority of the year at the MJ awards.
- The Council had achieved gold standard accreditation for well-being through Be well @ Work.
- The next steps included an audit review of action plan and implementation of findings and enhancing the health and well-being offer to ensure the Council maintains gold standard accreditation.

RESOLVED that the update be noted.

40. ANNUAL EQUALITY AND INCLUSION REPORT

M Hempshall, Place, Policy and Equality Manager, presented the Annual Equality and Inclusion Report.

The following key points were noted:

- The Annual Equalities report provided an overview of how the Council met the Equality Act 2010 and associated Public Sector Equality Duties (PSED).
- The Council recognised significant gaps in the provision of equalities monitoring data, work was being undertaken to remedy for example collecting equality monitoring data for customer complaints and compliments.
- The Council was in the process of updating the current HR management system. Employees would be able to access the system via self-service, providing the opportunity to keep their own personal data up to date, which would help to the Council accurately capture workforce data.

- New systems in Childrens Social Care had been implemented including a systems audit.
- The Equality, Diversity and Inclusion action plan was currently underway.
- The Council was developing its staff networks including a BAME and Disability network.

Member discussion arose the age profile of the Council's staff. Barnsley had a comparable age profile to similar local authorities which varied across directorates. SMT had pinpointed succession planning as a key piece of work and the Council had worked with the LGA to test their workforce planning tool.

RESOLVED that Members note the update.

41. INTERNAL AUDIT EFFECTIVENESS REPORT

S Bradley, Internal Audit Manager, presented the Internal Audit Effectiveness Report.

The key points were noted as follows:-

- The requirement to have an EQA and to maintain a Quality Assurance and Improvement Programme (QAIP) for the Internal Audit function was required by the Public Sector Internal Audit Standards 2017 (PSIAS).
- A framework had been developed to ensure all aspects of the PSIAS are considered and factored into how the Internal Audit function is resourced, managed, audit work is identified and delivered, and personal professional standards are met.
- A self-assessment against the PSIAS would be undertaken once the Service's Transformation Review has been concluded and any changes embedded. The outcome would be reported into the Audit and Governance Committee in due course.

RESOLVED that:-

- (i) Members considered and assessed the proposed QAIP Framework which sets out how it will meet the requirements set out in the PSIAS; and
- (ii) That the Committee receives an annual update report on the delivery of the QAIP.

42. CORPORATE FINANCE AND PERFORMANCE MANAGEMENT UPDATE

N Copley, Director of Finance, presented the Corporate Finance and Performance Management Update.

The key points were noted as follows:-

- The Council's 23/24 budget was agreed by Full Council on 23rd February 2023.
- The current forecast was for a year-end cost pressure in the region of £17.5M. This was significantly more than anticipated at budget setting time

and predominantly related to further additional pressures being experienced in Children's Social Care.

- It was likely that some of these pressures would continue over the medium term, therefore it remained imperative that a transformation and efficiency plan was implemented.
- The budget approved in February 2023 assumed an employee pay award of 4% (equivalent to a cost of £4.0M), but it was highlighted at the time that this may not be sufficient given the ongoing cost-of-living crisis. The National Employers Association made a "full and final pay offer", of at least £1,925 (3.88% headline offer) on all NJC pay points 1 and above effective from 1st April 2023 which was still being deliberated by the Unions.

In the ensuing Member discussion, the following key points were noted:-

- Teams across finance and procurement had a stringent checklist for any spend over £10,000 and were currently investigating if spending was needed or could be sourced in a different way.
- The Council had a clear focus on the transformation programme, looking at how to fundamentally change the way services were delivered with a collective responsibility on delivering a balance budget.
- Three quarters of the Council's debt was fixed rate was provided cost certainty and therefore the Council had been less adversely impacted by recent volatility in the markets.
- In regard to the monies as part of the SYMCA Devolution Deal, the Council was planning on drawing down the funds for investment purposes.

RESOLVED that Members note that report.

43. EXTERNAL AUDIT PROGRESS REPORT/UPDATE

G Mills, representing the External Auditor, attended virtually to provide an update on External Audit progress.

The key points were noted as:-

- Grant Thornton was on target to complete the accounts audit for the end of November and were hoping to complete the Value for Money audit for January 2024.
- It was hoped that the ISA 260 report would be presented to the Committee at the November meeting.

RESOLVED that the update be noted.

44. FINAL COMMITTEE ANNUAL REPORT 2022-23

A Salt, Corporate Governance and Assurance Manager, presented the Final Committee Annual Report 2022-23.

The Committee noted that:-

- The Annual Report had been prepared in accordance with recommended guidance and seeks to demonstrate the Council's commitment governance. The report set out the role of the Audit and Governance Committee and how it had discharged its responsibilities during 2022/23.
- Subject to the Committee's approval, the Annual Report would be included as a link document in the Annual Governance Statement and would also be published as a standalone document on the Council's website.

RESOLVED that the Committee considered the final Annual Report 2022/23 and subsequently recommend it for Full Council on 23rd November.

45. AUDIT COMMITTEE WORK PLAN 2023-24

A Salt presented the Audit Committee Work Plan 2023/24. It was noted that there were two changes included:-

- A report from the Monitoring Officer on a LGSCO Case had been included on the agenda.
- The November meeting has been changed to 15th November.

RESOLVED that the Committee note the updated workplan.

46. EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED that the public and press be excluded from this meeting during the consideration of the following item because of the likely disclosure of exempt information as defined by Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended).

47. GLASSWORKS MANAGEMENT ASSURANCE FRAMEWORK

M O'Neill provided the Committee with an update on the Glassworks Management Assurance Framework.

It was noted that it was standard industry practice in both the public and private sector for developers to use capital contributions for fit-out costs. The Committee would be provided with a full breakdown of capital contribution costs in due course.

RESOLVED that the update be noted.

.....
Chair

Informing the audit risk assessment for Barnsley Metropolitan Borough Council 2022/23

Page 11

Gareth Mills
Director
T 0113 200 2535
E Gareth.mills@uk.gt.com

Thilina De Zoysa
Senior Manager
T 0113 200 1589
E Thilina.De.Zoysa@uk.gt.com

Haz Anjum
Engagement in-charge
T 0161 953 6363
E Haz.Anjum@uk.gt.com



Item 3

The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect your business or any weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

Table of Contents

	Section	Page
	Purpose	4
	General Enquiries of Management	6
	Fraud	9
Page 13	Fraud Risk Assessment	10
	Laws and Regulations	15
	Impact of Laws and Regulations	16
	Related Parties	18
	Going Concern	20
	Accounting Estimates	22
	Accounting Estimates - General Enquiries of Management	23
	Appendix A – Accounting Estimates	26

Purpose

The purpose of this report is to contribute towards the effective two-way communication between Barnsley Metropolitan Borough Council's external auditors and Barnsley Metropolitan Borough Council's Audit Committee, as 'those charged with governance'. The report covers some important areas of the auditor risk assessment where we are required to make inquiries of the Audit Committee under auditing standards.

Background

Under International Standards on Auditing (UK), (ISA(UK)) auditors have specific responsibilities to communicate with the Audit Committee. ISA(UK) emphasise the importance of two-way communication between the auditor and the Audit Committee and also specify matters that should be communicated.

This two-way communication assists both the auditor and the Audit Committee in understanding matters relating to the audit and developing a constructive working relationship. It also enables the auditor to obtain information relevant to the audit from the Audit Committee and supports the Audit Committee in fulfilling its responsibilities in relation to the financial reporting process.

Communication

As part of our risk assessment procedures we are required to obtain an understanding of management processes and the Barnsley Metropolitan Borough Council's oversight of the following areas:

- General Enquiries of Management
- Fraud,
- Laws and Regulations,
- Related Parties,
- Going Concern, and
- Accounting Estimates.

Purpose

This report includes a series of questions on each of these areas and the response we have received from Barnsley Metropolitan Borough Council's management. The Audit Committee should consider whether these responses are consistent with its understanding and whether there are any further comments it wishes to make.

General Enquiries of Management

Question	Management response
<p>1. What do you regard as the key events or issues that will have a significant impact on the financial statements for 2022/23?</p>	<p>The Pension account has become a surplus which has had a significant impact on the Financial Statements. This has been accounted for under IFRIC 14 and the relevant narrative is added to the accounts. The cost of living crisis caused by inflation and rising cost of energy has also had a significant impact on the Statement of Accounts. There is also rising interest rates which has had a minimal impact on the Financial statements due most of BMBC debt is on fixed terms. There is also rising demand and cost of services particularly within children's social care.</p>
<p>2. Have you considered the appropriateness of the accounting policies adopted by Barnsley Metropolitan Borough Council? Have there been any events or transactions that may cause you to change or adopt new accounting policies? If so, what are they?</p>	<p>The Council's accounting policies are reviewed annually as part of the preparation of the accounts For appropriateness and to ensure they reflect any changes to accounting principles. No new events or transactions have required a change to the accounting policies. The Audit & Governance Committee receives assurance over the accounting policies adopted via the detailed report and accompanying presentation of the accounts where any material changes in accounting policies are highlighted. A&GC would also receive further detailed information on any significant changes in accounting policies as required/appropriate The only change that has impacted the 22/23 accounts is IFRIC 14 due to the Councils pensions reserve becoming a surplus.</p>
<p>3. Is there any use of financial instruments, including derivatives? If so, please explain</p>	<p>The council currently has no financial instruments or derivatives as detailed in the notes of the accounts. Any newly adopted financial instruments would be discussed in detail with management and A&GC as appropriate</p>
<p>4. Are you aware of any significant transaction outside the normal course of business? If so, what are they?</p>	<p>The Council has received additional income of 4.7 million and expenditure of 4.4 million in relation to the Household Support Grant. During 2022/23 Barnsley Council was also successful in gaining financial support from the DfE as part of the Safety Valve Programme. This resulted in an additional payment of £9.160m of DSG on the 31 March 2023, which reduced the cumulative deficit amount to be carried forward into 2023/24.</p>

General Enquiries of Management

Question	Management response
5. Are you aware of any changes in circumstances that would lead to impairment of non-current assets? If so, what are they?	There have been no significant events that have caused any impairment of any of the Councils assets.
6. Are you aware of any guarantee contracts? If so, please provide further details	<p>We have several bonds held in some highway's agreements and collateral warranties in some construction contracts, major projects and well as parent company guarantees when necessary, including if that was a requirement for that particular tender.</p> <p>The Council has issued several warranties in relation to the Glassworks project which are in place to protect the Councils financial and other interests, which are agreed following the Councils governance procedures.</p>
7. Are you aware of the existence of loss contingencies and/or un-asserted claims that may affect the financial statements? If so, please provide further details	There is proceedings against the Council in relation to term time pay claims, the full impact of which is unknown, however expected to be paid towards the end of 2023/24. The Council have a provision in the accounts in relation to this which we feel is sufficient.
8. Other than in house solicitors, can you provide details of those solicitors utilised by Barnsley Metropolitan Borough Council during the year. Please indicate where they are working on open litigation or contingencies from prior years?	<p>Walker Morris – Call off Solicitor contract – Locums/specialist advice for any legal matter that can't be dealt with in house.</p> <p>Gowlings – commercial lawyers relating to the Councils commercial leases entered into for the Glassworks</p> <p>Kennedys and Weightmans – Solicitors who deal with any insurance matters that cannot be dealt with in house.</p> <p>Legal Services also attains addition legal support and provision under the East Midlands Lawshare arrangement which is cost effective service provision drawn down upon by many public sector bodies and local authorities.</p>

General Enquiries of Management

Question	Management response
<p>9. Have any of the Barnsley Metropolitan Borough Council's service providers reported any items of fraud, non-compliance with laws and regulations or uncorrected misstatements which would affect the financial statements? If so, please provide further details</p>	<p>The Council is not aware of any fraud, non-compliance or uncorrected misstatements.</p> <p>Audit Committee would be notified of such risks when they arise.</p>
<p>10. Can you provide details of other advisors consulted during the year and the issue on which they were consulted?</p>	<p>The Information Commissioner was contacted by the Council 8 times regarding matters relating to data protection, none of which resulted in any action being taken against the Council.</p>
<p>11. Have you considered and identified assets for which expected credit loss provisions may be required under IFRS 9, such as debtors (including loans) and investments? If so, please provide further details</p>	<p>The Council holds a number of loans with local organisations for service delivery purposes as well as holding shares in a number of delivery vehicles [e.g. BSF Schools delivery vehicle]. Each year, the Council assesses both the loans and the values of the shares, reflective of the circumstances at that time. Using this assessment, determines the level of provision accordingly.</p>

Fraud

Matters in relation to fraud

ISA (UK) 240 covers auditors responsibilities relating to fraud in an audit of financial statements.

The primary responsibility to prevent and detect fraud rests with both the Audit Committee and management. Management, with the oversight of the Audit Committee, needs to ensure a strong emphasis on fraud prevention and deterrence and encourage a culture of honest and ethical behaviour. As part of its oversight, the Audit Committee should consider the potential for override of controls and inappropriate influence over the financial reporting process.

As Barnsley Metropolitan Borough Council's external auditor, we are responsible for obtaining reasonable assurance that the financial statements are free from material misstatement due to fraud or error. We are required to maintain professional scepticism throughout the audit, considering the potential for management override of controls.

As part of our audit risk assessment procedures we are required to consider risks of fraud. This includes considering the arrangements management has put in place with regard to fraud risks including:

- assessment that the financial statements could be materially misstated due to fraud,
- process for identifying and responding to risks of fraud, including any identified specific risks,
- communication with the Audit Committee regarding its processes for identifying and responding to risks of fraud, and
- communication to employees regarding business practices and ethical behaviour.

We need to understand how the Audit Committee oversees the above processes. We are also required to make inquiries of both management and the Audit Committee as to their knowledge of any actual, suspected or alleged fraud. These areas have been set out in the fraud risk assessment questions below together with responses from Barnsley Metropolitan Borough Council's management.

Fraud risk assessment

Question	Management response
<p>1. Has Barnsley Metropolitan Borough Council assessed the risk of material misstatement in the financial statements due to fraud?</p> <p>How has the process of identifying and responding to the risk of fraud been undertaken and what are the results of this process?</p> <p>How do the Barnsley Metropolitan Borough Council's risk management processes link to financial reporting?</p>	<p>As part of the arrangements in preparing the Council's statutory accounts a number of control measures are in place. The financial statements undergo a thorough integrity check process as part of the council's normal internal controls framework. As such the risk of material misstatement due to fraud is assessed as part of that wider controls framework which would highlight this, e.g. via budgetary control, exception reporting, supplier complaints about not being paid and duplicate payment software and processes.</p> <p>The S151 Officer and Deputy S151 Officer also undertake a thorough review of the accounts process.</p> <p>Internal Audit conduct core financial systems audits during and covering the year based on a risk strategy agreed with management. The Audit & Governance Committee receive details of the findings from these reviews. All core system reviews received a positive assurance opinion as highlighted in the Head of Internal Audit's annual report.</p> <p>The council's risk management process is integrated into all key decisions and the financial reporting framework with key strategic and operational risks being reported through the normal governance procedures.</p> <p>The Audit & Governance Committee would be informed of any areas of fraud and the impact that this may have on the statutory accounts.</p>
<p>2. What have you determined to be the classes of accounts, transactions and disclosures most at risk to fraud?</p>	<p>The key areas of the accounts at highest risk of fraud include payroll transactions, creditor payments and construction related payments (due to their particular value), although the council's control environment work to detect and prevent such risks occurring.</p>
<p>3. Are you aware of any instances of actual, suspected or alleged fraud, errors or other irregularities either within Barnsley Metropolitan Borough Council as a whole, or within specific departments since 1 April 2022? If so, please provide details</p>	<p>We are not aware of any material instances of fraud or irregularity having occurred.</p> <p>A number of instances of council tax, blue badge and tenancy fraud have occurred during the year. The NFI exercise also highlights instances of irregularity, error and fraud. All are reported to the Committee through the Corporate Anti-Fraud Team or Internal Audit reports.</p> <p>None of the instances identified are material either individually or collectively.</p>

Fraud risk assessment

Question	Management response
<p>4. As a management team, how do you communicate risk issues (including fraud) to those charged with governance?</p>	<p>The Audit & Governance Committee receives presentations from the key areas of risk, concern and focus at each of its meetings alongside specific updates reports from the Corporate Anti-Fraud Team and Internal Audit.</p>
<p>5. Have you identified any specific fraud risks? If so, please provide details</p> <p>Do you have any concerns there are areas that are at risk of fraud?</p> <p>Are there particular locations within Barnsley Metropolitan Borough Council where fraud is more likely to occur?</p>	<p>No risks have been identified during 2022/23 in relation to the possibility of the material misstatement of the accounts.</p> <p>The prompt for all Business Units to undertake a general fraud vulnerability assessment is incorporated within the annual governance review process. This process has not identified any significant areas of fraud vulnerability.</p>
<p>6. What processes do Barnsley Metropolitan Borough Council have in place to identify and respond to risks of fraud?</p>	<p>As mentioned above, all Business Units undertake a general fraud vulnerability assessment as part of the annual governance review process.</p> <p>Fraud risks are also specifically examined as part of all Internal Audit work.</p> <p>The Audit & Governance Committee also receives any updated anti-fraud policies for their consideration as they are periodically reviewed.</p>

Fraud risk assessment

Question	Management response
<p>7. How do you assess the overall control environment for Barnsley Metropolitan Borough Council, including:</p> <ul style="list-style-type: none"> the existence of internal controls, including segregation of duties; and the process for reviewing the effectiveness the system of internal control? <p>If internal controls are not in place or not effective where are the risk areas and what mitigating actions have been taken?</p> <p>What other controls are in place to help prevent, deter or detect fraud?</p> <p>Are there any areas where there is a potential for override of controls or inappropriate influence over the financial reporting process (for example because of undue pressure to achieve financial targets)? If so, please provide details</p>	<p>Internal Audit prepare an annual core financial systems strategy. This is discussed with the S151 Officer and shared with External Audit. The audit of these systems covers the key control environment and particularly the segregation of duties.</p> <p>Any areas where internal controls can be enhanced that are highlighted by Internal Audit require a management response and action. These are monitored by Internal Audit and reported to the Audit & Governance Committee.</p> <p>Various policies, procedures, guidance and training are in place covering all the financial systems and processes within them. The work of Internal Audit and the Corporate Anti-Fraud Team are a further check on the effectiveness of control and management of fraud risk. The council has a confidential reporting policy that would afford the opportunity for an employee with a concern about fraud to raise their concern in a safe and secure manner.</p> <p>There has been no evidence of the override of controls.</p>
<p>8. Are there any areas where there is potential for misreporting? If so, please provide details</p>	<p>No areas of potential mis-reporting have been identified to date.</p>

Fraud risk assessment

Page 23

Question	Management response
<p>9. How does Barnsley Metropolitan Borough Council communicate and encourage ethical behaviours and business processes of it's staff and contractors?</p> <p>How do you encourage staff to report their concerns about fraud?</p> <p>What concerns are staff expected to report about fraud? Have any significant issues been reported? If so, please provide details</p>	<p>Compliance with the council's ethical standards and behaviours is also covered in the annual governance review process. The Code of Corporate Governance (considered by the Committee) includes the 7 Principles in Public Life. The Council's visions and values also highlight expectations for good ethical behaviour.</p> <p>Anti-fraud policies are available on the intranet and specifically communicated when reviewed and updated. Periodic awareness items are included in corporate communications. A Fraud Awareness Week is held (next being 13-17 November to promote fraud awareness and reporting.</p> <p>No significant concerns have been raised through the Confidential Reporting policy.</p>
<p>10. From a fraud and corruption perspective, what are considered to be high-risk posts?</p> <p>How are the risks relating to these posts identified, assessed and managed?</p>	<p>Given the arrangements for management and supervision and the general segregation of duties, there are no posts that are deem specifically high risk. However, posts in financial transactional areas, Legal, Planning and where there is direct influence over financial resource decisions are clearly of 'higher' risk than others.</p> <p>As mentioned above, Internal Audit consider the arrangements for the effective segregation of duties within all the core financial systems and processes.</p> <p>No additional control measures are deemed necessary in relation to any areas regarded as slightly higher risk.</p>
<p>11. Are you aware of any related party relationships or transactions that could give rise to instances of fraud? If so, please provide details</p> <p>How do you mitigate the risks associated with fraud related to related party relationships and transactions?</p>	<p>The council has not discovered any fraudulent transactions that have taken place with related parties.</p> <p>Annual declarations are required from key officers in relation to any related party transactions.</p>

Fraud risk assessment

Question	Management response
<p>12. What arrangements are in place to report fraud issues and risks to the Audit Committee?</p> <p>How does the Audit Committee exercise oversight over management's processes for identifying and responding to risks of fraud and breaches of internal control?</p> <p>What has been the outcome of these arrangements so far this year?</p>	<p>The Committee receives update reports from the Corporate Anti-Fraud Team and Internal Audit.</p> <p>The Committee also oversees the annual Internal Audit plan and the Anti-Fraud Strategy and Plan to be assured of appropriate coverage of fraud risk. Through Internal Audit reports, the Committee monitors the implementation of management actions resulting from Internal Audit work.</p> <p>The Committee has received regular reports from Internal Audit and Corporate Anti-Fraud that highlight any identified control weaknesses and areas from improvement.</p>
<p>13. Are you aware of any whistle blowing potential or complaints by potential whistle blowers? If so, what has been your response?</p>	<p>The Committee receives an annual report regarding the use of the Confidential Reporting process.</p> <p>No referrals through that process have been significant and none relate to any implications on the statutory accounts.</p> <p>The ED Core Services and the Head of Internal Audit, Anti-Fraud and Assurance are the two named Whistleblowing Officers. Each has secure and separate means to be contacted.</p>
<p>14. Have any reports been made under the Bribery Act? If so, please provide details</p>	<p>No reports have been received under the Bribery Act,</p>

Law and regulations

Matters in relation to laws and regulations

ISA (UK) 250 requires us to consider the impact of laws and regulations in an audit of the financial statements.

Management, with the oversight of the Audit Committee, is responsible for ensuring that Barnsley Metropolitan Borough Council's operations are conducted in accordance with laws and regulations, including those that determine amounts in the financial statements.

As auditor, we are responsible for obtaining reasonable assurance that the financial statements are free from material misstatement due to fraud or error, taking into account the appropriate legal and regulatory framework. As part of our risk assessment procedures we are required to make inquiries of management and the Audit Committee as to whether the body is in compliance with laws and regulations. Where we become aware of non-compliance or suspected non-compliance we need to gain an understanding of the non-compliance and the possible effect on the financial statements.

Risk assessment questions have been set out below together with responses from management.

Impact of laws and regulations

Question	Management response
<p>1. How does management gain assurance that all relevant laws and regulations have been complied with?</p> <p>What arrangements does Barnsley Metropolitan Borough Council have in place to prevent and detect non-compliance with laws and regulations?</p> <p>Are you aware of any changes to the Council's regulatory environment that may have a significant impact on the Council's financial statements?</p>	<p>The Council's Monitoring Officer has statutory responsibility for ensuring the Council acts lawfully; he has sight of all key decisions including decisions that go through Cabinet and Full Council and is supported by a deputy Monitoring Officer who provides further assurance.</p> <p>The Council has guidance in terms of what implications to consider in respect of any Cabinet Report / Decision included within that guidance is a section on how legal implications are to be considered and formally agreed in advance with the legal department.</p> <p>EDs have responsibility to ensure their own directorates policies, procedures, and decisions also comply with the constitution and are lawful.</p> <p>External inspections would highlight any legal compliance issues.</p> <p>The Audit & Governance Committee would receive a formal report on any breaches or non-compliances..</p>
<p>2. How is the Audit Committee provided with assurance that all relevant laws and regulations have been complied with?</p>	<p>The annual governance review process requires all SDs to confirm their compliance with the relevant legislative responsibilities. The Committee receives the outcome of the AGR (by exception) as it is incorporated into the draft and final AGSs.</p> <p>The Committee is briefed on the AGR process and have the opportunity to comment.</p>
<p>3. Have there been any instances of non-compliance or suspected non-compliance with laws and regulation since 1 April 2022 with an on-going impact on the 2022/23 financial statements? If so, please provide details</p>	<p>No instances of non-compliance that we have identified.</p>
<p>4. Are there any actual or potential litigation or claims that would affect the financial statements? If so, please provide details</p>	<p>There is potential litigation with regards to potential claims from term-time only workers for back pay, which the impact is currently unquantifiable. We await the outcome of Supreme court case involving other parties before further consideration. A&GC will be updated on the ongoing process as required.</p>

Impact of laws and regulations

Question	Management response
<p>5. What arrangements does Barnsley Metropolitan Borough Council have in place to identify, evaluate and account for litigation or claims?</p>	<p>The council is insured against potential claims. Where a claim is received depending on its nature, external advice is sought via the insurance contract to provide support.</p> <p>For any other claim or litigation regular discussions are held between Finance and Legal Services to determine the impact including cost, likelihood of settlement, and the best course of action is pursued. This is reviewed upon receipt of any new information.</p> <p>Consideration would be given in the annual accounts process as to whether this would result in a provision to be made within the accounts</p>
<p>6. Have there been any reports from other regulatory bodies, such as HM Revenues and Customs, which indicate non-compliance? If so, please provide details</p>	<p>During 2022-23 there were 25 contacts received from the Local Government and Social Care Ombudsman and 20 from the Housing Ombudsman Service. No other areas of non-compliance have been reported to other regulatory bodies.</p> <p>No reports were received from HM Revs and customs or other government departments</p>

Related Parties

Matters in relation to Related Parties

Barnsley Metropolitan Borough Council are required to disclose transactions with bodies/individuals that would be classed as related parties. These may include:

- bodies that directly, or indirectly through one or more intermediaries, control, or are controlled by Barnsley Metropolitan Borough Council;
- associates;
- joint ventures;
- a body that has an interest in the authority that gives it significant influence over the Council;
- key management personnel, and close members of the family of key management personnel, and
- post-employment benefit plans (pension fund) for the benefit of employees of the Council, or of any body that is a related party of the Council.

A disclosure is required if a transaction (or series of transactions) is material on either side, i.e. if a transaction is immaterial from the Council's perspective but material from a related party viewpoint then the Council must disclose it.

ISA (UK) 550 requires us to review your procedures for identifying related party transactions and obtain an understanding of the controls that you have established to identify such transactions. We will also carry out testing to ensure the related party transaction disclosures you make in the financial statements are complete and accurate.

Related Parties

Question	Management response
<p>1. Have there been any changes in the related parties including those disclosed in Barnsley Metropolitan Borough Council's 2022/23 financial statements?</p> <p>If so please summarise:</p> <ul style="list-style-type: none"> the nature of the relationship between these related parties and Barnsley Metropolitan Borough Council whether Barnsley Metropolitan Borough Council has entered into or plans to enter into any transactions with these related parties type and purpose of these transactions 	<p>There have been no changes to the related parties within Barnsley Council's financial statements.</p>
<p>2. What controls does Barnsley Metropolitan Borough Council have in place to identify, account for and disclose related party transactions and relationships?</p>	<p>Any new companies / arrangements that the Council enters into are identified through the formal Council approval route where finance professionals advise on the specifics of entering into the arrangements. They would be considered at this point as to whether they are a related party. The Council's legal department would also be consulted on any such activity. Officers and elected members complete an annual questionnaire about any relationship they may have with any related body. Guidance in relation to how the Council's partnerships and collaborations are governed is currently being drafted that will be considered by the Committee in due course.</p>
<p>3. What controls are in place to authorise and approve significant transactions and arrangements with related parties?</p>	<p>Any transactions with any related party would be overseen / subject to the same governance arrangements as to with all other transactions i.e. in line with the constitution, scheme of delegation and financial regulations. The Council's ordering / payments systems and internal controls have systematic approvals process.</p>

Going Concern

Matters in relation to Going Concern

The audit approach for going concern is based on the requirements of ISA (UK) 570, as interpreted by Practice Note 10: Audit of financial statements and regularity of public sector bodies in the United Kingdom (Revised 2020). It also takes into account the National Audit Office's Supplementary Guidance Note (SGN) 01: Going Concern – Auditors' responsibilities for local public bodies.

Practice Note 10 confirms that in many (but not all) public sector bodies, the use of the going concern basis of accounting is not a matter of significant focus of the auditor's time and resources because the applicable financial reporting frameworks envisage that the going concern basis for accounting will apply where the body's services will continue to be delivered by the public sector. In such cases, a material uncertainty related to going concern is unlikely to exist.

For this reason, a straightforward and standardised approach to compliance with ISA (UK) 570 will often be appropriate for public sector bodies. This will be a proportionate approach to going concern based on the body's circumstances and the applicable financial reporting framework. In line with Practice Note 10, the auditor's assessment of going concern should take account of the statutory nature of the body and the fact that the financial reporting framework for local government bodies presume going concern in the event of anticipated continuation of provision of the services provided by the body. Therefore, the public sector auditor applies a 'continued provision of service approach', unless there is clear evidence to the contrary. This would also apply even where those services are planned to transfer to another body, as in such circumstances, the underlying services will continue.

For many public sector bodies, the financial sustainability of the body and the services it provides are more likely to be of significant public interest than the application of the going concern basis of accounting. Financial sustainability is a key component of value for money work and it is through such work that it will be considered.

Going Concern

Question	Management response
<p>1. What processes and controls does management have in place to identify events and / or conditions which may indicate that the statutory services being provided by Barnsley Metropolitan Borough Council will no longer continue?</p>	<p>The Council has a robust Medium Term Financial Strategy (MTFS), which provides a holistic approach to management of the Council's finance. In recent months, with the cost of living crisis and the high inflation rates, the Council has refreshed its MTFS regularly to try and capture the impact on its financial situation. This has been well planned for and reserves were set aside accordingly to help alleviate the added pressures. There is a financial plan to manage the expected deficit which relates to a transformation programme across, which looks at ways in which services are delivered in the future.</p>
<p>2. Are management aware of any factors which may mean for Barnsley Metropolitan Borough Council that either statutory services will no longer be provided or that funding for statutory services will be discontinued? If so, what are they?</p>	<p>As highlighted above the Council has a robust financial planning framework in place. The rising demand and costs for Services, particularly in Childrens social care is creating a significant strain on BMBC finances however the MTFS is has been prepared on a prudent basis with a plan in place to address any gaps including the Transformation programme. The Council also has a reasonable level of reserves and minimum working balance to call upon should this be required to help temporarily protect statutory services should this be required.</p>
<p>3. With regard to the statutory services currently provided by Barnsley Metropolitan Borough Council, does Barnsley Metropolitan Borough Council expect to continue to deliver them for the foreseeable future, or will they be delivered by related public authorities if there are any plans for Barnsley Metropolitan Borough Council to cease to exist?</p>	<p>At present, there is no concern with the Council continuing to provide its statutory services in the immediate term.</p>
<p>4. Are management satisfied that the financial reporting framework permits Barnsley Metropolitan Borough Council to prepare its financial statements on a going concern basis? Are management satisfied that preparing financial statements on a going concern basis will provide a faithful representation of the items in the financial statements?</p>	<p>The Council considers the accounts to be produced on a going concern basis based on the transformational plan to bridge the forecast deficit This is highly dependent on the delivery of said plan and forecast funding position not being significantly worse than is currently anticipated.</p>

Accounting estimates

Matters in relation to accounting estimates

ISA (UK) 540 (Revised December 2018) requires auditors to understand and assess a body's internal controls over accounting estimates, including:

- The nature and extent of oversight and governance over management's financial reporting process relevant to accounting estimates;
- How management identifies the need for and applies specialised skills or knowledge related to accounting estimates;
- How the body's risk management process identifies and addresses risks relating to accounting estimates;
- The body's information system as it relates to accounting estimates;
- The body's control activities in relation to accounting estimates; and
- How management reviews the outcomes of previous accounting estimates.

Page 32

As part of this process auditors also need to obtain an understanding of the role of those charged with governance, which is particularly important where the estimates have high estimation uncertainty, or require significant judgement.

Specifically do Audit Committee members:

- Understand the characteristics of the methods and models used to make the accounting estimates and the risks related to them;
- Oversee management's process for making accounting estimates, including the use of models, and the monitoring activities undertaken by management; and
- Evaluate how management made the accounting estimates?

We would ask the Audit Committee to satisfy itself that the arrangements for accounting estimates are adequate.

