AUDIT, GOVERNANCE AND STANDARDS COMMITTEE MEETING

Date: Monday 13 January 2020
Time: 6.30 p.m.
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Adkinson (Vice-Chairman), Brindle, Coulling (Parish Representative), Cox, Daley, Fissenden, Harvey (Chairman), McLoughlin, Perry, Round and Titchener (Parish Representative)

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

Issued on Friday 3 January 2020 **Continued Over/:**

Alison Broom

Alison Broom, Chief Executive

MAIDSTONE Borough Council

PUBLIC SPEAKING AND ALTERNATIVE FORMATS

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In order to speak at this meeting, please contact Democratic Services using the contact details above, by 5 p.m. one clear working day before the meeting (i.e. Thursday 9 January 2020). If asking a question, you will need to provide the full text in writing. If making a statement, you will need to tell us which agenda item you wish to speak on. Please note that slots will be allocated on a first come, first served basis.

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MAIDSTONE BOROUGH COUNCIL

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD ON 18 NOVEMBER 2019

Present:	**Councillor Harvey (Chairman) and Councillors Adkinson, Brindle, Coulling (Parish Representative), Cox, Daley and Perry**
Also Present:	**Ms Elizabeth Jackson – Grant Thornton (External Auditor)**

44. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Fissenden, McLoughlin, Round and Titchener (Parish Representative).

45. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

46. URGENT ITEMS

The Chairman said that she had agreed to take Appendix 1 to item 11 on the agenda (External Auditor's Annual Audit Letter) as an urgent item as the Letter was not available when the agenda was published.

47. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

48. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

49. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

50. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed.

51. MINUTES OF THE MEETING HELD ON 16 SEPTEMBER 2019

RESOLVED: That the Minutes of the meeting held on 16 September 2019 be approved as a correct record and signed.

52. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

53. COMMITTEE WORK PROGRAMME

The Committee considered its work programme for the remainder of the Municipal Year 2019/20.

RESOLVED: That the Committee work programme for the remainder of the Municipal Year 2019/20 be noted.

54. EXTERNAL AUDITOR'S ANNUAL AUDIT LETTER (YEAR ENDED 31 MARCH 2019)

Ms Elizabeth Jackson of Grant Thornton presented the External Auditor's Annual Audit Letter summarising the key findings arising from the work undertaken by the External Auditor for the year ended 31 March 2019 and concluding the audit process for 2018/19. It was noted that:

- The External Auditor gave an unqualified opinion on the Council's 2018/19 Statement of Accounts on 16 August 2019; and

- The External Auditor was satisfied that in all significant respects the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2019.

During her presentation, Ms Jackson made specific reference to the delay in issuing the audit opinion. She explained that:

- Grant Thornton alongside all other audit firms struggled to deliver the audit opinion on time this year and over 40% of local authority audits nationally were not signed off by the end of July which was the target date for auditors to give their opinions. Whilst the Borough Council had a statutory responsibility to publish its accounts whether they were audited or not by 31 July 2019, it was not a statutory requirement for external auditors to meet that deadline.

- Grant Thornton had resourcing issues due to staff shortages and sickness. The Director of Finance and Business Improvement was informed that the firm did not have a team to deliver the audit by the end of July and that other Kent audits were affected.

- When the External Audit team came on site in the middle of July to undertake the work, a number of amendments were required to the accounts. As the statutory auditor responsible for signing the audit opinion, she did not have all of the evidence required to enable her to sign off the accounts as true, fair and correct until 16 August 2019 when she issued the unqualified audit opinion. It would reflect on her professional reputation if she had signed off the accounts before completing all the work required.

- She understood that Members and Officers were very disappointed that the deadline was not met and arrangements had been put in place already for working differently next year.

- The new procurement process for local authority audit had resulted in a reduction in audit fees and with that a reduction in the number of days available for carrying out the audit. If there was a tendering exercise now, with the current regulations and workload, Grant Thornton would not be tendering for audits as they were not deliverable. She would not wish to sign off the audit without the right level of evidence.

In response to questions, Ms Jackson explained that:

- To an extent, the problems experienced were specific to the public sector and, particularly, local government where over 90% of audited bodies chose to follow the Public Sector Audit Appointments route for the procurement of audit services. Whether or not this had been successful had still to be determined.

- In terms of the additional resource required to sign off the accounts on time with an end result that the External Auditor was comfortable with, another person for ten days would have helped to deliver the audit. Discussions were taking place with the Finance Team about a different approach to the audit next year.

- The Financial Reporting Council, which regulates auditors, was also reviewing the overall audit environment.

- The External Auditor did not have staff with the appropriate experience and specialist knowledge available to complete the audit in July. They came in August when other audits had been completed.

RESOLVED: That the External Auditor's Annual Audit Letter for the year ended 31 March 2019, attached as Appendix 1 to the report of the Interim Head of Finance, be noted.

55. AUDIT PROGRESS REPORT AND SECTOR UPDATE (YEAR ENDED 31 MARCH 2020)

Ms Elizabeth Jackson of Grant Thornton presented the report of the External Auditor on the progress to date against the 2019/20 audit plan. The report also provided an update on a number of relevant emerging issues and sector developments.

Ms Jackson made specific reference to the position with regard to certification of the Council's annual Housing Benefit Subsidy claim. She explained that the External Auditor was working closely with the Revenues and Benefits Shared Service to ensure that the work is completed by the 29 November deadline. The Shared Service was doing the majority of the testing itself and the Internal Audit team had been part of the process as well. Information was still awaited from the Shared Service and the

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External Auditor was liaising with the Service daily to ensure that the deadline is not missed.

In response to comments by Members, the Director of Finance and Business Improvement said that he would remind the Service of the deadline for completion of the certification work.

In response to a question by a Member as to whether it would be better to start audit planning earlier, Ms Jackson explained that due to delays in completing the certification of Housing Benefit Subsidy claims at a number of places, the External Auditor would begin planning for the 2019/20 audit in December and would issue a detailed audit plan setting out its proposed approach to the audit of the Council's 2019/20 financial statements for consideration at the next meeting of the Committee. The critical period was June/July when the External Auditor would be completing a large number of audits with a finite number of staff and so any unforeseen resourcing issues such as staff shortages and sickness would have a knock on effect.

A Member referred to CIPFA's annual CFO confidence survey which found that Local Authority Chief Finance Officers were less confident in their future financial positions than they were in 2018/19 and that for districts the greatest pressures were housing, cultural services and environmental services. The Director of Finance and Business Improvement said that he agreed about housing services being an area of concern as the Council had a responsibility to deal with people who present themselves as homeless and so it was an area over which the Council only had a certain amount of control.

RESOLVED: That the External Auditor's Audit Progress Report and Sector Update for the year ended 31 March 2020, attached as Appendix 1 to the report of the Interim Head of Finance, be noted.

56. INTERNAL AUDIT INTERIM REPORT 2019/20

The Head of Audit Partnership introduced his report summarising the progress made so far towards delivering the 2019/20 Audit and Assurance Plan approved by the Committee in March 2019.

In introducing the report, the Head of Audit Partnership advised the Committee that:

- The Internal Audit team had continued to work with full independence and had not been subject to undue pressure by Members or Officers.

- There continued to be a good response to recommendations arising from audit reviews and management was accepting of issues raised.

- In terms of resource requirements, three members of the team had moved on to other Internal Audit Services in Kent, but with the links made with contractors elsewhere, new recruits to the team and people returning from maternity leave, it was considered that there was sufficient resource to deliver the 2019/20 Audit and Assurance Plan.

- Since the last report to the Committee in July 2019, five assurance rated reports had been issued and they all had a Sound rating which was a positive assurance rating, indicative of controls working well.

- Four high priority actions had been deferred beyond their originally agreed date, but the Internal Audit team was satisfied in all of these cases that the Officers were on top of the issues as they develop and looking forward to full implementation in due course.

- The report also covered other Audit Service work to provide assurance across the authority including risk management and counter fraud (investigations, whistleblowing and the National Fraud Initiative).

- With the agreement of the Council's External Auditor, the Internal Audit team had taken on a significant proportion of the testing required in connection with the certification of the Council's annual Housing Benefit Subsidy claim saving the Council around £8k. It was anticipated that the deadline for completion of the work would be met.

- The Internal Audit Service was required to undergo an external quality assessment at least every five years. The Audit Partnership's most recent such assessment was by the Institute of Internal Auditors in the spring of 2015. The aim was to put this work out to tender by the end of November with a view to reporting the results back to the Committee in the spring/summer of 2020 depending on the timelines of the successful tenderer. In the meantime, it was his view based on self-assessments that the Internal Audit Service continued to work in full conformance with the Public Sector Internal Audit Standards.

In response to questions by Members, the Head of Audit Partnership advised the Committee that:

- To achieve a Strong assurance rating, controls within the service needed to be well designed and operating as intended, exposing the service to no uncontrolled risk. There would also often be elements of good practice or value for money efficiencies that might be instructive to other authorities. Audit reports with this rating would have few, if any recommendations. A Sound assurance rating was a good one reflecting a service that was working well and, in an organisation looking to manage its limited resources, it was a good ambition to aim for.

- The Internal Audit Service last looked at contract management in the autumn of 2018 and the focus now was on implementing the recommendations arising from the review. Contract management, like all areas of the Council's business, remained in the Audit Universe and would be in the running for a full review in 2020/21 because at that point the actions would have been taken and the improvements embedded to an extent that a full review would see them.

- One of the advantages of working in a four way partnership was that issues of resilience were easier to manage with access to a level of experience and resources beyond that of a single local authority Internal Audit Service. It could be argued that the independence of Internal Audit was more assured in a partnership arrangement.

During the discussion on this item, the Head of Audit Partnership updated Members on the approach to dealing with allegations, including potentially malicious accusations, under the Council's Counter Fraud Policy.

RESOLVED: That the progress made so far towards delivering the 2019/20 Audit and Assurance Plan be noted.

57. MAIDSTONE PROPERTY HOLDINGS LTD - GOVERNANCE

The Director of Finance and Business Improvement presented his report updating the Committee on the outcomes of a review of the governance arrangements at Maidstone Property Holdings Ltd. It was noted that:

- In September 2016, the Council incorporated a wholly owned company limited by shares called Maidstone Property Holdings Ltd (the Company). The Company was established to hold property leased to it by the Council and to undertake other property development/management activities.

- In December 2017, the Company's structure was subject to a report by the Internal Audit team. The report identified a number of areas for improvement within the Company's governance structure and assurance mechanisms which would need to be addressed as the scope of the Company's activities expanded. A report to this Committee in November 2018 described the Internal Audit findings and referred to a forthcoming review of the Company's aims, objectives and governance structure. It was agreed that the outcomes of the review would be reported back to this Committee.

- The review, which was undertaken with the assistance of external solicitors, had resulted in confirmation of the Company's future aims and objectives, an amended draft Business Plan and various other company documents, clarity on the Service Agreement required and clarity on the different roles of the Company and the Council. The Policy and Resources Committee had agreed to recommend to Council a number of measures to implement the findings of the governance review. These recommendations would be considered by the Council at its meeting in December 2019.

- As shareholder, the Council was responsible for certain functions in respect of the Company ("reserved matters"). It was proposed that the Council delegates the function to make shareholder decisions to the Policy and Resources Committee and that the Committee delegates certain shareholder reserved matters to a nominated Officer, who, it was suggested, should be the Director of Finance and

Business Improvement. There was provision for representatives of the Council to attend and observe Board meetings. This would generally be the Director of Finance and Business Improvement who would also represent the Council at the Annual General Meeting.

During the discussion, the Director of Finance and Business Improvement undertook to make sure that information relating to Board meetings was circulated to Members of the Policy and Resources Committee as the relevant Committee. He also confirmed that it would be in order for Members of the Policy and Resources Committee to attend Board meetings.

In response to further questions, the Director of Finance and Business Improvement explained that:

- Although the Company would hold an Annual General Meeting which representatives of the Council could attend, he did not think that it would be appropriate for members of the public to attend.

- Regular reports on the activities of the Company were presented to the Policy and Resources Committee as part of the quarterly financial monitoring report. If the Audit, Governance and Standards Committee was interested in the activities of Maidstone Property Holdings Ltd, it would need to make sure provision was made in the Internal Audit and Assurance Plan.

The Head of Audit Partnership confirmed that although the Internal Audit Service was the Council's Internal Auditor, it had not been appointed as the Company's Internal Auditor. However, the way the Council used its powers to oversee and direct the Company, rather than the operations of the Company itself, was part of the Audit Universe and would be looked at in due course after a risk assessment.

RESOLVED: That the report updating the Committee on the outcomes of a review of the governance arrangements at Maidstone Property Holdings Ltd be noted.

58. TREASURY MANAGEMENT MID-YEAR REVIEW 2019/20

The Director of Finance and Business Improvement presented his report setting out the activities of the Treasury Management function for the first six months of the 2019/20 financial year in accordance with CIPFA's Code of Practice on Treasury Management in Local Authorities.

The Director of Finance and Business Improvement advised the Committee that:

- The main elements of the Strategy were (a) that the Council uses cash for its capital investments rather than borrowing, and was still in the position that it had not borrowed to finance the Capital Programme, and (b) that the Council aimed to diversify its cash holdings to mitigate risks. The Council held £27.98m of investments as at 30

September 2019 and these were spread over a range of financial institutions.

- During the first six months of the financial year 2019/20, the Council had operated within the prudential and treasury indicators set out in the Treasury Management Strategy Statement and in compliance with the Council's Treasury Management Practices.

- It was predicted that the Council would borrow before the end of the financial year to fund the Capital Programme. Given the recent increases in rates charged by the Public Works Loan Board (PWLB), the Council would investigate a range of possible sources of borrowing in terms of finance and risk. He was confident that the Council would be able to borrow relatively cheaply to fund the Capital Programme as and when it needed to do so.

In response to a question by a Member as to whether the Council should have borrowed sooner having regard to the increased cost of PWLB borrowing, the Director of Finance and Business Improvement advised the Committee that the problem with borrowing sooner was that the Council would have been holding large cash balances and the cost of borrowing would have been more than the cash would be earning. The Corporate Finance team was keeping interest rates under review and the indications were that they would remain low for the foreseeable future. The Council continued to be able to access borrowing at relatively low cost, so it had not missed an opportunity to borrow before PWLB rates were increased.

RESOLVED:

1. That the position of the Treasury Management Strategy as at 30 September 2019 be noted.

2. That no amendments to the current procedures are necessary as a result of the review of activities in 2019/20.

59. BUDGET STRATEGY - RISK ASSESSMENT UPDATE

The Director of Finance and Business Improvement introduced his report providing an update on the budget risks facing the Council.

The Director of Finance and Business Improvement explained that recent government announcements had provided reassurance about the funding position for local government in the short term. However, over the medium term there continued to be uncertainty about funding arrangements. The risk of a disorderly exit from the EU, with the consequent adverse financial consequences, had receded.

In response to questions by Members, the Director of Finance and Business Improvement said that:

- Business rates were being looked at by the political parties nationally and if they were to be abolished that would be a big issue because business rates were an important source of local government funding. There would have to be something to replace business rates if local government was to be funded properly.

- There were risks associated with the funding of the Capital Programme, but the Council continued to be able to access borrowing at relatively low cost, and he did not consider that the Council should be borrowing yet as the cost of borrowing would be more than the cash would be earning. This was a view supported by the Council's investment advisers.

<u>RESOLVED</u>: That the updated risk assessment of the Budget Strategy, attached as Appendix A to the report of the Director of Finance and Business Improvement, be noted.

60. <u>REDMOND REVIEW - CALL FOR VIEWS</u>

The Interim Head of Finance introduced his report regarding the independent review into the arrangements in place to support the transparency and quality of local authority financial reporting and external audit in England (the "Redmond Review").

The Interim Finance Manager explained that:

- The scope of the Review was in two parts as follows:

  A Strategic Call for Views focusing on what the users of accounts expect from the local authority accounts production and audit process; and
  A Technical Call for Views asking for views on the detailed statutory and professional frameworks underpinning the audit and financial reporting framework.

- It was not necessary for respondents to answer every question, and it was suggested that the Council's response might focus on a range of key areas of specific local interest or concern. Potential key areas of focus included:

  The "expectation gap" – a perceived difference between what users of the financial statements and other stakeholders expect from an audit and what an audit is actually required to deliver;

  The current size and complexity of local authority financial statements;

  The scope of the VFM opinion; and

  The balance between the reduction in audit fees and quality of outputs.

- He wished to amend the recommendation to read that the Committee delegates authority to the Director of Finance and

Business Improvement in consultation with the Chairman of the Audit, Governance and Standards Committee to finalise the draft consultation response prepared by Officers (following this meeting) prior to submission in accordance with the 20 December 2019 deadline.

During the discussion on this item, reference was made to the following:

- It was essential to respond to the consultation and to respond positively.

- There was a need to remember that the prime purpose of external audit is to look at the financial state of the organisation and to avoid it becoming more complex. The Council should concentrate on what it wanted from the External Auditor as it already received detailed Internal Audit support.

- The main issue seemed to be the balance between reduced audit fees and quality of output.

- Confirmation was required that the Chairman would give appropriate weight to any comments from Members on the draft response to the consultation.

RESOLVED: That delegated authority be given to the Director of Finance and Business Improvement to finalise the Council's response to the independent review into the arrangements in place to support the transparency and quality of local authority financial reporting and external audit in England (the "Redmond Review") in consultation with the Chairman of the Audit, Governance and Standards Committee, who will receive and give appropriate weight to any comments from Members on the draft version, prior to submission in accordance with the 20 December 2019 deadline.

61. DURATION OF MEETING

6.30 p.m. to 8.00 p.m.

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2019/20 WORK PROGRAMME

	Committee	Month	Lead	Report Author
Audit & Assurance Plan	AGS	16-Mar-20	Rich Clarke	Rich Clarke
Budget Strategy - Risk Assessment	AGS	16-Mar-20	Mark Green	Mark Green
Complaints Received Under the Members' Code of Conduct	AGS	16-Mar-20	Patricia Narebor	Christine Nuttall
Review of Standards Procedures in the Constitution	AGS	16-Mar-20	Patricia Narebor	Christine Nuttall
External Audit Update Report March 2020	AGS	16-Mar-20	Mark Green	Chris Hartgrove
External Auditor's Audit Plan 2019/20	AGS	16-Mar-20	Mark Green	Chris Hartgrove

Agenda Item 10

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE	**13 January 2020**

Housing Benefit Grant Claim

Final Decision-Maker	Audit, Governance and Standards Committee
Lead Head of Service	Sheila Coburn, Head of Revenues and Benefits
Lead Officer and Report Author	Liz Norris, Business Support Manager
Classification	Public
Wards affected	All

Executive Summary

Maidstone Borough Council pays Housing Benefit to residents on behalf of the Department of Work & Pensions (DWP).