Accounting Estimates - General Enquiries of Management

Question	Management response
1. What are the classes of transactions, events and conditions, that are significant to the financial statements that give rise to the need for, or changes in, accounting estimate and related disclosures?	<p>Non-Current Assets - valuation, useful lives and depreciation Pensions - Valuation of fund assets and liabilities Accounting accruals Expected credit losses Provisions Audit and Governance committee have received specific updates on the movement of key estimates, namely asset valuations and pensions. There has been no change in the methodology adopted by the Council for 2022/23.</p>
2. How does the Council's risk management process identify and address risks relating to accounting estimates?	<p>The management risk is inherent withing the accounting estimates process. Each respective area of estimation is duly considered, comparing the methodology technique with the risk of material misstatement within the financial statements. Advice is sought from the S151, and deputy S151 Officer where areas of materiality issues may present themselves. The annual governance review process prompts all BUs to confirm compliance and understanding with all aspects of financial management. No material issues have been identified through that process.</p>
3. How does management identify the methods, assumptions or source data, and the need for changes in them, in relation to key accounting estimates?	<p>The Council reviews the accounting Code of Practice annually to identify any change in the guidance. Wider than that, specifically relating to non-current assets and pensions, our valuers will consult RICS professional guidance and the actuary will consult appropriate guidance, respectively. In addition, the reasonableness of the actuary's assumptions are also tested out/ challenged by SY DOFS as part of actuarial review process. The Council also reviews its own 'inputs' for reasonableness when submitting the information for which the actuarial estimates are based on.</p>
4. How do management review the outcomes of previous accounting estimates?	<p>Any such changes to accounting estimates is likely to be the result of information / performance arising that indicates an inappropriate estimate, hence promoting the change.</p>
5. Were any changes made to the estimation processes in 2022/23 and, if so, what was the reason for these?	<p>There were no changes to the estimation process in 2022/23</p>

Accounting Estimates - General Enquiries of Management

Question	Management response
<p>6. How does management identify the need for and apply specialised skills or knowledge related to accounting estimates?</p>	<p>There are areas of the accounts that require inputs in terms of the use of experts, that the Council rely on to provide the necessary estimates. For example, the Council relies on its qualified RICS valuers to form estimates of valuation and asset lives. Similarly, the Council relies on the actuary to provide the pensions information that the Council uses.</p> <p>Furthermore, in respect of financial instruments, the Council uses treasury management advisors Link in respect of appropriate estimates around valuations.</p>
<p>7. How does the Council determine what control activities are needed for significant accounting estimates, including the controls at any service providers or management experts?</p>	<p>Any significant estimates are already embedded within the current processes that the Council uses. Any new or emerging areas of estimates will be identified through reviewing the Code of Practice and at various CIPFA training sessions.</p> <p>In terms of experts, the Council's property valuers follow RICS guidance, and the Actuary will use specific guidance in respect of actuaries.</p>
<p>8. How does management monitor the operation of control activities related to accounting estimates, including the key controls at any service providers or management experts?</p>	<p>In accordance with the annual accounts preparation and review process the accounting estimates used are reviewed for completeness.</p>
<p>9. What is the nature and extent of oversight and governance over management's financial reporting process relevant to accounting estimates, including:</p> <ul style="list-style-type: none"> - Management's process for making significant accounting estimates - The methods and models used - The resultant accounting estimates included in the financial statements. 	<p>In accordance with the annual accounts preparation and review process the accounting estimates used are reviewed for completeness by management,</p> <p>Any significant change to any accounting policy would be presented to the Committee for consideration. There have not been any significant changes in recent years, but going back further, the Committee was fully briefed on the change in accounting policies/estimates in relation to the changes to IFRS 9 - Financial Instruments and the implementation of IFRS in 2010.</p> <p>The Audit & Governance Committee gain overall assurance as part of the final account's presentation. Officers present the accounts to the A&G Committee before formal submission to the external auditors. This presentation talks about the key areas of estimation contained within the accounts such as asset and pensions valuation, respectively.</p>

Accounting Estimates - General Enquiries of Management

Question	Management response
10. Are management aware of any transactions, events, conditions (or changes in these) that may give rise to recognition or disclosure of significant accounting estimates that require significant judgement (other than those in Appendix A)? If so, what are they?	No transactions, events, conditions have given rise to recognition of significant accounting estimates requiring significant judgements.
11. Why are management satisfied that their arrangements for the accounting estimates, as detailed in Appendix A, are reasonable?	Yes, the Council considers its arrangements to be reasonable.
12. How is the Audit Committee provided with assurance that the arrangements for accounting estimates are adequate ?	<p>The audit & Governance Committee implicitly approves the accounting policies which contains the basis of the estimates therein, via approval of the Statement of Accounts. The Statement of Accounts is presented annually to The Audit & Governance Committee for consideration, challenge and comment, which include the Council's accounting policies and the use of estimates.</p> <p>In addition, some members of the Committee have had informal sessions on a number of key areas of accounts, with estimates being discussed in those sessions.</p> <p>Moving forwards, should Committee members require something more formal, then the Council will present the accounting policies and estimation methodology to Audit & Governance Committee for scrutiny.</p>

Appendix A Accounting Estimates

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Land and buildings valuations	<p>The Council uses a number of techniques in relation to PPE:</p> <p>Land & Buildings / Surplus – the top 100 assets in terms of value are reviewed every year to ensure that they remain current. There is also a rolling programme of assets that is also being followed, which picks roughly 20% of the asset base up (all values).</p> <p>AUC / Vehicles /Plant and Equipment / Intangibles – Held at depreciated historic cost.</p> <p>Assets Held for Sale - revalued annually</p>	<p>The estimates are from the valuers that use techniques in line with the RICS guidance.</p> <p>Any significant change to these assumptions / values is identified by the finance manager and discussed with the valuer.</p>	Yes – rely on internal RICS qualified valuers	<p>The valuations are based on a number of techniques that are robust and prescribed by the RICS guidance using an evidence base.</p> <p>For example, certain valuations are calculated based on market data on rental yields that is capitalised. Assets valued under depreciated replacement cost use appropriate indices around build costs over time.</p> <p>This mitigates the uncertainty somewhat by revaluing annually in effect.</p>	No

Appendix A Accounting Estimates

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Council dwelling valuations	Council dwellings revalued annually in line with RICS guidance and in line with the Code requirement of Social Housing Value.	As above	As above	<p>As above – Council dwellings are formally revalued once every 5 years using the beacon approach, This approach uses typical properties for a type of property e.g. number of bedrooms, where their value is applied to the similar properties in that beacon.</p> <p>In-between times, the valuation approach is to use comparable data that inform of the property value, whilst considering local factors and any specific economic events. This mitigates the uncertainty somewhat by revaluing annually in effect.</p>	No

Appendix A Accounting Estimates

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
<p>Depreciation</p>	<p>All assets that are subject to depreciation, are depreciated on a straight line basis.</p> <p>Estimates of asset lives relating to property related assets are provided by RICS qualified valuers in accordance with respective RICS guidance.</p> <p>In terms of dwellings, the dwellings are componentised to give a more accurate level of depreciation – with each component having an assumed useful life.</p> <p>Infrastructure – grouped in types such as roads, footways, signs, traffic management, structures and each has its own assumed useful lives.</p> <p>Vehicles, Plant and Equipment lives are assessed on a scheme by scheme basis, using previous intelligence as a guide. For specialist assets, appropriate officers are consulted for their view in terms of asset lives.</p>	As above	As above	<p>There is a degree of uncertainty and subjectivity but this is mitigated where possible, by RICS qualified surveyors providing a robust estimate of asset lives.</p> <p>For non property assets e.g. vehicles / infrastructure etc, appropriate professionals from that area provide the asset lives based on their expectations of how things tend to be used for.</p> <p>This mitigates the uncertainty somewhat by reviewing for any significant changes annually.</p>	No

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Valuation of defined benefit net pension fund liabilities	The estimates provided to the Council are calculated by professional actuaries which encompass such demographic assumptions such as mortality rates, expected future longevity etc, and financial assumptions such as inflation, pay growth and growth of pensions.	The Council provides an element of the inputs to the actuary, via SYPA, such as the membership numbers and in year contributions. This enables the actuary to provide the necessary estimate. The S151 also challenges the assumptions to ensure that they are robust.	Yes – Mercers, the fund actuary	The actuary provides a suite of sensitivity analysis in respect of changes to the key variables. The methodology and approach of the actuary ensures that respective actuarial standards are being met.	No

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Expected credit loss model	The Council's finance team assess each long term loan in terms of the respective arrangements. The provision is based on the performance of the company, including whether loan repayments have been made etc. During the COVID 19 pandemic, there has been a more prudent approach of providing for 100% of outstanding balances due to the uncertainty in the economy. The only exception to this is where the Council has influence over repayments / default where this provision is not applicable.	Company performance data including any missed payments etc., economic outlook and impact on the company, general information about the company Judgement of S151 officer	No	The provision made is obviously based on an informed decision of the S151 officer, whilst considering all of the data / information. During and since the COVID 19 pandemic, the prudent view of the S151 Officer is to provide for 100% of the outstanding obligations, except with the companies that we can influence over to avoid default etc. The overall impact of any potential in terms of value is relatively immaterial.	No
Significant expenditure accruals	There are a number of methodologies and models used. For example, some are based on pro rata'ing, some are based on an estimate of past experience etc.	Some of the controls include analysis of the estimate with past experience / similar items. Also, detailed budget monitoring would highlight a requirement for an accrual, or where an accrual had been estimated differently to prior periods	No	In the main, the expenditure accruals that are taken are based on actual known events / obligations so no estimation techniques are required. The Council electronic goods ordering system processes the electronic creditors using an analysis of actual goods received versus invoices received – again little estimation required.	No

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Provisions	The Council recognises a number of provisions – the largest being an insurance provision.	The Council has a system that logs all outstanding claims.	No	A judgement is undertaken by the Section 151 Officer in respect of the level of provision e.g. a % of outstanding claims is provided for on a prudent basis, reflecting historical settlements and prudent assumptions around the future.	No
Business rate appeal	Information is gathered from the council's current rating list, outstanding appeals lodged with the valuations office, local knowledge, past experience and the use of external advice	Valuation office reports	Yes – Valuation Office	An assessment is made based on a number of factors to determine certainty e.g. local knowledge and past experience. The accrual is updated regularly based on up to date information	No
Level 2 Financial Instruments	The valuation of the financial asset instruments is based on the respective company's financial position in terms of their balance sheet / share value with the Council's share of that company being reflected in the value In terms of liabilities, the Council relies on Link to provide the calculations on fair value.	Audited accounts of companies, performance of companies	No – assets Yes – liabilities – Link Asset Services	No judgement or subjectivity as significant balances are based purely on the audited accounts of the relevant companies. In terms of the scale of such investments, these do not represent a significant balance so the uncertainty is not a concern.	No

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Liabilities under PFI schemes	<p>The liabilities relating to the Council's PFI schemes were derived from the individual contractor's operating models. They were initially calculated in line with the Code as the fair value of the assets less any capital contributions made by the Council. Since this time, an assumed element of the annual unitary charge on our PFI schemes has been reducing the liability over time.</p> <p>The fair values of such liabilities are presented in our accounts and these are derived by our TM advisors Link</p>	The initial recognition and subsequent entries to write the liability down was assessed by finance professionals, including the S151 officer to ensure compliance with the Code and that the estimates built in around service charges, implicit interest rate were reasonable.	Yes – Link Asset Services for the Fair Values	<p>Assumed split of Unitary Charge remains reasonable</p> <p>Assumptions used by Link include interest rate contained within the arrangements and the current rate of interest.</p> <p>Based on factual evidence so no scope for alternatives.</p>	No

Appendix A Accounting Estimates (Continued)

Estimate	Method / model used to make the estimate	Controls used to identify estimates	Whether management have used an expert	Underlying assumptions: - Assessment of degree of uncertainty - Consideration of alternative estimates	Has there been a change in accounting method in year?
Finance Lease liabilities	The liabilities relating to the Council's finance leases are derived from the lease at inception. The required entries are derived from a lease model that splits the rental into principal and interest, based on the interest rate inherent in the lease.	Lease documentation and lease model.	Yes - Use lease advisors for lease document	Assumed split of lease rentals based on inherent lease rate – derived from lease model.	No



Item 5

Report of the Head of Internal Audit, Anti-Fraud and Assurance

AUDIT AND GOVERNANCE COMMITTEE – 15TH NOVEMBER 2023

ANNUAL GOVERNANCE STATEMENT (FINAL) 2022/23

1. Purpose of the report

- 1.1 This brief covering report presents the Authority's Final Annual Governance Statement (AGS) 2022/23

2. Recommendations

2.1 The Committee is recommended to:

- a) consider the final AGS which reflects the annual review of the effectiveness of the governance arrangements in place and the actions arising; and
- b) receive updates on the progress of the actions identified in the AGS action plan at future meetings.

- 2.2 Subject to the Committee's comments the final AGS will be presented to full Council for formal approval on 23rd November 2023.

3. Background

- 3.1 The production of an AGS is a statutory requirement as defined in the Accounts and Audit Regulations 2015. These regulations do not prescribe the actual content or format of the document, although CIPFA provides guidance, but this is not mandatory.

- 3.2 The AGS is fundamentally a public document and should be constructed in a style that allows the reader to understand the governance arrangements of the Council and obtain assurance that there has been a robust annual review process resulting, where appropriate, in actions to address any weaknesses or improvements identified.

- 3.3 The final AGS 2022/23 has been prepared following an annual governance review process previously outlined to the Committee.

- 3.4 Since the draft AGS was considered by the Audit and Governance Committee in May 2023 there have been a number of changes made to the document. Of particular note are:

- Reference in the Executive Summary to the Council winning 2 prestigious awards.
- A new section 10 – on Council wholly owned companies.

- 3.5 It is important that the AGS is not seen as an “end of year” process, and that there is constant focus on the actions throughout the year.
- 3.6 The final AGS is appended to this report.

Contact Officer: Head of Internal Audit, Anti-Fraud and Assurance

Email: robwinter@barnsley.gov.uk

Date: 3rd November 2023

Barnsley Metropolitan Borough Council

Annual Governance Statement 2022/23



ANNUAL GOVERNANCE STATEMENT 2022/23

Section		Page
1	Executive Summary	3
2	Actions from the Annual Governance Statement 2021/22	4
3	Introduction and Scope of Responsibility	4
4	The Principles of Good Governance	4
5	The Purpose of the Annual Governance Statement	5
6	Reviewing our Effectiveness and the Governance Framework	5
7	Internal Audit Opinion on Internal Control, Risk and Governance 2022/23	8
8	Data Protection Officer (DPO)	9
9	External Audit	10
10	Wholly Owned Companies	10
11	External Inspection Reports	11
12	Governance Issues Identified from the Annual Governance Review 2022/23	15
13	Governance Action Plan	17
14	Strategic Risk Register	19
15	Recovery from Covid-19	20
16	A Forward Look	21
17	Conclusion	22
Appendix 1	Annual Governance Statement Action Plan	23

1. Executive Summary

Barnsley Metropolitan Borough Council is committed to improving the lives of all residents and creating opportunity and prosperity for local people and businesses. This commitment is set out in the council's Corporate Plan and describes how the council will meet the challenges ahead and make the most of opportunities. This commitment was recognised nationally in June 2023 with the Council being the first to win the two most prestigious awards in local government – the Local Government Chronicle Council of the Year and the Municipal Journal Local Authority of the Year.

To be successful the council has a solid foundation of good governance and sound financial management. Barnsley's Local Code of Corporate Governance sets out how we aspire to and ensure that we are doing the right things, in the right way and in line with our values.

Each year the Council is required to produce an Annual Governance Statement (AGS) which describes how its corporate governance arrangements set out in the Local Code have been working. This statement gives assurances on compliance for the year ending 31 March 2023 and up to the date of approval of the 2022/23 statement of accounts. The AGS shows that in many areas the Council has very effective arrangements in place. We will continue to review, streamline, and improve our processes to ensure these arrangements remain effective, now and into the future.

As Leader and Chief Executive, we have been advised of the implications of the review of our governance arrangements by Senior Management and the Audit and Governance Committee and are satisfied that the steps outlined in this document will address the areas identified for improvement.

Signed on behalf of Barnsley Metropolitan Borough Council

Sir Stephen Houghton CBE
Leader of the Council
Date:

Sarah Norman
Chief Executive
Date:

2. Actions from the Annual Governance Statement 2021/22

The 2021/22 Annual Governance Statement Action Plan identified 4 governance issues where improvements were required with 6 actions, 3 of these actions have been completed and the remaining 3 actions will be carried forward in the AGS Action Plan. The 2021/22 Action Plan identified a further 10 areas where enhancements would improve the efficiency of systems and processes across the Council with 11 actions, 4 of these actions have been completed, 1 action is scheduled for completion in April 2024 and the remaining 6 actions will be carried forward into this year's Action Plan. Regular updates of progress against the Action Plan have been considered by the Audit and Governance Committee.

The Action Plan at Appendix 1 captures the emerging governance matters to be reviewed during 2023/24 and those identified in the 2021/22 AGS that remain in progress. The Action Plan is a dynamic document and progress against the actions will continue to be reviewed by the Audit and Governance Committee throughout the year.

3. Introduction and Scope of Responsibility

Barnsley Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, that public money is safeguarded and properly accounted for and used economically, efficiently, and effectively.

The Council also has a duty under the Local Government Act 1999 to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency, and effectiveness.

The Accounts and Audit Regulations 2015 require the Council to conduct a review, at least once a year, on the effectiveness of its system of internal control and prepare an Annual Governance Statement that reports on that review alongside the Statement of Accounts.

4. The Principles of Good Governance

The Council regularly reviews its governance arrangements and has adopted a Local Code of Corporate Governance, which is consistent with the seven principles of Corporate Governance as set out in the CIPFA/SOLACE (2016) Framework Delivering Good Governance in Local Government. The Council's Local Code is available here: [Local Code of Corporate Governance](#)

The seven principles within the CIPFA/SOLACE (2016) Framework Delivering Good Governance in Local Government are:

- Principle A - Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law
- Principle B - Ensuring openness and comprehensive stakeholder engagement

- Principle C - Defining outcomes in terms of sustainable economic, social, and environmental benefits
- Principle D - Determining the interventions necessary to optimise the achievement of the intended outcomes
- Principle E - Developing the entity's capacity, including the capability of its leadership and the individuals within it
- Principle F - Managing risks and performance through robust internal control and strong public financial management
- Principle G - Implementing good practices in transparency, reporting, and audit to deliver effective accountability

5. The Purpose of the Annual Governance Statement

The Annual Governance Statement considers the effectiveness of our governance arrangements throughout 2022/23. It is an objective and honest appraisal of the effectiveness of our governance framework. It highlights where we have identified any governance weaknesses but also where we want to further develop and improve them to ensure that we have as effective governance arrangements as possible that enable the organisation to deliver on its commitment to improving the lives of all residents and creating opportunity and prosperity for local people and businesses.

6. Reviewing our Effectiveness and the Governance Framework

The governance framework comprises the systems and processes, culture, and values by which the Council is enabled, directed, and controlled and through which it accounts to, engages with, and leads the community. Part of that framework involves the management of risk. No risk management process can eliminate all risks and can therefore only provide reasonable and not absolute assurance of effectiveness. The Council's risk management approach, which is now embedded across the organisation, is subject to constant review by the Senior Management Team (SMT), at directorate management teams (DMTs) and individual Business Units (BUs) throughout the year. The Audit and Governance Committee review strategic risks at each of their meetings, with Executive Directors attending to provide a "deep dive" into the risks they own to give assurance that strategic risks are being reviewed and managed on a regular basis. Cabinet also reviews strategic risks on a 6 monthly basis.

To support the development of the AGS the following sections reflect the activity undertaken to review the effectiveness of governance across the Council:

- An annual facilitated self-assessment assurance process with all Business Units linked to areas of the governance framework to prompt consideration of the existence and adequacy of governance arrangements during 2022/23 – this approach ensures the engagement of all Executive Directors (ED's), Service Directors (SD's) and Heads of Service (HoS) in the process of assessing governance assurance across the organisation.
- The Strategic Risk Register which sets the culture and tone for the management of threats, concerns, and issues across the Council.

- The Annual Report of the Head of Internal Audit, Anti-Fraud and Assurance which provides an opinion on the adequacy and effectiveness of the Council's risk management, control, and governance processes.
- The work of the designated Data Protection Officer (DPO)
- The work of the Audit and Governance Committee which includes responsibility for monitoring the development and operation of corporate governance in the Council (the Audit and Governance Committee Annual Report provides further detail of the work of the committee during 2022/23) *[The link to this will appear in the final Annual Governance Statement]*
- The Council's internal management processes, such as performance monitoring and reporting; the staff performance and development framework; employee awareness of corporate policies; monitoring of policies such as the corporate complaints and health and safety policies and budget management systems.
- The report of the Council's External Auditor
- The consideration of any significant matters arising in the year.
- Recommendations from external review agencies and inspectorates

Specific governance assurance statements are provided from the following statutory officers.

a) Head of Paid Service

As Chief Executive and the Head of Paid Service, I am responsible for the overall corporate and operational management of the council. In yet another challenging year for the council, borough, and country, I am proud of the organisation and how it has risen to the challenge of dealing with the significant economic pressures placed on it and supporting the people of the borough in the face of the cost-of-living crisis.

Although COVID is now largely behind us, we continue to live with the impact it has had and see this reflected in the increasing demand for our services, especially in Children's Services where significant investment was made during the year. As a consequence of this and the impact of inflation, the Council has experienced significant pressures on its budget during 2022/23 and this is forecast to continue in the future. A Council wide transformation programme is being developed to deliver the savings required to balance the budget over the life of the Medium-Term Financial Plan.

This includes challenging ourselves in the way we deliver services across the Council, ensuring that all our services are effective and efficient, delivering digital solutions where we can which are joined up and easier for our customers to access, and ensuring that we optimise the use of our physical assets including our significant property portfolio where that is still required.

Our governance arrangements remain strong, but we are never complacent and regularly revisit our processes to reflect the ever-changing needs of the organisation. More specifically the Strategic Risk Register continues to provide a focused and strategic approach which further supports our focus on maintaining efficient and effective corporate governance.

As a council we are outward looking and we have continued to make excellent progress with our partners in our shared vision for 2030 to make Barnsley The Place of Possibilities, a framework which is also reflected in our Corporate Plan.

Externally our performance has also been recognised by our peers and we have made history by becoming the first Council to win the two most prestigious awards in local government, the Local Government Chronicle Council of the Year and Municipal Journal Authority of the Year. These highlight Barnsley's excellent reputation nationally and puts our borough on the map as a brilliant place to live, work, visit and invest in. Above all our awards recognise all the hard work from all staff in making Barnsley the "Place of Possibilities". I am so proud of these achievements not just for the Council but also for our partners and communities.

I support the areas for improvement presented in this Annual Governance Statement and look forward to another successful but inevitably challenging year ahead.

b) Section 151 Officer

As the Council's designated S151 Officer, I am responsible for the Council's financial governance, risk and control frameworks which ensure that the Council's financial decision making is both lawful and prudent. I am also responsible, in accordance with the statutory requirements set out in the Local Government Act 1972, for the proper administration of the Council's financial affairs.

I am satisfied that the Council's arrangements are robust in all regards and more than meet the minimum thresholds set out under statute. My view is corroborated from several independent sources including the AGS review process which has again identified financial management as an area of strength across the organisation, a positive self-assessment outcome against CIPFA's statutory Financial Management Code and the External Auditor's continued positive feedback on the Authority's arrangements for securing Value for Money received in November of this year.

That said, the Council is experiencing significant financial challenges as evidenced through material budget shortfalls in 2022/23, 2023/24 and throughout the planning period of the latest Medium Term Financial Strategy (MTFS). The Council will need to maintain its robust financial management and strong track record in both setting and delivering strategic plans and transformational efficiency programmes aligned to its MTFS to ensure its ongoing financial sustainability.

c) Monitoring Officer

As the Monitoring Officer, I am responsible for ensuring both elected Members and Officers uphold high standards of behaviour and conduct in adherence of the law.

The demands placed on the Council's decision-making processes and the arrangements needed to support virtual meetings proved to be very successful with public engagement increasing during that time. The need to maintain absolute transparency and confidence in our governance arrangements was and remains critical to maintaining public support and confidence.

The areas of improvement set out in this Annual Governance Statement are noted and elected Members and Officers of the Council will work together to ensure we build on the progress made to date. I would like to take the opportunity to thank members of our Audit and Governance Committee in the way they have again carried out their role in such demanding circumstances and continued to provide the rigour expected when seeking assurances on how the Council conducts its governance and control systems and processes.

7. Internal Audit and the Opinion on Internal Control, Risk and Governance 2022/23

In accordance with the Accounts and Audit Regulations 2015 and the Public Sector Internal Auditing Standards (PSIAS), the Head of Internal Audit is required to provide independent assurance and an annual opinion on the adequacy and effectiveness of the council's internal control, governance, and risk management arrangements. This is achieved through the delivery of an annual programme of risk-based audit activity, including counter fraud and investigation activity. Management actions arising from the audit work are agreed with the aim of improving the internal control, governance, and risk management arrangements of the council.

The Annual Internal Audit Opinion Report has been considered by the Council's Audit and Governance Committee. Based on the work completed to date and taking into account other sources of assurance, an overall positive assurance opinion is expected. Below is an extract from the Head of Internal Audit's annual report submitted to the Audit and Governance Committee at their meeting on 15th November 2023. The full report is available via this link – **TO BE ADDED**

*The Audit and Governance Committee has received Internal Audit progress reports throughout the audit year. In each of these reports a **reasonable** (positive) assurance opinion had been given reflecting an overall satisfactory level of internal controls and their application. Taking the whole year into account and the audits completed in relation to the 2022-23 plan, it is appropriate to give an overall **reasonable** (positive) assurance opinion for the year.*

The engagement of senior managers and services across the Authority has once again been excellent and reflects a positive culture to embrace internal audit and look to identify opportunities to improve the effectiveness and efficiency of governance, risk

management and internal controls. However, the challenges that Services face remain of course and to maintain positive assurance in the future that positive culture needs to continue. The key issues arising from Internal Audit work in the year, in general terms, continue to relate to the significant pressures in most areas of the Council, relentless demand and the drive for greater efficiency and changed ways of working. There is nothing new in these challenges and so the embedded awareness of governance and internal control issues should stand the Authority in good stead to manage the risks, concerns and issues that will inevitably occur.

The audit work undertaken, and planned for the current year, has sought to support management to embrace and meet these challenges. To highlight this issue, a number of senior managers have continued to request Internal Audit input during the year to provide support and assurances that the internal control framework in certain areas was effective. This Internal Audit support was requested to highlight key control, governance and risk issues and assist management in how best to deal with them. Of key importance of course is the consideration and management of the identified and accepted risks moving forward.

It should be noted that the internal audit planning process and in-year management of the audit plan involves discussions with SMT and wider senior management to ensure audit coverage is focussed on managing the key risks and priorities of the Council. Of particular relevance is the approach to risk management and broader governance assurance. There remains a clear culture of openness and engagement with Internal Audit across the Authority that facilitates the work necessary to prepare an overall assurance opinion.

8. Data Protection Officer (DPO)

The Council is required to appoint a DPO under the UK General Data Protection Regulations and Data Protection Act 2018. The key aspect of this role is to provide the Council with independent assurance regarding compliance with the data protection law. The DPO has regular meetings with officers from the Information Governance Team and the Senior Information Risk Officer (SIRO) and reports to the Information Governance Board. The DPO also undertakes specific assurance reviews to support that independent assurance.

Independent assurance activity and general oversight continue to present a positive picture overall. The remit of the Information Governance Board provides a clear focus on compliance and awareness. Responses to Freedom of Information Requests and Subject Access Requests remain compliant with the statutory timescales. Significant work continues around having good cyber and IT security resilience, with regular phishing and password testing exercises to constantly ensure high levels of awareness and security. Any actions identified in relation to information governance / data protection improvements are monitored by the Information Governance Board and Audit and Governance Committee, and discussed specifically in SMT. One of the key areas of strategic focus for SMT is to be continuously assured that we have all reasonable and practical arrangements in place to protect against cyber threats and IT security weaknesses.

Having effective data protection and information governance arrangements in place is a key priority for the Council. As such, the DPO and Internal Audit will continue to devote time and resource to provide assurances to senior management and monitor management's response to any

improvements identified through further independent reviews and audits on a continuous rolling basis. These will be reported to the Information Governance Board and the Audit and Governance Committee.

9. External Audit

The Council's appointed external auditor is Grant Thornton LLP. They are required each year to carry out a statutory audit of the Council's financial statements and give a narrative commentary on the Council's value for money arrangements. As well as having regular meetings with the Director of Finance and Chief Executive, Grant Thornton attend each Audit and Governance Committee to provide updates on the progress of their work, to answer questions from the Committee and importantly witness the operation of the Committee.

The Auditor's ISA260 Report providing their opinion on the accounts was presented to the Audit and Governance Committee and to full Council in November. The ISA260 report covering the results of the audit of the council's financial statements is available via this link [\[to be added\]](#).

10. Wholly Owned Companies

The Council includes in its Annual Accounts two wholly owned companies which form part of the group accounts; Bernelsai Homes (Arm's Length Management Organisation) and Penistone Grammar School Foundation (Charitable Trust).

a) Berneslai Homes

Berneslai Homes was established as an Arm's Length Management Organisation (ALMO) in 2002, responsible for managing around 18,000 homes on behalf of Barnsley Council. It is a Company Limited by Guarantee, overseen by a Board of Directors. The implementation of policies and the day to day running of the organisation is delegated to the Company's Chief Executive and Executive Management Team.

The Council currently receives assurance from Berneslai Homes in several ways as part of the Service Agreement between BMBC. Berneslai Homes' performance information against an agreed suite of KPI's is reported on a quarterly basis to the Council's SMT and Cabinet. At the end of the year the Council receives an Annual Report and review of progress against the Berneslai Homes Business Action Plan. These documents align to the Bernelsai Homes Strategic Plan 2021-2031 which in turn aligns with the BMBC Corporate Plan and 2030 Vision.

The Council's Audit and Governance Committee have received a presentation on the assurance arrangements in place that ensure the Council is effectively discharging its responsibilities as landlord. These arrangements are under constant review and form part of the council's assurance processes for the effective management of major boards and partnerships.

b) Penistone Grammar School Foundation (Charitable Trust)

This charitable foundation is registered with the Charities Commission (Charity Number 529458). The purpose of the Trust is to further the education outcomes of the pupils at the school through the award of grants to the pupils or to the school. The Council is the corporate trustee of the charity, although the Board of Trustees have the powers to disburse the income and award grants to pupils and agreed projects. The accounts and governance arrangements can be found on the Charity Commission website. The Council includes details of the Foundations finances in its group accounts.

11. External Inspection and other Assurance Reports

The Council is subject to various external inspections and proactively invites support and challenge from regulators and peer reviews. The reports from these bodies provide valuable information and assurance to enable and ensure the maintenance of effective governance arrangements. The bodies that have provided reports and information are listed below.

a) Local Government and Social Care Ombudsman and Housing Ombudsman – Referrals Made in 2022/23

During 2022-23 there were 25 contacts received from the Local Government and Social Care Ombudsman (LGSCO) and 20 received from the Housing Ombudsman Service (HOS). At the time of the annual report, the position and outcomes of these contacts was as outlined below:

Local Government and Social Care Ombudsman outcomes:

- 1 fault with injustice
- 1 no fault but injustice caused
- 1 no fault and no injustice
- 9 discontinued investigations, not enough evidence of fault, no further action, or out of time
- 2 referred back to the council to pursue
- 7 outside the jurisdiction of the LGSCO
- 4 were pending a decision

Contacts received from the LGSCO are managed and facilitated by the councils Customer Resolution Team. Where the council is found to be at fault actions are taken to address any issues highlighted by the services they relate to.

Housing Ombudsman Outcomes (HOS):

The Housing Ombudsman Service outcomes were as follows (note that multiple outcomes can be received for each case):

- 1 reasonable redress
- 7 no maladministration
- 2 out of jurisdiction
- 10 did not progress to investigation.
- 1 withdrawn

The 20 contacts received from the Housing Ombudsman Service (HOS), are a significant increase on the number of contacts in previous years. A change in the law during 2022 means that residents no longer have to refer their complaint to a designated person or wait eight weeks before contacting the Housing Ombudsman who can consider their complaint. This has made it easier for residents to access the Housing Ombudsman. Part of the HOS Complaint Handling Code is that landlords must promote the HOS and this along with the governments advertising campaign 'Make Things Right', which aims to empower social housing tenants to make complaints and has seen the volume of complaints increase nationally.

b) Local Government and Social Care Ombudsman – Annual Review Letter 2022

This letter issued in July 2023 provides details of annual performance statistics on the decisions made by the Local Government and Social Care Ombudsman (LGSCO) for Barnsley Metropolitan Borough Council for the year ending 31 March 2023. The letter focuses on the outcomes of complaints and what can be learnt from them in relation to complaints upheld, the compliance with recommendations and satisfactory remedy provided by the authority - [LGSO Annual Letter - July 2023.pdf](#)

Performance in relation to customer feedback for the period April 2022 – March 2023, is published in the Council's Annual Customer Complaints and Compliments Report - [Annual Customer Complaints and Compliments Report.pdf](#)

c) Children's Services – Ofsted Inspections

A full Ofsted Inspection of Children's Services was undertaken in September 2023. The Council's Children's Services have been officially rated Good by Ofsted. Ofsted acknowledged that the appointment of the new Executive Director (14 months ago) combined with a significant

review across all service areas has resulted in a self-evaluation which is an accurate assessment of practice and child experience. The full Ofsted report is available through the following link: <https://files.ofsted.gov.uk/v1/file/50231520>

There were a number of school inspections covering the period of this AGS. Details of individual school inspections can be found on the Ofsted website – www.ofsted.gov.uk The issues raised in the individual Ofsted reports relate to school specific matters and any actions identified in inspection reports are taken forward by the schools concerned.

d) Care Quality Commission (CQC)

Barnsley Metropolitan Borough Council's Night Service was inspected in December 2022 and received an overall Good Rating for the service, it was rated good in each of the five areas reviewed by the CQC inspection The service is a domiciliary care services providing personal care to people living in their own homes. This was the first inspection of the service following its registration with CQC in July 2021. Details of the full inspection report can be found on the CQC website - www.cqc.org.uk

e) Joint Area SEND Inspection (Ofsted and CQC)

The Council along with the Integrated Care Board, education settings and schools are in the implementation and evidencing phase of the Written Statement of Action following the SEND Inspection in 2021. Four formal monitoring visits have been undertaken by the DfE who have reported good progress against the WSOA. There was one further review scheduled for the 11th October 2023, but this was postponed by the DfE as there has been a change of DfE SEND Advisor. Confirmation of the DfE SEND Advisor and the date of the meeting is awaited.

Progress is reported to the DfE through a combination of a monthly data submission, narrative account, and RAG rating. Where there has been slippage on specific actions, detailed rectification actions have been shared to provide assurance that progress will be accelerated. The SEND Oversight Board, ICB Place Based Partnership and Cabinet receive quarterly performance and finance reports. The Council has been accepted on to the DfE's Safety Valve programme following a rigorous process. The DfE will address the cumulative deficit in the Dedicated Schools Grant in 2026/27 on the condition that the Council delivers its DSG Management Action Plan and annual savings targets.

Successful achievement of the WSOA and wider SEND Improvement work to improve the system in Barnsley is the foundation for the DSG Management Action Plan to ensure a sustainable system in Barnsley in the coming years. A new inspection framework for SEND was launch in January 2023 and Barnsley will be subject to this inspection with indications that this could be in the second half of 2023.

f) Information Commissioner's Office (ICO)

During 2022/23 there were 8 cases referred to the Information Commissioners Office (2 relating to data breaches and 6 relating to information requests). One data breach was ruled to be due to another organisation and the other resulted in self-correcting actions being taken by the Council, which the ICO agreed with, suggested no further actions, and closed the case without action. Of the 6 information request referrals, 3 related to freedom of information requests, 1 related to a data protection request and 2 were environmental information requests. In relation to these 6 information requests, 5 decisions were upheld and 1 was partially upheld as the ICO agreed with the Council.

Any areas where improvements in internal processes are identified arising from ICO feedback or recommendations are acted upon. These are overseen by the Information Governance Board and Data Protection Officer.

g) Health and Safety Executive

There have been no formal enforcement actions by the Health and Safety Executive or South Yorkshire Fire and Rescue during 2022/23. The Council has achieved the Royal Society for the Prevention of Accidents (RoSPA) Order of Distinction for Occupational Safety and Health and the British Safety Council International Safety Award.

The Council prepares an Annual Health and Safety Report ([link document here](#)) which is considered by both Cabinet and the Audit & Governance Committee. The Annual Report identifies a number of priorities for improvements and an action plan to take these forwards in 2023/24.

h) Public Health Peer Challenge – Alcohol Use

The LGA undertook a Public Health Peer Challenge in June 2022 to seek an external view on how effectively people with problematic alcohol use are identified and supported by the Council and key stakeholders.

The review team identified many examples of quality provision across the borough and provided a set of recommendations for the Council and its Partners. The main recommendation was to *“Create a shared coherent narrative for Barnsley of alcohol use and its consequences for all your communities. This needs to be framed as an issue for Barnsley and owned by everyone”*.

The Public Health Team have developed an action plan and strategy and will work through the Barnsley Alcohol Alliance to take forward these recommendations.

The Team is currently in the process of finalising the first draft of the narrative and vision for Barnsley. Collaboration with Recovery Steps (Barnsley’s alcohol and drug provider) has seen the development of alcohol awareness and identification tools and Brief Advice training for BMBC managers – to enable management to have the confidence to identify and have discussions with their teams around alcohol consumption and related harms. Once training with management is completed a digital alcohol awareness course will be included on the Council’s training system (POD) for all staff to participate in. Further developments include the identification of alcohol champions in each service area where staff can go for support. A range of alcohol resources have been purchased and tools to sign post staff to wider support and free coaching session with an alcohol specialist practitioner have been established.

Further developments include the piloting of “Alcohol Ambassadors” in a high prevalence area of Barnsley, these will undertake public education on alcohol harms and the effectiveness of this will be reviewed to determine if alcohol prevalence reduces in the area.

i) HMIP Inspection of Youth Justice Services

The Council received notification of a HMIP Inspection of Youth Justice Services on 17th March 2023. The inspection report was published in July 2023 with an overall ‘good’ outcome. The inspection provided a number of recommendations and HMIP approved Barnsley’s submitted action plan in August 2023. The inspection involved statutory partners in police, probation, health, and education as well as wider partners who form part of the multi-agency response for youth justice services for Barnsley young people which is governed through the Youth Crime and Anti-Social Behaviour Board.

12. Governance Issues Identified from the Annual Governance Review

The annual governance review process comprises a facilitated self-assessment with each Business Unit. This ensures that the entire organisation has considered its understanding and compliance with governance processes and the opportunity to raise any concerns about wider corporate governance arrangements.

A meeting was held with each Business Unit, led by the Service Director, and involved their Heads of Service. The meetings were thorough and robust producing an honest assessment of understanding and compliance across the various areas of governance. The areas identified from the review process were:

Areas of Particular Strength

- Financial Management – high levels of understanding and compliance
- HR recruitment processes and HR processes generally – high levels of understanding and full compliance across Business Units

- Legislative Compliance – good understanding of how and when to access legal advice
- Decision Making - good compliance with decision making and reporting processes
- Health and Safety

Areas of continuing improvement and focus

- Information Governance – continue to work to further reduce the number and risk of data breaches, continually ensure high levels of staff awareness of cyber risks, overall data security across the Council and records management
- Risk Management – support services to ensure consistent use of the risk management approach and system
- Equalities and Inclusion – scope to further improve equalities and inclusion awareness
- Performance Management and Data Quality – continue the development of KPI's, and improve the awareness and use of performance management data (Power BI)

Efficiency / Effectiveness improvements (Actions)

In addition to the identification of areas of the Council's governance arrangements where a specific improvement is identified, the annual review process also seeks to identify where efficiencies can be made to make the governance framework even more effective. The sessions with Business Units sought to highlight where there may be scope to further review a corporate process, regardless of any compliance issues but to improve the engagement of Business Units in the general drive to continuously strengthen our governance arrangements whilst ensuring they are efficient and as easy to comply with as possible. The following areas were highlighted:

- HR recruitment processes and HR processes generally – compliance is very good, but the possible of a new HR system will help to improve the ease of compliance and make these important processes more efficient.
- Compliance with corporate procurement processes is also good but again there are opportunities to review these to improve efficiency.

The actions necessary to address the areas for continuing development and improvement have been captured in a high-level action plan (Appendix 1) which will be monitored during the year by the Audit and Governance Committee.

Internal Audit have undertaken a further independent review of the annual governance review process and preparation of the AGS. The outcome of this independent review provided a positive assurance opinion. The audit confirmed the AGR process is well embedded and therefore all statutory timescales are met.

We are constantly reviewing the annual governance review process to ensure it remains robust, and embedded with Business Units, and that we therefore prepare an open and transparent Annual Governance Statement. A review of the process will be undertaken over the Autumn to influence the 2023/24 process through the Governance and Ethics Board and SMT.

13. Governance Action Plan

The Governance Action Plan (Appendix 1) comprises the actions carried forward from the 2021/22 AGS Action Plan and the issues arising from the 2022/23 process. The action plan has two parts:

- Part One identifies governance issues where improvements are required
- Part Two identifies areas where enhancements would improve the efficiency of systems and processes across the Council.

The Audit and Governance Committee will receive regular update reports on the action plan and assurances that actions are being progressed.

Each identified action or area for further improvement is linked to one of the principles within the CIPFA guidance (see Section 4)

Part One – Governance Issues

- a. **Partnership, Relationship and Collaboration Governance** – CIPFA/SOLACE – Principle B - Ensuring openness and comprehensive stakeholder engagement
 - Develop a defined governance framework with a corporate lead for partnerships and collaborations (from 2019/20) – now completed.
- b. **SEND** – CIPFA/SOLACE – Principle B - Ensuring openness and comprehensive stakeholder engagement
 - The engagement of and communication with parents and carers. Local statutory partners need to ensure that the lived experience of families is influencing their strategic plans for services and provision (from 2021/22)
 - Improving the identification of and provision for, children and young people with SEND but without an Education, Health, and Care Plan (EHCP) (from 2021/22)

Part Two – Improvement Enhancements

- c. **Information Governance** - CIPFA/SOLACE – Principle F - Managing risks and performance through robust internal control and strong public financial management

- Migration to and the implementation of a potential new HR system remains a work in progress. HR, Finance, IT and Business Intelligence teams are working together to ensure implementation of the project in 2024/25 (from 2019/20).
- d. **Personal Development Reviews** – CIPFA/SOLACE – Principle A – Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.
- PDR processes will be reviewed in line with the relevant performance modules in the any HR system (from 2019/20).
- e. **Risk Management** - CIPFA/SOLACE – Principle F - Managing risks and performance through robust internal control and strong public financial management
- Development of training material for inclusion on the POD system (from 2019/20) – now completed
 - Development of the wider governance assurance process across the Council to integrate with the new risk management approach – to be considered by the Governance and Ethics Board (from 2020/21)
- f. **Anti-Fraud Awareness** – CIPFA/SOLACE – Principle A – Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law
- Continued work to improve staff awareness and the assessment of fraud risks. Develop specific training to promote better general awareness of the Councils policies on fraud and corruption (from 2020/21)
- g. **Workforce/HR Management** – CIPFA/SOLACE – Principle E – Developing the entity’s capacity, including the capability of its leadership and the individuals within it
- Migration to and the implementation of a potential new HR system remains work in progress. Teams from HR, Finance, IT and Business Intelligence are working together to ensure implementation of the project in 2024/25 (from 2020/21).
- h. **Procurement and Contract Management** – CIPFA/SOLACE – Principle A – Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law
- Through a strategic service review (over 18 - 24 months) explore improvements to procurement systems and processes to improve efficiencies and promote better awareness of the Commercial Toolkit and Strategy (process improvements will be identified during the strategic review) (from 2021/22).
- i. **Equality and Inclusion Action Plan** – CIPFA/SOLACE - Principle B - Ensuring openness and comprehensive stakeholder engagement
- Development of a revised EDI Action Plan for 2023/24 and a broader 3 Year Plan for 2023/26.

- j. **Equality and Inclusion E-Learning** – CIPFA/SOLACE – Principle B – Ensuring openness and comprehensive stakeholder engagement
 - Review of current EDI learning packages available on POD
 - Shift to mandatory completion for all employees, including new starters as part of the review of mandatory learning
- k. **Inclusivity as part of the People Strategy** – CIPFA/SOLACE – Principle B – Ensuring openness and comprehensive stakeholder engagement
 - Improve employee awareness of inclusivity as part of our People Strategy and how inclusivity is central to our ambitions for the Council, linking our inclusivity agenda into key organisational activities e.g., communications, attraction, recruitment
- l. **Staff Network Groups Development** – CIPFA/SOLACE – Principle B – Ensuring openness and comprehensive stakeholder engagement
 - A series of employee network groups will be established, in line with the EDI Action Plan implementation
- m. **Performance Management and Data Quality** – CIPFA/SOLACE – Principle D - Determining the interventions necessary to optimise the achievement of the intended outcomes
 - Continue the development of KPI's, and improve the awareness and use of performance management data (Power BI)

14. Strategic Risk Register

A robust and dynamic Strategic Risk Register sets the culture and tone for the management of threats, concerns and the assurances required across the Council. The engagement of the Senior Management Team (SMT) in the risk management process through their ownership and review of strategic risks on a quarterly basis demonstrates a strong commitment to lead and champion risk management “from the top”, and further reinforces the continuing development of a risk management culture across the Council.

The risks below are owned by SMT, with the management of individual risks being allocated to a member of SMT as the ‘risk manager’, and any necessary actions to provide assurances allocated to Action Owners, being those senior managers best placed to take responsibility to drive the implementation of the identified actions. The current strategic risks are:

- *Threat of fraud and/or cyber-attack* – increased threats of fraud and cyber-attacks against the Council
- *Financial sustainability* – there are several significant emerging risks facing the Council (some of which are fluid and yet to be quantified) that if unchecked could pose a major threat to the Councils’ ongoing financial sustainability

- *Zero carbon and environmental commitments* – there are significant financial, reputational, business and community risks associated with work to ensure the Council achieves its ambition to be zero carbon by 2045.
- *Potential death of a child/safeguarding failure in children’s services* – maintain a focus to ensure all reasonable measures are in place and are effective
- *Meeting Care Act 2014 responsibilities* – the combined impact of the pandemic, reform programme requirements and the cost-of-living crisis could cause challenges for the Council in meeting the statutory requirements of the Care Act.
- *Health protection emergency* – e.g., Covid 19 Pandemic – ensuring robust well understood arrangements are in place to deal with any health protection emergency
- *Inclusive economy* – impact of Covid, accelerated downturn on the local economy, increasing inflation and impact of cost-of-living crisis adding to pressures on the local economy
- *Potential for a safeguarding failure in Adult Social Care* – maintain a focus to ensure all reasonable measures are in place and are effective
- *Partnership and collaboration governance* – need to have robust, well governed but flexible and responsive arrangements for partnership working
- *Organisational resilience* – need to understand issues around leadership, general workforce capacity and welfare and recognise that organisational resilience is not as high as it was pre pandemic – need to find ways to recover post pandemic
- *Emergency resilience* – need to ensure the Council has robust mechanisms to prepare for, respond to and recover from civil emergencies and business interruptions
- *SEND* – new controls in place and an Oversight Board established, continue to monitor delivery, cost effectiveness and satisfaction rates
- *Educational outcomes progress* – continue to monitor with particular focus on improving outcomes for vulnerable groups and boys

SMT is responsible for ensuring that the Strategic Risk Register continues to express those high-level concerns, issues and areas of strategic focus which have a significant bearing upon the overall achievement of corporate objectives and that they are being appropriately managed.

To provide assurances that the Strategic Risk Register is being appropriately managed, the Audit and Governance Committee receive regular updates including presentations from the relevant Executive Director. These presentations provide the Committee with a deep dive review into the strategic risk and an opportunity to obtain an assurance from the Executive Director about the effectiveness of the mitigations and that the action plans in place to address the risk are being implemented. Cabinet also receives six-monthly updates.

15. Recovery from COVID-19

The COVID-19 pandemic was a major disruptor to normal life with services stopping, demand for health and care services severely tested and the outlook for the economy uncertain. The response called for a huge and concentrated effort and council and partner services rose to the

challenges presented to them. Colleagues across the health and care system alongside our communities worked incredibly hard throughout the pandemic to minimise the impact of COVID-19 locally. Our robust response to the pandemic added assurance to the effectiveness of the Council's Business Continuity Plans, communications strategy, and governance arrangements.

Throughout 2022/23 we continued to deal with the legacy of the COVID-19 pandemic, responding accordingly via our public health and Barnsley 2030 partnerships and priority work programmes, with the related governance in place. The pandemic has shone a light on the extent of our existing inequalities within our borough and our Barnsley Health and Wellbeing Strategy focusses on tackling these issues. As we now recover from the COVID-19 pandemic we must do so in a fair and equitable way, ensuring that none of our communities are left behind.

We continue our health protection work effectively in collaboration with council colleagues and partners locally, regionally, and nationally. Our risk and governance structures and approaches are well established with UK Health Security Agency now leading local outbreak arrangements supported by our local Barnsley Council Health Protection team. The Health Protection Board and Director of Public Health receive regular updates, assurances and reports on the evolving health protection issues including COVID -19 recovery and actions are taken where appropriate. Alongside this, Barnsley Council is participating in the UK COVID-19 Inquiry to examine the UK's response to and impact of the COVID-19 pandemic and learn lessons for the future.

16. A Forward Look

Although an annual governance statement is intended to provide a reflection of the financial year just gone, it is also important to highlight and acknowledge that where the Council has challenges, or is implementing major changes, assurance can be provided that due regard is given to maintaining and using effective governance to ensure the achievement of objectives.

The Council continues to work with other organisations in many ways. The need to ensure all such relationships, whether they are formal contracts, collaborations or partnerships are effectively governed is ever more important and particularly pertinent in relation to the new integrated care system, across the local NHS organisations and Council. A process is now in place to obtain assurance from the major Boards and Partnerships about their governance arrangements. Such assurances will be reported to SMT and the Audit and Governance Committee.

The national and indeed international landscape will continue to provide further challenges to the Council in terms of exceptional inflationary pressures, supply chain problems and the continuing difficulty in the recruitment and retention of staff, all of which present further pressure on the council's ability to deliver our ambitious investment and transformation programmes. There will inevitably be many more uncertainties that we will need to work with over the coming year and beyond. What is important therefore is the maintenance and continual review of our governance arrangements that will ensure we are in the best possible position to respond positively and responsibly to these pressures and challenges. To

that end the Governance and Ethics Board is working to review aspects of the council's governance arrangements to ensure they are as efficient as possible.

Of particular focus is to ensure our governance arrangements support and facilitate our transformation programme, to realise efficiencies in how we provide services, how we manage the budget constraints alongside increasing demands for services and how we meet our long-term environmental obligations.

17. Conclusion

This AGS demonstrates that the systems and processes the Council employs provide a comprehensive framework upon which to give assurance to the Council and residents of the Borough that its governance arrangements were in place and effective overall during 2022/23 and into 2023/24.

The governance arrangements outlined in the AGS have been applied throughout the year and up to the date of the approval of the Annual Accounts. The annual review has provided an effective process to identify any governance issues and to put in place the necessary improvement actions. The annual review process and action plan demonstrates the culture of the Council to robustly challenge itself and constantly seek out and demonstrate opportunities to improve.

Along with every organisation in the country, the Council continues to respond to the considerable inflationary and general economic challenges. It is recognised that the Council will have significant issues to consider and address which will have longer-term implications for how services are delivered and the financial resources available to support that service delivery.

As highlighted in the External Auditor's Narrative VFM Report (May 2023), we remain committed to seek continuous improvement and demonstrate the best use of resources and value for money.

The annual governance review has identified, overall, that the Council continues to have an effective framework of governance. The challenging approach we take in the preparation of the AGS has identified areas where we want to improve further with the necessary actions being agreed. The implementation of AGS action plan will again be closely monitored by the Audit and Governance Committee.

Annual Governance Statement Action Plan - Governance Issues where Improvements are Required

AGS	Area Identified / Action	Lead Officer / Action Officer	Timescales
2020/21 b/f from 2021/22 Action Plan	Partnership, Relationship and Collaboration Governance – Governance Improvement <ul style="list-style-type: none"> • Develop a defined governance framework with a corporate lead for partnerships and collaborations 	Director of Finance / Head of Internal Audit, Anti-Fraud and Assurance	Completed
2021/22 b/f from 2021/22 Action Plan	SEND – address the 2 areas of significant weakness: <ul style="list-style-type: none"> • The engagement of and communication with parents and carers. Local statutory partners need to ensure that the lived experience of families is influencing their strategic plans for services and provision • Improving the identification of and provision for, children and young people with SEND but without an Education, Health, and Care Plan (EHCP) 	Barnsley MBC and Barnsley CCG Lead Officer – ED Children’s Services	December 2023

Annual Governance Statement Action Plan - Areas where Improvement Enhancements would improve the Efficiency of Systems and Processes across the Council.

AGS	Area Identified / Action	Lead Officer / Action Officer	Timescales
2019/20 c/f from 2021/22 Action Plan	Information Governance – Efficiency Improvement <ul style="list-style-type: none"> Migration to and the implementation of a potentially new HR system remains a work in progress. HR, Finance, IT and Business Intelligence teams are working together to ensure implementation of the project in 2024/25 	SD Customer Information and Digital Systems	2024/25
2019/20 c/f from 2021/22 Action Plan	Personal Development Reviews – Efficiency Improvement <ul style="list-style-type: none"> PDR processes to be reviewed in line with relevant performance modules in the potential new HR system 	SD Business Improvement, HR & Communications / Head of HR and Organisational Development	2024/25
2019/20 c/f from 2021/22 Action Plan	Risk Management - Governance Improvement <ul style="list-style-type: none"> Development of training material for inclusion on the POD system 	Head of Internal Audit, Anti-Fraud and Assurance	Completed
2020/21 c/f from 2021/22 Action Plan	Risk Management - Governance Improvement <ul style="list-style-type: none"> Development of the wider governance assurance process across the Council to integrate with the risk management approach – to be considered by the Governance and Ethics Board 	Head of Internal Audit, Anti-Fraud and Assurance	March 2024
2020/21 c/f from 2021/22	Anti-Fraud Awareness – Governance Improvement <ul style="list-style-type: none"> Continue work to improve staff awareness and the assessment of fraud risks. Develop specific training to 	Director of Finance / Head of Internal Audit, Anti-Fraud and Assurance	December 2023

AGS	Area Identified / Action	Lead Officer / Action Officer	Timescales
Action Plan	promote better general awareness of the Council policies on fraud and corruption		
2020/21 c/f from 2021/22 Action Plan	Workforce / HR Management – Efficiency Improvement <ul style="list-style-type: none"> Migration to and the implementation of a potentially new HR system remains a work in progress. HR, Finance, IT and Business Intelligence teams are working together to ensure implementation of the project in 2024/25 	SD Business Improvement, HR & Communications / Head of HR and Organisational Development	2024/25
2021/22 c/f from 2021/22 Action Plan	Procurement & Contract Management – Efficiency Improvement <ul style="list-style-type: none"> Through a strategic service review (over 18-24 months), explore improvements to procurement systems and processes to improve efficiencies and promote better awareness of the Commercial Toolkit and Strategy (process improvements will be identified during the strategic review) 	Director of Finance / Head of Strategic Commissioning, Contracts and Procurement	April 2024
2022/23	Equality and Inclusion Action Plan <ul style="list-style-type: none"> Development of a revised EDI Action Plan for 2023-24, and also a broader 3 Year Plan for 2023-26 	SD Business Improvement, HR & Communications / Head of HR & OD / Place Policy and Equalities Manager	2023/24
2022/23	Equality and Inclusion E-Learning <ul style="list-style-type: none"> Review of current EDI learning packages available on POD Shift to Mandatory completion for all employees, including new starters as part of the review of mandatory learning 	SD Business Improvement, HR & Communications (and People Board) / Head of HR & OD / Place Policy and Equalities Manager	November 2023
2022/23	Employee Diversity and Inclusion Data Capture <ul style="list-style-type: none"> Employee data to be captured to improve corporate reporting, compliance, and employee experience 	SD Business Improvement, HR & Communications (and People Board) /	December 2023

AGS	Area Identified / Action	Lead Officer / Action Officer	Timescales
		Head of HR & OD / Place Policy and Equalities Manager	
2022/23	Inclusivity as part of the People Strategy <ul style="list-style-type: none"> Improve employee awareness of inclusivity as part of our People Strategy and how inclusivity is central to our ambitions for the Council, linking our inclusivity agenda into key organisational activities e.g., communications, attraction, recruitment 	SD Business Improvement, HR & Communications (and People Board) / Head of HR & OD / Place Policy and Equalities Manager	March 2024
2022/23	Staff Network Groups Development <ul style="list-style-type: none"> A series of employee network groups will be established, in line with the EDI Action Plan implementation 	SD Business Improvement, HR & Communications (and People Board) / Head of HR & OD / Place Policy and Equalities Manager	March 2024
2022/23	Performance management / data quality <ul style="list-style-type: none"> Continue the development of KPI's, and improve the awareness and use of performance management data (Power BI) 	SD Business Improvement, HR & Communications	March 2024

Item 7

Report of the Head of Internal Audit, Anti-Fraud and Assurance

AUDIT AND GOVERNANCE COMMITTEE – 15th NOVEMBER 2023

INTERNAL AUDIT ANNUAL REPORT 2022-23

Executive Summary

- i. This report provides the Head of Internal Audit, Anti-Fraud and Assurance's annual opinion on the adequacy and effectiveness of the Authority's governance, risk management and internal control arrangements based on the work of Internal Audit for 2022-23 and has been prepared in accordance with the Public Sector Internal Audit Standards.
- ii. Considering the overall results of Internal Audit work undertaken, together with management's implementation of agreed management actions, the opinion given is **reasonable** (positive) assurance. This has been based upon an agreed programme of risk-informed audit coverage and advisory work which has enabled a valid assurance opinion to be provided.
- iii. There continues to be a positive culture in the Council to explore where control and governance improvements can be made. It is therefore important that this culture continues and is focussed on maintaining an appropriate, risk-informed and effective overall framework of governance as the Council faces significant financial and operational challenges whilst delivering its ambitious Transformation Programme and continuing to work towards Barnsley 2030.
- iv. The key results from all completed audits have been reported throughout the year within the Internal Audit progress reports and are summarised in this report.
- v. The Audit and Governance Committee has also been made aware of progress in the implementation of agreed management actions.
- vi. The audit plan for 2023-24 is focussed on supporting management to consider the approach to controls in the context of the achievement of strategic objectives and priorities, the transformation programme and national initiatives (e.g., Adults Social Care Funding Reform, Procurement Reform).

AUDIT AND GOVERNANCE COMMITTEE – 15th NOVEMBER 2023

INTERNAL AUDIT ANNUAL REPORT 2022-23

1. Purpose of Report

1.1 This annual report has been prepared adopting recommended practice contained within the updated Public Sector Internal Audit Standards (PSIAS) which came into effect on the 1st April 2017. These Standards require the Head of Internal Audit, Anti-Fraud and Assurance (the designated Head of Internal Audit (HoIA)) to report to the appropriate Member body, the Audit and Governance Committee, providing an opinion on the overall adequacy and effectiveness of the Authority's framework of governance, risk management and controls based on the work undertaken by Internal Audit.

1.2 In order to comply with these Standards the report provides:-

- i. an opinion on the overall adequacy and effectiveness of the Authority's framework of governance, risk management and internal control;
- ii. summary of the audit work undertaken to formulate the opinion;
- iii. details of key control issues identified which can be used to inform the Annual Governance Statement (AGS); and
- iv. the extent to which the work of other review or audit bodies has been relied upon.

2. Recommendations

2.1 **It is recommended that the Committee:-**

- i. considers the opinion provided by the Head of Internal Audit, Anti-Fraud and Assurance based on the work undertaken and completed relating to 2022-23 regarding the adequacy and effectiveness of the Authority's framework of governance, risk management and internal control;**
- ii. notes the key issues arising from the work of Internal Audit in the context of the Annual Governance Statement (AGS).**

3. Introduction / Background

3.1 In accordance with statutory best practice provided by the PSIAS, there is a requirement that the Head of Internal Audit, Anti-Fraud and Assurance (HoIA) prepares an annual report to the appropriate member body providing, amongst other things, an opinion on the overall adequacy and effectiveness of the Authority's framework of governance, risk management and internal control based on the audit work undertaken. For the Authority, the appropriate member body is the Audit and Governance Committee.

- 3.2 The Accounts and Audit Regulations require all councils to publish an Annual Governance Statement (AGS) providing a narrative on the effectiveness of the Council's governance, risk management and internal control framework, the results of the annual governance review process, and detailing any actions to be taken in respect of any identified weaknesses.
- 3.3 This report provides a summary of key issues arising from the work of Internal Audit covered in the 2022-23 audit plan, which contributes to the overall assurance opinion the HoIA is able to give the Audit and Governance Committee.
- 3.4 Although providing an important and significant contribution to the assurances the Audit and Governance Committee needs in its consideration of the AGS, this report forms only part of the assurance framework. The Committee will receive the Annual Governance Statement (AGS) for 2022-23 at its November meeting. The Audit and Governance Committee is therefore encouraged to consider this report in the context of broad governance, risk and controls assurance.
- 3.5 The financial budget for the Internal Audit Team is set covering the period 1st April to 31st March each year and a plan of the days and where they are planned to be delivered is prepared similarly. However, the actual delivery of internal audit work and the constant review and revision of coverage is on a more rolling basis. In order to align the annual Internal Audit report to the AGS and the signing of the Statement of Accounts it is more appropriate that the Head of Internal Audit, Anti-Fraud and Assurance's opinion is provided reflecting all the work undertaken that relates/covers the year at the point of the approval of the AGS and statutory accounts. This inevitably includes work actually undertaken in the current financial year but which relates to the control environment in existence in the 2022-23 financial year.

4. Head of Internal Audit, Anti-Fraud and Assurance's Opinion on the Effectiveness of the Authority's Governance, Risk Management and Internal Control Environment

- 4.1 The Audit and Governance Committee has received Internal Audit progress reports throughout the audit year. In each of these reports a **reasonable** (positive) assurance opinion had been given reflecting an overall satisfactory level of internal controls and their application.
- 4.2 Taking the whole year into account and the audits completed in relation to the 2022-23 plan, it is appropriate to give an overall **reasonable** (positive) assurance opinion for the year. The information supporting this opinion is provided below.
- 4.3 The engagement of senior managers and services across the Authority has once again been excellent and reflects a positive culture to embrace internal audit and look to identify opportunities to improve the effectiveness and efficiency of governance, risk management and internal controls. However, the challenges that Services face remain of course and to maintain positive assurance in the future that positive culture needs to continue. The key issues

arising from Internal Audit work in the year, in general terms, continue to relate to the significant pressures in most areas of the Council, relentless demand and the drive for greater efficiency and changed ways of working. There is nothing new in these challenges and so the embedded awareness of governance and internal control issues should stand the Authority in good stead to manage the risks, concerns and issues that will inevitably occur.

- 4.4 The audit work undertaken, and planned for the current year, has sought to support management to embrace and meet these challenges. To highlight this issue, a number of senior managers have continued to request Internal Audit input during the year to provide support and assurances that the internal control framework in certain areas was effective. This Internal Audit support was requested to highlight key control, governance and risk issues and assist management in how best to deal with them. Of key importance of course is the consideration and management of the identified and accepted risks moving forward.
- 4.5 It should be noted that audit work has in the main identified areas of weakness in the framework and application of controls that present risks to the meeting operational objectives. Any subsequent delay to then address any control weaknesses and agreed management actions clearly adds to this risk.
- 4.6 Section 6 of this report provides more detail regarding the results of the audit work. In summary, 64% of the completed audits resulted in a substantial or reasonable assurance opinion compared with 65% in 2021-22 and 91% in 2020-21.
- 4.7 Within the Internal Audit progress reports a number of key issues were drawn to the Committee's attention. These are summarised in Section 6.
- 4.8 An update with regards to the core financial system reviews for the 2022-23 financial year is given in paragraph 6.14.
- 4.9 Generally, the audit work in the year has found areas where controls remain good and effective. Eight "Limited" assurance opinions have been provided in 2022-23, compared to seven in 2021-22. These were areas where management invited Internal Audit in to provide independent assurance into areas where it was recognised that improvements could be made.
- 4.10 Although audit work aims to cover a broad range of services, systems and areas of Council activity, it needs to be recognised that Internal Audit coverage cannot guarantee to detect all errors, systems or control weaknesses or indeed identify all of the opportunities for improvements in management arrangements that might exist. Accordingly, the assurance opinion provided is based on reasonable coverage, as resources allow, and cannot be regarded as absolute assurance. Equally, there is a responsibility of senior managers through the annual governance statement process to provide assurances to the Chief Executive regarding the application and effectiveness of the internal control and governance framework in their operational or functional areas.
- 4.11 To remind the Committee, Internal Audit assurance opinions for individual pieces of work and overall, are classified within a range of four options, two

positive and two negative. The table below shows in broad terms the basis for the different opinions applied.

	Level	Control Adequacy	Control Application
POSITIVE OPINIONS	Substantial Assurance	A robust framework of controls exists that is likely to ensure that objectives will be achieved.	Controls are applied continuously or with only minor lapses.
	Reasonable Assurance	A sufficient framework of key controls exists that is likely to result in objectives being achieved, but the control framework could be stronger.	Controls are applied but with some lapses.
NEGATIVE OPINIONS	Limited Assurance	A risk exists of objectives not being achieved due to the absence of key controls in the system.	Significant breakdown in the application of key controls.
	No Assurance	A significant risk exists of objectives not being achieved due to the absence of controls in the system.	Fundamental breakdown in the application of all or most controls.

4.12 Internal Audit seeks to work closely as appropriate with other auditors, most significantly External Audit. However, for 2022-23 no work undertaken by other auditors or any other review body has been specifically relied upon in the provision of this annual overall assurance opinion.

5. Summary of Internal Audit Work and Coverage 2022-23

5.1 Internal Audit aim to utilise a risk-informed approach to planning and delivering its work. This approach seeks to ensure that the key risks (concerns, issues and areas of strategic focus) facing the Authority are covered where appropriate by Internal Audit work. The audit planning process and details of the 2022-23 audit plan were considered by the Committee at its June 2022 meeting.

5.2 The Committee has received Internal Audit progress reports that incorporate the results of audit work and management's response on a continuous basis. A summary of the Internal Audit reports for 2022-23 is at Appendix 1.

5.3 At the beginning of the year provision is made in the allocation of audit resources for unplanned work, through a contingency. As requests for audit work are received, or more time is required for jobs or changes in priorities are identified, time is allocated from this contingency. Over the last couple of years there has been a notable increase in the number of these adjustments which is indicative of the rapidly changing nature of service and Authority-wide priorities. The 2022-23 financial year required an extremely flexible and fluid plan to enable Internal Audit to provide assurance to Senior Management that the control framework remained effective. Details of audit work which has been deferred, deleted or additional requests for specific pieces of work have been reported within the Internal Audit progress reports.

- 5.4 It should also be noted that Internal Audit work is variable both in its nature and timing. The risk-based approach ensures the highest priority work is undertaken. As with all plans, the audit plan was determined at a particular time (March/April 2022) utilising information available and has been subject to significant changes during the year. The Committee should be assured that within the finite resources available to Internal Audit, the key audit risks identified have either received audit attention during the year or are reflected in the audit plan for 2023-24.
- 5.5 The financial year end position for core internal audit days relating to the 2022-23 plan shows a slight under delivery of 78 days, or 9%, of the original provision. However, as reported at the Committee's June 2022 meeting, the Internal Audit plan was under resourced by circa 180 days at the beginning of the financial year due to delays in recruiting to vacant posts. The actual outturn of resourced days delivered is 114%. The plan was proactively managed throughout the financial year with Senior Management to ensure that resources continue to be focussed on the strategic priority areas.

Position as at 31st March 2023 – Audit Days Delivered Relating to 2022-23 Plan

Directorate	Original 2022/23 Plan days	Revised 2022/23 Plan days	Actual days (% of revised days)
Place Based Health & Adult Social Care	48	41	39 (95%)
Childrens Services	63	61	60 (98%)
Core Services	402	408	334 (82%)
Council Wide	163	176	188 (107%)
Growth & Sustainability	179	187	175 (94%)
Public Health & Communities	28	27	26 (96%)
General Contingency	17	0	0
Barnsley MBC	900*	900	822 (91%)
Corporate Anti-Fraud Team	645	645	677 (105%)
Barnsley MBC Internal Audit Total	1,545	1,545	1,499 (97%)
Corporate Governance & Assurance	255	255	299 (117%)
HolA role as DPO	25	25	17 (68%)
Corporate Days (Council related activity)	315	315	306 (97%)
External Clients	885	885	700 (79%)
Total Chargeable Planned Days	3,025	3,025	2,821 (93%)

- 5.6 Within the resources there remains a significant amount of time needed to respond to requests for providing advice, support to services, innovation and initiatives, changes, projects and programmes, corporate change projects and general work that does not result in a specific report. Approximately 40% of the Internal Audit delivered days was spent on work that generates a specific report. Details of the non-report work have been provided through the progress reports, but in summary have covered the following:

- Supporting Families claim verification
- Other grant verifications
- Charity Accounts sign-off
- Advice, support and challenge at the Glassworks Board in respect of the governance, risk and control arrangements
- Advice, support and challenge at the Seam Board in respect of the governance, risk and control arrangements
- Advice, support and challenge at the Community Boost (CRF) Board in respect of the governance, risk and control arrangements
- Support management in the development of a Glassworks Management Assurance Framework
- Advice and support in relation to the Council's Information Governance arrangements, including attendance at the Information Governance Board
- Advice and support to the Board and Project Team during the SAP Success Factors project
- Advice, support and challenge to the Place Based Health and Adult Social Care Directorate in relation to their preparation for the Funding Reforms and also delivery of their Governance Action Plan
- Attendance at various meetings to provide advice, support and challenge to the Council and Berneslai Homes with regards to the Service Agreement
- Advice, support and challenge to the Public Health Quality and Governance Group with regards to quality assurance and data quality
- Assurance with regards to the PRIP governance, performance and contract management arrangements.
- Advice, support and challenge regarding the SEND Safety Valve Programme governance arrangements
- Feedback to and liaison with all services
- Audit and Governance Committee support
- Follow-up of agreed management actions
- Annual audit planning process
- Input to the Annual Governance Review
- Corporate whistleblowing input

5.7 Whilst the work covered in the above list has not resulted in a specific assurance opinion, all work undertaken is considered in terms of the overall annual assurance provided in this annual report. Much of this work has also been considered in the 2023-24 planned coverage.