A claim is submitted to the DWP for the recovery of the Housing Benefit paid to residents. Before the DWP make any payment, an audit is required to be carried out to ensure the accuracy of the claim.

The Audit was undertaken by Grant Thornton to certify the Housing Benefit Subsidy Claim for 2018-2019. Whilst the audit identified a number of errors for which adjustment has been made, the original claim as presented by the Council was held to be 99.91% accurate.

Purpose of Report

Report is provided for information only.

This report makes the following recommendations to this Committee:

1. That the Committee notes the findings of the Housing Benefit Grant Claim Audit undertaken by Grant Thornton.

2. That the Committee notes the action plan proposed by the Revenues and Benefits Shared Service to address errors identified through the audit process.

Timetable	
Meeting	***Date***
Audit, Governance and Standards Committee	13.01.2020

Housing Benefit Grant Claim

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	In maintaining effective financial controls the Council is able to confidently progress its priorities	Head of Revenues and Benefits
Cross Cutting Objectives	No impact	Head of Revenues and Benefits
Risk Management	The work undertaken by Grant Thornton provides external assurance to the Council on the effectiveness of arrangements for the accurate payment and recording of benefit expenditure	Head of Revenues and Benefits
Financial	The adjustments outlined have no impact on the net value of the Council's claim and the level of error identified does not indicate any significant underlying control weaknesses.	Section 151 Officer & Finance Team
Staffing	No Impact	Head of Revenues and Benefits
Legal	The Department for Work and Pensions has developed the Housing Benefit Assurance Procedure (HBAP) that provides a comprehensive guide to providing assurance of Housing Benefit Subsidy claims submitted by Local Authorities including the testing methodology to establish a basis for the assurance and amendment of claims prior to final submission and the provision of the tools with which to conduct the assurance engagement. The Housing Benefit Grant Claim Audit by Grant Thornton was undertaken in accordance with the HBAP procedures.	Legal Team
Privacy and Data Protection	No Impact	Head of Revenues and Benefits
Equalities	No Impact	Head of Revenues

		and Benefits
Public Health	No Impact	Head of Revenues and Benefits
Crime and Disorder	No Impact	Head of Revenues and Benefits
Procurement	No Impact	Head of Service & Section 151 Officer

2. INTRODUCTION AND BACKGROUND

2.1 The process was completed in advance of the 30 November 2019 deadline set by the Department of Work and Pensions (DWP).

2.2 Internal Audit undertook an initial sample check of 40 Housing Benefit claims across the main areas of expenditure and identified 4 errors.

2.3 The total value of these errors was £466.00 which resulted in the claim being amended.

2.4 As a result of the errors identified, a further sample of 200 cases were checked with a further 30 errors identified.

2.5 No new errors were identified in 2018/2019 within the largest area of expenditure. However, the Auditors are required to carry out testing on prior year errors. This required a further 120 cases to be checked. As a result 13 errors were identified.

2.6 The value of errors when extrapolated across the subsidy claim provided for a total gross adjustment of £38,827, with the net effect being no change to the overall value of the claim submitted by the Council, due to the errors attracting the same rate of subsidy. That error rate suggests the original claim as presented by the Council was 99.91% accurate.

2.7 The Revenues and Benefits Service carried out 55,984 benefit assessments during 2018-2019 and whilst that work is undertaken with a high degree of accuracy, supported by robust quality assurance measures, a level of error is unavoidable. It is commonplace for Housing Benefit grant claims to be qualified.

2.8 The initial errors found and planned actions can be summarised as follows:

Error	Planned action
Family Premium applied incorrectly - this error occurred as a result of applying Family Premium This resulted in the customer being overpaid. The overpayment has been held to be non recoverable. The customer was not adversely affected. Incorrect classification of an overpayment – this error occurred when an officer wrongly classified the cause of the overpayment The customer was not adversely affected. Incorrect calculation of earnings - this resulted in the customer being overpaid. This overpayment has been held to be non recoverable The customer was not adversely affected. Incorrect calculation of Working Tax Credits -this resulted in the customer being underpaid and this has been corrected.	Subsidy Training has been arranged for 16 & 20 January 2020 for the department. The Revenues & Benefits team will be carrying out 100% checking in the areas identified in advance of submitting the 2019/2020 grant claim

3. AVAILABLE OPTIONS

3.1 Report is provided for information only.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 Report is provided for information only.

5. RISK

5.1 This report is presented for information only and has no risk management implications

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 The report is provided for information only with no consultation required.

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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 Report is provided for information only.

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8. REPORT APPENDICES

Appendix 1*:* Grant Thornton Qualification Letter

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9. BACKGROUND PAPERS

None.

APPENDIX 1

GRANT THORNTON QUALIFICATION LETTER

Grant Thornton UK LLP
London Bishopsgate
110 Bishopsgate
London
EC2N 4AY
T +44 (0)20 7383 5100
www.grant-thornton.co.uk

To: Housing Benefit Unit, Housing Delivery Division, DWP Business Finance & Housing Delivery Directorate, Room B120D, Warbreck House, Blackpool, Lancashire FY2 0UZ

And: The Section 151 Officer of Maidstone Borough Council

Housing Benefit (Subsidy) Assurance Process 2018/19 Module 6 DWP Reporting Framework Instruction (Applicable to England only) Reporting accountants' report for the Housing Benefit Subsidy claim form MPF720A, year ended 31 March 2019.

This report is produced in accordance with the terms of our engagement letter with the dated 29 June 2019 and the standardised engagement terms in Appendix 2 of HBAP Module 1 2018/19 issued by the Department for Work and Pensions (DWP) for the purpose of reporting to the Section 151 Officer of Maidstone Borough Council and the DWP.

Our report is prepared solely for the confidential use of the Local Authority and the DWP and solely for the purpose of facilitating the claim for Housing Benefit Subsidy on form MPF720A dated 30 April 2019.

This report should not be copied, referred to or disclosed, in whole or in part (save as otherwise permitted by the standardised engagement terms), without our prior written consent. Without assuming or accepting any responsibility or liability in respect of this report to any party other than the local authority and the DWP, we acknowledge that the local authority and/or the DWP may be required to disclose this report to parties demonstrating a statutory right to see it.

This report is designed to meet the agreed requirements of Local Authority and the DWP as described in the DWP HBAP reporting framework instruction 2018/19.

This report should not therefore be regarded as suitable to be used or relied by any other party for any purpose or in any context. Any party other than the Local Authority and the DWP which obtains access to this report or a copy and chooses to rely on this report (or any part of it) will do so entirely at its own risk. To the fullest extent permitted by law, we accept no responsibility or liability in respect of our work or this report to any other party and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by the reliance of anyone other than the addressees on our work or this report.

Respective responsibilities of the Local Authority and the reporting accountant

We conducted our engagement in accordance with HBAP Modules 1 and 6 2018/19 issued by the DWP, which highlight the terms under which DWP has agreed to engage with reporting accountants.

The Section 151 Officer of the Local Authority has responsibilities under the Income-related Benefits (Subsidy to Authorities) Order 1998. The section 151 Officer is also responsible for ensuring that the Local Authority maintains accounting records which disclose with reasonable accuracy, at any time, the financial position of the Local Authority. It is also the Section 151 Officer's responsibility to extract relevant financial information from the Local Authority's accounting records, obtain relevant information held by any officer of the Local Authority and complete the attached form MPF720A in accordance with the relevant framework set out by the DWP.

Our approach

For the purpose of the HBAP engagement we have been provided with a signed copy of form MPF720A 2018/19 dated 30 April 2019 by the Section 151 Officer. The Section 151 Officer remains solely responsible for the completion of the MPF720A and is the signatory on the local authority's certificate on claim form MPF720A.

Our engagement was carried out in accordance with the DWP reporting framework instruction which has been prepared in accordance with the International Standard on Related (ISRS) 4400, Engagement to perform agreed-upon-procedures regarding financial information. The purpose of the engagement is to perform the specific test requirements determined by the DWP on the defined sample basis as set out in HBAP Modules of the HBAP reporting framework instruction on the Local Authority's form MPF720A dated 30 April 2019, and to report the results of those procedures to the Local Authority and the DWP.

The results of these are reported on in appendices A, B, C and D.

Inherent limitations

The procedures specified in DWP's HBAP Reporting framework instruction does not constitute an examination made in accordance with generally accepted auditing standards, the objective of which would be the expression of assurance on the contents of the local authority's claim for Housing Benefit subsidy on form MPF720A. Accordingly, we do not express such assurance. Had we performed additional procedures or had we performed an audit or review of the local authority's claim for Housing Benefit subsidy on form MPF720A in accordance with generally accepted auditing or review standards, other matters might have come to our attention that would have been reported to you. This report relates only to the Local Authority's form MPF720A and does not extend to any financial statements of the Local Authority, taken as a whole.

This engagement will not be treated as having any effect on our separate duties and responsibilities as the external auditor of the Local Authority's financial statements. Our audit work on the financial statements of the Local Authority is carried out in accordance with our statutory obligations and is subject to separate terms and conditions. Our audit report on the Local Authority's financial statements is made solely to the Local Authority's members, as a body, in accordance with Part 5 of the Local Audit and Accountability Act 2014. Our audit work was undertaken so that we might state to the Local Authority's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Local Authority and the Local Authority's members, as a body, for our audit work, for our audit reports, or for the opinions we have formed in respect of that audit.

Summary of HBAP report

Summary of Initial Testing

In accordance with HBAP modules an initial sample of cases was completed for all general expenditure cells. We have re-performed a sample of the Local Authority's testing and confirm the tests we have carried out concur with the Local Authority's results:

Cell 011 Non HRA Rent Rebates

Cell 011 Non HRA Rent Rebate Incorrect application of Family premium

Initial Testing of Cell 011 identified 1 claim where the Local Authority had the family premium incorrectly applied resulting in an overpayment of benefit. The Authority identified all claims with family premium in Cell 011 and has tested each claim.

Cell 011 - Non HRA Rent Rebate Incorrect classification of eligible overpayments

Initial Testing of Cell 011 identified 1 claim where the Local Authority has incorrectly classified an overpayment as eligible. The Authority reviewed all eligible overpayments in Cell 011 and has tested each claim.

Cell 011 - Non HRA Rent Rebate Incorrect calculation of earnings

Initial Testing of Cell 011 identified 1 claim that the Local Authority has incorrectly calculated earned income resulting in an overpayment of benefit. The Authority identified all earnings claims in Cell 011 and has tested each claim.

Cell 011 Non HRA Rent Rebate Incorrect calculation of working tax credit

Initial Testing of Cell 011 identified 1 claim that the Local Authority has incorrectly calculated working tax credit resulting in an underpayment of benefit. The Authority identified all tax credit claims in Cell 011 and has tested each claim.

Cell 094 Rent Allowance

No claims were found to be in error.

Completion of Modules

Completion of Module 2

We have completed our testing of Module 2 the checklist of the annual uprating for benefits. We can confirm that:

- the benefit parameters and allowances have been updated to reflect annual uprating; and
- these parameters and allowances have been applied to the calculation of benefit entitlement and subsidy claimed.

Completion of Module 5

We have completed the questionnaire for the appropriate software supplier and no issues were identified.

Summary of testing arising from Cumulative Assurance Knowledge and Experience

In line with the requirements of HBAP Modules we have undertaken CAKE testing based upon the preceding Qualification Letter. Where appropriate the Authority has completed testing of the sub populations for:

- Rent allowances Cell 094 overpaid Benefit earned income and self-employed income calculation error
- Rent Allowances cell 094 incorrect calculation of tax credits
- Rent allowance cell 114 Eligible error overpayment classification

We have re-performed a sample of the Authority's testing and confirm the tests we have carried out concur with the Authority's results. These results are outlined in the appropriate appendix.

Summary paragraph/ending of letter

For the form MPF720A dated for the year ended 31 March 2019 we have completed the specific test requirements detailed in the DWP reporting framework instruction HBAP and have identified the following results set out in Appendix A, B C and D.

Grant Thornton

London

Elizabeth Jackson

0207 728 3329

elizabeth.l.jackson@uk.gt.com

Signature ..…………………………………………………………

Date…31 December 2019 ……………….

Appendix A Exceptions/errors found

Cell 094 Overpaid benefit - Incorrect calculation of tax credit
Cell 094: Rent Allowances total expenditure
Cell Total: £45,241,163
Cell Total £11,378,346– sub population
Cell Population: 9,541 cases
Cell Population: 2,629 cases – sub population

In 2017/18 it was identified that the Local Authority had included the incorrect Working and Child Tax Credits resulting in an underpayment of benefit. During our initial testing, 4 cases (value £15,127) where the assessment included tax credits were tested and no errors were identified.

However given the nature of the population and the errors found in the previous claim, an additional sample of 40 cases where an assessment in the subsidy period was based upon tax credits was tested. This additional testing identified:

- 1 case which resulted in an overpayment of housing benefit to a total of £50 in 2018/19 due to the omission of Child Tax Credit.
- 2 cases which had resulted in an underpayment of housing benefit to a total of £80 in 2018/19 due to the incorrect tax credits figure being used and / or lack of evidence to support the tax credit figure. As there is no eligibility to subsidy for benefit which has not been paid, the underpayment (or nil impact) identified does not affect and has not, therefore, been classified as errors for subsidy extrapolation purposes.

The following table is based on these findings:

Sample	Movement / brief note of error:	Original cell total: sub population (claims with tax credit)	Sample error:	Sample value:	Percentage error rate (to two decimal places):	Cell adjustment:
		[CT]	[SE]	SV]	[SE/SV]	[SE/SV times CT]
Initial sample – 4 cases	Incorrect calculation of tax credits	£11,378,346	£0	£15,127		
Additional testing sample – 40 cases	Incorrect calculation of tax credits	£11,378,346	£50	£155,562		
Combined sample - 44 cases	Incorrect calculation of tax credits	**£11,378,346**	**£50**	**£170,689**	**0.03%**	**£3,413**
Corresponding adjustment:	Cell 103 is overstated	£11,378,346	£50	£170,689	**0.03%**	**(£3,413)**
Total corresponding adjustment	**Total understatement of Cell 113**					**£3,413**

Cell 094 Overpaid benefit – Earned Income and self-employed income calculation error
Cell 094: Rent allowances total expenditure
Cell Total: £45,241,163
Cell Total £14,240,956 – sub population
Cell Population: 9,541 cases
Cell Population: 3,470 cases – sub population
Headline Cell: £45,241,163

In 2017/18 it was identified that the Local Authority has incorrectly calculated earned income and self-employed income resulting in an overpayment of benefit. During our initial testing, 6 cases (value £16,356) where the assessment was based on earned income / self-employed income were tested and no errors were identified.

However, given the nature of the population and the errors found in the previous claim, an additional sample of 40 cases where an assessment in the subsidy period was based upon earned income was tested. This additional testing identified:

- 3 cases which resulted in an overpayment of housing benefit to a total of £390 in 2018/19 due to miscalculating the claimants income. The errors ranged from £1 to £268.
- 2 cases which had resulted in an underpayment of housing benefit to a total of £118 in 2018/19 due to miscalculating the claimants income. As there is no eligibility to subsidy for benefit which has not been paid, the underpayment (or nil impact) identified does not affect and has not, therefore, been classified as errors for subsidy extrapolation purposes.

Within the 3 overpayment cases, one error was identified resulting in the calculation of eligible error in Cell 114. This was correctly classified as eligible error due to claimant error but the LA used an incorrect calculation resting in overstatement of Cell 114 and understatement of Cell 113. We have excluded this element from the extrapolation table below.

Sample	Movement / brief note of error:	Original cell total: sub population (claims with earning)	Sample error:	Sample value:	Percentage error rate (to four decimal places)	Cell adjustment:
		[CT]	[SE]	[SV]	[SE/SV]	[SE/SV X CT]
Initial sample – 6 cases	Incorrect Income Calculation	£14,240,956	£0	£16,356		
CAKE sample – 40 cases	Incorrect Income Calculation	£14,240,956	£391	£180,491		
Combined sample - 46 cases	Incorrect Income Calculation	£14,240,956	£391	£196,847	0.198%	£28,254
Corresponding adjustment:	Cell 103 is overstated	£14,240,956	£390	£196,847	0.14%	(£23,211)
Corresponding adjustment:	Cell 102 is overstated	£14,240,956	£1	£196,847	0.0003%	(£43)
Total corresponding adjustment	Total understatement of Cell 113					£28,254

Cell 114 Expenditure misclassification – Incorrect classification of eligible overpayments
Cell Total: 833,701
Cell population 3,037
Headline Cell: £45,241,163

It was identified in the 2016/17 and 2017/18 claim and reported in the qualification letter last year that Cell 114 included overpayments that should properly have been classified as Cell 113 LA error and administrative delay eligible overpayments. Testing within the initial testing for 2018/19 included 7 cases within Cell 114 eligible overpayments support and in all cases the overpayments were classified appropriately. Additional 40+ testing was undertaken of Cell 114 overpayments.

Additional Testing

Testing of an additional random sample of 40 cases identified 5 cases (total value £180) where the dates have been incorrectly applied and part of the overpayment should have been classified in cell 113 (LA error overpayments) not cell 114. Consequently, cell 114 is overstated and cell 113 is correspondingly understated there is no effect on cell 094.

Values ranged in value from £2 to £131.

Sample:	Movement/ brief note of error	Original cell total:	Sample error:	Sample value:	Percentage error rate (to two decimal places)	Cell adjustment:
		[CT]	[SE]	[SV]	[SE/SV]	[SE/SV times CT]
Initial sample - 7 cases	Combined results for initial sample.	£833,701	£0	£1,500		
Additional sample - 40 cases	Cell 114 overstated. Cell 113 understated	£833,701	£180	£19,435		
Combined sample 47 cases	Combined sample. Cell 114	£833,701	£180	£20,936	0.86%	£7,160
Adjustment	Cell 114- administrative delay and LA error is overstated.	£833,701	£180	£20,936	0.86%	(£7,160)
Corresponding adjustment cell 113 understated	Total understatement of cell 113					£7,160

Appendix B Observations

Cell 011 Non HRA Rent rebate

Cell Total: £798,547

The reconciliation of the headline cell 011 to the subsidy report identified a difference of £281. The total per cell 011 is £798,547 and the subsidy report stated £798,828 as the report included two cases with an imbalance. The final claim submitted for audit in April 2019 is the correct total as the misclassification error was amended before the final claim was prepared for audit.