6. Summary of Internal Control Issues Arising from Internal Audit work in 2022-23

6.1 Internal Audit has completed 22 individual reviews of aspects of the Authority's internal control framework during 2022-23 that resulted in a formal report. These 22 audits sought to identify, test and review various controls to ensure management were meeting their responsibilities to establish and adhere to appropriate systems of internal control.

6.2 It should be noted that 1 review is currently in progress. Details are referenced within the work in progress section (Appendix 3).

6.3 A summary of the assurance opinions given for the 22 reports issued that did provide for an assurance opinion are shown below together with a comparison to 2021-22 and 2020-21.

Assurance Opinion		2022-23		2021-22		2020-21	
		No	%	No	%	No.	%
Positive Opinions	Substantial	1	5	0	0	1	3%
	Reasonable	13	59	13	65	29	88%
Negative Opinions	Limited	8	36	7	35	3	9%
	No	0	0	0	0	0	0%
TOTAL		22	100	20	100	33	100

* there were 14 Covid-19 related pieces of work included in the 2020/21 audit year.

It should be noted that clearly some audit areas have a greater significance and potential impact on the overall assurance opinion, i.e. limited assurance opinions given for control weaknesses in areas with a narrow scope, limited transactions and financial value will have a lower impact on the overall opinion compared to say a major service or a core financial system receiving such an opinion.

6.4 Across the various completed pieces of work to date 149 implications were raised. These are summarised below:

Category	2022-23		2021-22		2020-21	
	No.	%	No.	%	No.	%
High	14	9	13	10	6	5
Medium	87	58	87	65	73	66
Low	48	33	33	25	33	29
Total	149	100	133	100	112	100

6.5 Of the 149 implications raised, these related to:-

- 82 (55%) control adequacy;
- 63 (42%) control application;
- 4 (3%) system efficiency.

This indicates that the work undertaken in year has resulted in just over half of the agreed management actions relating to improving the adequacy of the controls in place (e.g. policies, procedures, management checks), with the remaining half relating to issues of compliance with existing controls (42%) and also more efficient ways of working (3%).

6.6 Of the 14 high implications:

- 4 were raised in the Childrens Residential Homes reviews;
- 4 were raised in the Asset Management Housing Stock review;
- 2 were raised in the Data Retention and Records Management review;

- 2 were raised in the DPO Cybersecurity review;
- 1 was raised in the Council Tax review;
- 1 was raised in the DPIA Follow Up review.

In respect of the 14 high implications above, 7 are closed, 5 are not yet due (Council Tax and Asset Management Housing Stock) and 2 have agreed revised implementation dates (DPO DPIA Follow Up and Data Retention and Records Management).

Although there has been significant pressure on management throughout the year and across all services, Internal Audit has continued to get good co-operation from management from all Business Units.

- 6.7 Details of the key issues arising from these reviews have been presented to the Committee in the Internal Audit progress reports. These findings have arisen across audit reviews ranging from specific establishments to areas of governance.
- 6.8 In addition to the formal audit reports attracting an assurance opinion other reports have been issued in an advisory/consultancy context. A number of these reports are the product of significant Internal Audit input and over many months in some cases. These reports also contribute to the overall assurance opinion. Such input enables Internal Audit to assist management as initiatives, projects or reviews are progressing, thus helping establish effective controls and governance from the outset. In working this way, it is made clear to management in the scoping of Internal Audit work that we remain independent from decision-making.

The major advisory reports have covered:

- Adult Social Care Governance Action Plan
- RPA Project Management
- PRIP Contract
- SEND Safety Valve Programme

- 6.9 As stated in the Internal Audit progress reports it is important to note that the identification of control weaknesses does not necessarily indicate that any loss or inefficiency has actually occurred. Weaknesses indicate an increased *potential/risk* that losses or inefficiencies could arise.
- 6.10 An important part of Internal Audit's assessment of controls is undertaken through the annual reviews of the core financial systems of the Authority. This work is considered by External Audit who have regard to Internal Audit's work to assist in their opinion on the financial systems for their audit of the Accounts.
- 6.11 The core financial system reviews are completed. It is appropriate to highlight the excellent co-operation once again received from the Finance Team. A separate section on the core system reviews is given below.
- 6.12 In relation to specific establishments or other minor systems, controls are tested at a lower level to ensure the detailed operation of systems and procedures, and the use of assets and resources are effective.

- 6.13 During the year, all audit report management actions were followed-up in accordance with the current protocol. As reported through the Internal Audit progress reports, the percentage of management actions implemented by the agreed dates has not given any cause for concern. Appendix 4 provides a breakdown of the current status of all agreed management actions in relation to the 2022-23 planned Internal Audit activity.
- 6.14 The Committee has continued to monitor this situation. Senior management are aware of their responsibilities to implement agreed management actions to ensure any control, risk or governance weaknesses identified through internal audit work are corrected. The Senior Management Team receives quarterly monitoring reports regarding the implementation of agreed management actions and escalates action accordingly. Clearly, any significant delay in implementation or non-implementation weakens the overall control environment.

Core System Reviews

- 6.15 Overall there are 11 systems regarded as core and fundamental to the financial management of the Authority (the Insurance system has been added into the Strategy for 2022-23). Over the last few years there has been a detailed risk assessment undertaken to establish the extent of coverage each system requires given a number of factors, namely any significant changes in the system or key personnel, the audit opinion the previous audit and the results of an analytical review undertaken by Internal Audit. The outcome of this risk assessment is discussed and agreed with the Section 151 Officer. External Audit are also consulted on the risk assessment and proposed coverage.
- 6.16 The timing of these audits means that the audits completed and included in the Appendix relate to those that were scoped in the 2021/22 financial year. They were completed in 2022/23. Transactional and key control testing covered both 2021/22 and 2022/23 financial years. As External Audit do not rely directly on Internal Audit work, it is no longer critical that the audit work covers the whole financial year. The assurance opinions given for each of the systems in previous years and the agreed level of coverage for 2022-23 are shown in the table below..

Core System	Audit Coverage* 2022-23	Audit Coverage 2021-22	Assurance Opinion 2020-21	Assurance Opinion 2019-20	Assurance Opinion 2018-19
	Completed in 2023/24	Completed in 2022/23	Completed in 2021/22	Completed in 2020/19	Completed in 2019/20
Purchase to Pay / Accounts Payable	Compliance	Advisory – no opinion	Advisory**	Not Audited	Substantial
Income	No Audit	Reasonable	Reasonable	Not Audited	Not Audited
Council Tax	Walkthrough / Full	Reasonable	Not Audited	Not Audited	Substantial
NDR	Compliance	No Audit	Reasonable	Not Audited	Substantial
Housing Benefits	Walkthrough / Full	Reasonable	Reasonable	Not Audited	Substantial
Pay, Employee Admin & Org. Management	Walkthrough	Reasonable	Reasonable	Reasonable	Not Audited
Main Accounting	Compliance	Reasonable	Reasonable	Reasonable	Not Audited

Core System	Audit Coverage* 2022-23	Audit Coverage 2021-22	Assurance Opinion 2020-21	Assurance Opinion 2019-20	Assurance Opinion 2018-19
Housing Rents	Compliance	Reasonable***	Reasonable	Substantial	Adequate
Fixed Assets	No Audit	Reasonable	No Audit	Reasonable	No Audit
Treasury Management	No Audit	Substantial	Reasonable	Not Audited	Not Audited
Insurance	No Audit	Reasonable	N/A	N/A	N/A

* A **Walkthrough** audit tests the end to end processes to provide assurance on the internal control framework. A **Compliance** audit includes sample testing of transactions in addition to the work undertaken in a Walkthrough. A **Full** audit includes wider management and supervision elements.

** A Council wide procurement compliance review was concluded in 2020/21 (relating to 2019/20). In addition, assurance work in relation to Covid19 emergency funding covered the Purchase to Pay elements.

*** Undertaken as part of the Berneslai Homes Internal Audit Plan. A Reasonable assurance has been provided for 2022-23.

Summary of Control Issues

6.17 During the year the Committee has received Internal Audit progress reports that highlighted key control issues that could potentially undermine the provision of an overall positive assurance opinion for the year. The major concerns that resulted in the issue of limited assurance opinions/ high implications in relation to particular audits were:-

- Growth & Sustainability - Highways Financial & Governance Arrangements – Need to review the governance framework to ensure it is fit for purpose (meeting structure, policies and procedures, lifecycle costing, procurement and contract management, management reporting – capital programme, performance management).
- Childrens Services - Childrens Residential Homes (x2) – Review identified concerns relating to the following thematic areas – policies and procedures; safeguarding; information governance and data quality; business continuity / emergency resilience; performance mgt; financial mgt; HR, management and workforce. Management agreed to include actions into the Continuous Improvement Action Plan.
- Childrens Services – Disabled Children Direct Payments - Concerns with regards to the absence of personal development plans for each child and their family to manage and monitor needs requirements, further training requirements with regards to how to generate more interest when advertising a support package, data quality and software utilised upon which management information is produced and enhancements required for collaborative working.
- Core Services – Data Retention and Records Mgt – A sample of Officers were unaware of their role as an Information Asset Owner to protect their information assets. In addition, it was unclear whether Information Asset Owners had assigned the day-to-day management of the Information Asset Register to staff within their Business Unit which may have led to failings across the Council to identify, record, review and appropriately dispose of electronic records on a regular basis. The Corporate Retention Schedule requires a review and update to ensure that it captures all records held by the Council and retention periods.

- Core Services – DPO – DPIA Follow Up – There is a risk that staff may not be fully aware of their roles and responsibilities in relation to DPIAs due to the non-completion of the updated mandatory training 'UK GDPR'. A number of sampled DPIAs within the database did not appear to have been reviewed at least annually or sooner. It was also noted that when an Information Asset Owner (IAO) leaves the Service and is no longer responsible for the DPIA the automatic reminders are not always allocated to another IAO. The Data Protection Officer (DPO) expressed uncertainty around the criteria utilised by the Information, Governance & Security Incident Analyst when determining DPO involvement for individual DPIA's, as he had not been involved in the review process in some cases and had not received a 'prompt' when reviews are due enabling appropriate follow up as part of the process.
- Core Services - DPO – Cybersecurity: Positives - The audit concluded there is a cyber security governance process in place, including a cyber-specific Service Continuity Management Plan that includes emergency planning for various cyber-attacks and this document has clear roles and responsibilities with key contacts and a communication plan. BMBC participated in the LGA 360% Programme in early October 2022 and there is an associated action plan. Backup arrangements are in place and the 360% review prompted the implementation of a more robust solution. The Council hold a Payment Card Industry (PCI) compliance certificate and comply with Data Security and Protection Toolkit (DSPT) standards. The reason for the limited assurance opinion at that particular time was due the Public Sector Network (PSN) certification being out of date (1 July 2022). This certification has now been received and therefore a positive assurance opinion is now applicable.
- Growth & Sustainability/ Berneslai Homes – Asset Management Housing Stock - the review identified concerns with regards to effective partnership working and communication, that had resulted in differing records in relation to the housing stock condition. A joint board has been established, to address the findings and implications identified during the review.

7. Local Area Implications

7.1 There are no Local Area Implications arising from this report.

8. Consultations

8.1 All audit reports are discussed with the main auditee. Individual audit reports are provided to the appropriate Executive and/or Service Director to apprise him/her of key issues raised and remedial actions agreed. No specific consultation has been necessary in the preparation of this annual report.

9. Compatibility with European Convention on Human Rights

9.1 In the conduct of investigations, Internal Audit operates under the provisions of the Data Protection Act 2018, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 and the Police and Criminal Evidence Act.

10. Reduction of Crime and Disorder

10.1 An inherent aspect of audit work is to prevent, detect and investigate incidents of fraud, theft and corruption. All pieces of audit work have fraud risks

considered in their scope. Any control issues arising from audit investigations are considered to ensure improvements in overall controls. Additionally, Internal Audit ensures that, in specific instances, management takes appropriate action to minimise the risks of fraud and corruption re-occurring.

11. Risk Management Considerations

- 11.1 Whilst there are no specific risks emanating as a result of this report there are a range of risk issues worthy of consideration and note.
- 11.2 The Committee has received a detailed report on the audit plan including the basis of the plan and the utilisation of risk information. This is a critical aspect of the audit function and seeks to ensure audit resources are targeted at the areas of the Council's business where the most significant risks have been identified.
- 11.3 There is a risk to the Authority as a whole should the Internal Audit function not be effective. This would undermine the internal control, risk and governance arrangements of the Authority and fail to provide the Committee with sufficient independent information upon which to base their assurance views upon. The provision of detailed Internal Audit progress reports during the year, plus this interim annual report and the report on the QAIP should act as mitigation in ensuring the Committee is in a position to constantly keep the audit function under review.
- 11.4 There is a risk to the Authority should Internal Audit not be in a position to undertake its work independently and objectively. Throughout the year, there has been no impairment of independence or objectivity.
- 11.5 There is a risk to the control and governance of the Authority if management fail to implement their agreed actions to address the implications identified during Internal audit work. In mitigation Internal Audit has introduced a more rigorous 'follow-up' process to ensure the most significant issues are implemented. This is reported to the Audit and Governance Committee within the progress and annual reports.

12. Employee Implications

- 12.1 There are no employee implications arising from this report.

13. Financial Implications

- 13.1 There are no financial implications arising directly from this report. The costs of the Internal Audit function and the external audit fees are included within the Authority's base budget.

14. Appendices

- 14.1 Appendix 1 - Summary of Internal Audit Reports 2022-23
Appendix 2 - Details and Outcomes of other Internal Audit Activities
Appendix 3 - Work In Progress
Appendix 4 - Agreed Management Actions

15. Background Papers

15.1 Various Internal and External Audit reports, files and working papers.

Officer Contact: Rob Winter FCPFA
Head of Internal Audit, Anti-Fraud and Assurance
Telephone No: 07786 525319
Date: 3rd November 2023

Appendix 1

Directorate	Title of Audit & Date of Formal Report	Assurance Opinion	No. & Priority of Implications and Control Adequacy/ Application/ Systems Efficiency	Governance / Risk / Control	Governance Themes	Follow-up Action
Growth & Sustainability	CRF Contract and Performance Management 28/07/2022	Reasonable	H – 0 M – 3 L – 2 Control Adequacy x 1 Control Application x 3 Systems Efficiency x 1	G/R/C	Partnerships & Relationships x 2 Performance Management & Data Quality x 3	3 x closed 2 x management assurance process
Core Services	Annual Governance Review Process 28/10/2022	Reasonable	H – 0 M – 3 L – 0 Control Adequacy x 3	G/R/C	Information Governance x 3	3 x closed
Growth & Sustainability	Active Travel 02/11/2022	Reasonable	H – 0 M – 5 L – 2 Control Adequacy x 6 Control Application x 1	G/R/C	Information Governance x 4 Collaboration x 1 Performance Management x 1 Contracts / Procurement / Commissioning x 1	3 x closed 2 x revised implementation dates provided 2 x management assurance process
Core Services	DPO – DPIA Follow Up 02/12/2022	Limited	H – 1 M – 4 L – 3 Control Adequacy x 6 Control Application x 2	G/R/C	Information Governance x 8	1 x closed 4 (1H/3M) x revised implementation dates provided 3 x management assurance process

Appendix 1

Directorate	Title of Audit & Date of Formal Report	Assurance Opinion	No. & Priority of Implications and Control Adequacy/ Application/ Systems Efficiency	Governance / Risk / Control	Governance Themes	Follow-up Action
Council Wide (Core)	Strategic Risks and Concerns Mgt 14/12/2022	Reasonable	H – 0 M – 2 L – 0 Control Adequacy x 2	G/R/C	Risk Management x 2	1 x closed 1 x not yet due
Core Services	Financial System – Income 16/12/2022	Reasonable	H – 0 M – 1 L – 1 Control Adequacy x 1 Control Application x 1	G/R/C	Information Governance x 1 Financial Management x 1	1 x revised implementation date provided 1 x management assurance process
Growth & Sustainability	Highways Governance & Financial Management 21/12/2022	Limited	H – 0 M – 9 L – 9 Control Adequacy x 12 Control Application x 6	G/R/C	Performance Management & Data Quality x 7 Information Governance x 7 Contracts / Procurement / Commissioning x 2 Financial Management x 2	2 x closed 7 x revised implementation dates provided 9 x management assurance process
Public Health & Communities	Information Governance, Suicide Related Cases 11/01/2023	Reasonable	H – 0 M – 4 L – 0 Control Adequacy x 3 Control Application x 1	G/R/C	Information Governance x 4	4 x closed

Appendix 1

Directorate	Title of Audit & Date of Formal Report	Assurance Opinion	No. & Priority of Implications and Control Adequacy/ Application/ Systems Efficiency	Governance / Risk / Control	Governance Themes	Follow-up Action
Core Services	Financial System - Treasury Mgt 16/01/2023	Substantial	H – 0 M – 0 L – 1 Control Application x 1	G/R/C	Financial Management x 1	1 x management assurance process
Childrens Services	Residential Childrens Homes (x2) 30/01/2023	Limited (x2)	H – 4 M – 20 L – 3 Control Adequacy x 11 Control Application x 16	G/R/C	Information Governance x 2 Business Continuity / Emergency Resilience x 8 Safeguarding x 4 Performance Management x 8 HR / Workforce Management x 1 Financial Management x 4	24 (H/M) x closed 3 x management assurance process
Childrens Services	Disabled Children Direct Payments 08/02/2023	Limited	H – 0 M – 5 L – 1 Control Adequacy x 3 Control Application x 2 Systems Efficiency x 1	G/R/C	Business Continuity / Emergency Resilience x 3 Safeguarding x 1 Collaboration x 1 Information Governance x 1	5 x closed 1 x management assurance process

Appendix 1

Directorate	Title of Audit & Date of Formal Report	Assurance Opinion	No. & Priority of Implications and Control Adequacy/ Application/ Systems Efficiency	Governance / Risk / Control	Governance Themes	Follow-up Action
Core Services	Data Retention and Records Mgt. 08/02/2023	Limited	H – 2 M – 8 L – 1 Control Adequacy x 6 Control Application x 5	G/R/C	Business Continuity / Emergency Resilience x 1 Information Governance x 10	2 (H/M) x closed 8 (1H/7M) x revised implementation date provided 1 x management assurance process
Core Services	DPO – Incident Management 24/02/2023	Reasonable	H – 0 M – 3 L – 1 Control Adequacy x 1 Control Application x 3	G/R/C	Information Governance x 3 Risk Management x 1	2 x closed 1 x revised implementation date provided 1 x management assurance process
Core Services	Financial System – Fixed Assets 03/03/2023	Reasonable	H – 0 M – 1 L – 1 Control Adequacy x 2	G/R/C	Performance Management and Data Quality x 1 Business Continuity / Emergency Resilience x 1	1 x closed 1 x management assurance process
Core Services	DPO – Cybersecurity 14/03/2023	Limited	H – 2 M – 0 L – 2 Control Adequacy x 3 Systems Efficiency x 1	G/R/C	Information Governance x 4	2 x closed 2 x management assurance process

Appendix 1

Directorate	Title of Audit & Date of Formal Report	Assurance Opinion	No. & Priority of Implications and Control Adequacy/ Application/ Systems Efficiency	Governance / Risk / Control	Governance Themes	Follow-up Action
Core Services	Financial System – Main Accounting 09/06/2023	Reasonable	H – 0 M - 3 L – 1 Control Adequacy x 1 Control Application x 3	G/R/C	Financial Management x 2 Information Governance x 1 Information Systems Management x 1	1 x closed 2 x not yet due 1 x management assurance process
Growth & Sustainability	Asset Management Housing Stock 03/08/2023	Limited	H – 4 M - 4 L – 1 Control Adequacy x 9	G/R/C	Asset Management (Estates and Non-IT Equipment) x 2 Partnership / Relationship / Collaboration Governance x 2 Performance Management and Data Quality x 4 Health & Safety x 1	8 (4H/4M) not yet due 1 x management assurance process
Core Service	Financial System - Insurances 28/07/2023	Reasonable	H – 0 M - 1 L – 4 Control Adequacy x 2 Control Application x 2 Systems Efficiency x 1	G/R/C	Information Governance / Security x 2 Business Continuity / Emergency Resilience x 1 Project and Programme Management x 1 Legislative Compliance x 1	1 x not yet due 4 x management assurance process

Appendix 1

Directorate	Title of Audit & Date of Formal Report	Assurance Opinion	No. & Priority of Implications and Control Adequacy/ Application/ Systems Efficiency	Governance / Risk / Control	Governance Themes	Follow-up Action
Core Services	Council Tax 16/08/2023	Reasonable	H – 1 M - 3 L – 6 Control Adequacy x 3 Control Application x 7	G/R/C	Information Governance / Security x 2 Workforce / HR Management x 1 Information Systems Management x 1 Performance Management and Data Quality x 2 Financial Management x 4	2 (M) x closed 2 (1H/1M) not yet due 6 x management assurance process
Core Services	Housing Benefits 16/08/2023	Reasonable	H – 0 M - 3 L – 3 Control Adequacy x 5 Control Application x 1	G/R/C	Information Governance / Security x 2 Financial Management x 2 Workforce / HR Management x 1 Legislative Compliance x 1	3 x closed 3 x management assurance process

Appendix 1

Directorate	Title of Audit & Date of Formal Report	Assurance Opinion	No. & Priority of Implications and Control Adequacy/ Application/ Systems Efficiency	Governance / Risk / Control	Governance Themes	Follow-up Action
Core Services	Payroll 25/10/2023	Reasonable	H – 0 M - 5 L – 6 Control Adequacy x 2 Control Application x 9	G/R/C	Financial Management x 4 Performance Management and Data Quality x 1 Workforce / HR Management x 2 Information Governance / Security x 2 Information Systems Management x 1 Legislative Compliance x 1	5 x closed 6 x management assurance process

Details and outcome of other Internal Audit activities concluded in the period

Audit Work Completed	Details	Contribution to Assurance
Place Based Health & Adult Social Care: Adult Social Care Services	Advice, Support and Challenge to Place Based Health & Adult Social Care during its implementation of the Governance Action Plan and Readiness for the Funding Reforms.	The work contributes to assurance in respect of governance, risk and financial management.
Childrens Services: Supporting Families – Quarterly validation	Grant claim validation.	The work contributes to assurance in respect of financial management.
Core / G&S: Glassworks Board Attendance	Provide independent and objective assurance that effective and efficient risk, control and governance arrangements exist to provide a robust framework upon which the phase two scheme and also BAU can be delivered (i.e. on time, in budget & to standard).	The work contributes to assurance in respect to contract management, governance and financial management.
Core / G&S: Glassworks Management Assurance Framework	To support management in the development and implementation of the Management Assurance Framework.	The work contributes to assurance in respect to governance, risk and financial management.
Core / G&S: Seam Board Attendance	Provide independent and objective assurance that effective and efficient risk, control and governance arrangements exist to provide a robust framework upon which the programme can be delivered (i.e. on time, in budget & to standard).	The work contributes to assurance in respect to contract management, governance and financial management.
Core / G&S: Community Renewal Funding Board Attendance	Provide independent and objective assurance that effective and efficient risk, control and governance arrangements exist to provide a robust framework upon which the pilot programme can be delivered (i.e. on time, in budget & to standard).	The work contributes to assurance in respect to contract management, governance and financial management.
Core: SAP Success Factors	To continue to support the project throughout its design and implementation.	The work contributes to assurance in respect to contract management, governance and financial management.
Core: Various Grant Claims and Charity Accounts	To independently validate and sign off the accounts in accordance with the grant T&Cs / Chairt Commission requirements.	The work contributes to assurance in respect of financial management.
Core / G&S: BMBC/BH Service Agreement	To provide provide advice, support and challenge to the Council and Berneslai Homes with regards to the Service Agreement.	The work contributes to assurance in respect to governance, risk and financial management.
Public Health & Communities: Quality and Governance	To provide advice, support and challenge to the Public Health Quality and Governance Group with regards to quality assurance and data quality.	The work contributes to assurance in respect to governance, risk and financial management.

Audit Work Completed	Details	Contribution to Assurance
Core / G&S: PRIP Contract	To provide assurance with regards to the PRIP governance, performance and contract management arrangements.	The work contributes to assurance in respect to contract management, governance and financial management.
Core / Childrens Services: SEND Safety Valve Programme	Advice, support and challenge regarding the SEND Safety Valve Programme governance arrangements	The work contributes to assurance in respect to governance, risk and financial management.

Work in Progress as at 5th November 2023

Directorate & Audit Assignment	Status / Comment
Core Services – IT Programme / Project Management	Review Stage

Analysis of Agreed Management Actions Relating to 2022-23 Planned Internal Audit Activity

Implication Categorisation	No. of Implications	Not Yet Due – Future Implementation Date Agreed	Completed	Not yet completed – Revised date agreed	Not yet completed – Awaiting Management Update
Place Based Health & Adult Social Care					
High	0	0	0	0	0
Medium	0	0	0	0	0
TOTAL	0	0	0	0	0
Growth & Sustainability					
High	4	4	0	0	0
Medium	21	4	8	9	0
TOTAL	25	8	8	9	0
Childrens Services (excl. Maintained Schools)					
High	4	0	4	0	0
Medium	25	0	25	0	0
TOTAL	29	0	29	0	0
Maintained Schools					
High	0	0	0	0	0
Medium	0	0	0	0	0
TOTAL	0	0	0	0	0
Core Services					
High	8	3	3	2	0
Medium	35	4	20	11	0
TOTAL	43	7	23	13	0
Public Health & Communities					
High	0	0	0	0	0
Medium	4	0	4	0	0
TOTAL	4	0	4	0	0
OVERALL TOTAL	101	15	64	22	0
%		15	64	22	0

Internal Audit Performance Indicators - Quarter Four 2022/23

Ref.	Indicator	Frequency of Report	Target 2022/23	This Period (Q4)	Year to Date
1.	<u>Customer Perspective:</u>				
1.1	Percentage of questionnaire received noted “good” or “very good” relating to work concluding with an audit report.	Quarterly	95%	100%	100%
2.	<u>Business Process Perspective:</u>				
2.1	Percentage of final audit reports issued within 10 working days of completion and agreement of the draft audit report.	Quarterly	80%	100%	100%
2.2	Percentage of chargeable time against total available.	Quarterly	73%	78%	71%
2.3	Average number of days lost through sickness per FTE	Quarterly	6 days	1.2 days	8.3 days
3.	<u>Continuous Improvement Perspective:</u>				
3.1	Personal development plans for staff completed within the prescribed timetable.	Annual	100%	100%	100%
4.	<u>Financial Perspective:</u>				
4.1	Total Internal Audit costs v budget.	Quarterly	Within Budget	Within Budget	Within Budget

Item 8

Report of the Head of Internal Audit, Anti-Fraud and Assurance

AUDIT AND GOVERNANCE COMMITTEE – 15th NOVEMBER 2023

INTERNAL AUDIT PROGRESS REPORT 2023/24

1 Purpose of this report

- 1.1 The purpose of this report is to provide a summary of the Internal Audit activity completed, and the key issues arising from it, for the period from 1st July to 31st October 2023.

2 Background information

- 2.1 The Audit and Governance Committee has responsibility for reviewing the adequacy of the Council's corporate governance arrangements, including matters such as internal control and risk management. The reports issued by Internal Audit are a key source of assurance providing the Committee with some evidence that the internal control environment is operating as intended.
- 2.2 At the end of the financial year, Internal Audit will produce an Annual Internal Audit Report, which will provide the overall opinion on the adequacy of the Council's control environment and compliance with it during the year.

3 Recommendations

- 3.1 **It is recommended that the Audit and Governance Committee considers the assurances it needs on the effectiveness of the Authority's internal control, risk and governance arrangements through the work of Internal Audit by:-**
- i. **considering the issues arising from completed Internal Audit work in the period along with the responses received from management;**
 - ii. **noting the assurance opinion on the adequacy and effectiveness of the Authority's internal control framework based on the work of Internal Audit in the period;**
 - iii. **noting the progress against the Internal Audit plan for 2023/24 for the period.**

4 Local Area Implications

- 4.1 There are no Local Area Implications arising from this report.

5 Consultations

- 5.1 All audit reports are discussed and agreed with the Audit Sponsor and Designated Operational Lead. Individual audit reports are provided to the appropriate Executive Director and/or Service Director to apprise him/her of key issues raised and remedial actions agreed.

5.2 No specific consultation has been necessary in the preparation of this quarterly report.

6 Compatibility with European Convention on Human Rights

6.1 In the conduct of audit work and investigations particularly, Internal Audit operates under the provisions of the Data Protection Act 2018, the Regulation of Investigatory Powers Act 2000 and the Police and Criminal Evidence Act.

7 Reduction of Crime and Disorder

7.1 An inherent aspect of audit work is to prevent, detect and investigate incidents of fraud, theft and corruption. The control issues arising from audit investigations have been considered to ensure improvements in overall controls are made. Additionally, Internal Audit ensures that in specific instances, management takes appropriate action to minimise the risks of fraud and corruption re-occurring.

8 Risk Management Considerations

8.1 The underlying purpose of the work of Internal Audit is to address and advise on key risks facing management and, as such, risk issues are inherent in the body of the report.

8.2 The Service's own risk register includes the following risks which are relevant to this report:

- Need to ensure ongoing compliance with public sector internal audit standards
- Undertaking the Transformation Review and then Implementing a new structure that provides the right level of skill, expertise and experience
- Capacity issues - keeping up with the pace of change

8.3 All of these risks have been assessed and remain within the tolerance of the Service.

8.4 An essential element of the control (and on-going) management of these risks is the provision of update reports to the Audit & Governance Committee and the assurance this provides.

9 Employee Implications

9.1 There are no employee implications arising from this report.

10 Financial Implications

10.1 There are no financial implications arising directly from this report. The costs of the Internal Audit function are included within the Authority's base budget.

11 Appendices

Appendix 1 - Key To Internal Audit Assurance Gradings & Classification of Management Actions.

12 **Background Papers**

12.1 Various Internal and External Audit reports, files and working papers.

Officer Contact: Head of Internal Audit, Anti-Fraud and Assurance

Telephone No: 07786 525319

Date: 3rd November 2023

Barnsley Metropolitan Borough Council

Internal Audit Progress Report

Audit and Governance Committee

15th November 2023

INTERNAL AUDIT PROGRESS REPORT 1st July to 31st October 2023

Purpose of this report

This report has been prepared to inform the Audit and Governance Committee on the Internal Audit activity for the period 1st July to 31st October 2023, bringing attention to matters that are relevant to the responsibilities of the Committee.

The report also provides information regarding the performance of the Internal Audit function during the period.

2023/24 Internal Audit Plan Progress

The following tables show the progress of the internal audit plan delivery, analysed by the number of plan assignments producing a report and audit days delivered by Directorate / Service.

Position as at 31st October 2023 – Audit Days Delivered

Directorate	Original 2023/24 Plan days	Revised 2023/24 Plan days	Actual days (% of revised days)
Place Health & ASC	49	51	35 (69%)
Childrens Services	127	94	62 (66%)
Core Services	684	652	374 (57%)
Council Wide	130	130	103 (79%)
Growth & Sustainability	159	188	105 (56%)
Public Health & Communities	24	25	23 (92%)
General Contingency	21	79	N/A
Barnsley MBC	1,194	1,219	706 (58%)
Corporate Anti-Fraud Team	754	754	313 (42%)
Barnsley MBC Internal Audit Total	1,948	1,973	1,019 (52%)

Corporate Governance & Assurance	260	260	183 (70%)
HolA role as DPO	25	25	13 (52%)
Corporate Days (Council related activity)	379	354	133 (38%)

External Clients	524	524	295 (56%)
-------------------------	------------	------------	------------------

Total Chargeable Planned Days	3,136	3,136	1,643 (52%)
--------------------------------------	--------------	--------------	--------------------

Position as at 31st October 2023 – Plan Assignments

Directorate	2023/24 plan assignments	Assignments expected to be completed to date	Actual Assignments completed to Date	Actual assignments completed in Period
Place Health & ASC	1	1	1	1
Childrens Services	3	2	2	2
Core Services	23	2	2	2
Growth & Sustainability	7	2	2	2
Public Health & Communities	2	2	2	2
Total	36	9	9	9

NB – formal audits resulting in a report only – excludes advisory, grants etc where no report required.

Changes to the 2023/24 Internal Audit Plan

There have been 2 changes to the Internal Audit plan during this period. These are:-

- Cancelled – Core Services: SAP Replacement System
- Deferred – Council Wide (Core) – Partnership Governance

A number of days have also been transferred from the Council Wide Corporate budget days (due to a reduction in requirements) into the Internal Audit plan, to provide increased assurance resource.

Final Internal Audit reports issued

We have finalised 9 audit reports in the period. The following table provides a summary of assurances, where applicable, and the number and categorisation of agreed management actions included in the reports:

Directorate- Audit Assignment	Assurance Opinion	Number of Management Actions Agreed:			Total	Agreed
		High	Medium	Low		
Place Health & ASC: Governance Reviews Follow Up and CQC Self Assessment	Reasonable	0	3	0	3	3
Core Services – People Strategy	Reasonable	0	3	0	3	3
Core Services – Health & Safety Employees	Reasonable	0	2	1	3	3
Childrens Services - Educational Visits and Outdoor Education	Reasonable	0	4	2	6	6

Directorate- Audit Assignment	Assurance Opinion	Number of Management Actions Agreed:			Total	Agreed
		High	Medium	Low		
Childrens Services - Early Education Funding - Top-Up Payments	Reasonable	0	4	1	5	5
G&S – Glassworks Service Charges	Reasonable	0	2	1	3	3
G&S – Adult Learning	Reasonable	0	2	0	2	2
PH & Comms - Discharge of Statutory Role - Infectious diseases	Reasonable	0	1	0	1	1
PH & Comms - Discharge of Statutory Duties - Regulatory Services	Reasonable	0	2	0	2	2
Total		0	23	5	28	28

Please note that final audit reports are available to Audit Committee members on request.