Appendix C: Amendments to the claim form MPF720A

Error Type 4 – expenditure misclassification where benefit expenditure has been misclassified

Cell 28 Eligible Overpayments

Initial testing found 1 claim in Cell 028 classified as Eligible Overpayments that should have been classified as Cell 026 LA error and administrative delay overpayments resulting in an overpayment of £250.

Therefore, the LA tested all claims in Cell 028 and confirmed that there were two further errors in the claim that resulted in:

- 1 overpayment of £42 relating to technical error
- 1 overpayment of £11 relating to LA error

The number of cases in Cell 028 was 36 and we re-performed the test on 4 cases. The findings on those claims were correct.

Cell 028 is overstated by £303, Cell 027 is understated by £42 and Cell 026 is understated by £261. Cell 011 remains unchanged. This is reflected in the amendment made to Form MPF720a dated 17 December 2019.

Error Type 3 – benefit overpaid or insufficient supporting information.

Cell 011 Rent rebate Incorrect application of family premium

Cell 011 Non HRA Rent rebate

Cell Total: £798,547

Cell Total: £72,329 – sub population

Cell Population: 441 cases

Cell Population: 33 cases – sub population

Initial Testing of Cell 011 identified that the Local Authority has incorrectly applied family premium to 1 case resulting in an overpayment of benefit of £135. The Authority identified all claims in Cell 011 with family premium and has tested each claim.

An additional 9 claims were found to be incorrect:

- 7 cases had no impact on the amount of benefit paid
- 2 cases resulted in underpayments totalling £198.

As there is no eligibility to subsidy for benefit which has not been paid, the underpayment (or nil impact) identified does not affect and has not, therefore, been amended.

We have re-performed the test on 11 cases above and the Authority's findings on those claims were correct.

Cell 014 has been overstated by £135 and Cell 026 has been understated by £135. These cells have been amended on form MPF720a dated 17 December 2019. Cell 011 remains unchanged.

Cell 011 Rent rebate Incorrect calculation of tax credits

Cell 011 Non HRA Rent rebate

Cell Total: £798,547

Cell Total £ £99,873 – sub population

Cell Population: 441 cases

Cell Population: 61 cases – sub population

Initial Testing of Cell 011 identified that the Local Authority has incorrectly calculated the working tax credit to 1 case resulting in an underpayment of benefit of £8. As this type of error could result in overpayments additional testing was required. The Authority identified all claims in Cell 011 with tax credits and has tested each claim.

An additional 4 claims were found to be incorrect resulting in:

- 3 cases resulted in underpayments totalling £961
- 1 case resulted in no impact on subsidy.

As there is no eligibility to subsidy for benefit which has not been paid, the underpayment (or nil impact) identified does not affect and has not, therefore, been amended.

We have re-performed the test on 4 cases above and the Authority's findings on those claims were correct.

Cell 011 Rent rebate Incorrect calculation of earnings

Cell 011 Non HRA Rent rebate

Cell Total: £798,547

Cell Total £ £97,689 – sub population

Cell Population: 441 cases

Cell Population: 70 cases – sub population

Initial Testing of Cell 011 identified that the Local Authority has incorrectly calculated earnings in relation to 1 case resulting in an overpayment of benefit of £3. The Authority identified all claims in Cell 011 with earnings and has tested each claim. We initially re-performed the test on 13 cases but found that Authority's findings on were not all correct. We therefore expanded our testing to 100% of the population.

A total of 15 further claims were found to be incorrect resulting in:

- 5 overpayments totalling £8
- 5 underpayments totalling £527
- 5 cases with no impact on overall subsidy

As there is no eligibility to subsidy for benefit which has not been paid, the underpayment (or nil impact) identified does not affect and has not, therefore, been amended.

Cell 012 is overstated by £5, Cell 014 is overstated by £4 and Cell 026 is understated by £9. Cell 011 remains unchanged. This is reflected in the amendment made to Form MPF720a dated 17 December 2019.

Appendix D Additional issues

None to report.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE	**13 JANUARY 2020**

GDPR ACTION PLAN UPDATE

Final Decision-Maker	Audit, Governance and Standards Committee
Lead Head of Service	Angela Woodhouse, Head of Policy, Communications and Governance
Lead Officer and Report Author	Anna Collier, Policy and Information Manager
Classification	Public
Wards affected	All

Executive Summary

This report provides an update on progress against the General Data Protection Regulations (GDPR) action plan which the Council began implementing in 2017. It also provides an update against the national picture as presented in the Information Commissioner's report 'GDPR- one year on'.

Purpose of Report

Noting

This report makes the following recommendations to this Committee:

1. That the progress of the implementation of the GDPR action plan is noted

Timetable	
Meeting	***Date***
Audit, Governance and Standards Committee	13 January 2020

GDPR ACTION PLAN UPDATE

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's overall achievement of its aims as set out in section 3	Policy and Information Manager
Cross Cutting Objectives	The report recommendation supports the achievements of all cross-cutting objectives. It does this by ensuring that the Council collects, processes, stores and deletes residents' personal information responsibly and in accordance with the GDPR/DPA 18 whilst delivering its objectives.	Policy and Information Manager
Risk Management	This report is presented for information only and has no risk management implications.	Policy and Information Manager
Financial	The proposals set out in the recommendation are all within already approved budgetary headings and so need no new funding for implementation.	Section 151 Officer & Finance Team
Staffing	We will deliver the recommendations with our current staffing.	Policy and Information Manager
Legal	Accepting the recommendations will fulfil the Council's duties under the General Data Protection Regulations and the Data Protection Act 2018.	Legal Team
Privacy and Data Protection	Accepting the recommendations will fulfil the Council's duties under the General Data Protection Regulations and the Data Protection Act 2018.	Policy and Information Manager
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Policy & Information Manager
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Public Health Officer

Crime and Disorder	No Impact	Policy and Information Manager
Procurement	No Impact	Policy and Information Manager

2. INTRODUCTION AND BACKGROUND

2.1 Prior to the General Data Protection Regulations becoming law an action plan to ensure that Council was sufficiently prepared was developed and presented to Audit Governance and Standards Committee. Since then the action plan has evolved and Committee have been given annual updates on progress. At the last update a number of actions were still outstanding.

2.2 A copy of the updated action plan can be seen at appendix one. Ten of these eleven actions have been progressed since the update.

National overview of the General Data Protection Regulations One year on

2.3 The Information Commissioner Office's report 'GDPR – one year on' was released in late 2019 and can be seen at appendix two.

2.4 The report highlights a similar national picture to the Council's experience; a wider awareness of data protection from residents and service users and an increase in rights requests and reporting, e.g. Subject Access Requests and data breaches.

2.5 The ICO's regulatory priorities for the next year are listed below. Those of particular note to the Council are underlined.

- <u>Cyber security</u>
- AI, big data and machine learning
- Web and cross device tracking
- <u>Children's privacy</u>
- Data brokering
- <u>Political campaigns</u>
- <u>Surveillance</u> and facial recognition technology

2.6 Fines for breaches of the GDPR have been issued in Europe but none in the UK yet, however, two Notices of Intent have been issued.

- British Airways
- Marriot Hotel Chain

2.7 It should also be noted that enforcement notices are now being issued for Subject Access Requests (SARs). However, the Council has a thorough and prompt approach to dealing with SARs so this is not a cause for concern but a recognition that good practice should be maintained.

GDPR action plan progress update

2.8 A copy of the updated action plan can be seen at appendix one. Ten of the eleven outstanding actions have been progressed since the last update and two actions remain outstanding with nine completed.

2.9 Whilst good progress has been made, progress has been slower than planned due to staffing challenges and competing projects in the last year.

2.10 Of note, a lot of time was spent working with Tunbridge Wells Council to develop a shared Data Protection Impact Assessment template. As a result, a much more comprehensive and interactive document has been produced, see Appendix 3. Work was also undertaken with ICT to review processes to ensure that ICT projects do not progress until a data protection assessment has been completed.

2.11 The un-progressed area of work is a review of the Council's Information Asset Register. Whilst it is vital this is updated; this presents the lowest risk in terms of outstanding actions, so it was reprioritised and is scheduled to be completed by the end of 2020.

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3. AVAILABLE OPTIONS

3.1 The committee continues to receive an annual update on the progress of embedding GDPR into the Council's processes.

3.2 The committee could choose to receive reports on specific areas of GDPR instead of an annual update.

3.3 The Committee could choose not to receive any further updates on the delivery of the GDPR action plan.

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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 That the committee continues to receive an annual update on the progress of embedding GDPR into the Council's processes until all actions become business as usual.

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5. RISK

5.1 This report is presented for information only and has no risk management implications.

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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 The Committee has received an annual update since 2017. The chair of the committee also holds a place on the Council's Information Management Group, which oversees the GDPR action plan.

7. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- *Appendix 1: Action Plan Update*
- *Appendix 2: GDPR One Year on*
- *Appendix 3: Data Protection Impact Assessment Template*

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8. BACKGROUND PAPERS

None

Action Plan Update

Action	Start Date	End Date	Responsible	Status	Update
Review processes around Data Protection Impact Assessments	Nov-18	Mar-19	Anna Collier	Completed	A new Data Protection Impact Assessment (DPIA) has been developed. The form is now very comprehensive but also provides a lot of guidance (when viewed and completed electronically). A new process has been implemented with the ICT service: requests for new systems or amendments to systems are immediately flagged by the ICT officers and escalated to the Data Protection Officer for review, those that which are collecting new personal data or a change in processing will need to complete a DPIA before ICT will progress the project. Data Protection is now covered as part of all reports to Corporate Leadership Team and Committees. The reports are reviewed and signed off by the Data Protection Officer or Policy and Information Manager.
Review Record of Processing Activities	Mar-19	Aug-19	Anna Collier	Completed	A formal review of the ROPA has been completed. Meetings have been held with managers across the Council to update the document where processes have changed or been introduced and to collect further information. The recommendations for changes in processes will be reviewed by the information management group in January and form part of a new monitoring plan.

Review Retention Schedules	Mar-19	Aug-19	Anna Collier	Underway, estimated completion date October 2020	As part of the ROPA review retention schedules are also being checked and updated. Retention schedules not on the ROPA will be reviewed during 2020 A project on email retention is also being undertaken.
Review and update information Asset Register	Mar-19	Aug-19	Anna Collier	Not Started, completion date December 2020	A review of the Information Asset Register has been postponed due to staff capacity. This will be undertaken in 2020.
Review Information Sharing	May-19	Jul-19	Anna Collier	Completed	A draft information sharing policy and supporting documentation including information checklist, agreement and guidance have been developed. These will agreed by the Information Management Board in January. Existing agreements outside of the Kent and Medway Sharing Agreement will be reviewed in accordance with the new policy when it signed off. Training will be given to staff on the new policy in the new year.
Review of training needs ensuring cultural change	Feb-19	Sept- 19	Angela Woodhouse	Completed	Further training has been identified and undertaken by the DPO and the Policy and Information team to increase understanding in some specific DPA areas. Service specific training sessions have been given as well as training for new starters, in high risk service areas. Further training is planned on information sharing in the new year. An ongoing review is now considered business as usual

Update Range of Guidance for Intranet	May 19	Jul-19	Anna Collier	Completed	A full range of guidance is available for staff on the intranet and will shortly be updated to include information on information sharing and email retention. Guidance will constantly need to be updated to reflect ICO guidance and lessons learnt. This has now moved to business as usual.
Ensure contracts and partners are GDPR compliant	ongoing	ongoing	Simon Logan Legal/Procurement teams	Completed	All contracts have been reviewed and amendments or agreements signed accordingly. GDPR is now part of standard contract development.
Review and audit archive arrangements	Feb 19	May 19	Gary Hunter	Completed	Archive arrangements have been reviewed and our contract has been renewed. Work is now underway reviewing internal storage arrangements.
CCTV Review	Aug 19	Nov 19	Anna Collier	Completed	A full review of CCTV arrangements has been undertaken, recommendations have been made and draft documents produced. The information management group will be considering the recommendations in January, and these will form part of a new monitoring plan.
Model for monitoring implementation of changes to processing activities	Oct 19	Nov 19	Anna Collier	Completed	A new monitoring plan will be introduced and held by the Policy and Information Team and overseen by the information management group. This will hold actions and recommendations from reviews as well as any actions from high risk DPIAs for which the manager's will be accountable.

APPENDIX 2

GDPR ONE YEAR ON

GDPR One year on

ico.
Information Commissioner's Office

GDPR: One year on

This update

The purpose of this update is to reflect on our experiences over the past year and share what we have learnt about the GDPR and its impact a year after its implementation.

We describe some of the work we have undertaken to deliver the six goals set out in our Information Rights Strategic Plan. This includes supporting the public to use their new rights, working with organisations to provide support and guidance and using our new enforcement and investigation powers. The report also covers how we are working to stay relevant and foster innovation and ensuring we are a well-resourced, influential regulator on the national and international stage.

As well as describing what we have delivered in the first year of the new regime and some of our ongoing work, we look ahead to our priorities and focus for the year ahead.

We describe a year of:

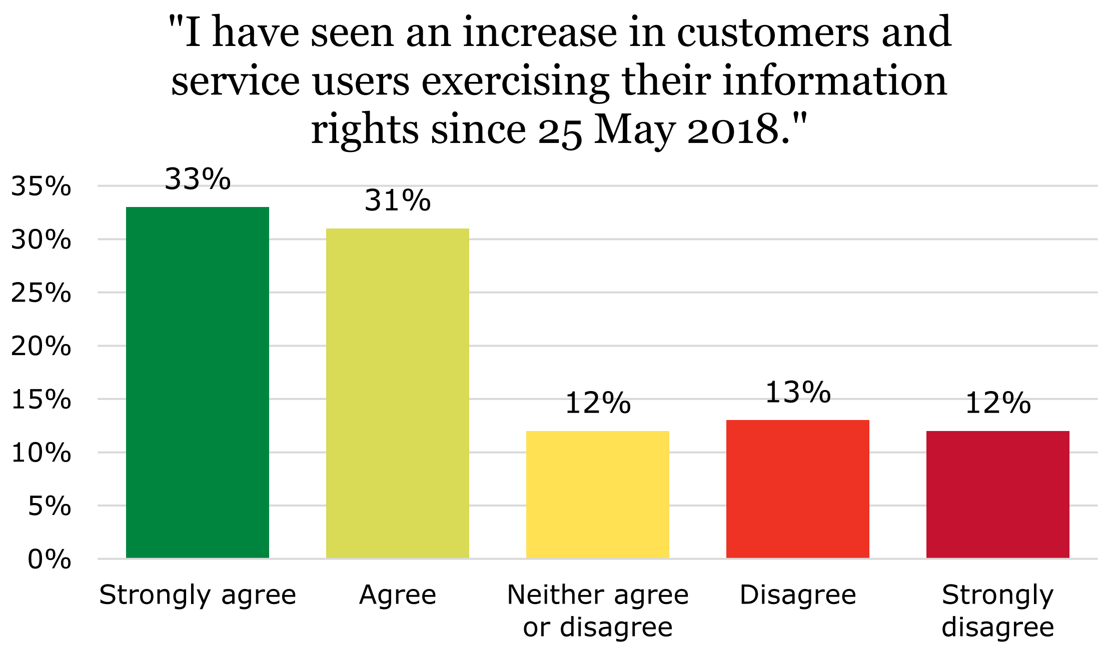
Supporting

The public

The first year of the GDPR has seen people realise the potential of their personal data. There is a greater awareness of the law, in particular the data rights of individuals, and a greater awareness of the role of the regulator where rights aren't being respected.

Research conducted for us in July 2018 found one in three (34%) people have high trust and confidence in companies and organisations storing and using their personal information – significantly up from the 21% stating this in 2017.

In March we surveyed DPOs, and 64% stated that they either agreed or strongly agreed with the statement 'I have seen an increase in customers and service users exercising their information rights since 25 May 2018'.



Note: These figures have been formatted so that they are rounded to the nearest whole number.

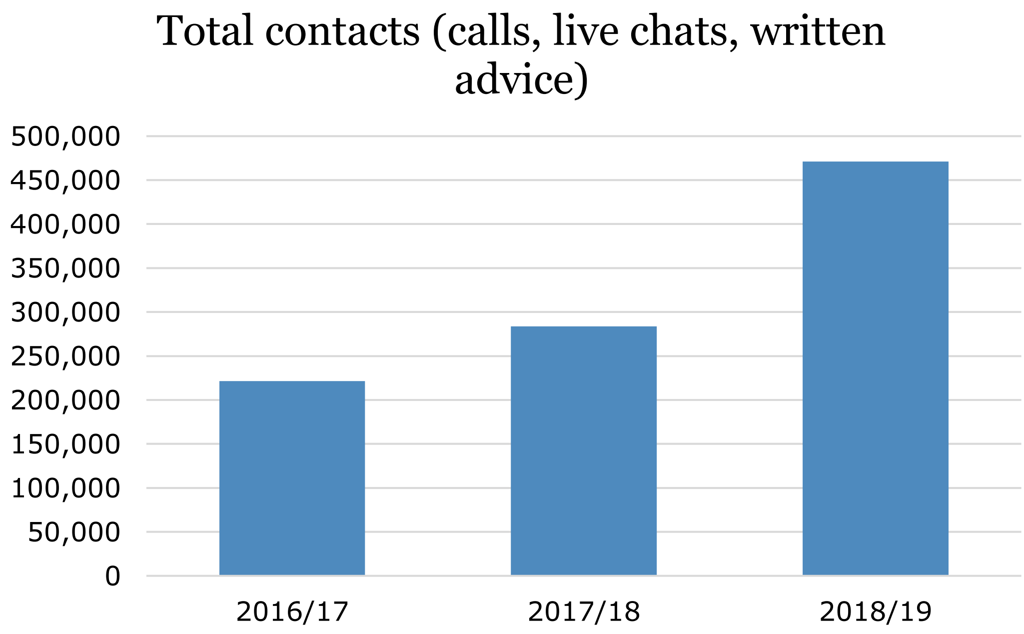
This increase in awareness has been supported by the ICO's Your Data Matters campaign. This campaign aims to increase awareness of the enhanced data protection rights individuals have under the GDPR, highlighting how people can exercise these rights and promoting our online guidance products. This campaign has led to a 32% (over 2.5 million) increase in individuals accessing our website.