Internal Audit reports providing a limited or no assurance opinion

There were no audit reports issued during the period that had a limited assurance opinion.

Details and outcome of other Internal Audit activities undertaken in the period not producing a specific assurance opinion

Audit Work Completed	Details	Contribution to Assurance
Adults: Social Care Funding Reforms Board Attendance and Digital Project Assurance	Provide independent and objective assurance that effective and efficient risk, control and governance arrangements exist to provide a robust framework upon which the Council can consider and then react/comply with the funding reform requirements.	The work contributes to assurance in respect to governance and financial management.
Adults: Social Care Governance Action Plan	To provide advice, support and challenge to management during the review of various services (e.g. carers, transition from children to adults).	The work contributes to assurance in respect to governance and financial management.
Childrens Services: Supported Families – Quarterly validation	Grant claim validation.	The work contributes to assurance in respect of financial management.

Audit Work Completed	Details	Contribution to Assurance
Council Wide	To provide advice, support and challenge to management during the Transformation Programme incl. Microsoft Project.	The work contributes to assurance in respect to governance, risk management and financial management.
Core / G&S: Glassworks Board Attendance	Provide independent and objective assurance that effective and efficient risk, control and governance arrangements exist to provide a robust framework upon which the phase two scheme can be delivered (i.e. on time, in budget & to standard).	The work contributes to assurance in respect to contract management, governance and financial management.
Core / G&S: SEAM Board Attendance	Provide independent and objective assurance that effective and efficient risk, control and governance arrangements exist to provide a robust framework upon which the programme can be delivered (i.e. on time, in budget & to standard).	The work contributes to assurance in respect to contract management, governance and financial management.
Core / G&S: Levelling Up Board Attendance	Provide independent and objective assurance that effective and efficient risk, control and governance arrangements exist to provide a robust framework upon which the programme can be delivered (i.e. on time, in budget & to standard).	The work contributes to assurance in respect to contract management, governance and financial management.
Core: HR Policy	To provide advice, support and challenge to management during the review of corporate policies and procedures (including development of a policy framework).	The work contributes to assurance in respect to governance.
Core: SAP Success Factors	To continue to support the project throughout its design and implementation.	The work contributes to assurance in respect to contract management, governance and financial management.
Core: Accounts Payable (Advisory)	To continue to support management during the implementation of the Development Plan.	The work contributes to assurance in respect to governance, risk and financial management
Core: Various Grant Claims	To independently validate the claims to be submitted to the Funding Bodies.	The work contributes to assurance in respect of financial management.
G&S: Assurance - Berneslai Homes	Provide independent and objective assurance that effective and efficient risk, control and governance arrangements exist.	The work contributes to assurance in respect to governance and financial management.

Other Internal Audit work undertaken

Audit Activity	Description
Follow-up of Agreed Management Actions	Regular work undertaken to follow-up agreed management actions made.
Attendance at Steering / Working Groups	Information Governance Board
Liaison, Planning and Feedback	Meeting and corresponding with Service and Executive Directors and Heads of Service regarding the review of the annual plan, progress of audit work, future planning and general client liaison.
Audit and Governance Committee Support	Time taken in the preparation of Audit Committee reports, Audit Committee Member training, general support and development.
Corporate Whistleblowing	General time taken in providing advice and the initial consideration of matters raised. Also includes the review of arrangements.
Corporate Matters	Covering time required to meet corporate requirements, i.e. corporate document management, service business continuity and health and safety.

Work in progress – 2023/24 Plan

The following table provides a summary of audits in progress at the time of producing this report:

Directorate - Audit Assignment	Audit Stage		
	Audit Planning	Work in Progress	Draft Report
Core: Equality, Diversity and Inclusion Review			✓
Council Wide / Core – AGR Process			✓
G&S: Home to School Transport			✓
Core: Constitution Review		✓	
Place Based Health & ASC: Adults Social Care Funding Reforms		✓	
Council Wide / Core – Strategic Risk and Concerns Management		✓	
Core: Financial System, NNDR		✓	
Core: MTFS		✓	
Core: Budget management and efficiency savings		✓	
Core: Contact Centre		✓	
Core: Information Systems Archiving		✓	
Core: Mayoral Charity Accounts		✓	
Core: Elections - Elections Review (incl. Voter ID and Postal Voting)		✓	
G&S: Asset Management Strategy		✓	
Childrens Services: Development Plan	✓		
Core: Financial System, Main Accounting	✓		
Core: Procurement of ICT Systems	✓		
Core: Data Management	✓		
G&S: PRIP Contract	✓		
G&S: Barnsley Property Services	✓		
G&S: Zero Carbon	✓		

Follow-up of Internal Audit report agreed management actions

As previously reported to the Committee, Internal Audit is working closely with management to monitor the general position with regards the implementation of management actions and to establish the reasons behind any delays. Internal Audit continues to issue a detailed monthly status update to Service Directors and to Executive Directors on a quarterly basis. This is in addition to the performance reports currently presented to SMT.

The following table shows the status of agreed management actions by Directorate where the original target implementation date was due for completion during the period:

Implication Categorisation	Followed Up in Period	Completed	Not yet completed – Revised date agreed	Not yet completed – Awaiting management update
Place Health and ASC				
High	0	0	0	0
Medium	0	0	0	0
TOTAL	0	0	0	0
Growth & Sustainability				
High	0	0	0	0
Medium	3	2	1	0
TOTAL	3	2	1	0
Childrens Services (excl. Maintained Schools)				
High	0	0	0	0
Medium	3	3	0	0
TOTAL	3	3	0	0
Maintained Schools				
High	0	0	0	0
Medium	0	0	0	0
TOTAL	0	0	0	0
Core				
High	1	0	1	0
Medium	9	7	2	0
TOTAL	10	7	3	0
Public Health & Communities				
High	0	0	0	0
Medium	0	0	0	0
TOTAL	0	0	0	0
OVERALL TOTAL	16	12	4	0
% of TOTAL		75	25	0

Internal Audit performance indicators and performance feedback for Quarter 2 - 2023/24

Internal Audit's performance against a number of indicators is summarised below.

Ref.	Indicator	Frequency of Report	Target 2023/24	This Period (Q2)	Year to Date
1.	<u>Customer Perspective:</u>				
1.1	Percentage of questionnaires received noted "good" or "very good" relating to work concluding with an audit report.	Quarterly	95%	100%	100%
2.	<u>Business Process Perspective:</u>				
2.1	Percentage of final audit reports issued within 10 working days of completion and agreement of the draft audit report.	Quarterly	80%	100%	100%
2.2	Percentage of chargeable time against total available.	Quarterly	73%	66%*	64%*
2.3	Average number of days lost through sickness per FTE	Quarterly	6 days	2.3 days	5.7 days
3.	<u>Continuous Improvement Perspective:</u>				
3.1	Personal development plans for staff completed within the prescribed timetable.	Annual	100%	100%	100%
4.	<u>Financial Perspective:</u>				
4.1	Total Internal Audit costs v budget.	Quarterly	Within Budget	Within Budget	Within Budget

* The chargeable time indicator in Q1 & Q2 has been impacted upon by the profile of annual and statutory leave, which will level out throughout the year and the impact of sickness absences.

Head of Internal Audit's Internal Control Assurance Opinion

The Head of Internal Audit, Corporate Anti-Fraud and Assurance must deliver an annual internal audit opinion and report that can be used by the organisation to inform its Annual Governance Statement. The annual internal audit opinion must conclude on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control.

Based on the audits reported in the period, an overall **reasonable** assurance opinion is considered to be appropriate.

A summary of our quarterly opinions for the year to date is as follows:

	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Assurance Opinion	Reasonable	Reasonable		

Consideration of our overall opinion takes the following into account:

- results from the substantive audit assignments we have completed during the period;
- outcomes from our audit work not producing an assurance opinion;
- an assessment as to the timely implementation of internal audit report management actions.

Internal Audit, Anti-Fraud and Assurance Contacts

Contact	Title	Contact Details
Rob Winter	Head of Internal Audit, Anti-Fraud and Assurance	Tel: 07786 525319 Email: robwinter@barnsley.gov.uk
Sharon Bradley	Internal Audit Manager	Tel: 07795 305846 Email: sharonbradley@barnsley.gov.uk

KEY TO INTERNAL AUDIT ASSURANCE GRADINGS AND CLASSIFICATION OF MANAGEMENT ACTIONS

1. Classification of Management Actions

- High** Requires immediate action – imperative to ensuring the objectives of the system under review are met.
- Medium** Requiring action necessary to avoid exposure to a significant risk to the achievement of the objectives of the system under review.
- Low** Action is advised to enhance control or improve operational efficiency.

2. Assurance Opinions

	Level	Control Adequacy	Control Application
POSITIVE OPINIONS	Substantial	Robust framework of controls exist that are likely to ensure that objectives will be achieved.	Controls are applied continuously or with only minor lapses.
	Reasonable	Sufficient framework of key controls exist that are likely to result in objectives being achieved, but the control framework could be stronger.	Controls are applied but with some lapses.
NEGATIVE OPINIONS	Limited	Risk exists of objectives not being achieved due to the absence of key controls in the system.	Significant breakdown in the application of key controls.
	No	Significant risk exists of objectives not being achieved due to the absence of controls in the system.	Fundamental breakdown in the application of all or most controls.

This page is intentionally left blank

Item 9

Report of the Head of Internal Audit, Anti-Fraud and Assurance

AUDIT AND GOVERNANCE COMMITTEE – 15th NOVEMBER 2023

STRATEGIC CONCERNS / RISK REGISTER

1. Purpose of the report

- 1.1 To introduce the next scheduled strategic risks for the Audit and Governance Committee meeting to consider as presented by the appropriate Executive Director.
- 1.2 Two strategic risks will be considered at this meeting:
 - SEND – Executive Director Children’s Services
 - Safeguarding in Children’s Services – Executive Director Children’s Services

2. Recommendation

2.1 The Committee is asked to note the update.

3. Current Position

- 3.1 The Strategic Risk Register was reviewed by the Senior Management Team (SMT) on 5th September and at that time there were no changes to the number or ratings given to the 13 strategic risks.

Following the outcome of the recent Ofsted inspection which rated Children’s Services as Good – the Safeguarding Risk has been reviewed and reclassified from a high rating to a medium rating by the Executive Director Children’s Services.

This means that in relation to the Strategic Risk Register there are now 3 risks classified as **high** (red response rating*) and 10 risks classified as **medium** (amber rating). No risks are classified as **low** (green rating) in relation to the level of response and intervention required.

* NOTE - The response rating reflects the degree of urgency and importance of the interventions and management oversight rather than the inherent risk.

The next SMT review of strategic risks is scheduled for 12th December.

- 3.2 The actions associated with these risks are included in Appendix 1.

Contact Officer: Corporate Governance and Assurance Manager
Email: alisonsalt@barnsley.gov.uk

Strategic Risk to be reviewed in the meeting – 15th November 2023

Risk Title	Risk Description	Impact	Status	Response Rating	SMT Owner
SEND	<p>Risk Description: Ensure the Local Area SEND and Alternative Provision Partnership effectively delivers the Local Area Inclusion Plan (Improvement Programme), Written Statement of Action and Safety Valve Programme to ensure that children with SEND are fully included, engaged and connected with their education setting and wider community leading to positive outcomes educationally, socially and emotionally leading to independence and an effective preparation for adulthood.</p> <p>Risk Assessment: Ensure accelerated progress against the WSOA and implementation of the Improvement Programme (Local Area Inclusion Plan) which addresses areas for improvement identified in the SEND Inspection.</p> <p>Action 1 Implement the SEND Improvement Programme (Local Area Inclusion Plan) and ensure that it adheres to statutory guidance and requirements, including the SEND Code of Practice and Children and Families Act. RAG Rating – Green</p> <p>Action 2 Ensure multi-agency arrangements are robust and adequately governed and effective and the Oversight Board arrangements are fit for purpose and regularly reviewed. RAG Rating – Green</p> <p>Action 3 Strengthen and build consistent and effective co-production, engagement and participation, strengthening the strategic engagement and influence of parent carers. RAG Rating – Amber</p> <p>Action 4 Implement the DSG Management Action Plan to ensure effective use of resources and reduce the in-year deficit which will be scrutinised under the safety valve programme. Home to School transport will be positively impacted by less children travelling out of borough for their education and reducing numbers of children requiring specialist support Robust and timely financial monitoring and reporting is in place. RAG Rating – Green</p>	Actual	Actual	Medium	Executive Director Children's Services

Risk Title	Risk Description	Impact	Status	Response Rating	SMT Owner
	<p>Action 5 Increase the number of children receiving SEN support in local provision supported by early identification of need, leading to long term positive outcomes. RAG Rating – Amber</p>				
<p>Potential death of a child / safeguarding failure in Children’s Services</p>	<p>Risk Description: A need to continually appraise the controls to minimise the potential for death of a child or safeguarding failure in children's services - need to be able to identify any changes which may weaken current levels of assurance. Factors which may impact should be assessed include: the impact of Covid 19 upon both families and workforce capacity, increasing poverty which have increased need and demands for services, increasing caseloads, which presents a risk. Future financial settlements which could impact on service provision, awareness of system pressures e.g., workload. If systems break down there is potential for huge reputational damage - seen across a number of UK authorities - including removal of Director of Children’s Services, and government imposition of Commissioners to run services until improvements are made.</p> <p>Risk Assessment: Need to continually appraise the controls to minimise the potential for the death of a child or a safeguarding failure.</p> <p>Action 1 Assurance that the suite of policies and procedures are in place, that are routinely updated twice yearly and immediately where required. Robust review is undertaken by the BSCP Policy + procedure Subgroup, under the governance of BSCP. RAG Rating - Green</p> <p>Action 2 Suite of metrics, indicators and data exists to be able to identify changes that could impact on the risks to safeguarding. RAG Rating - Amber</p> <p>Action 3 Staff workloads are adequately monitored to ensure consistency and the adherence to good practice, with strong, proactive recruitment and retention initiatives to avoid vacancies and reduced caseloads. RAG Rating - Green</p> <p>Action 4 Multi-agency arrangements are robust, adequately governed and effective. The Safeguarding Partnership arrangements that oversee these have been strengthened</p>	Potential	Potential	Medium	Executive Director Children’s Services

Risk Title	Risk Description	Impact	Status	Response Rating	SMT Owner
	<p>to include the Establishment of a multi-agency Development Board, which is independently chaired. RAG Rating - Amber</p> <p>Action 5 Quality of Practice across children's services is too variable. Practice workstreams have been set up and are being overseen as part of new developments. RAG Rating – Green</p>				

Item 10

Report of the Head of Internal Audit, Anti-Fraud and Assurance

AUDIT AND GOVERNANCE COMMITTEE – 15TH NOVEMBER 2023

CORPORATE ANTI-FRAUD TEAM PROGRESS REPORT

1. **Purpose of this report**

1.1 This report provides the Audit and Governance Committee with an account of the work of the Corporate Anti-Fraud Team from 1st April 2023 to 31st October 2023.

2. **Background information**

2.1 The Audit and Governance Committee received details of progress in the Annual Fraud Report presented at the July meeting. This progress report highlights the work undertaken in respect of fraud management and investigations during the first seven months of 2023/2024.

2.2 The team has had reduced resources for a number of months due to the long-term absence of one officer and a second moving to a different role within the Council.

3 **Recommendations**

3.1 **It is recommended that:-**

- I. **The Audit Committee notes the progress report covering the period 1st April to 31st October 2023.**
- II. **The Audit Committee continues to receive regular progress reports on internal and external fraud investigated by the Corporate Anti-Fraud function.**

4 **Local Area Implications**

4.1 There are no Local Area Implications arising from this report.

5 **Consultations**

5.1 All audit reports are discussed with the main auditee. Individual audit reports are provided to the appropriate Executive and/or Service Director to apprise him/her of key issues raised and remedial actions agreed.

6 **Compatibility with European Convention on Human Rights**

6.1 In the conduct of investigations, the Corporate Anti-Fraud Team operates under the provisions of the Data Protection Act 2018, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000, the Investigatory Powers Act 2016, and the Police and Criminal Evidence Act 1984.

7 Reduction of Crime and Disorder

- 7.1 An inherent aspect of counter fraud work is to prevent, detect and investigate incidents of fraud, theft, and corruption. The control issues arising from audit investigations have been considered to ensure improvements in overall controls. Additionally, Internal Audit Services ensures that in specific instances, management takes appropriate action to minimise the risks of fraud and corruption re-occurring.
- 7.2 Counter fraud work is carried out in compliance with criminal and civil law and criminal investigation procedures relevant to investigation work including: the Police and Criminal Evidence Act (PACE) 1984, the Criminal Procedure and Investigations Act (CPIA) 1996, the Regulation of Investigatory Powers Act (RIPA) 2000, the Public Interest Disclosure Act 998 and relevant Employment Law, Fraud Act 2006, Proceeds of Crime Act 2002, and Prevention of Social Housing Fraud Act 2013.
- 7.3 Where an investigation occurs that identifies a potential criminal offence, the matter is always referred to the police.

8 Risk Management Considerations

- 8.1 Failure to have robust counter fraud arrangements will increase the Council's susceptibility to fraud and will result in loss of public money.

9 Employee Implications

- 9.1 All employees are under an obligation through their contracts of employment to be honest and adhere to the Code of Conduct.

10 Financial Implications

- 10.1 The structure and budget that CAFT operate within has proven successful and provides sufficient resource required to carry out an efficient value for money anti-fraud service.
- 10.2 Identifying a definite amount to be recognised as the impact of the CAFT is difficult beyond such results as the single person discount and other benefit work. Much of the work of CAFT is focussed on avoiding loss. The NFI produce an 'Outcomes Calculation Methodology' document that seeks to put a value on the results of 'fraud avoidance'. For example:

£575 per blue badge cancelled to reflect lost parking charges
£93,000 per property recovered through tenancy fraud
£72,000 per Right to Buy application withdrawn

Contact Officer: Head of Internal Audit, Assurance and Anti-Fraud
Email: robwinter@barnsley.gov.uk
Date: 3rd November 2023

Corporate Anti-Fraud Team Progress Report

Audit and Governance Committee

15th November 2023



CORPORATE ANTI-FRAUD TEAM PROGRESS REPORT 2023/23

1st April 2023 to 31st October 2023

Purpose of this report

The purpose of this report is to provide an account of counter fraud work undertaken by Internal Audit's Corporate Anti-Fraud Team during the period 1 April 2023 to 31 October 2023.

Proactive Anti-Fraud and Corruption Activity 2023/24

Acknowledging and Preventing Fraud

A suite of four anti-fraud awareness e-learning modules focussing on procurement fraud risks have been developed. Modules 1-3 have recently been added to the Council's e-learning system and module 4 is in the final stages of testing:

- Procurement Fraud Risk Awareness Module 1 - General
- Procurement Fraud Risk Awareness Module 2 - Pre-tender Stage
- Procurement Fraud Risk Awareness Module 3 - Tender and Award
- Procurement Fraud Risk Awareness Module 4 - Contract Management

The aim of these short courses is to enable officers to understand what procurement fraud is, improve awareness of fraud risks, recognise potential warning signs that procurement fraud may be occurring, understand how officers can reduce the risk of and how to report a suspected procurement fraud.

Fraud Awareness Week

The Council is again participating in Fraud Awareness Week (12th to 18th November). Led and co-ordinated by the CAFT, several Council departments, including Finance, Trading Standards, IT, Community Safety and Neighbourhood Services, Licensing, and Berneslai Homes are participating in the "Fraud: Spot it, Stop it" campaign.

A different fraud theme is to be published each day throughout the week on the Council's Intranet. Officers will also be encouraged to complete the various Pod e-learning counter fraud modules.

Representatives from the above teams will be raising awareness of fraud risks to officers during drop-in sessions at Westgate and Smithies Depot.

Counter fraud advice will be shared with members of the public at a "Fraud: Spot it, Stop it" stall located in the Council's indoor market on Friday 17th November.

Outcomes and feedback from Fraud Awareness Week will be provided to the Audit and Governance Committee in the next counter fraud report.

National Fraud Initiative (NFI)

Datamatches in respect of the 2022/23 exercise were received in January 2023. There is no requirement for all matches to be investigated and, to assist with the prioritisation of investigations, matches are categorised high, medium, or low risk. Some matches appear in more than one report e.g., a match may relate to a housing benefit claimant who also

appears in a council tax support data match report. Improvements to the NFI website enable these matches to be investigated at the same time to avoid duplication of work.

The total monetary value of the fraud and error identified as at the end of October 2023 amounts to £23,278.00.

A breakdown for this period is shown below:

Subject	Monetary Value	Number of Cases	Recovery Action
Pension payments	£10,735.00	3	Recovery of amount ongoing
Duplicate creditor payments	£12,543.00	4	Recovery action is being arranged.
Total Overpayments	£23,278.00		

The issues relating to pension payments arose where matches highlighted that an individual in receipt of a pension had died, unknown to the Council.

The four duplicate payments occurred as follows:

- A £1,716.60 to the Council's insurers was duplicated as part of the migration to a new insurance system.
- During 2021/22 the Council supported small local businesses with grants to improve the shop fronts. Three grants totalling £10,827 were duplicated in error.

The Cabinet Office also requires council tax and electoral register data to be matched annually in order to identify potential single person discount fraud or error. Matches in respect of the latest exercise (December 2022) have resulted in an additional £32,606.20 being raised across 43 council tax accounts with potential savings of £34,477.52*.

*The NFI Outcomes Methodologies calculate estimated savings by multiplying the annual council tax discount by 2 years.

Counter Fraud Checks

The CAFT continue to provide counter fraud checks of submitted Right to Buy applications. These checks, including financial and residential verification, provide assurance that the claims/applications are genuine and bona fides.

CAFT has undertaken checks against 51 RTB applications during the financial year to date. A summary of these referrals is shown below.

Details	Number
No evidence of fraud	50
Application refused	1
Total	51

Detecting and Investigating Fraud

Council Tax Exemption Review

The CAFT are in the final stages of undertaking a review of 143 accounts exempt from council tax.

The following results have been obtained to date:

Outcome	Number
Continued entitlement to the same exemption	73
Change in circumstance identified (This may be a different type of exemption or a change to liability)	58
Other queries	12
TOTAL	143

Review letters resulted in 24 changes to council tax liability and £37,544.36 being raised across the accounts.

The CAFT carried out visits to 57 properties where no response had been received from either a review letter or no third-party contact details were available. These visits resulted in a further 16 changes in circumstances being identified with £58,694.42 additional charges being raised across eight accounts.

Land Registry queries were undertaken against 32 properties. These checks resulted in seven accounts being amended with an additional £29,062.91 being raised against these accounts.

The cancellations to date (39 accounts) have resulted in an additional £125,298.69 being raised across the identified CT accounts.

The Team are still attempting to establish ownership and liability in respect of 12 properties.

Emerging Fraud Risks

Feedback from national and regional working groups indicate an emerging fraud risk of "moonlighting". This term is used to describe working at a second job besides your regular employment.

Taking secondary employment is not necessarily a breach of the Code of Conduct. However, all employees are required to declare dual/multiple employment to their line manager in accordance with the Working Time Regulations Policy. It is not unusual for an employee who works office hours to have a part-time evening or weekend job, so long as it does not affect their contractual working hours. However, it becomes theft of time and fraud when an employee knowingly collects two full-time salaries but split their hours, so they only work 50% of the time for each one.

The pandemic created this risk when it normalised working from home and hybrid working. While this increases flexibility, it also creates new types of risks when particularly during a cost-of-living crisis, a second income becomes more attractive.

The Principal Auditor (Corporate Anti-Fraud) is a member of several counter-fraud

networks and a small number of local authorities have identified instances where a Council employee has been fraudulently working simultaneously (full-time) for other organisations. Examples include a solicitor working for two different public sector organisations and a housing employee also working full-time for a housing association. A digital investigation within the NHS found 15 FTE contractors working on other jobs.

London members of the Fighting Fraud and Corruption Locally Regional Operations Group are planning a data-matching exercise in collaboration with several employment agencies to prevent and detect fraudulent moonlighting. The findings will be reported to the operations group at the next meeting.

The CAFT continue to receive fraud alerts from the National Anti-Fraud Network. These alerts, covering a range of frauds against local authorities and schools, are shared within the Council, via the Intranet or the specific service area, and externally via Corporate Communications.

Background Papers

Various previous Audit Committee reports

CORPORATE ANTI-FRAUD TEAM PROGRESS REPORT - 1st April 2023 to 31st October 2023**Summary of Reactive Work**

Fraud Type	b/f from 22/23	Referrals Received	Referrals Total	Referrals Accepted	Referrals Rejected	Investigations Closed	In Progress	Frauds No.	Prosecutions No.	Other Action	Value	Notional
Blue Badge	2	4	6	6		5	1					
Business Rates	2	0	2	2		2	0					
Council Tax Liability	1	7	8	8		4	4					
Council Tax Exemptions	1	1	2	2		1	1					
Council Tax SPD	0	53	53	31	22	24	7			Overpayment only	£4,665.19	
CTRS	10	32	42	40	2	26	12			Overpayment only	£14,738.15	
Housing Benefit	2	4	6	2	4	6						
Insurance	1		1	1		1				Application refused	£1,220.36	
Tenancy	19	27	46	38	8	30	16			2 properties recovered 2 successions refused		£372,000
Adult Social Care	1	1	2	2		1	1					
Children's Services	1		1	1		1						
Internal	1	1	2	2		0	2					

Figures used for notional savings are:

(i) Council property recovered = £93,000 (figure recommended by Cabinet Office)

NB: The above does not reflect the extent of recovery of any savings

Item 11

BARNSELY METROPOLITAN BOROUGH COUNCIL

REPORT OF: DIRECTOR OF FINANCE, S151 OFFICER

TITLE: CONTRACT PROCEDURE RULE AMENDMENTS

REPORT TO:	CABINET
Date of Meeting	
Cabinet Member Portfolio	Cllr Frost – Core Services
Key Decision	Yes
Public or Private	Public

Purpose of report

- 1.1. To outline the proposed changes to the Contract Procedural Rules (CPR) which were unable to be completed in the last revision in 2019 and changes required to ensure compliance with Procurement Audit of 2020
- 1.2. To seek approval of the proposed recommendations and the implementation of the revised Contract Procedure Rules across the Council.
- 1.3. To update on the proposed changes to national procurement regulations and potential impact.

Council Plan priority

The proposed revisions to the Contract Procedure Rules are aimed to ensure the Council can fulfil its Enabling Barnsley commitments of being a modern, inclusive, efficient, productive and high performing Council.

Recommendations

That Cabinet: -

- 1. Approve the revisions to the Contract Procedure Rules detailed below for publication on the Council's website**
- 2. Acknowledge that further revisions will be required to the Contract Procedure Rules in 2024 once more information is known about the Procurement Bill (Transforming Public Procurement) and its implementation date.**

1. INTRODUCTION

- 1.1 The Contract Procedure Rules are established to provide Officers, Members and the public with an understanding of how the Council purchase and enters into contract for goods, works and services.
- 1.2 This would include maintained schools and circumstances when the Council is the Accountable Body, such as when purchased for Berneslai Homes. They aim to ensure a system of openness, fairness, and transparency and facilitate the Council achieving best value from its funding.
- 1.3 A proposal for revisions was taken to Audit Committee in January 2023, however, additional clarification was requested and therefore these were not progressed, and the Project Team took away actions to provide additional detail in the document to provide clarity.

- 1.4 A Project Team including senior officers from procurement, purchasing, contract management, finance, governance, audit and legal have progressed this comprehensive review.
- 1.5 The rules were last revised in July 2023, as an interim measure to revise the values for notice publication to reflect transparency requirements updated by Cabinet Office, more flexibility in the purchasing of goods, works and services up to £50,000, and an allowance for the appointment of agency staffing up to £70,000 to allow more efficient processes. These were implemented immediately whilst the full review of the rules was progressed.
- 1.6 Prior to that, the last revision made to CPRs was in 2019 that reflected changes due to the introduction of the Strategic Procurement and Contract Management Team.
- 1.7 The proposed amendments reflect the recommendations of the 2022 Arum review which was commissioned to support the zero-based review of the Strategic Procurement and Contract Management Team to inform a transformation action plan for the function to better support the Council and its strategies moving forwards.
- 1.8 The amendments also reflect on feedback from the Arum Review and the Council's Red Tape initiative to look at ways to ensure the rules are clear for all Council Officers, Members and the public to understand, reducing unnecessary bureaucracy in processes, but strengthening the focus on value for money to ensure best value is sought in all contracts through procurement and contract management.
- 1.9 The provision of clear policy, procedure and supporting documentation for all Officers involved in procurement and contract management will support robust and effective processes which will provide opportunity to plan properly and ensure responsible officers are able to accurately manage expenditure and budgets to align to their Council's medium term financial strategy.
- 1.10 These Rules should be read and acted upon in conjunction with the Council's Constitution and Financial Regulations, the Scheme for Financing Schools, the Codes of Conduct for Officers and Members, the Council's Commercial Strategy and the additional guidance provided by the Strategic Procurement and Contract Management Team.
- 1.11 These changes are being made in advance of the planned reforms to the UK procurement regulations, which are currently in the final stages of approval by Government and expected to be implemented in Autumn 2024. Every effort has been made to align these changes to current best practice promoted by the Cabinet Office to prepare for these changes, however it is expected further substantial changes will be required to these rules to align to the new regulations when implemented.

1.12 Minor amendments will be required 1st January 2024 to reflect the FTS threshold changes which will be updated from this date.

2. PROPOSAL

2.1 To support the transformation recommendation of clear policy, procedure and supporting documentation the Contract Procedure Rules have been amendments and additions are proposed in the following areas;

- Value for money/Best value
- Contract management
- Roles and responsibilities and accountability
- Social Value
- Sustainability
- Thresholds
- Grants/Subsidy Control
- Approvals documents
- Exemptions
- Pre market Engagement/Market research/Market shaping
- Pipeline sharing
- Timelines for the procurement process

2.2 In the review of the Rules the following areas have been updated as well to support operational understanding as well;

- Updates to legislation
- Definitions on Concession Contracts
- Requirements of in-house Service Level Agreements
- Conflict of Interest signed by all procurement participants
- Rejection of late Standard Questionnaires, Quotations and Tenders
- Record of all procurement documentation
- Second Signature for contracts under £100K
- Waiver process
- Submission and Opening of Quotations and Tenders
- Exceptions to Requirements of Competition
- Electronic signatures.

2.3 Value for Money/Best Value

The definition of value for money has been added and will align to future updates of this in the Commercial Strategy, which is being updated in 2024 and the Financial Regulations which are also in the process of being updated.

The definition is taken from the Cabinet Office recommendations as securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods/ services bought. It is not about minimizing up-front costs but based on the four Es;

- economy – minimising the cost of resources for an activity ('doing things at a low price')

- efficiency – performing tasks with reasonable effort ('doing things the right way')
- effectiveness – the extent to which objectives are met ('doing the right things').
- equity - This reflects the extent to which services are available to, and reach, the people they are intended for, and whether the benefits from the services are distributed fairly.

When considering 'outlay', the key factor is whole life cost, not lowest purchase price. Whole life cost takes into account the total cost over the life of a contract, including capital, maintenance, management, operating and disposal costs, and can be very different from initial price.

The estimating contract value form has also been revised to better explain how procuring officers should look to estimate the potential value of a contract, in order to accurately define from the outset the budget required and validate bids received in a procurement or pricing process to align to this.

The changes to the CPR also introduce Best Value documents for single quote and multiple quote processes to ensure a record of the procuring officer's approach to ensuring best value on all contracts to support and encourage best practice.

For procurements which will be led by the Strategic Purchasing, Procurement and Contract Management Team the Procurement Event Approval Document will be used to confirm this, as is standard practice already.

The new forms and processes proposed as part of the CPR amendments are aimed to ensure that responsible officers have a clear understanding of the need to plan properly and ensure that contracts are delivering outcomes and outputs in line with expectations within their defined budget.

2.4 Contract Management

Further information has been added to the CPR to outline the approach to contract management which should be taken for all contracts.

The CPR now define the roles and responsibilities of those involved and how the procurement process should consider contract management requirements to include appropriate mechanisms which will ensure performance in line with requirements and value for money is achieved.

The methodology for contract management has been developed in accordance with Government guidance and toolkits including a version of the Contract Tiering Tool to assess all contracts on the basis of a score achieved across the following criteria;

- Value
- Risk
- Information security considerations

- Social value and sustainability considerations
- Complexity of the contract
- Complexity of the supply market.

The CPR now include a requirement to tier all projects at the procurement stage and develop a Contract Management Plan to define appropriate roles and responsibilities, support performance management and delivery of contract outputs and outcomes.

The defined roles include Contract Managers, Service Lead and Senior Responsible Officers (SRO).

A toolkit will be made available to officers to support the activity associated with contract management proportionate to each tier. This will include documentation to support monitoring and measuring performance of the contract as well as managing cash flow and the change control process to ensure alignment to budget allocated.