We've been working to support the public throughout. This may have been direct through one of our many expanded public facing services or through an organisation using one of the various tools we have made available for companies, small or large, to explain the new laws and rights. We have also launched a number of investigations to highlight and address otherwise opaque or invisible processing of personal information so the public are aware how their data is being used.

Data Protection Officers

At the same time, the push to be ready for the GDPR prompted organisations to make significant changes. They determined the legal basis under which they collected personal data, inventoried the data they held, examined how data was used in their supply chains and refreshed their consents.

This heightened engagement and understanding of the rights and responsibilities in the new regime has been reflected in the volume and nature of our contact and engagement with businesses, organisations and individuals. Our helpline, live chat and written advice services received over 470,000 contacts in 2018/19, a 66% increase from 2017/18.



In larger organisations, the GDPR has placed a significant responsibility on DPOs, bringing with it the ongoing challenge of normalising the new regulations.

Nominations received for this year’s Practitioner Award for Excellence in Data Protection demonstrated the creative and dynamic way this community of privacy professionals has responded to this challenge.

At our annual Data Protection Practitioners’ Conference (DPPC) in April 2019, we presented the award to Mikko Niva of Vodafone Group Services Ltd. Mr Niva delivered a pioneering privacy compliance programme for Vodafone - not just in the UK, but across 21 different countries. He also took a leadership role outside of Vodafone, speaking on privacy at a range of conferences during the year. Mr Niva’s award follows on from the 2018 winner, Esther Watt, Data Protection Officer at North Kesteven Council. Ms Watt led a programme for the council to ensure a smooth and positive transition towards GDPR compliance.

Many other examples of similar work across all industries were showcased throughout the nominations for this award, including:

- demonstrating the future benefits of GDPR compliance to the business;
- producing guidelines and training modules, tailored to the needs of each business, to help to make the GDPR understandable to their organisation;
- running specific companies which aid SMEs or charities with GDPR compliance;
- embedding privacy by design and Data Protection Impact Assessments (DPIAs) by default for all new work processes;
- developing GDPR action plans to embed data protection principles throughout organisations;
- awareness raising and cultural change by emphasising that the GDPR is a company-wide responsibility. In some organisations, this has included making every employee accountable for the information they work with; and
- working with other organisations within their sector to provide support and best practice at a sector level.

This award helps to demonstrate some of the work being done throughout the UK to embed the principles of the GDPR into organisations.

It also shows the importance of an embedded DPO with the right support. The challenges faced every day by DPOs means that having the seniority and engagement from board level is critical to their success. Resourcing these roles should be a key priority for both public and private sector organisations.

When we surveyed DPOs as part of the DPPC 2019, the responses showed that the majority of DPOs felt that they received great support from within their organisation. The importance of culture was considered to be one of the biggest issues for implementing the GDPR and so it is encouraging to see that at least two-thirds of all respondents were satisfied with their senior leadership support. More than 90% of DPOs had an accountability framework in place and 61% reported that their framework is well understood in their organisation. Overall, three quarters of DPOs said that their information rights messages were getting through to their senior leadership team, and they felt supported in developing a framework to embed these rights in their organisation.

Clearly this is positive progress in under a year, but maintaining momentum will be key. There is still a long way to go to truly embed the GDPR and to fully understand the impact of the new legislation – in our survey nearly 50% of respondents faced unexpected consequences as a result of the GDPR.

To help, we have continued to produce guidance and blogs to support organisations, building on the success of our early 'myth-busting' advice and our comprehensive guide to the GDPR, published in the run-up to 25 May 2018. Businesses around the world used this guidance in the run-up to 25 May and beyond: between 1 April 2018 and 24 May 2019, it had 16.6 million views on our website.

SMEs

Beyond the DPO community, we recognise that it hasn't been easy for small organisations to become GDPR compliant. Legal bases for processing, data auditing and privacy policies take time to understand and there are no quick fixes for making sure people's personal data is being processed legally. For sole traders this has been particularly difficult.

To help this vital community understand their responsibilities, we provided a suite of resources, support and guidance on our website tailored to the needs of sole traders and small organisations, including toolkits and checklists, podcasts and FAQs. For further help and advice, we offered a dedicated helpline and live chat service and held advisory sessions attended by hundreds of SMEs. In addition to these services we will also soon be establishing within the ICO a one-stop shop for SMEs, drawing together the expertise from across our regulatory teams to help us better support those organisations without the capacity or obligation to maintain dedicated in-house compliance resources.

All organisations

To help organisations understand their obligations we have produced a Guide to the GDPR, which also integrates content related to the DPA 2018. We have also produced an interactive tool to help organisations to understand the lawful bases for processing, as well as a tool to assist with the continued flow of data in the event of a no-deal Brexit.

We have also produced an in-depth Guide to Law Enforcement Processing for those who have day-to-day responsibility for data protection in organisations with law enforcement functions. Supporting those covered by the new Law Enforcement Directive has also been a key service in the year after its implementation.

We have put comprehensive guidance in place – our aim is now to focus on where existing guidance still needs to be updated and ensure we continue to provide a clear and comprehensive guide to the law. We will also continue to provide new areas of support for organisations, such as codes of conduct and certification, and to continue to bust myths – with blogs covering some misconceptions about topics as wide-ranging as data sharing, personal data flows after Brexit and to offer our annual festive reassurance that the GDPR won't affect Christmas.

Alongside our guidance, we also have responsibility for creating four statutory codes for data sharing, direct marketing, age-appropriate design and data protection and journalism. These codes are being developed and will play an important part in supporting the implementation of the GDPR in these areas.

Age appropriate design code

A key concept of the GDPR is that children merit special protection. This code, known colloquially as the children's code, aims to help achieve that. The children's code sets out 16 standards of age-appropriate design which we expect providers of online services and apps to meet when their apps are likely to be used by children or when they process children's personal data. This is a key example of how important and effective data protection by design can be. The code builds on Parliament's set of minimum standards to be taken into account.

The consultation on [the draft code] closes on 31 May 2019. It was created following a call for views from June to December 2018, which included a survey for parents, carers or children to give their views.

Data sharing code

The data sharing code will update our existing data sharing code of practice, which was published in 2011 under the DPA 1998. Data sharing brings important benefits to organisations, citizens and consumers, making their lives easier and helping with the delivery of efficient services.

One of the myths of the GDPR is that it prevents data sharing. This isn't true. The GDPR aims to ensure that there is trust and confidence in how organisations use personal data and ensure that organisations share data securely and fairly. To achieve this, it is important that data controllers have clear guidance on data sharing so that individuals can be confident that their data is shared securely and responsibly.

A call for views on the data sharing code closed in September 2018. We are currently considering the views presented to develop a draft code for formal consultation. We expect to launch that consultation in June 2019 and for the code to be laid before Parliament in the autumn.

Direct marketing code

The direct marketing code aims to ensure that direct marketing continues to be a useful tool for organisations to engage with customers to grow their business or publicise and gain support for causes. It must also avoid being intrusive and ensure that all activities are compliant with the GDPR, DPA 2018 and the Privacy and Electronic Communications Regulations (PECR).

A call for views closed in December 2018 and we are currently considering the feedback. This will inform a draft code; we expect to launch a formal consultation on this in June 2019 and to finalise the code by the end of October. We will review the code once the new European Union e-privacy regulation is completed, and update if necessary.

Data protection and journalism code

The data protection and journalism code aims to strike a balance between privacy, respect of individuals' rights, and freedom of expression. The code will provide clear and practical guidance on what the law requires to achieve this. This builds on guidance we produced under the Data Protection Act (DPA) 1998 in response to the Leveson Inquiry. We will also be working with the press regulators to ensure that the code fits within the wider framework for the industry.

The call for views was published on 29 April 2019 and closed on 27 May 2019. Following this, we will review the views presented and develop a draft code for formal consultation. We expect to launch that consultation in June 2019 and lay the code before Parliament in the summer.

Political parties

In July 2018 we published our Democracy Disrupted? report. This report emerged from our investigations under the DPA 1998 into the use of personal data in political campaigns. While we have produced guidance on political campaigning, the investigation demonstrated the need for a wider code of practice, as parties and campaign groups now increasingly use personal information and data analytics to target and influence voters.

A code of practice is vital to retain the trust and confidence of the electorate, ensuring that all personal data used in political campaigns is used in a way which is transparent, understandable and lawful. The code will explain how to do that.

The code will apply to all organisations who process personal data for the purpose of political campaigning, ie activity relating to elections or referenda.

Under the GDPR, the Commissioner has the power to produce codes of practice. However, it is our position that it would be preferable for this code to be given statutory footing under the DPA 2018, so that it has the same legal status as the other four codes. We have called on the Government to legislate to this end.

A call for views on this code closed on 21 December 2018. We are currently considering the views presented to develop a draft code for formal consultation. We expect to launch that consultation in July 2019.

Taking action

Enforcing

Whilst providing support and guidance to organisations is a key part of the ICO's role, we will not hesitate to act in the public interest when organisations wilfully or negligently break the law. Enforcing the GDPR is not just about big fines; it's about using all the tools set out in our Regulatory Action Policy. In this policy we set out our objectives for regulatory action:

- We will respond swiftly and effectively to breaches, focusing on those involving highly sensitive information, adversely effecting large groups of individuals or those impacting vulnerable individuals.
- We will be effective, proportionate, dissuasive and consistent in our application of sanctions, targeting our most significant powers on organisations and individuals suspected of repeated or wilful misconduct or serious failures to take proper steps to protect personal data.
- We will support compliance with the law, including sharing information in relation to and otherwise contributing to the promotion of good practice and providing advice on how to comply with all aspects of legislation.
- We will be proactive in identifying and mitigating new or emerging risks arising from technological and societal change.
- We will work with other regulators and interested parties constructively, at home and abroad, recognising the interconnected nature of the technological landscape in which we operate and the nature of data flows in the expanding digital economy.

The policy also sets out how we will use our enhanced powers to pull back the curtain on processing where the public have concerns, for example social media companies, political parties, data brokers and the use of new technologies by law enforcement agencies.

We are increasingly using our powers to change behaviours. We have tools at our disposal and will use these to ensure individual rights are upheld and organisations comply with the law. Our recent action against HMRC for failing to get consumer consent to use their voices in recognition software resulted in us issuing HMRC with an enforcement notice and ordering them to delete the records of five million individuals.

Under the GDPR we are able to issue formal assessment notices to any organisation either public or private. Under the DPA 1998 the Commissioner only had compulsory audit powers in respect of central government and health organisations. These new powers of inspection have enabled us to proactively respond to concerns raised by the public about unsolicited marketing communications and fair and unlawful processing. We have issued 15 assessment notices under the new law in conjunction with our investigations into data analytics for political purposes, political parties, data brokers, credit reference agencies and others.

We have also issued organisations with warnings and reprimands across a range of sectors including health, central government, criminal justice, education, retail and finance. We have issued 11 information notices which have allowed us to progress our investigations and inform our action.

To make sure our enforcement work is targeted in the right areas, we use the information we receive from the public and other sources to inform our strategic threat assessment and support our investigations and enforcement work. This includes information from personal data breach reports, concerns reported to us by the public and working with other regulators.

CASE STUDY

Use of powers in our high profile investigations – the changing landscape

In May 2017 we launched a formal investigation into the use of data analytics for political purposes after allegations were made about the 'invisible processing' of people's personal data and the micro-targeting of political adverts during the 2016 EU referendum.

The inquiry eventually broadened and has become the largest investigation of its type by any data protection authority, involving social media online platforms, data brokers, analytics firms, academic institutions, political parties and campaign groups.

Our investigation was conducted under both the previous and new legislation. In order to seize evidence as part of the investigation we requested a warrant which meant it took 17 days from the outset to gain access to Cambridge Analytica's premises. Our powers have broadened and we now have greater control and flexibility over powers to help this type of situation. 'No-notice' assessment notices mean we should be able to have access to companies' data protection practices faster than under the previous legislation.

We issued the first enforcement notice under DPA 2018 to Aggregate IQ, a Canadian data broker and one of the organisations that formed part of the investigation. It ordered the company to delete certain personal data it held about UK citizens.

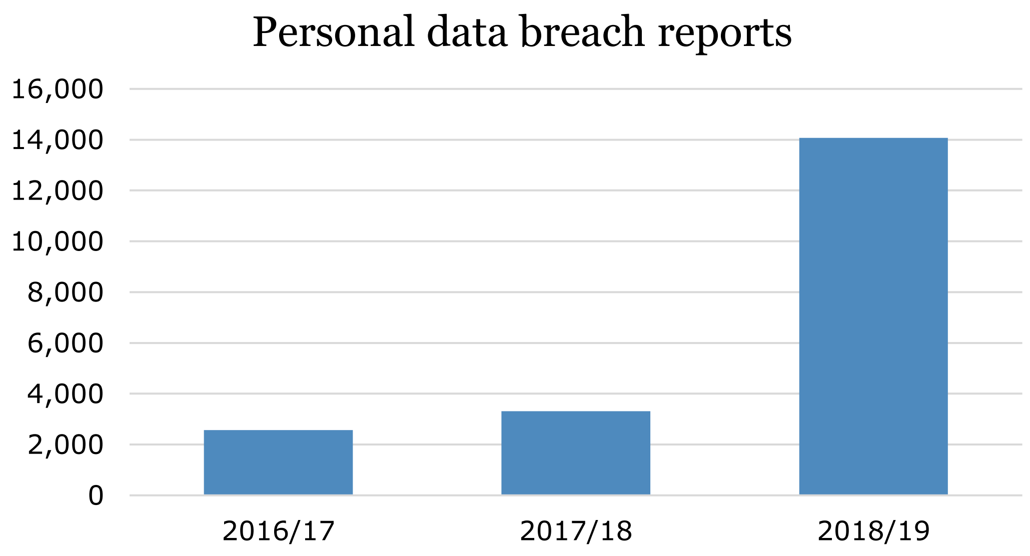
Under the previous legislation we issued Facebook with a £500,000 fine because of the timing of the breaches. As we have stated in the past, the fine could have been higher under the new legislation.

Before 25 May 2018, most companies had to agree to an audit. Now we have the power to issue assessment notices - and we did so soon after the introduction of new laws in order to understand how the three credit reference agencies and three main data brokers collect and use people's personal data for direct marketing.

Information notices have continued to be issued before and after the introduction of the GDPR, but we now have the ability to issue 'urgent' information notices which will assist with all fast-moving investigations.

Acting on personal data breaches

We received around 14,000 PDB reports from 25 May 2018 to 1 May 2019. For comparison, we received around 3,300 PDB reports in the year from 1 April 2017.



We closed over 12,000 of these cases during the year. Of these, only around 17.5% required action from the organisation and less than 0.5% led to either an improvement plan or civil monetary penalty. While this means that over 82% of cases required no action from the organisation, it demonstrates that businesses are taking the requirements of the GDPR seriously and it is encouraging that these are being proactively and systematically reported to us. These figures also show that it remains a challenge for organisations and DPOs to assess and report breaches within the statutory timescales. We recognise this and provide support and guidance to help organisations to meet the requirements to report.

The personal data breaches reported to the ICO have resulted in a range of outcomes.

An example of a breach reported where no further action was required:

A nursery produced Father's Day cards for the children to take home. Within the card was a photo of the child. There were two children with the same name at the nursery, which accidentally put child A's photo in child B's card and vice versa. No further action was required and our view was that this breach was not reportable – it is unlikely individuals' rights and freedoms would be impacted by the wrong photo being sent out. We provided advice to the nursery about reporting thresholds.

An example of a breach that did require further action from the organisation, but did not require formal action from the ICO:

An organisation was late submitting two reports to us, but one didn't meet the reporting threshold. Advice had been given previously and some steps taken to make improvements to the breach reporting process, so the ICO sought further assurances about future improvements to practices and reporting.

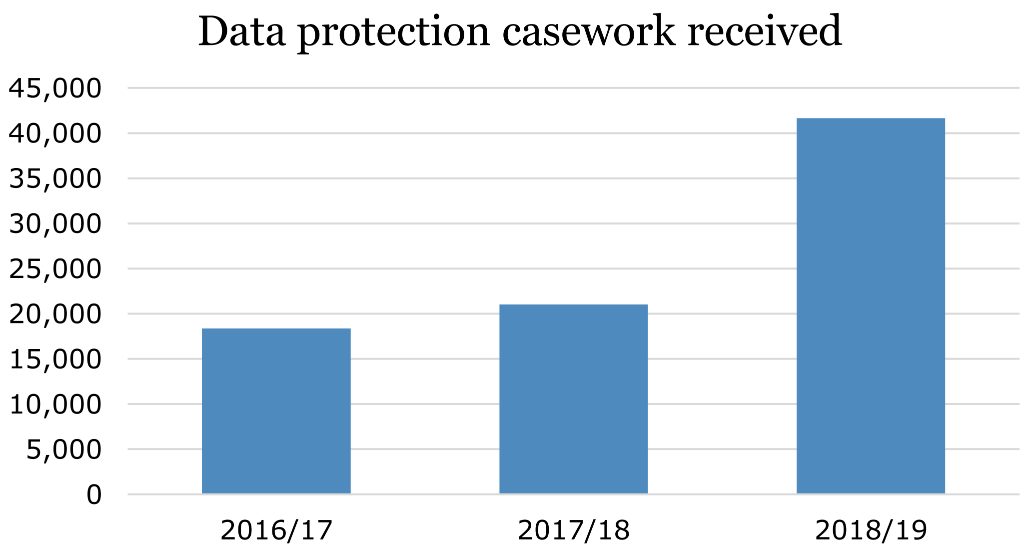
An example of a breach where the ICO took formal action:

As a result of administrative errors, an organisation disclosed personal data to incorrect recipients. Our investigation determined that whilst this was not a systemic failing, it nevertheless demonstrated that established policies and procedures were not always being followed. The organisation was therefore issued with a reprimand to take certain steps to improve compliance with the GDPR, including ensuring that all staff attended mandatory training; that policies and procedures be enforced and reiterated to staff on a regular basis; and that contact details be checked on all correspondence.

Responding to public concerns

Greater awareness of individual rights has meant that we have seen a significant impact on the numbers of concerns raised with us by the public. From 25 May 2018 to 1 May 2019, we received over 41,000 data protection concerns from the public. The figure for 2017/18 was around 21,000.

Subject access requests remain the most frequent complaint category, representing around 38% of data protection complaints we received. This is similar to the proportion before the GDPR (39%). In fact, the general trend is that all categories of complaint have risen in proportion with the overall increased number of complaints since the implementation of the GDPR.



We also see that some sectors are responsible for higher numbers of breach reports and data protection concerns. The health sector, for example, accounts