On review of the current Council contracts the tiering shows the following split across Directorates and SROs;

Directorate	Category	Gold	Silver	Bronze	Total	SRO's	Contract Managers
Childrens Service	Health & Care	0	2	7	9	-	5
	Corporate	0	0	1	1	-	1
	Totals	0	2	8	10	1	6
Core Services	Corporate	1	5	19	25	-	19
	H E&T	0	1	2	3	-	1
	IT	8	18	111	137	-	3
	Operational FM	5	0	1	6	-	3
	Totals	14	24	133	171	4	26
Growth & Sustainability	Capital	0	1	20	21	-	20
	Corporate	0	3	31	34	-	16
	H,E&T	2	7	20	29	-	9
	Operational FM	3	5	20	28	-	12
	Totals	5	16	91	112	4	57
Health & Adults Social Care	Health & Care	1	2	1	4	-	3
	Totals	1	2	1	4	2	3
Public Health & Communities	Corporate	0	0	5	5	-	5
	H,E&T	0	3	0	3	-	3
	Health & Care	2	8	20	30	-	20
	Totals	2	11	25	38	5	28
Overall	Totals	22	55	258	335	16	109

2.5 Roles and Responsibilities

2.6 An Appendix A to the CPR has been developed to outline the core responsibilities of the key officers involved in the procurement and contract management process to ensure this is fully understood across the organisation and supports ownership and accountability and a strong culture associated with procurement and contract management to drive best practice across the organisation to deliver value for money and the opportunity to maximise the use of our funds.

2.7 Social Value

Social value outcomes are considered and embedded into Council contracts, by utilising the social value toolkit which helps us evaluate social value proposals and manage the providers performance in delivering the outcomes.

The toolkit also supports suppliers to develop action plans to enhance their social value capability. Contract procedure rules have been updated to mandate the consideration of social value within procurement activity.

The Procurement Bill requires that all contracting authorities have due regard to a set of national strategic priorities set out in a published National Procurement Policy Statement and actions for Social Value which emphasize;

- creating new businesses;
- new jobs and new skills;
- tackling climate change and reducing waste; and
- improving supplier diversity, innovation and resilience.

2.8 Sustainability

There are significant environmental financial, reputation, business and community risks associated with our work to ensure the Council achieves its ambition to be Zero Carbon by 2040 and that the Borough can be zero carbon by 2045. Present delivery performance trajectory means we will likely miss the targets without significant changes.

As a result, the CPRs have been updated to ensure that carbon reduction initiatives are considered in procurements aligned to the Council's ambition to achieve net zero carbon in its Sustainable Energy Action Plan.

Further work is being undertaken by the sustainability and procurement teams, alongside Enterprising Barnsley and external partners such as Go4Growth to look at development of suppliers to have an organizational Carbon Action Plan so that in future the procurement process can include a requirement for this to be submitted and part of the evaluation process. This cannot be implemented at this point as the supply chain is not developed enough in this matter but will continue to be monitored for a future iteration of these rules.

2.9 Thresholds

To streamline procurement processes and provide efficiencies for both the Council and suppliers the minimum value for undertaking a competitive procurement exercise through requesting at least 3 quotes will remain at £50,000 (As approved in July 2023 revision).

The requirement for preparing a business case in support of this has been removed, however a Best Value form is being implemented for all contracts at £5000 and above to capture information on how this can be demonstrated.

It is still a requirement of the Service commissioning goods, services or works

below £50,000 to ensure they are complying with transparency requirement to publish contracts to the Contracts Register at £5,000 and above and contracts to Contracts Finder at £25,000 and above.

Analysis of the purchase order information for 21/22 and 22/23 show that approximately 80% of all spend is via purchase orders (In SAP SRM7) of £5000 or less, with an average of 95.5% of all works orders (In SAP EEC6) falling below this threshold as well.

Around 10% of all orders are between £5000 and £50,000 so these would now be subject to a best value form and confirmation by the Procuring Officer they have sought value for money.

The threshold at which the Strategic Procurement Team will be required to lead the procurement and the tender must be published to the open market has been increased back to £100,000 for goods and services. The value for works contracts has been increased to £250,000, based on the higher overall value of works in comparison with goods and services and the higher FTS threshold which applies.

The threshold for Area Council procurements and the exemption for specialist temporary skills from an agency sourced via an alternative to the corporate temporary recruitment contract have been uplifted to align to these values.

These revisions are aimed to;

- Give Services more flexibility in low value, routine purchases to invest their resources in ensuring value for money/best value
- To allow a more efficient and streamlined process for requesting quotes between £50,000 and £100,000 for both Council Officers undertaking the process and the providers who are being asked to price.
- Give an increased opportunity for local providers to price for contracts to a higher value before the procurement is subject to open market competition to support local spend and social value
- Reflect the impact of inflation and other market factors on the cost of the goods/services and works being procured since the thresholds were last changed.
- Reflect the planned approach to contract management and tiering of contracts and the principle of contracts up to £100,000 being categorized overall as bronze and therefore could be managed wholly in Service with limited risk to the Council.
- Allow the revised structure of the Strategic Purchasing, Procurement and Contract Management Team to focus on leading contracts where the tiering of contracts will be silver and gold so more specialist expertise can be used to ensure the correct procurement and contract management strategies are employed to ensure value for money/best value and mitigate risk to the Council.
- Align the Council to Cabinet Office recommendations in the Sourcing Strategy that procurement processes should be of proportionate duration and effort to the size and complexity of the contract opportunity. By making our procurement processes unnecessarily complicated or protracted, we risk minimising the pool of bidders and stifling

competition.

It should be noted that it is often not the case that a contract will result in one purchase order, so with the current data it is challenging to understand what the level of contracted spend is but the Procurement Team is working on a revision to the SAP system to allow each procurement to generate a contract in the system which all purchase orders will then be linked to. This will allow a better understanding of contracted spend and the ability for the Procurement Team to focus on increasing the value and volume of spend which is part of a formal contract which is subject to contract management to ensure value for money is being assessed.

2.10 Grants / Subsidy Control

Grants have been incorporated with specific guidance relating to grants given by the Council to ensure its interests are protected.

Awareness of Subsidy Control rules (Which came into force in January 2023) and State Aid (For those grants issued before January 2023) have been included as these are specific to grants and there are consequences for the Council if the rules are broken.

The new CPR's also link to a new Grants register detailing awards given by the Council.

2.11 Approvals Documents

The requirement for Officer Decision Records (ODR) for any procurement up to the current delegated Officer authority, which is £250,000, has been removed. This is to align to the Constitution where there is a mandatory requirement to publish decision of Cabinet and Spokesperson. The publication of the contract on the Contracts Register would ensure the Council is meeting its mandatory requirements to publish decisions.

The Procurement Event Approval Document (PEAD) used for all procurements which are led by Strategic Procurement will be used to capture the business case, approval of funding, procurement strategy and recommendation to award for each procurement to ensure the paperwork associated with each is consistent and not duplicated.

The business case was considered a duplication of business planning and budget management activity conducted by Services and the PEAD Stage 1 has been removed as well.

The removal of the duplicated documents from the process should provide efficiencies for Services which will allow additional time to focus on other elements of the process to procure and contract manage.

2.12 Exemptions

In order to provide a direct route to appoint, where there is no opportunity to procure via a competition the following exemptions have been added to the CPR;

- Mandatory works by statutory undertakers, such as utility companies
- External or grant funding to be allocated in accordance to set terms, for example use of specified contractors for works being funded by the grant
- The creation or acquisition of a unique work of art or artistic performance
- Renewals where the supply is restricted to the original supplier.

This will reduce the number of waivers which are progressed as an exception to competition which are unavoidable and provide efficiencies for Services and those who had been required to approve these.

2.13 Exceptions to Competition/Waivers

The waiver process has been amended to change the stage at which this is completed and also who is required to approve.

The CPR have been amended to have the waiver process agreed before the agreement of the requirement with the proposed provider to ensure that only exceptions to competition which have been approved have the relevant documentation developed, to save Officer time on potentially abortive work.

For waivers up to £100,000 for services and £250,000 for works the accountable Service Director and Executive Director will be the only signatures and they will be responsible for ensuring level of check and challenge is used to assess the rationale for the waiver.

For waivers above £100,000 for services and £250,000 for works the approval will be provided by;

- Accountable Service Director
- Accountable Executive Director
- Service Director – Law & Governance
- Director of Finance (S151 Officer).

Whilst the Head of Service for Procurement and Contract Management has been removed from the authorising signatures, where the reason for a waiver is strategic or tactical the Procurement Team must be consulted to provide check and challenge to the rationale before signatures are sought, regardless of value.

These aim is to ensure this reason is being used appropriately and that any requirement for a future procurement is captured on the forward plan of procurement activity to avoid any future waivers.

For waivers over £100,000 for goods and services and £250,000 for works the Procurement Team would continue to lead the procurement and would be responsible for ensuring a contract is put in place and all notices published in line with transparency requirements.

The Procurement Team will continue to log and monitor waivers and undertake dip sampling to ensure they are being completed for the appropriate reasons to

allow reporting back to the Senior Management Team to ensure visibility of their use and any associated risks.

A review of waivers year on year shows that these have been declining in number in the up to £50,000 bracket, as is the case with those which are £50,000 - £70,000 however the volume of £100,000 and over continues to increase;

Waiver Value (£)	16/17	17/18	18/19	19/20	20/21	21/22	22/23	23/24 YTD
0	10	1	0	2	0	0	1	0
1 to 9,999	51	86	112	18	4	1	1	0
up to 50,000	101	179	222	95	55	79	55	14
50,001 to 70,000	7	15	15	18	11	14	11	8
70,001 to 99,999	14	9	10	6	5	16	9	7
100,000+	15	16	19	20	14	25	31	15
Total	140	219	266	139	86	135	107	44

The change in the thresholds from £70,000 to £100,000 should allow scrutiny to be more focused on these waivers and their root cause and allow a more strategic approach to looking at ways to procure competitively for future requirements.

2.14 Pre-Market Research/ Market Engagement

The need to consider the market and the suppliers in the market is now included in the CPRs to ensure procurements are developed to deliver a better outcome whilst maximising competition and improved supply chains for the Council.

This is aligned to government guidance shared by the Cabinet Office in the Sourcing Playbook (June 2023) and the Construction Playbook (Sept 2022) which encourage all potential outsourcing projects to include an assessment of the market early on during the preparation and planning stage and preliminary market engagement should actively seek out suppliers that can help to improve service delivery, including Small and medium-sized enterprises (SMEs) and Voluntary, Community and Social Enterprises (VCSEs) who are experts in their specific field and widely involved in the delivery of public services across the country.

This is an important exercise to support ensuring an accurate estimate of the potential value of the contract to ensure that value for money can be accurately assessed at the evaluation stage.

This process will also ensure that Providers are made aware at the earliest opportunity what the Council is planning from its procurements and contracts and has sufficient time to prepare and should stimulate the supplier market, including small and medium-sized enterprises (SMEs) and voluntary, community and social enterprises (VCSEs), to make it aware of future opportunities, ensuring a competitive market exists.

2.15 Timelines for the Procurement

The need for Services to provide information to the Strategic Procurement and Contract Management Team of potential contracts over £100,000 at the earliest known point has been added, to enable a more accurate commercial pipeline being collated by the Strategic Purchasing, Procurement and Contract Management Team.

At present the Council publishes its forward procurement pipeline every six months to provide the supply market with insights into expected opportunities.

This aligns to the current Cabinet Office recommendations for all Contracting Authorities to have a commercial pipeline, which is published to the market.

Whilst this is not mandatory it is considered best practice and will prepare the Council for the requirements of the national procurement reforms.

The Procurement Bill once introduced will require publication of procurement pipelines by all government bodies who expect to spend over £100million in a financial year for all contracts (exemptions apply, such private utilities and national security contracts) over £2million within 56 days of the start of the relevant financial year. It is envisaged that this information will be provided on a pipeline notice and be available on the single, central platform.

References to a minimum timeline for the tender period have been amended to make it clear this should be maximised to allow bidders sufficient time to collate a comprehensive response. This should help to provide efficiencies in relation to the evaluation process, but also reflect feedback from key stakeholders in the voluntary sector that more time is needed for smaller organisations who don't have any dedicated resource to complete tender documents.

2.16 Operational Amendments - Updates to Legislation

Following the UK exit from the EU the rules have been updated to remove references to EU related documentation, such as OJEU publication, which has been replaced by FTS.

The references to the EU GDPR Regulations have also been removed.

The definition of regulations in the CPR has also been updated to include the Provider Selection Regime (PSR) which relates to additional provisions planned for implementation by the Government in January 2024 to allow healthcare related services to be contracted for without the need for a competitive procurement exercise. It will still be necessary for those commissioning services of this nature to consider value for money and the appropriate form of contract or service level agreement (If being commissioned from another public sector organisation) to ensure the contract manager for the agreement has the ability to manage the agreement proactively against defined performance measures and budget.

2.17 Concession Contracts

The Council awards a number of concession contracts which are income earning contracts to the Council. The new CPRs recognise this type of contract

which is currently used and provide clarity on the rules relating to their use.

2.18 In-house Service Level Agreements

The revised rules contain guidance on essential elements that should be included in any SLA to ensure this is robust and allows effective management during the term, in line with a contract approach.

The rules have also been updated to reflect changes as a result of insourcing construction related activity and the ending of the NPS Barnsley relationship in April 2021.

2.19 Conflict of Interest

All participants within a procurement process should sign a conflict of interest form to ensure any conflicting interests are declared to maintain the integrity of the procurement process.

2.20 Rejection of late Standard Questionnaires, Quotations and Tenders

Revision to CPRs ensures wording covers all stages of the procurement process are treated the same if submitted after stated deadlines.

2.21 Record of all procurement documentation

CPRs require that all documentation from the procurement process should be recorded and stored within the e-tendering system for audit purposes and on SharePoint to ensure they would remain available if the Council was to reprocur its e-tendering system.

2.22 Second Signature for contracts under £100,000

The revised CPRs have clarified who the second signature should be for signing contracts under £1000,000, The signatory should be a person with delegated authority and who has responsibility for the contract procured and its ongoing management.

2.23 PEADs for Contract Variation/ Novation/Extensions

The revised CPRs require a new set of documents to be completed on all contracts with a value of over £100,000 to ensure all the correct contractual, governance and processes are performed before any variation is enacted, extension to a contract is authorised or contract novated to a new contractor.

CPRs have also been updated to contain the requirement to publish a Modification Notice where the Regulations apply and there has been a variation to a contract.

2.24 Estimating Contract Values

Guidance has been developed to clarify how contract values are estimated prior to a procurement process which is aimed to provide Services with information to fully understand what should be included in relation to the term of the agreement and what elements of costs should be considered, linked to whole life cost assessments.

It is encouraged in this document that Services engage with potential providers to inform this estimate to ensure value for money is properly understood.

2.25 Submission and Opening of Quotations and Tenders

The requirement for 2 independent verifiers has been removed as there is a full

audit trail in the e-tendering system.

2.26 Exceptions to Requirements of Competition

The revised CPRs have been updated to contain the requirement to publish a Voluntary ex ante Transparency (VEAT) notice where the Regulations apply, and a procurement exercise is not undertaken.

2.27 Revised Thresholds

As the thresholds for FTS are subject to a bi-annual review the specific references to values have been removed from the Rules to prevent additional changes solely for this purchase and the Aide Memoire updated as a reference guide which can be changed more easily. Since the last revision of the contract procedural rules, the FTS thresholds have been revised along with the requirement to value contracts inclusive of VAT, which has been highlighted in the Rules and the supplementary guidance documents.

This will need to be amended again on 1st January 2024 when the new thresholds come into place.

2.28 Change in value when publishing Contracts Finder Notices

The thresholds for publication were updated in the July 2023 amendments but noted here for reference.

2.29 Electronic signatures

The CPRs have been amended to state that electronic signatures should be used where possible. This is already something which is supported for contracts which are executed under hand and the process for executing contracts under deed electronically is also under consideration by Legal Services.

This process provides significant efficiencies as it allows contracts to be issued and approved in a much shorter timeline and removes supplier and officer time in printing, posting, scanning and storing physical documents and provides an accessible electronic record for future reference.

The Procurement Team are also looking to implement the use of electronic signatures and a workflow approach for the other documents associated with the CPR, such as the PEAD, waiver, best value forms to allow efficiencies to be realised in these processes as well.

3. IMPLICATIONS OF THE DECISION

3.1 Financial and Risk

There is no financial ask associated with this report and the recommendations.

The clear definitions on roles and responsibilities for Officers should provide a clear structure to mitigate risk associated with the procurement and contract management process.

3.2 Legal

Legal Services have been part of the working group to progress and agree amendments to the Rules and legal implications to the changes to the Contract Procedure Rules are explained within the report.

3.3 Equality

Equality Impact Assessment (EIA) Pre-screening completed determining full EIA not required, however the CPR do include the requirement for the Lead Officer to consider completion of EIA to ensure application of our due regard to the Public Sector Equality Duty.

3.4 Sustainability

Decision-making wheel not completed as this report is recommending a change to Council rules rather than purchase or other matter, however given the importance of the climate emergency and Barnsley Council's organisational and borough-wide commitments, it has been included in the document subject to the level of the contract, all procurement should consider the relevant high-level environmental, social, economic and governance aspects pertaining to sustainability and climate change.

3.5 Employee

The amendments to the rules will require a programme of communication to ensure all officers are made aware of the changes and the impact to their current and future procurement and contract management activity.

As part of the transformation of the purchasing, procurement and contract management team there will be a programme of engagement with services all at strategic and operational level to ensure the rules are understood and officers are clear on their roles and responsibilities and what has changed and the reasons for it. This employee engagement will tie in strongly with the emphasis of the medium term financial strategy (MTFS) and commercial strategy to ensure that all employees understand it is part of everyone's role to ensure value for money from our expenditure.

This engagement will involve members of the purchasing, procurement and contract management team attending directorate management team meetings

and then heads of service forums and operational team meetings where required.

There will also be a requirement for elements of skills development for officers who are responsible for procurement which will also be addressed as part of the new training materials and guidance which is being developed currently.

As a more formalised approach to contract management is a fundamental change to current approach there will be a phased roll out of the contract management toolkit, including the contract management action plan to ensure this is properly embedded and lessons are learnt to inform the wider roll out.

The phased roll out will focus initially on the Gold Tier contracts and the contract management team will run specific training sessions for SROs and Contract Managers to support the development of the contract management plans for each agreement (If not already in place) and then the skills development required to ensure they can effectively deliver their responsibilities in these roles.

3.6 Communications

If approved the Strategic Procurement Team will implement a programme of communications for the amendments to the CPR to ensure all Council Officers and Berneslai Homes Officers are aware of the changes and will update its training materials and template documentation to include the revisions.

The CPR will also be shared on the internet and the Council information on how procurement and contract management is undertaken will be shared to ensure the public and suppliers are also able to access this information.

4. CONSULTATION

- 4.1 The working group for the proposed changes has included Strategic Procurement, Contract Management, Purchasing, Legal Services, Governance, Audit and Finance.

As part of the development and implementation of the support documentation, training and guidance the strategic procurement and contract management team will be looking to engage with key stakeholders in services to ensure that information prepared to support the understanding of the CPR and the changes is fit for purpose and can be accessed in the right way by anyone who has a role in procuring or contract managing.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 Do nothing – To leave the rules as they are currently stated. This was not agreed as this would not allow the matters raised by Audit Committee in January or changes required as a result of legislative changes to be incorporated which would mean the rules lack clarity and may result in non-

compliance in their application.

6. REASONS FOR RECOMMENDATIONS

- 6.1 Progression of the changes will provide further clarity for all on the roles and responsibilities of Officers in ensuring a robust approach to procurement and contract management and accountable for their actions in relation to this.
- 6.2 The changes will align the Council as a Contracting Authority to best practice in public sector procurement and prepare it where possible for the implementation of the procurement rules reform which is expected to be implemented in 2024.
- 6.3 The changes will allow the Strategic Procurement and Contract Management function to update its training and guidance documentation to better support Officers in achieving value for money from all external expenditure.
- 6.4 The changes look to make efficiencies in processes and documentation to allow more focus on an assessment of value for money and a robust process to procure and manage this.
- 6.5 The changes will allow the Council to take a proportionate approach to both procurement and contract management to ensure time and resource is invested effectively in the areas which offer most benefit and opportunity to reduce risk.

7. GLOSSARY

CPR – Contract Procedure Rules

EIA – Equality Impact Assessment

PCR – Public Contract Regulation 2015

PSR – Provider Selection Regime

SRO – Senior Responsible Officer

8. LIST OF APPENDICES

Appendix 1: Contract Procedure Rules
Appendix A to CPR: Roles and Responsibilities
Appendix 2: Best Value Form (Single Quote)
Appendix 3: Best Value Form (Quotes)
Appendix 4: Waiver Form
Appendix 5: Aide Memoire
Appendix 6: Contract Estimating Guidance
[CPR Phase 2](#)

9. BACKGROUND PAPERS

[Details of background papers **MUST** be included]

If you would like to inspect background papers for this report, please email governance@barnsley.gov.uk so that appropriate arrangements can be made.

10. REPORT SIGN OFF

Financial consultation & sign off	Neil Copley – 15 October 2023
Legal consultation & sign off	Kate Gothard – 11 October 2023

**Report Author: Jenny Lockwood –
Post: Interim Head of Procurement and Contract Management**

Date: September 2023

BARNSELY METROPOLITAN BOROUGH COUNCIL

CONTRACT PROCEDURE RULES

September 2023 Revision 2

Contents

1.	Introduction	6
2.	External Grant Funded Procurements	8
3.	Social Value/Inclusive Economy	9
4.	Zero Carbon 40/45 Commitment	9
5.	Conflict of Interest	9
6.	Existing Arrangements	10
7.	Pre-Market Engagement /Market Research	14
8.	Grants	15
9.	Concessions	16
10.	Procurement by Area Councils	16
11.	IT Procurement	17
12.	Performance of Contracts – Security	17
13.	Nominated/Named Sub-Contractors and Suppliers	17
14.	General Rules Relating to Procurement.....	18
23.	Errors in Quotations/Tenders	30
24	Abnormally Low Tenders	31
25	Post Tender Negotiations (Negotiations after receipt of formal bids and before award of contract).....	31
26	Acceptance of Quotations/Tenders and Award	32
27	Contracts Register and Contract Award Notices	33
28	Record of all Procurement Documentation.....	33
29	Contracts	33
30	Contract Management	34
31	Contract Variations.....	36
32	Contract Extensions	37
33	Contract Novations.....	37
Appendix A Roles and Responsibilities		

DEFINITIONS

Accountable Body:	means where the Council is the lead body for another public body
BEIS:	means the Department for Business, Energy & Industrial Strategy
Berneslai Homes:	means Berneslai Homes Ltd, the Council's LATC arms length management organisation of its social housing stock
Best Value Form	Document used as a record of Procuring Officer approach to achieving Value for Money. If a single quote is obtained Best Value (Single Quote), if a quote process is undertaken Best Vale Form (Quote Process)
Concession Contract:	means a contract for pecuniary interest concluded in writing between a contracting authority and an economic operator/(s); where the consideration (or 'payment') is either: - simply that the contractor has the right to exploit (that is, to profit from) the works/services that are the subject of the contract, or - where the contractor has that right together with some payment from the contracting authority
Constitution:	means the Council's constitution particularly 'Terms of Reference of the Full Council, Regulatory Boards and Committees and functions delegated to Officers', 'Responsibility for Executive Functions Officer Delegations' and 'Part 2 the Cabinet'
Contract Manager	Officer responsible for management of a specific contract in line with defined Contract Management Plan
Contract Management Plan	Means a working document summarising all the practical details needed to efficiently manage contracts including objectives, milestones, roles and responsibilities, and key contacts
Contract Management Toolkit	Documentation and guidance to support the management of a contract in line with the contract management plan

Contracts Finder:	means the web-based procurement portal provided by or on behalf of the Cabinet Office
DPS:	means Dynamic Purchasing System. This is a framework agreement where new suppliers can apply to join at any time and it is to be run as a completely electronic process
Executive Director:	means any member of the Council's Senior Management Team or the authorised representatives of any of those officers
FTS:	means the Find a Tender Service
Framework Agreement:	means an agreement, (usually with a maximum duration of up to 4 years), with a supplier or suppliers to establish terms governing contracts that may be awarded during the lifetime of the Framework Agreement.
Grant Agreement:	means an agreement whereby the Council provides monies to an individual or an organisation for a defined purpose, e.g. to deliver a project, provide a function or service without the expectation of any monetary benefit to the Council except the repayment of the monies if the funding terms are not complied with by the recipient.
Gateway Approach:	means a process where a procurement project has review stages which require approval to ensure a procurement project is progressing correctly
GPA	means the World Trade Organisation's Agreement on Government Procurement
Housing Revenue Account (HRA)	the Council's ringfenced income and expenditure account for its own housing stock
Key Performance Indicators	means a quantifiable measure for performance over time for a specific objectives
Letter of Intent:	means typically a letter from an Employer to a contractor (or from a main contractor to a sub-contractor) indicating the Employer's intention to enter a formal written contract for works described in the letter and asking the contractor to begin preparatory

works the scope and extent of which (physical and financial) are outlined in the letter of intent before the formal contract is executed. While a letter of intent may come in many forms, it is essentially a communication expressing an intention to enter a contract at a future date

Light Touch Services: means the social and other specific services listed in schedule 3 to the Regulations

Limited Company Means a company limited by shares or by guarantee

Local Authority Trading Company (LATC) Means a Limited Company which is wholly owned by BMBC or wholly owned by BMBC with other Public Bodies or is owned in the majority by Public Bodies with private enterprise(s) holding a minority interest for capital investment and control of the company lies with the Public Bodies as required under Regulation 12 of the Public Contract Regulations 2015

Member: means a Member of the Council also known as 'Councillor'

Procurement Team: means the Head of Strategic Purchasing, Procurement and Contract Management or person nominated by them

Public Procurement: means public sector expenditure as defined by HM Government

Procuring Officer Nominated officer of the Executive Director who is responsible and accountable for the procurement and alignment to these rules

Records Retention Policy: means the Council's Record Retention Policy located on the intranet within the Records Management Section (Retention Guidelines)

Regulations: means the Public Contracts Regulations 2015

Regulation Thresholds means the values of a contract calculated in accordance with the Regulations and as amended from time to time by legislation in accordance with established Government Procurement Agreement (GPA) practice where procurement opportunities are subject to the Regulations

Rule(s): means these Contract Procedure Rules.

Senior Responsible Officer	Means the Service Director or Executive Director with primary responsibility for the contract, is the primary risk owner, and is responsible for ensuring that the contract meets its objectives, delivers the required outcomes, and realises the required benefits.
SharePoint	The Council's cloud-based storage site for documentation
Small, Medium Enterprise (SME):	means a company with a limited number of employees and turnover
Social Value:	means the requirement to consider social, economic and environmental benefits through procurement
State Aid:	means any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially distort competition and trade in the European Union (EU)
Subsidy Advice Unit:	part of the Competition and Markets Authority responsible for advice, monitoring and reviewing the operation of the UK subsidy control regime.
Subsidy Control Act:	refers to the Subsidy Control Act 2022 and associated statutory guidance.
Tiering Tool	Means the Council's assessment tool for tiering contracts by value, risk, impact and complexity
Voluntary Sector Organisation (VSO):	means not for profit organisation that has social objectives as its purpose for existence
Value for Money/Best Value	<p>The best mix of quality and effectiveness for the least outlay over the period of use of the goods/ services bought. It is not about minimizing up-front costs, 'four Es' – economy, efficiency, effectiveness and equity:</p> <ul style="list-style-type: none"> • economy – minimising the cost of resources for an activity ('doing things at a low price') • efficiency – performing tasks with reasonable effort ('doing things the right way') • effectiveness – the extent to which objectives are met ('doing the right things'). • equity - This reflects the extent to which services are available to, and reach, the people they are intended for, and whether the

benefits from the services are distributed fairly.

YORtender: means the Council's electronic procurement system

1. Introduction

- 1.1 These Contract Procedure Rules set out the procedures to be followed in relation to contracts, whatever the method of payment, such as for the purchase and sale of goods, works and services, entered into by or on behalf of the Council. This would include maintained schools and circumstances when the Council is the Accountable Body. They aim to ensure a system of openness, fairness, and transparency and facilitate the Council achieving value for money.
- 1.2 These Rules should be read and acted upon in conjunction with the Council's Constitution and [Financial Regulations](#), the Scheme for Financing Schools, the [Code of Conduct](#) for Officers and Members, the [Council's Commercial Strategy](#) and the guidance available on the [Procurement Team Intranet Site](#).
- 1.3 All Council procurements and contracts must comply with Public Procurement Principles (equal treatment, transparency, non-discrimination and proportionality), the Government Procurement Agreement, and the Regulations, and, in respect of any EU Legislation with direct effect in the United Kingdom prior to 29 March 2019, any consolidation or restatement of the same into UK law as a result of the United Kingdom exiting the European Union, these Rules and the other matters referred to in Rule 1.2 above. Additionally, where the Council is utilising grant funding, the Subsidy Control Act must be complied with and terms and conditions of grant must be examined closely and complied with. It should be noted that agreements with other public bodies and with Council-owned companies may also be subject to these regulations, and advice should be sought from the Procurement Team and Legal Services.
- 1.4 These Rules do not apply to:
 - (a) contracts of employment which makes an individual a direct employee of the Council. (These Rules do apply to contracts for recruitment agency services and the employment of consultants or agency staff).
 - (b) contracts where there is an urgent requirement to obtain specialist skills on a short-term basis which are not currently available in the Council's structure, where the total value of this requirement is up to and including £100,000, and which cannot be sourced via the corporate temporary recruitment contract.

- (c) agreements regarding the acquisition, disposal or transfer of land for which provision is made within the Local Government Act 1972 and in relation to which Financial Regulations apply (unless the use of land is for development purposes).
 - (d) Mandatory works by statutory undertakers, such as utility companies
 - (e) External or grant funding to be allocated in accordance to set terms, for example use of specified contractors for works being funded by the grant
 - (f) The creation or acquisition of a unique work of art or artistic performance
 - (g) Renewals where the supply is restricted to the original supplier.
- 1.5 All values stated in these Rules are exclusive of VAT unless otherwise stated and are aggregated values of the total value of a specific good, service or works procured by the Council.
- Total values shall not be disaggregated specifically to avoid competition or a specific type of competition.
- 1.6 All Executive Directors are responsible and accountable for ensuring officers within their directorate comply with these Rules.
- 1.7 Any failure to comply with these Rules may result in disciplinary action against the officer(s) concerned. Officers and Members must exercise the highest standards of conduct, integrity and impartiality when involved in the procurement, evaluation, award and management of contracts. The Council's Anti-Fraud, Corruption Policy and [Code of Conduct](#) must be complied with.
- 1.8 Any difference of opinion regarding the meaning of these Rules shall be resolved by the Council's Monitoring Officer.
- 1.9 Proper and accurate records must be kept of all aspects of the procurement process, including steps taken, selection and evaluation of bidders, decisions made, and approvals obtained etc. All documentation must be retained in accordance with the Council's [Records Management Policy](#). Records wherever practicable should be in electronic form and in PDF format and uploaded to the project on YORtender and SharePoint.
- 1.10 These Rules shall be reviewed periodically by the Executive Director, Core Services in consultation with the Council's Procurement Team and other key officers.
- 1.11 These rules also apply to procurements undertaken by the Council's LATCS (e.g., Berneslai Homes where funding is from the Housing Revenue Account).

PRE-PROCUREMENT REQUIREMENTS

2. External Grant Funded Procurements

- 2.1 The purchase of goods, works and services in grant funded projects are subject to rigorous audits to confirm that processes do not infringe the Subsidy Control Act (or EU State Aid Law where the grant was given under that regime) and comply with Public Procurement Law and the conditions of the grant in which the funding was given. Examples of grant funding given under the State Aid regime are the European Structural and Investment Fund (ESIF) which includes European Regional Development Fund (ERDF) and the European Social Fund (ESF) in England, Joint European Support for Sustainable Investment in City Areas (JESSICA).
- 2.2 Failures by grant recipients to comply with the Subsidy Control Act (or EU State Aid Law where the grant was given under that regime), Public Procurement Law and the conditions of the grant funding can lead to the claw back of funding or other sanctions. Depending upon the characteristics of the breach, claw back could be up to 100% of the grant plus interest. Additional procedural rules apply to grants under the Subsidy Control Act, including obligations to publish information on the BEIS transparency register and, for certain types and/or value of grant, to first seek approval of the Subsidy Advice Unit before the grant can be given.
- 2.3 There are separate penalties for breaches of Public Procurement Law.
- 2.4 Where funding is sought to fund a procurement project no part of the Council should apply for the funding unless it has first fully considered and planned how it will be able to demonstrate compliance with the Subsidy Control Act, Public Procurement Law, and the terms and conditions of the grant funding.
- 2.5 Information on procurement rules for ESIF funded projects is given at: <https://www.gov.uk/government/publications/european-structural-and-investment-funds-procurement-documents>

3. Social Value/Inclusive Economy

- 3.1 Under the Public Services (Social Value) Act 2012, the Council is required to consider how goods, services and works, that it procures, improve the economic, social and environmental well-being of the Metropolitan Borough of Barnsley, and furthermore, that as a matter of procurement policy and practice, the Council requires any supplier, provider, consultant or contractor providing goods, services and works to the Council to use all reasonable endeavours to assist the Council to improve the economic, social and environmental well-being of the Borough.

- 3.2 All procurements regardless of value should consider social value / inclusive economy considerations in the requirements of the procurement.
- 3.3 It is a legal requirement for social value to be considered in FTS thresholds procurements and good practice to be considered below threshold. Reference should be made to the [Social Value Policy](#).
- 3.4 All social value outputs shall be recorded detailing the social value achieved including particular case studies. Reference shall be made to the social value guidance on the [Procurement Team Intranet Site](#)

4. Zero Carbon 40/45 Commitment

- 4.1 All procurements regardless of value should consider the objectives of the Council's [Energy Strategy](#) and whole life costs associated with the contract and where possible include actions that will assist in the delivery of the strategy.

5. Conflict of Interest

- 5.1 Every procurement process must be free from any allegation of any conflict of interest from all those involved in any part of the process.
- 5.2 All participants in the procurement should sign a conflict of interest form. Template forms are found on the [Procurement Team Intranet Site](#).
- 5.3 For procurements led by the Procurement Team it is their responsibility to manage this process by ensuring the forms are completed by all members of the project team.
- 5.4 The conflict of interest form should be completed at the start of the process and updated when bids are received and retained for audit trail purposes.
- 5.5 Where there is a conflict of interest (COI) involved, the project team must consider the declared conflict and document a mitigation plan which must be approved by the Service Director. If a COI is declared by a member of the evaluation panel, then this person(s) must be excluded from the evaluation panel to avoid exposing the Council to any commercial risk, i.e., supplier challenge.

6. Existing Arrangements

- 6.1 Before commencing any procurement process the following must be considered.

(a) In-house Providers

Subject to the exceptions in relation to procurement by Area Councils (see Rule 10), before commencing any proposed procurement process the relevant Executive Director must consider the need to consult any other Executive Director (or in the case of their own directorate the appropriate Service Director) who may be able to provide the works, services, or goods required and/or

consult with the Procurement Team to determine if the services required are already procured as set out below:-.

- (i) to determine whether the works, services or goods can be provided in-house. If so, the relevant Executive Director may decide, subject to Value for Money/Best Value considerations, not to seek competition but to arrange for the works, services or goods to be provided in-house. The relevant Executive Director(s) will record their decision; or
- (ii) where (i) above does not apply, to determine whether the Executive Director/Service Director would like to submit an in-house bid and if so, then they shall be included in the list of contractors invited to quote/tender under these Rules.
- (iii) existing contracts may be in place for works, services or goods required which are provided in-house or through a Council Local Authority Trading Company. Enquiries with the Procurement Team must be made before commencing a new procurement in relation to this.
- (iv) if the Executive Director referred to in 6.1(a) decides to proceed in accordance with Rule 6.1(c) or is otherwise invited to tender, the Executive Director of the in-house service may obtain quotations/tenders in respect of supplies of goods, equipment, services or elements of the works that it is proposed are ordered or sub-contracted from a supplier/sub-contractor to enable a quotation/tender to be prepared. The procedures to be adopted for selection of a supplier/sub-contractor shall be those set out in these Rules subject to the provisions of this Rule 6.1. All other Rules shall apply where applicable.
- (v) every such invitation to a supplier/sub-contractor shall include a statement to the effect that:
 - The quotation/tender is to be used only for the purpose of compiling a tender or quotation for goods, services or works which the Executive Director intends to submit.
 - There is no obligation on the part of the Council to order any supplies, services or work from the supplier/sub-contractor or any other supplier/sub-contractor.
- (vi) all such bids will be treated as confidential and will not be used other than for the purposes for which they are sought.
- (vii) where goods, services or works are provided by in house service to other Council departments, then a service level agreement between the two parties is required, detailing as a minimum:

- The goods, service or works to be provided
- The charge to be made
- Time period the service will be provided
- Roles and responsibilities involved in providing the service

(b) Corporate Contracts

- (i) where a corporate or framework contract may be in place for works, services or goods, this should be utilised rather than sourcing alternative providers in circumstances where the scope, overall estimated value and term of the contract allows.

(c) Collaborative Procurement Arrangements

- (i) consideration should be given to whether any existing collaborative arrangements would be appropriate. Collaborative procurement arrangements include procurement arrangements with another local authority, government department, or frameworks available through a public service purchasing consortium.
- (ii) due diligence needs to be carried out to ensure the legal requirements have been met and it is appropriate and suitable for the Council to make use of any such arrangement. Legal Services and the Procurement Team should be contacted for advice in connection with this process.

6.2 The rules below set out what should be considered before undertaking any procurement activity. Prior to undertaking procurement activity officers must ensure that:

- (a) they take all necessary legal, financial (including insurance) and other professional advice (for example procurement, health and safety and risk management). Officers should have regard to current Council policies, procedures and standard documentation available on the [Procurement Team Intranet Site](#).
- (b) a contract value is calculated (irrespective of the method of payment) in accordance with public procurement rules (irrespective of whether they apply) as explained in [Estimating Contract Value](#) guidance. This will include, amongst other things, the whole life costs for the full duration of the contract and any optional period of extension and any maintenance or continuing costs. Contracts should not be artificially divided into two or more separate contracts in an attempt to avoid these Rules or the Public Contract Regulations.

- (c) Officers must ensure that they have obtained the necessary approval(s) to authorise the expenditure, procurement or sale of goods, works or services in accordance with the Council's constitution. (The approval of a delegated officer, Cabinet Spokesperson, or Cabinet, or Council whichever is required in accordance with the Council's Constitution).
- (d) the Council's requirements are clearly documented in the form of a specification and an explanation of the detailed outcomes and performance standards that need to be met to achieve the Council's requirements, as the circumstances dictate. This is an important exercise since this document will form part of the contract documentation.
- (e) every effort is made to make the best of the Council's buying power by aggregating purchases whenever possible. Although consideration should be given in all cases to whether it is appropriate to divide the Council's requirements into smaller lots where there is an economic or social value to the council resulting from the lotting.
- (f) they are satisfied that key stakeholders including Members, have been identified and consulted.
- (g) any risks associated with the procurement/contract are identified, assessed and recorded together with the actions required to manage and maintain them at an acceptable level as part of the procurement and into the contract management phase.
- (h) in relation to contracts led by the Procurement Team a [Procurement Event Approval Document](#) (PEAD) process shall be used as a gateway approach.
- (i) the course of action taken will represent Value for Money for the Council and consideration given where applicable to the requirements of the Public Services (Social Value) Act 2012.
- (j) with the exception of procurement by Area Councils (see Rule 10) existing arrangements are considered and utilised where appropriate and after taking advice in accordance with 6.1 above, such as in-house providers, corporate contracts and existing collaborative procurement arrangements.
- (k) an initial equality impact pre assessment check and an initial data protection impact assessment is carried out to ascertain whether a detailed [Data Protection Impact Assessment \(DPIA\)](#) or Equality Impact Assessment (EIA) is required to inform the procurement process and subsequent contract management phase. A link to the EIA toolkit can be found on the [Procurement Team Intranet Site](#). DPIA guidance can be obtained from Information Governance. The requirement to perform the pre assessment applies to all procurements regardless of value to ensure compliance with Data Protection Act (2018) and the Equalities Act (2010). Where the procurement is for Berneslai Homes the specific Berneslai

Homes EIA and DPIA approvals process and templates agreed with Equalities and Information Governance will be followed.

- (l) taking all necessary advice, the procurement is properly categorised for the purpose of the Regulations, including whether as works, supplies or services, and that any Light Touch Services are correctly identified.
- (m) before quotations/tenders are invited, the award criteria must be recorded in writing, including the basis for assessing price or cost, any quality criteria, any social value criteria and all weightings. The criteria, sub-criteria and weightings should be made available to bidders simultaneously as early as practicable in the procurement process and not later than the invitation to tender/quotation stage. Sub-criteria and weightings cannot be used which have not previously been brought to a bidder's attention. More information is available on the [Procurement Team Intranet Site](#).
- (n) the Procurement Event Approval Document (stage three- Procurement Strategy) must include the following for all procurements led by the Procurement Team:
 - the Price / Quality /Social Value split
 - the reasons for the Price / Quality / Social Value split.

7. Pre-Market Engagement /Market Research

- 7.1 Pre-market Engagement/Market Research should be undertaken prior to any procurement to enable the following:
- an understanding of the market's ability to deliver
 - to enable feedback from the market on the proposed procurement methodology prior to the procurement
 - raise awareness and gauge the level of interest of the procurement in the market
 - to understand the value of the contract being tendered to ensure the estimated contract value is accurate and Value for Money can be measured.

8. Grants

- 8.1 Grants can be considered as a means of funding a third-party organisation to provide specialist services direct to residents or to obtain strategic services from a provider with the particular specialist skills but must not be used as an alternative to circumvent a competitive procurement process.
- 8.2 A designated officer should be appointed to manage the grant from conception to completion. The officer shall consult with Legal Services before award of any grant funding, to ensure that correct documentation is put in place and that the grant complies with the requirements of the Subsidy Control Act.

The following should be considered as a minimum:

- if a Grant Agreement is the most appropriate form of documentation to adopt;
- the source of the funding, and compliance with terms and conditions of any external funding body;
- compliance with the Subsidy Control Act (including procedural requirements);
- clear terms and conditions of grant between the Council and the recipient setting out:
 - a clear description of the scheme and the aims and objectives of the grant (the purpose)
 - value of grant and a clear description of how money should be spent;
 - eligible expenditure terms, which prohibit improper expenses
 - data protection / equality issues
 - audit/ assurance
 - agreed outputs/ KPIs/ milestones/ longer term outcomes
 - financial and activity-based reporting and validation
 - payment suspension and claw-back and grant termination

8.3 All Grants shall be recorded on the Council's [Grant Register](#)

8.4 In addition, the Subsidy Control Act requires some grants to be published on the BEIS transparency register within 3 months of the grant being given. Officers should consult with Legal Services and contact subsidy@barnsley.gov.uk to ensure that grants are correctly published where required under the Subsidy Control Act.

9. Concessions

9.1 Before any Concession Contract procurement is commenced a Business Case must be produced to demonstrate that a Concession Contract is appropriate and viable.

9.2 Advice on commercial arrangements and contract terms and conditions must be obtained from the Procurement Team, Director of Finance (Section 151 Officer) and from Legal Services.

9.3 Advice from Legal Services and Procurement Team must be sought prior to commencing any work on compiling a proposal or tender to determine if the Council has the power to enter into the contract.

10. Procurement by Area Councils

10.1 The objective of procurement from the Area Councils' commissioning budget is to meet area priorities through contracting with local businesses and voluntary organisations in order to support market development and growth in that sector. Any activity will seek to maximise social value and local content.

10.2 Accordingly, Rule 6.1 will not generally apply in the case of procurement from the Area Councils' commissioning budget. However, the Service Director for

Stronger, Safer and Healthier Communities shall liaise with Service Directors across the Council at the appropriate time in the commissioning cycle to discuss the commissioning intentions of Area Councils and areas of potential tension and opportunity.

- 10.3 Where the estimated value of the contract is less than £100,000 and there are sufficient and capable organisations with a presence in the local economy, only those organisations will be invited to tender. In exceptional cases only, where there are no such organisations, the Service Director for Stronger, Safer and Healthier Communities may, at their discretion, invite the relevant in-house service to tender, subject to maximising the local contribution to the supply chain.
- 10.4 Where the estimated value of the contract is £100,000 or more, but not in excess of the relevant FTS threshold defined in Rule 14.9, the Service Director for Stronger, Safer and Healthier Communities will invite the relevant in-house service to tender only if there are insufficient local business and voluntary organisations in the local economy. Otherwise, the in-house service will not tender.
- 10.5 Normal contract procedure rules will apply for contracts at or in excess of the relevant FTS threshold.

11. IT Procurement

- 11.1 The Service Director Customer Information and Digital must approve any new or renewal of a proposed contract for software and/or hardware.
- 11.2 In accordance with Council's Financial Regulations, all IT related procurements must have full engagement via their IT Business Partner when requiring new, changes to or retirement of any IT systems, software, services or hardware. All IT procurements under £100,000 will be managed by the IT Contracts and Commissioning Team and the team will manage all IT contracts of the Council.

12. Performance of Contracts – Security

- 12.1 Executive Directors must consider any steps necessary to protect the Council's interests in the event of contractor default, having regard to advice from the Service Director – Law & Governance and the Director of Finance.
- 12.2 This consideration should be based on risk to the Council, taking account of the circumstances, including:
- the value of the Contract
 - the type of goods, services or works being procured
 - the payment profile of the contract
 - the known financial strength of the suppliers in the market
 - affordability and proportionality

and should assess whether additional security is required in the form of a performance bond, parent company guarantee, contract sum retention, collateral warranties, or (where performance is required by a particular date, and where delay would have financial consequences for the Council) provision for liquidated damages.

13. Nominated/Named Sub-Contractors and Suppliers

13.1 Where a sub-contractor or a supplier is to be nominated / named by the Council to a main contractor, quotations or tenders must be invited in accordance with these Rules.

13.2 The terms of any invitation for nominated/named sub-contractors or suppliers must be compatible with the main contract and must require that, if selected, the firms would be willing to enter into:

- (a) a contract with the main contractor on terms which indemnify the main contractor against the main contractor's own obligations under the main contract in relation to the work or goods or materials included in the sub-contract
- (b) an agreement to indemnify the Council in such terms as may be prescribed

PROCUREMENT PROCESS

14. General Rules Relating to Procurement

14.1 There is guidance available on the [Procurement Team Intranet Site](#) in relation to all procurement procedures.

The procurement [Aide Memoire](#) is a summary of the tasks to be performed to ensure a compliant procurement.

14.2 For all contracts above £50,000 YORtender must be used to undertake a competitive exercise. For any contracts £5,000 and above then a record must be published to the [Contract Register in YORtender](#).

14.3 Consideration should be given in all cases as to whether wider, additional advertisement is necessary to identify appropriate potential suppliers, for example, specialist/trade journals.

14.4 Where an additional advertisement is placed or where there is an open invitation on YORtender, an advertisement must also be placed on Contracts Finder for any contract over £25,000.

14.5 Where the Regulations apply (Refer to Rule 14.10), a contract notice must be published in the FTS **BEFORE** any other notice/advertisement is published and

no other notice/advertisement should contain any more information than that published in the FTS.

- 14.6 Prior to the submission of their bids, bidders have an opportunity, if they consider necessary, to request in writing clarification regarding the Council's requirements via YORtender. Any response from the Council to bidders should also be in writing via YORtender. There are rules that must be followed to ensure fairness and transparency during these clarification phases and details can be found on the [Procurement Team Intranet Site](#).

The main procurement routes for competition are detailed below:

14.7 **Contracts up to and including £50,000**

For contracts valued up to and including £50,000 a Procuring Officer shall proceed in a manner which ensures Value for Money and the efficient management of the service. Where possible this process shall prioritise the placing of orders with local businesses under the Council's social value policy.

All contracts with an aggregated contract value of £5,000 and above must be placed upon the Council's [Contract Register](#) in accordance with legislative requirements. In addition, all contracts awarded above £25,000 must have a contract award notice publicised on Contracts Finder. This includes contracts created by a single quotation.

The Procuring Officer should ensure that the contract has been scored prior to any procurement process in line with the Council's Tiering Tool to assess the level of contract management required once a supplier is appointed.

The Procuring Officer should complete a Best Value Form (Single Quote) or Best Value Form (Quote Process) to document the process undertaken to select a supplier on each contract between £5,000 and £50,000.

14.8 **Contracts between £50,001 and up to and including £100,000 for goods and services and £250,000 for works**

For contracts above £50,000 and up to and including £100,000 for goods and services and £250,000 for works, the Procuring Officer must seek to achieve competition and for that purpose invite at least three quotations via YORtender.

The Procuring Officer should ensure that the contract has been scored prior to any procurement process in line with the Council's Tiering Tool to assess the level of contract management required once a supplier is appointed.

Where appropriate at least two of the companies invited to quote should be local businesses. The Council defines 'Local' as postcodes within the Barnsley Borough area.

The following link is a list of postcodes that form the Barnsley Borough

<https://checkmypostcode.uk/south-yorkshire/barnsley#.XzKx2ihKg2w>

In instances where only a single bid is received, then the Executive Director must satisfy themselves that Value for Money has been achieved.

When inviting suppliers to quote, the officer responsible should ensure they rotate between suppliers where the market permits and allows to ensure a fair, open and transparent process is applied.

The Procuring Officer should complete a Best Value Form (Quote Process) to document the process undertaken.

If the Procuring Officer chooses to publish the opportunity to the open market, rather than a select list of suppliers, then a Contracts Finder notice must be published if the value of the contract is above £25,000.

The Procuring Officer is responsible for ensuring contracts with an aggregated contract value of £5,000 and above are placed upon the Council's [Contract Register](#) in accordance with legislative requirements. In addition, all contracts awarded above £25,000 must have a contract award notice publicised on Contracts Finder.

14.9 **Contracts between £100,001 and up to the FTS thresholds for goods and services and £250,001 and up to FTS threshold for works**

All procurement above £100,001 for goods and services and **£250,001 for works** in total contract value must be led by the Procurement team.

For procurements above £100,000 for goods and services and **£250,001 for works** to the FTS threshold, an open tender procedure must be followed unless a Framework/Dynamic Purchasing System is deemed suitable for the requirements. This procedure is a one stage procurement advertised openly without a shortlisting stage. Service-specific questions are permitted but must be relevant to the subject matter of the procurement and proportionate.

When using an open procedure, the contract is advertised, and suppliers invited to submit a tender by a certain date (being not less than 14 calendar days from the date of the notice). When forming the procurement strategy consideration should be given to the timescales allowed for responses to ensure all suppliers have adequate time to complete their tender submission, maximising this where possible to allow time for a detailed submission.

The [Procurement Event Approval Document](#) will document how the contract has been scored prior to any procurement process in line with the Council's Tiering Tool to assess the level of contract management required once a supplier is appointed.

14.10 **Contracts above FTS threshold**

- (a) Where a contract is estimated to be equal to or exceeds the relevant threshold the Regulations shall apply:

The Regulation Thresholds change every two years and are set **inclusive of VAT**. The [Procurement Team Intranet Site](#) is kept up to date with details of the current thresholds and provides guidance on the public procurement rules. Further help and guidance can be obtained by contacting the Procurement Team.

- (b) Publication of all FTS notices will be performed by a member of the Procurement Team. A contract notice in the prescribed form shall be published on FTS in order to invite tenders or expressions of interest, along with a Contracts Finder notice.

- (c) For above FTS thresholds the following procedures can be used:

14.11 Open Procedure

Refer to Rule 14.9 0 and 0 for requirements.

14.12 Restricted Procedure

A restricted procedure may only be used for contracts above the Regulation threshold for goods, services and works and not for any other contracts below the relevant Regulation threshold.

The requirement of an FTS notice must be published stating the restricted process will be utilised, which must also be included on a Contracts Finder notice.

Under the restricted procedure, potential suppliers are invited to express their interest in taking part in a procurement competition by the completion of the Standard Selection Questionnaire (SSQ). Any service-specific questions entered within Part 3 of the Standard Selection Questionnaire (or PAS 91 for works contracts) must be relevant to the subject matter of the procurement and proportionate.

Following an assessment of the SSQ, at least 5 suppliers, in accordance with the PCR 2015 (where there are 5 or more who meet the requirements and are absent of any grounds for exclusion) should be selected to receive an invitation to tender.

If fewer than 5 suppliers have applied who met the requirement and are absent of any grounds for exclusion and meet minimum standards included in the tender documents all those who have applied shall receive an invitation to tender.

The procedure shall only be performed by the Procurement Team.

14.13 **Light Touch Services**

All Light Touch Services are identified in Schedule 3 of the Public Contract Regulations 2015.

The procurement must adhere to the Public Procurement Principles of equal treatment, transparency, non-discrimination and proportionality and be in compliance with the Regulations (Regulation 74 to 76 specifically).

Light Touch Services and all contract awards of such services above the FTS threshold must be advertised on FTS and also on Contracts Finder.

This procedure shall only be performed by the Procurement Team.

14.14 **Competitive Procedure with Negotiation**

The competitive procedure with negotiation process should only be used for contracts for goods, services and works above the Regulation threshold and in exceptional cases where specialist requirements justify the process below the Regulation threshold, in line with Regulation 19 of the Public Contract Regulations.

Using the competitive procedure with negotiation, potential suppliers are invited to express an interest in tendering, within such period as may be specified, through a selection stage. Following an assessment of the expressions of interest, suppliers should be selected to receive an invitation to tender which should incorporate a negotiation stage. A minimum of 3 suppliers must be invited to negotiate unless fewer candidates have met the selection criteria, and these are sufficient to ensure genuine competition. The invitation to tender documents should stipulate how the negotiation stage will be managed.

The procedure shall only be performed by the Procurement Team.

14.15 **Competitive Dialogue/ Innovation Partnership**

Using competitive dialogue, a contracting authority enters into a dialogue with bidders about its requirements before inviting them to submit a final tender. It is used in complex projects where the contracting authority cannot adequately specify its requirements.

The innovation partnership is a procedure designed to allow contracting authorities to establish a long-term partnership for the development and subsequent purchase of a new, innovative product, service or works. They are intended to be long term partnerships which allow for both the development and subsequent purchase of new and innovative products, services or works. The term "partnerships" is not used in a technical sense to mean legal partnerships as defined under UK law; rather, the term is used to indicate the partnering type approach to working together.

This procedure shall only be undertaken in procurements led by the Procurement Team in partnership with Legal Services.

15. External Frameworks/Dynamic Purchasing System

- 15.1 Where it is considered that the utilisation of an existing Framework Agreement, e.g. from Crown Commercial Services, another public body or a central purchasing organisation such as YPO, ESPO, NEPO etc. is the most appropriate means to meet the Council's requirements, the Framework or DPS must be used in the way in which it was advertised and in line with its own terms and conditions.
- 15.2 Where such relevant Framework Agreements contain a number of different suppliers able to provide goods, services, or works, unless there is a specific ability to make a direct award under the Framework Agreement or DPS a mini competition between all suppliers should be undertaken.
- 15.3 Where a direct award under a Framework Agreement is progressed a Best Value Form should be completed.
- 15.4 The Council may need to complete an access agreement prior to utilisation of the framework. Legal Services and the Procurement Team should be consulted before this is signed.

16. Internal Frameworks/Dynamic Purchasing Systems

- 16.1 Framework Agreements / Dynamic Purchasing Systems shall be procured in accordance with these Rules and the Regulations and where the relevant Regulation Thresholds apply. Procedures described by the Regulations shall apply to all aspects of the procurement and operation of the Framework Agreement / Dynamic Purchasing System including:
- the procurement methodology
 - any orders placed under the Framework Agreement/Dynamic purchasing system
 - re-opening of competition or call off competition between all contractors/suppliers on the Framework/Dynamic Purchasing System
 - the duration of a Framework Agreement (which shall not normally exceed 4 years) or the Dynamic Purchasing System (As the period stated in the tender documents)
- 16.2 All call offs / mini competitions from Framework Agreements/Dynamic Purchasing Systems must be performed on YORtender and linked to the overarching agreement.
- 16.3 All call offs / mini competitions are subject to the same transparency notices for Contracts Register and Contracts Finder.

17. Exceptions to Requirements of Competition (where the Regulations do not apply) for contracts above £50,000 and up to and including £100,000 for goods and services and up to and including £250,000 for works

- 17.1 In exceptional circumstances and considering all the information available an accountable Executive Director may decide that it is justified to invite less than three quotations in a particular instance or type of transaction.
- 17.2 Where an exception to the requirement for competition is sought a [Waiver to Competition Form](#) must be completed by the Procuring Officer and signed off by the accountable Service Director and Executive Director prior to the procurement and contract being agreed.
- 17.3 Regardless of the exception Council's governance processes must be complied with, e.g., Equality Impact Assessment (EIA), Data Protection Impact Assessment (DPIA) and the relevant approval to spend obtained prior to commitment.
- 17.4 The relevant Executive Director shall ensure the goods/services and/ or works to be procured subject to exception to competition have a fully detailed specification and the Council terms and conditions agreed with the supplier.
- 17.5 When completing the [Waiver to Competition Form](#), the Procuring Officer should explain their reasons for this exception to competition and should be progressed for signatures.
- 17.6 If the waiver is being progressed based on strategic or tactical reasons the Procurement Team must be consulted prior to signatures being sought.
- 17.7 Exceptions covered by a [Waiver to Competition Form](#) up to and including £100,000 **must** be reviewed and signed by the relevant Service Director prior to being signed by the relevant Executive Director. Completed waivers should be emailed to procurement@barnsley.gov.uk
- 17.8 The Procurement Team will record and allocate a waiver reference number which will be provided to the Procuring Officer to be added to the purchase order and the project file on YORTender.
- 17.9 The Procuring Officer will include in the waiver confirmation of how Best Value is being sought.
- 17.10 The Procuring Officer will be responsible for ensuring that a contract is executed with the awarded supplier, where relevant and that the publications to Contracts Register and Contracts Finder are progressed in line with transparency requirements.

18. Exceptions to Requirements of Competition for contracts above £100,000 for goods and services and above £250,000 for works

- 18.1 For contracts above £100,000 for goods and services and £250,000 for works and not covered by the Regulations (Rule 19 below), if the relevant Executive Director is satisfied that an exception to competition is required due to reasons as set out in Rule 18.8 below, Rules 14.9 to 14.15 shall not apply, subject to obtaining the necessary approvals.

- 18.2 Where an exception to the requirement for competition is sought a [Waiver to Competition Form](#) must be completed by the Procuring Officer and signed off by the accountable Service Director and Executive Director prior to the procurement and contract being agreed.
- 18.3 The relevant Procuring Officer shall prepare a waiver report in the form set out in the [Waiver to Competition Form](#) explaining the proposed course of action and the reasons why a waiver to Rule 14.9 to 14.15 is required (see Rule 18.8 below).
- 18.4 The report must be submitted by the Procuring Officer in the following order:
- Accountable Service Director
 - Accountable Executive Director
 - Service Director – Law & Governance
 - Director of Finance (S151 Officer).

Approval and/or comments shall be provided in the format set out in the Waiver to Competition Form.

The Procuring Officer must ensure an electronic version of the report is sent to procurement@barnsley.gov.uk

- 18.5 The Procurement Team will record and allocate a waiver reference number which will be provided to the Procuring Officer to be added to the purchase order and the project file on YORtender.
- 18.6 The Procuring Officer will include in the waiver confirmation of how Best Value is being sought, except where the exception is a variation to an existing contract where a [Procurement Event Approval Document – Variation](#) will be completed by the Procurement Team at the point the waiver reference is issued.
- 18.7 The procedure set out in Rule 18.3 above is in addition to any other approval that is required, for example to incur the expenditure for the duration of the contract, in accordance with the Council's Constitution.
- 18.8 The reasons why an exception to competition is justified, may include the circumstances below, provided that such an approach is consistent with the Council's duty to obtain Value for Money and its [Commercial Strategy](#) and policies
- 18.9 The Procuring Team will be responsible for ensuring that a contract is executed with the awarded supplier, where relevant and that the publications to Contracts Register and Contracts Finder are progressed in line with transparency requirements.

(a) No Available Competition

The relevant Executive Director can approve the reason for the waiver is due to no available competition.

This can occur in a limited number of circumstances as in the following:

- the purchase of proprietary or patented goods or materials only from one firm, and where no equivalent or no reasonably satisfactory alternative is available
- the execution of works or supply of services of a specialised nature which can only be carried out by only one firm and where no equivalent or no reasonably satisfactory alternative is available
- the purchase of a named product required to be compatible with an existing installation for which no equivalent or no reasonably satisfactory alternative is available
- the appointment of a developer to exercise functions of the Council under Section 278 of the Highways Act 1980
- the appointment of specialists on a short-term requirement to bridge a skills shortage in the Council's organisational structure
- the instruction of, advice from, or service provided by Counsel.

(b) Variation of a Contract During its Term

The relevant Executive Director can approve a contract variation under a waiver in the following circumstance.

Where additional works required are greater than 50% of the original contract and if the additional works are not within the original scope regardless of value, then a waiver will be required, and advice must be sought from the Procurement Team.

A waiver for a variation will not be required where additional works, services or supplies required to the original contracts are within the original scope and provided the overall value of all variations do not amount to greater than 50% of the original contract.

A [Procurement Event Approval Document – Variation](#) shall be completed for all variations on contracts above £100,000 for goods and services and £250,000 to ensure that all due diligence checks are performed for compliance purposes and the sustainability of the contract.

(c) Emergency Circumstances

The relevant Executive Director can approve an exception where purchases for goods and services or works are required urgently, due to circumstances not foreseeable and not attributable to the Council, as not to permit compliance with the requirements of competition.

A lack of planning or resource to progress the competition should not be used as the rationale for this approach.

(d) Strategic/Tactical Procurement

The relevant Executive Director can approve a waiver where the Procuring Officer and the relevant Service Director, the Procurement Team and Legal Services consider a waiver to competition for the following reasons:

- aggregating different contracts together but an extension is required to align contract start dates
- due to shortage of resources to enable a procurement event to be properly project managed which could not have been foreseen or managed
- would cause significant inconvenience or substantial duplication of costs for the Council.

Waivers progressed under this exception must outline the future procurement plans to ensure alignment with these Rules in future requirements.

15. Exceptions to Requirements of Competition (where the Regulations do apply)

- 15.1 Where the Regulations apply, they must be complied with. Further advice and guidance can be sought on the [Procurement Team Intranet Site](#)
- 15.2 Where the Regulations apply there is a requirement to publish a Voluntary ex ante Transparency (VEAT) notice if a contract is to be awarded without the prior publication of a contract notice. A VEAT notice **must** be published before a contract is awarded and a contract cannot be entered into until at least 10 days after the VEAT notice has been published.
- 15.3 All such applications for an exception to competition should be in accordance with the relevant provisions of the Regulations.
- 15.4 The Procurement Team shall maintain a register of all such exceptions at any value.
- 15.5 In compliance with the Local Government Transparency Code, all contracts created after an exception to competition has been approved must be promoted to the Council's [Contracts Register](#). In addition, all contracts awarded above £25,000 must have a contract award notice publicised on Contracts Finder.

16. Submission of Bids

16.1 Submissions for projects up to and including £50,000

The Executive Director must ensure that there is a system in place which can demonstrate the fairness and transparency of the process and records are

saved electronically and kept in accordance with the Council's [Records Retention Policy](#).

16.1 Submissions for projects above £50,000

YORtender must be used for the return / submission of quotations and tenders in accordance with the system's requirements. All documentation must also be stored on SharePoint in line with the Council's [Records Retention Policy](#).

16.3 Late Submissions (SQs)/Quotations/Tenders

The opening and release of submitted bids (after the specified deadline) must be performed on YORtender, if a competitive exercise above £50,000 or the opportunity has been published on YORtender.

Late bids may only be accepted, at any stage of the procurement process where it can be demonstrated the bidder has gained no advantage as a result of the late submission and this is due to circumstances beyond their control.

Bids submitted outside the YORtender system shall not be accepted, unless this is as a result of the above circumstances.

17 Evaluation of Quotations and Tenders

17.1 Evaluation of quotations/tenders must be completed in accordance with criteria and the scoring methodology set out in the quotation / tender documents provided to suppliers to ensure the process is performed in open, fair and transparent manner.

17.2 Records should be kept of the evaluation process, which should include criteria, sub-criteria, weightings, individual and consensus scoring including completed moderation forms (with electronic confirmation or signed by the individuals involved in the evaluation) clarifications and reasons for decisions. Records should be saved electronically (PDF format) and stored on YORtender and Sharepoint and in accordance with the Council's Records Retention Policy.

17.3 Where the total value of a contract is higher than the budgeted value, additional approval from the budget holder and allocated Strategic Finance Business Partner must be obtained prior to proceeding with a contract award.

17.4 If the value exceeds the level of authority already obtained for the spend additional approval based on the revised value should be sought, from Cabinet Spokesperson or Cabinet in line with delegated authority thresholds.

17.5 Procuring Officer for procurements which are below the thresholds for procurement led by the Procurement Team should refer to the [Procurement Team Intranet Site](#) for further guidance and documentation to be used for evaluation of bids.

18 Due Diligence

- 18.1** Due diligence on all bidders should be performed for every contract, regardless of value and route to procure to mitigate risk to the Council.
- 18.2** Financial checks on all successful bidders should be performed and the detail of the check will vary on the risk involved to the Council and value of the contract. No tender should be accepted from a bidder who has been declared insolvent or bankrupt.
- 18.3** Where a financial check is required then the Procuring Officer must be able to demonstrate that the risk to the Council from failure to deliver will have minimal repercussions and the awarded supplier is solvent.
- 18.4** Procuring Officer for procurements which are below the thresholds for procurement led by the Procurement Team should refer to the [Procurement Team Intranet Site](#) for further guidance and documentation to be used to undertake due diligence checks.
- 18.5** The Contract Manager will be responsible for ensuring ongoing due diligence on the awarded supplier during the term of the contract in line with the Contract Management Plan.

19 Errors in Quotations/Tenders

- 19.1** Certain tender documentation will prescribe the rules to be adopted in relation to errors in quotations/tenders. In other cases, the Council will advise bidders of the approach that will be taken.
- 19.2** Errors in quotations/tenders shall be dealt with in one of the following ways:
- (a) the bidder shall be given details of the error(s) found during the examination of the quotation/tender and shall be required at the sole option of the Council to confirm without amendment or withdraw the quotation/tender; or
 - (b) amending the quotation/tender to correct genuine error(s) provided that, in this case, apart from these genuine errors no other adjustment, revision or qualification is permitted.
- 19.3** All amendments shall be fully recorded with justification for the action taken.
- 19.4** Clarification requests should be requested in writing via YORtender and any response from bidders should also be in writing via YORtender. Where necessary, advice should be sought from the Procurement Team and Legal Services.

20 Abnormally Low Tenders

- 20.1** Where a tender appears abnormally low it may not be rejected without:

- giving the bidder an opportunity to explain the tendered price (such explanation to be given in writing)
- considering the evidence provided, and demonstrating the bidder will not be able to provide the bid as detailed sustainably without detriment to the Council
- obtaining the written approval from the Head of Strategic Purchasing Procurement and Contract Management, the Service Director – Law & Governance and the Director of Finance (S151 Officer)

20.2 Post Tender Negotiations (Negotiations after receipt of formal bids and before award of contract) Where the Regulations apply, they must be followed. Post tender negotiations are not allowed in above threshold procurement processes unless the competitive process with negotiation tender procedure is used.

20.3 Where the Regulations do not apply then post tender negotiations will be only permissible where the tender procedure stated has allowed the use of such negotiations.

20.4 In exceptional circumstances, where the Service Director – Law & Governance considers that post tender negotiations are in the Council's interests and may achieve added value then post tender negotiations may be appropriate.

20.5 Post tender negotiations where permissible, must only take place where they do not distort competition or disadvantage any bidder. The process should be transparent and non-discriminatory and ensure bidders are treated equally.

20.6 Post tender negotiations with any bidders must be in accordance with the following conditions:

- (a) approved by the accountable Executive Director in consultation with the Head of Strategic Purchasing, Procurement and Contract Management and the Service Director – Law & Governance and are carried out in accordance with the law.
- (b) written records of the negotiations are kept, and a clear written record of the added value obtained by the post tender negotiations is incorporated into the contract with the successful bidder.

21 Acceptance of Quotations/Tenders and Award

21.1 The Council is not bound to accept any quotation or tender and this must be made clear to bidders in writing at the beginning of the process and as appropriate throughout.

21.2 Quotations and tenders may be accepted on behalf of the Council by the relevant Executive Director provided they have been sought, evaluated and are

to be awarded fully in compliance with these Rules and the necessary approval has been obtained.

- 21.3** In relation to all contracts, once a decision to award a contract is made, all bidders must be notified at the same time, as soon as possible, in writing via YORtender, of the intention to award the contract to the successful bidder, giving reasons for the decision. Please see the [Procurement Team Intranet Site](#) for guidance.
- 21.4** For all contracts tendered in accordance with the Regulations, a mandatory 10-day standstill period must be observed between the decision to award being notified to all bidders and entering into a contractually binding agreement with the successful bidder. Where possible this standstill should be applied to the below threshold procurements to align to best practice.
- 21.5** Procuring Officer for procurements which are below the thresholds for procurement led by the Procurement Team should refer to the Procurement Team Intranet Site for further guidance and documentation to be used for acceptance of bids and award of contracts.
- 21.6** If an unsuccessful bidder challenges the decision to award the contract, (if the contract has not already been awarded), it shall not be awarded until the advice of the Service Director – Law & Governance has been obtained.
- 21.7** Unsuccessful bidders may request a debrief which should be provided to them in writing. Further information is available on the [Procurement Team Intranet Site](#).

22 Contracts Register and Contract Award Notices

- 22.1** All contracts above £5,000 must be promoted to the Council's [contracts register](#) on YORtender. This includes contracts created by a single quotation.
- 22.2** Where a contract has been tendered pursuant to the Regulations, the Council shall publish a contract award notice in FTS no later than 30 days after the date of award of the contract, which is deemed the first date after the last signature is added to the contract and BEFORE any other award notice is publicised.
- 22.3** Where a contract has been awarded valued £25,000 or greater, regardless of the procedure used (including call-off from Framework Agreements), details of the award must be published on Contracts Finder, within 30 days of the award of the contract, which is deemed the first date after the last signature is added to the contract.

23 Record of all Procurement Documentation

- 23.1** A full audit trail of the whole procurement process including all internal documentation (e.g., Best Value Form/Equality Impact Assessment/ Data

Protection Impact Assessment) shall be maintained in the relevant tender file within the YORtender e-tendering system and on SharePoint.

CONTRACT FORMALITIES

24 Contracts

- 24.1** Written contracts include the Council's electronic purchase orders in addition to contracts prepared and/or approved by the Council's Legal Services department. The relevant Executive Director must ensure that officers give proper consideration to the form of contract required in each case and obtain advice from the Service Director – Law & Governance where necessary.
- 24.2** Every contract must be in writing and unless executed under the Council's seal:
- must be signed by an Executive and/or the Service Director and a person with the relevant delegated authority responsible for ongoing management of the contract, where the contract value is up to and including £100,000
 - must be signed by two Executive or Service Directors and at least one of those officers shall be the Service Director – Law & Governance or their authorised signatory where the contract value is over £100,000
- 24.3** Every contract executed under seal must be signed by an Executive Director or Service Director and the Executive Director of Core Services, or their delegated officer.
- 24.4** The relevant Executive Director must ensure that every contract in writing must set out:
- (a) the works, goods, services, materials, matters or things to be carried out or supplied;
 - (b) the price to be paid and/or the amounts and frequency or the method of calculation of contract payments with a statement of discounts or other deductions;
 - (c) the time(s) within which the contract is to be performed; and
 - (d) such other matters as the Service Director – Law & Governance considers necessary.
- 24.5** Where possible Contracts should be signed electronically by all relevant parties using the Council's electronic signature system.
- 24.6** Any standard terms and conditions of contract submitted by a supplier shall not be accepted without advice or review from Legal Services.
- 24.7** Every contract must be in writing and must be concluded (executed by all parties) prior to the commencement of any works, services or any supply.

Exceptionally, and only for certain categories of procurement such as construction, a letter of intent may be utilised to enable forward planning and mobilisation activities but must set out the scope and extent of any preparatory works to be undertaken by the contractor, be value capped and time limited. Proceeding under a letter of intent can give rise to risks and advice should always be sought from the Legal Services before utilising a letter of intent.

25 Contract Management

The arrangements for managing Council contracts should be in line with the National Audit Office's *Good Practice Contract Management Framework*.

25.1 Executive Directors must;

- (a) Ensure that the Council's approved processes for contract management, as set out in the Contract Management Toolkit are adhered to;
- (b) Assign a Senior Responsible Officer (SRO) to every contract and ensure a suitably qualified, experienced and trained officer is assigned to be the Contract Manager. SRO's and Contract Managers will undertake appropriate training to support commercial capability;
- (c) Ensure work under the contract does not begin until the contract has been signed or sealed and dated;
- (d) Allocate a Procuring Officer who will consult with the assigned Contract Manager in the development of the procurement and ensure contracts are tiered under the Tiering Tool and scored as gold, silver or bronze. Contracts shall be scored initially as part of the procurement process, updated at contract award and reviewed periodically during the contract term;
- (e) Where a Best Value form is required, undertake a scoring exercise on the contract and update the appropriate form;
- (f) Develop a Contract Management Plan for all contracts. The Contract Management Plan should be linked to the scoring of the contract and detailed to reflect whether it is a gold, silver or bronze contract; and
- (g) The Contract Management Plan from the Procuring Officer must be handed to the Contract Manager and SRO once the contract has been signed.

25.2 Gold contracts will have a nominated commercial lead from the Procurement Team to support Contract Managers and SROs or undertake the contract management as appropriate.

25.3 The Contract Manager is responsible for:

- (a) Ensuring that the contract is carried out in accordance with its terms and conditions;
- (b) Ensuring that an appropriate mobilisation and implementation plan (as defined in the procurement) is followed;

- (c) Monitoring the supplier's performance, ensuring compliance and escalating issues in accordance with the contract and Council governance arrangements;
- (d) Monitoring cost and value for money requirements including contract expenditure against budget;
- (e) Monitoring risk management, ensuring mitigations and management plans are in place as appropriate;
- (f) Formal and documented periodic reviews in accordance with the contract and Contract Management Plan;
- (g) Ensuring the supplier complies with the Council's policies;
- (h) Ensuring that the supplier maintains the necessary insurances and other relevant policies required by the contract;
- (i) Ensuring any minor changes and variations to the contract are undertaken compliantly and approved and appended to the contract documentation before they are implemented;
- (j) Keeping a record of all valuations, payments, claims, monitoring, changes and certificates under the contract. Payments must only be made against a valid invoice;
- (k) Meeting with suppliers to discuss performance, Key Performance Indicators must be used to assess performance at least every 12 months; and
- (l) Ensure exit planning is undertaken and make recommendations on options for future procurements / extensions to the contract.

26 Contract Variations

- 26.1** An above FTS threshold existing contract may only be varied in accordance with Regulation 72 of the Regulations including where there are specific provisions provided for in the Contract.
- 26.2** Funding must be identified before any variation is formally agreed. Modification of an existing Contract which will require the Council to provide additional funding is approved in accordance with the Council's Financial Regulations and the Executive Director will need to ensure Value for Money is considered.
- 26.3** A variation not provided for in an existing Contract may be implemented subject to waiver in competition subject to clause 18.8 of these Rules and that it complies with clause 26.4
- 26.4** Where the Regulations apply there may be a requirement to publish a Modification Notice if a contract is to be varied in accordance with the provisions set out in Regulation 72.
- 26.5** A variation must not materially affect or change the scope of the original contract. Such a variation could constitute a new award/contract. The Regulations must be followed and where a proposed variation exceeds 50% of the original contract value appropriate advice should be sought from the Procurement Team and Legal Services in the first instance.

The Procurement Team should be notified of any contract variations that materially change the original scope and value of the contract.

- 26.6** All variations to a contract must be recorded and signed by both parties (including numbering and dated) and provided to the supplier to ensure a full audit trail is maintained.
- 26.7** For contracts above £100,000, all variations must be completed in accordance with the [Procurement Event Approval Document – Variations](#) to ensure that all due diligence checks are performed for compliance purposes and the sustainability of the contract

27 Contract Extensions

- 28.1** An existing contract may be extended in accordance with specific criteria as outlined in the Public Contract Regulations 2015, Regulation 72.
- 28.2** Contract extensions must not materially change the original scope of the contract. Advice should be sought from Procurement Team and Legal Services to ensure any extension proposed complies with procurement regulations and the Executive Director will need to ensure Value for Money is considered.
- 28.3** An extension not provided within the existing contract will be subject to exception to competition and must be supported by a waiver approved by the accountable Executive Director.
- 28.4** For contracts above £100,000, all contract extensions must be completed in accordance with the [Procurement Event Approval Document – Extension](#) to ensure that all due diligence checks are performed for compliance purposes and the sustainability of the contract.

28 Contract Novations

- 28.1** A contract should not be novated to another provider unless it complies with Regulation 72 of the Regulations.
- 28.2** Where the Regulations apply there may be a requirement to publish a Modification Notice if a contract is to be novated in accordance with the provisions set out in Regulation 72. Guidance should be sought from the Procurement Team.
- 28.3** The Procurement Team and Legal Services must be consulted on all contract novations prior to agreement with the supplier.
- 28.4** Due diligence must be performed on all novations prior to any agreement to the novation to ensure the Council is protected.

28.5 For contracts above £100,000, all contract novations must be completed in accordance with the [Procurement Event Approval Document – Novation](#) to ensure that all due diligence checks are performed for compliance purposes and the sustainability of the contract.

This page is intentionally left blank

Contract Procedure Rules - Appendix A Roles and Responsibilities

Executive Director (Senior Responsible Officer)	Procuring Officer	Contract Manager
<ul style="list-style-type: none"> a) ensuring that purchasing, procurement and contract management by their authorised officers and officers with delegated responsibility is undertaken in compliance with the Regulations these Rules, the Financial Regulations and Commercial Strategy; b) ensuring appropriate supervision and performance management of the procurement cycle and ensuing contract management is applied with appropriate quality control procedures and within delegated authority; c) ensuring the Officer appointed to manage the contract and supplier relationship has relevant knowledge and understanding of the Contract Manager’s role and responsibilities; 	<ul style="list-style-type: none"> a) ensuring they have the appropriate Cabinet or Cabinet Spokesperson authority or written approval from an officer with appropriate delegated responsibility to incur the expenditure or take appropriate procurement action; b) ensuring that Officer decisions are recorded accurately and promptly, including the relevant information required, such as the context in which the decision was taken, the reasons for the decision and alternative options; c) ensuring that the procurement is in line with the actions proposed and agreed in the best value or plan; d) ensuring that the expenditure to be incurred for the procurement and contract is contained within the approved budget plan (i.e. there is an approved budget) prior to 	<ul style="list-style-type: none"> a) managing the Contract effectively, engaging with and maintaining a positive relationship with the supplier, ensuring performance of the Contract in accordance with the terms and to the satisfaction of the Council; b) ensuring value for money is achieved through the meeting of KPIs, service levels, objectives and outcomes of the Contract; c) ensuring that they manage any call-off contract which has been awarded under a framework. It is not the responsibility of the overall Framework holder to manage individual contracts awarded under any framework; d) verifying the Council is receiving or has received the service/works or goods as detailed in the Contract;

<p>d) the categories of spend that sit within their Directorate. Where a category of spend is shared across Directorates, a process of management needs to be agreed in order to identify the lead Service & the level of spend undertaken by the relevant Directorate;</p> <p>e) ensuring that appropriate authorisation and/or delegation has been issued to authorised officers and officers with delegated responsibility;</p> <p>f) ensuring that contracts for which their Directorate is responsible are monitored and managed effectively and in line with these Rules and any guidance issued by the Procurement Team and;</p> <p>g) ensuring that, in the case of a procurement of a contract that may be used by more than one Directorate, the other relevant Directorates are consulted and involved.</p> <p>h) ensuring that those undertaking the procurement understand their role</p>	<p>commencing any procurement exercise;</p> <p>e) ensuring that those involved in the development of the tender documents and evaluation understand their role, through training and have the appropriate technical knowledge of the goods/services or works being procured and for the level and complexity of procurement being undertaken;</p> <p>f) ensuring that prior to undertaking any procurement activity are aware of the need to follow the Regulations Councils Contract Procedure Rules;</p> <p>g) ensuring that the relevant process for procurement in following in line with the overall estimated value of the contract, having reviewed the Estimated Contract Value Guidance</p> <p>h) ensuring the Strategic Procurement Team are made aware as soon as is practical about any procurement required for a contract which will be at the level</p>	<p>e) payment under the agreed payment mechanism and</p> <p>f) following verification or confirmation of receipt of services/works or goods as required by the Contract, ensuring payment is made to suppliers within the agreed timescales as set out in the Contract.</p> <p>g) Manage poor performance.</p>
--	--	--

<p>and have the appropriate training and technical knowledge of the goods/services or works being procured and for the level and complexity of procurement being undertaken;</p> <p>i) ensuring that effective and robust contract management takes place to ensure delivery of identified KPIs, service levels, objectives and outcomes, to ensure the Council meets the terms of contract and to identify any risks of possible non-delivery or failure.</p>	<p>the rules define should be led by Strategic Procurement Team</p> <p>i) ensuring that all information in relation to the procurement is progressed in a timely manner</p> <p>j) ensuring that a reasonable time is allocated for an effective procurement cycle from identifying the need through to contract award and the mobilisation required to be undertaken; and</p> <p>k) ensuring that Value for Money/Best value is sought at all times</p> <p>l) maintain a robust management trail to evidence the process undertaken and decisions made</p>	
--	--	--

This page is intentionally left blank

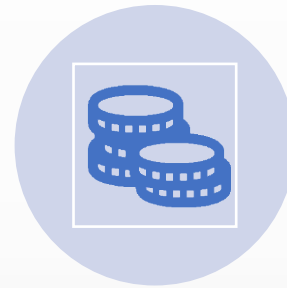
Server Cloud Migration



What is the Migration to the Cloud



Moving the Council servers from here in the Town Hall to an external data centre



Avoidance of major Capital Infrastructure Expenditure



Sustainable model moving forwards



Futureproofing the Council

Why Move to the Cloud



Driver for Change



Strategic Gains



Overall Cost Reduction



Skills shortages

Progress so far...



30% of Servers Moved to the Cloud



Number of Servers / Data reduced pre migration



Lift and Shift Model



Starting to re-imagine the way we view our systems and data

What the future looks like

- Resilient server estate
- Solutions migrated to Software as a Service (SaaS)
- Usage optimised
- Un-necessary data storage reduced
- Scalable / Flexible solutions build around needs
- Faster recovery times
- Additional Security Opportunities
- Pay as you consume model



Thank you, for your time

Any Questions?

Item 13

Report of the Data Protection Officer

AUDIT AND GOVERNANCE COMMITTEE – 15th November 2023

DATA PROTECTION OFFICER ASSURANCE REPORT

1. Purpose of the Report

- 1.1 This report highlights the key areas of work of the Council's Data Protection Officer (DPO) to provide the Committee with information and assurances regarding the Council's compliance with the Data Protection Act 2018 and UK GDPR.

2. Recommendation

- 2.1 **It is recommended that the Committee consider the report and the information and assurances within it and receive a further update in 6 months' time to contribute to wider and continuous assurances as part of the Annual Governance Review process.**

3. Background

- 3.1 The Council is required to appoint a DPO under the General Data Protection Regulations and Data Protection Act 2018. The key aspect of this role is to provide the Council with independent assurance regarding compliance with data protection law.

4. Assurance Update

- 4.1 The DPO continues to have regular meetings with officers from the Information Governance and Security Team and the Senior Information Risk Officer (SIRO) and reports to the Information Governance Board. The DPO also undertakes or commissions specific assurance reviews to support that independent assurance, when required.
- 4.2 Overall, recent activity and oversight, continues to provide a generally positive picture regarding compliance with UK GDPR. To support that, the Information Governance Board provides a clear focus on compliance and awareness. Strategic issues are escalated to the Senior Management Team as required thus ensuring data protection, security and general information governance matters are considered at the highest level.
- 4.3 The Information Governance and Security Team have continued to provide regular reminders to all Council staff regarding various aspects of information governance and cyber threats as well as training through the POD on-line

training system. Such training covers information governance generally, incident management, agile working, protecting personal data, subject access requests and a general UK GDPR reminder. The take-up of training is good amongst networked employees.

Course Title	% Completed
Information Governance	96%
Incident Management	86%
Agile Working	85%
Protecting Personal Data	85%
Subject Access Requests	81%
UK GDPR	91%

The figure is around 30% on average for non-networked employees. Improving the take-up of this training is being reviewed in terms of making access to the courses easy, but also ensuring they are relevant to the type of employee. This is an area of particular focus of the Information Governance Board.

- 4.4 Compliance with the statutory timescales for responding to Freedom of Information requests (FOIs), subject access requests (SARs) and Environmental Impact Assessment requests (EIAs) remains very high at 99% for FOIs, 86% for SARs and 100% for EIAs. This reflects the work undertaken to support staff receiving such requests and significant improvements in the system that manages requests and responses making it easier and more efficient for services to meet the timescales. A number of very complex SARs are currently in progress that have gone beyond the statutory timescales, but officers are working closely with the requestors to meet their requests. Where problems do occur in meeting the timescales, there is a review process in place to identify and learning to minimise the risk of delays occurring in the future.
- 4.5 During 2023, there have been a number of simulated phishing campaigns which aim to reinforce awareness amongst staff to spot any irregular emails and report them to IT. Where an employee fails the test, they are immediately directed to a training video, receive feedback on the email, pointing out the errors or in an infographic.
- 4.6 The threat posed by phishing attacks is further mitigated by the comprehensive technical framework in place to prevent malicious emails and general cyber-attacks entering the Council's network and systems. However, it is acknowledged that whilst employee awareness is good and good technical measures are in place, attacks from phishing and whaling remain a high risk to the Council and rely on staff being constantly alert to the risk. Incidents at other councils highlight the significant risk posed by phishing and whaling attacks.

- 4.7 Significant work continues to be undertaken around cyber and IT security generally. Password cracking exercises are periodically undertaken to ensure high levels of awareness and a firm security posture. Further password strengthening is to be enforced in January. It remains a priority of the Information Governance and Security Team to constantly reduce the number of data incidents and help improve the timeliness of management actions to minimise the risk of incidents recurring. An analysis of data incidents is presented to the Information Governance Board for monitoring.
- 4.8 The Information Governance and Security Team along with the Emergency Resilience Team ran a number of simulated cyber-attack exercises with leaders across the Council to raise awareness and highlight any areas where improvements are needed to ensure we are able to respond should an attack be successful and render IT systems unavailable. These exercises were very useful with follow-up work being planned to ensure that resilience. The threat from a cyber-attack is a key strategic risk discussed at Senior Management Team and Cabinet level given the impact attacks have had on a number of other councils.
- 4.9 The DPO is regularly contacted to provide advice and guidance on data protection concerns and particularly where the Information Commissioner's Office is involved in a matter. This is a positive in staff being aware of the DPO and their role.
- 4.10 The DPO undertakes or commissions independent reviews of various aspects of information governance. There are a number of specific pieces of assurance work planned for 2023/24. These are:
- Data Management
 - Information system archiving arrangements
 - Cyber Strategy
 - Cyber Emergency Resilience Arrangements
- 4.11 The implementation of the agreed management actions arising from the previous pieces of assurance work are being monitored by Internal Audit as part of their processes.
- 4.12 A key issue raised and discussed at the Information Governance Board is to review the role of information asset owners across the Council. This role is key to embed good awareness and compliance with various aspects of information governance within services. It is important to stress that corporate arrangements for information governance management are good, but there does however need a renewed focus to ensure services are fully aware of their responsibilities to maintain those good levels of compliance.
- 4.13 The DPO and Internal Audit will continue to monitor management's response to the issues raised and conduct further independent reviews and audits on a

continuous rolling basis. These will be reported to the Information Governance Board and the Audit and Governance Committee.

- 4.14 As a key source of assurance for the Committee and to properly discharge the responsibilities of the DPO, the role requires independence from management, unfettered access to senior management and access to the necessary resources. These key requirements are in place.
- 4.15 As stated, overall, the Committee can be assured that whilst there will inevitably be data and information incidents there is a robust and comprehensive suite of policies and guidance in place supported by a strong and committed Information Governance and Security Team. The joint working and liaison between the DPO, Information Governance, Cyber Security, the SIRO, and Legal Services provides a robust basis to guide the Council to ensuring that data protection responsibilities are understood and complied with as effectively as is reasonably possible.
- 4.16 A section within the Annual Governance Statement is also included to provide the assurances from the DPO.

Contact Officer: Data Protection Officer
Email: DPO@barnsley.gov.uk
Date: 1st November 2023

Item 14

Report of the Head of Governance

Audit and Governance Committee, 15 November 2023

REVIEW OF THE COUNCIL'S CONSTITUTION

1. Purpose of the Report

- 1.1 To set out the approach to the review of the Council's Constitution and the establishment of an elected Member working group.

2. Background

- 2.1 Under section 9P of the Local Government Act 2000 (LGA 2000) the Council is under a duty to prepare and keep up to date a Constitution. Section 9P of the LGA 2000 states that the Constitution must contain:

- The standing orders/procedure rules;
- The Members' Code of Conduct;
- Such information as the Secretary of State may direct;
- Such other information (if any) as the Council considers appropriate.

3. Purpose of the Constitution Review

- 3.1 The Council has a duty to keep its' Constitution under review. This includes all relevant codes and protocols, and the procedure rules for committees, as well as corrections, updates and amendments.
- 3.2 The Constitution needs to provide the framework to enable the Council to operate effectively through:-
- good governance behaviours such as transparency, accountability, leadership and participation
 - effective officer/member relationships
 - clear and effective decision-making with an effective scheme of delegations that utilises officer expertise
 - clarity and consistency
- 3.3 Whilst the Constitution has been updated as and when required, a holistic review is proposed to ensure that the Constitution not only complies with legislative provisions and represents best practice but continues to reflect the values of the Council and facilitates accountable decision-making.
- 3.4 The review also needs to support the Council's wider transformation programme in moving towards the strategic optimum approach that ensures we are operating constitutional arrangements in the most efficient and effective way whilst ensuring we remain compliant with statute.

4. Scope of the Review

- 4.1 The review will be undertaken in phases to include style format and structure, alongside a review of content to ensure that the governance framework facilitates clear and effective decision making whilst streamlining arrangements wherever possible.

5. Constitution Working Group

- 5.1 It is proposed that a cross party working group be established to consider options and proposals to advise the review and the development of the Constitution. Membership would reflect, but not form part of the Council's political balance and comprise:-

4 Labour Group
1 Conservative Group
1 Liberal Democrat Group

- 5.2 Membership would not be limited to those sitting on the Audit and Governance Committee and Group Leaders would be approached for appointments. As representatives of their Groups, it would be important that Working Group members actively engage with councillors in their Group to consider any proposed changes and present the agreed views and comments of their Group back to the Working Group, not just their own perspective.

- 5.3 It is proposed that the following principles be applied to enable Members and officers to work together collaboratively to frame a new Constitution:

- Transparency – makes it clear what our rules are
- Accountability – explains clearly who makes which decisions
- Efficiency – keeps the cost of decision making down
- Accessibility – is accessible to all
- Inclusivity – encourages public participation
- Concise – describes what it needs to succinctly

The proposed Terms of Reference for the working group are attached at Appendix A.

6. Phasing of Review

- 6.1 An initial review has been undertaken to prepare the groundwork for more detailed examination by elected Members. This early stage included a review of legislative requirements and a high level content review.
- 6.2 Work is also ongoing to ensure that current officer delegations are accurate and up to date and any amendments to these will be taken to full Council for approval in the usual manner.
- 6.3 In tandem, a review of the Contract Procedure Rules has been undertaken and amendments are scheduled to be presented to the Audit and Governance

Committee on 15 November 2023 in advance of full Council on 1 February 2024. Any changes agreed will need to be reflected in the Constitution.

6.4 Any drafts of new and/or revised sections would be submitted to the Audit and Governance Committee for formal consideration prior to submission to Full Council for adoption.

6.5 A review timeline is set out at Appendix B.

7. Legal & Risk Implications

7.1 Section 9P of the Local Government Act 2000, every local authority is under a duty to prepare and keep up to date its Constitution. This review and the development of a review programme will help to ensure that these legal requirements are met.

7.2 There are no significant risks arising from this report. Conducting a review process would help to reduce any risks that could arise as a result of the Constitution not properly supporting decision making and delivery of Council services.

8. Recommendations

8.1 That an elected Member working group be established to consider options and proposals to advise the review and the development of the Constitution;

8.2 That the terms of reference for the Constitution Review Working Group as set out in Appendix A of the report be noted; and

8.3 That the approach, programme and timeline for the Constitution Review as set out in the report and Appendix B be noted.

10 Appendices

Appendix A – Elected Member Constitution Review Working Group Terms of Reference

Appendix B – Timeline

Contact officer: Carol Tague, Head of Governance
Date: 31 October 2023

Appendix A – Draft Terms of Reference

Constitution Review Working Group

Aim

To ensure that the Council is governed by a modern and dynamic Constitution which reflects the Council's core values and enables agile, lawful and effective decision-making.

Terms of Reference

The Constitution Review Working Group will review the following aspects of the constitution in order to identify any amendments that could be made to enhance Council business:-

1. Structure, format and presentation:-

- To ensure that content is clear, consistent, accessible to the public and useable for both councillors and officers and future-proofed as far as possible.
- To observe plain English principles when drafting and adopt a clear modern approach to layout.
- To review the structure and determine whether it could be simplified and streamlined.

2. **Legislative content** to ensure that it is up to date and line with current statutory requirements.

3. **Governance framework** to ensure that it continues to align with the Council's values and clearly sets out the Budget and Policy Framework and responsibility for functions.

Membership and Role of the Working Group

1. The Working Group shall comprise 6 elected Members of the Council to be nominated by Group Leaders.
2. The membership of the Working Group will reflect, though will not form part of the Council's political balance.
3. The Chair will be appointed at the first meeting of the Group.

Rules of Operation

1. The Working Group is an informal group and has no power to make decisions. However, it can make recommendations which would be considered by full Council.
2. Meetings shall be held in private.
3. For the purposes of accuracy and transparency, notes and actions shall be taken of the matters considered.
4. Members are reminded that the rules set out in the Code of Conduct with regard to making declarations of interest will apply to the Working Group.

Voting

It is hoped that a consensus will be achieved from the Working Group, however if this is not possible any vote will be subject to a simple majority. In simple majority voting the Chair will have a casting vote.

Quorum

The quorum of a meeting of the Constitution Working Group will be 50% of the membership.

Frequency of Meetings

The Constitution Working Group will meet as and when required. All meetings will be held in private and dates and times of meetings will be agreed by the Working Group.

Administration of the Constitution Working Group

Agendas will be sent out 3 clear working days before the meeting and action notes will be provided seven clear working days after the meeting.

Phase 1 – Initial groundwork September to November (report to full Council 23 November 2023)

Governance Topic	Action/themes	What will the review strand look to achieve	Indicative timetable for decision
Member Engagement Strategy	To establish a politically balanced Task and Finish Group	To develop targeted member engagement approach to gauge as broad a view on any proposed governance changes	Audit & Governance Committee 15/11/23
Statutory constitutional requirements	Review of content to ensure compliance with statutory minimum requirements to be included within Constitutions.	The requirements of The Local Authorities (Standing Orders) Regulations 1993, the Local Authorities (Standing Orders) (England) Regulations 2001, the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 and 2015, Local Government Act 2000 (Constitutions) (England) mapped against the current Constitution to ensure compliance.	Any amendments reported to full Council 23/11/23
High level content review	To ensure that general content, such as role and service titles is up to date and the consistent use language throughout.	A high-level content overview to ensure that all documentation is up to date and consistent, superfluous content removed and opportunities for hyperlinks etc identified.	Any amendments reported to full Council 23/11/23
Legislative review	Review of accuracy and currency.	A legislatively compliant base document on which to start the review process.	Any amendments reported to full Council 23/11/23

Phase 2 – Structure, functions and Scheme of Delegation (report to full 28 February 2024)

Governance Topic	Action/themes	What will the review strand look to achieve	Indicative timetable for decision
Functions and Policy Framework	To set out the responsibility for functions ie Executive, Non-Executive and Local Choice and clearly define the Council's policy framework.	To ensure that decision making is compliant with legal requirements and provide clarity and consistency in the reporting of items to full Council.	A&G Committee 24/01/24 Full Council 02/02/23
Scheme of Delegation (Parts 1 & 3)	A review of the Scheme of Delegation to Officers	This strand will look at different model schemes, with a view to ensuring that BMBC's scheme of delegation facilitates effective and efficient decision making. Alongside this there will be an analysis of current legislative provisions, ensuring that any superseded, new or repealed legislation is accounted for, supported by officer focus groups.	A&G Committee 24/01/24 Full Council 02/02/23

Phase 3 – Member Development (report to full Council 28 March 2024)

Member Development	Review of committee related elected Member learning and development	To consider the introduction of mandatory elements to the elected Member training programme such as planning and licensing.	A&G Committee 20/03/24 Full Council 28/03/24
--------------------	---	---	---

Item 16

Report of the Head of Internal Audit, Anti-Fraud and Assurance

AUDIT AND GOVERNANCE COMMITTEE – 15th NOVEMBER 2023

COMMITTEE WORK PLAN 2023 – 2024

1. Purpose of the Report

- 1.1 To share with the Committee the current Work Plan – Appendix 1 and to note any amendments to the plan.

2. Recommendation

- 2.1 **The Committee is asked to note the updated Work Plan.**

3. Updated Position

- 3.1 The item to update on the AGS action plan has been moved to the next meeting 24th January when an update will be provided on all actions identified in the AGS 2022/23.

Contact Officer: Corporate Governance and Assurance Manager
Email: alisonsalt@barnsley.gov.uk
Date: 6th November 2023

This page is intentionally left blank

AUDIT AND GOVERNANCE COMMITTEE – WORK PROGRAMME

2023/2024 Municipal Year

NOTE – all Meetings to commence at 2.00 p.m.

	Mtg. No.	1	2	3	Dev. Mtg.	4	5	6	1
Committee Work Area	Contact / Author	31.05.23	26.07.23	20.09.23	11.10.23	15.11.23	24.01.24	20.03.24	29.05.24
Committee Arrangements									
Committee Work Programme	AS	X	X	X		X	X	X	X
Minutes/Actions Arising	DT	X	X	X		X	X	X	X
Review of Terms of Reference	AS				X				
Committee Effectiveness Review	RW				X		X	X	
Committee Annual Report	RW/AS		X(D)	X(F)					
CIPFA Audit Committee Guidance	RW						X		
Internal Control and Governance Environment									
Local Code of Corporate Governance	SG/AS						X		
Annual Governance Review Process	AS						X		
Annual Governance Statement (Draft/Final)	AS		X(D)			X(F)			
AGS Action Plan Update	AS		X				X		X
Anti-Fraud									
Annual Fraud Report	RW		X (Ex)						
Corporate Anti-Fraud Plan	RW							X (Ex)	
Corporate Anti-Fraud Strategy	RW							X	
Corporate Fraud Team – Update Report	RW					X		X	
Corporate Risk Management									
Risk Management Policy & Strategy	AS								X
Annual Risk Management Report	AS	X							
Strategic Risk Register	AS	X	X	X		X	X	X	X
Internal Audit									
Internal Audit Charter (Annual)	RW	X							
Internal Audit Plan (Consultation / Draft Plan)	RW						X	X	

	Mtg. No.	1	2	3	Dev. Mtg.	4	5	6	1
Committee Work Area	Contact / Author	31.05.23	26.07.23	20.09.23	11.10.23	15.11.23	24.01.24	20.03.24	29.05.24
Other Corporate Functions contributing to overall assurance programme to be determined:									
Update on Glassworks	KMcA		X (Ex)	X(Ex)					
Information Governance and Cyber Security update (twice yearly)	SM/SW	X				X			
DPO Update (twice yearly)	RW	X				X			
Annual Health & Safety Report	SD			X					
Annual Sickness and PDR Report	PQ			X					
Annual Equality and Inclusion Report	MH			X					
Annual Customer Feedback Report and Annual Review Letter	KR/CD			X					
The People Strategy	MP/PQ			X					
Confidential Reporting (Whistleblowing) Annual Report	RW	X							X
Procurement (Annual)	NC/JL								
Asset Management (Annual)	KMc								
Ethical Framework (Annual)	MP/RW								
Partnerships (Annual)	NC/RW								
Review of Peer Challenge Activity Across the Council								X	
Constitution Review	SG/CT							X	
DSG Grant/SEND Updates (quarterly)	NS/SD		X(Q4)			X(Q1)	X(Q2)	X(Q3)	
Report of Monitoring Officer – LGSCO Case	SG/KB			X					

Strategic Risk Presentations

Risk	SMT Lead	31.05.23	26.07.23	20.09.23	11.10.23 (Dev. Mtg.)	15.11.23	24.01.24	20.03.24	29.05.24
Health Protection Emergency	JB	X							
Safeguarding Children	CS					X			
SEND	CS					X			
Educational Outcomes Progress	CS							X	
Inclusive Economy	MO'N			X					
Zero Carbon and Environmental Commitments	MO'N			X					
Emergency Resilience	WP		X						
Organisational Resilience	WP		X						
Safeguarding Adults	WL						X		
Responsibilities under the Care Act 2014	WL						X		
Partnership and Collaboration Governance	NC							X	
Financial Sustainability	NC								X
Threat of Fraud	NC								X

Training / Awareness Sessions

NOTE – Training session to commence at 1.00 p.m.

Subject / Theme	Contact / Author	31.05.23	26.07.23	20.09.23	11.10.23 (Dev. Mtg.)	15.11.23	24.01.24	20.03.24	29.05.24
Budget Training Session	NC/SL							X	
Cyber Security Threat	SW/SM			X					
Climate and Sustainability Commitments	PC/SC								
People Strategy	MP/PQ								
Designated Schools Grant Safety Valve Prog.	JA/NS					X			
Partnership Governance	NC/RW								
MCA – Understanding the Finances	GS/MT*								
VFM	NC						X		
Transformation Programme (Digital)	DR?		X						
Council Plan									
New Corporate Assurance Team							X		

*GS – Gareth Sutton MT- Mike Thomas from SYCMA

This page is intentionally left blank

Item 18

By virtue of paragraph(s) 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank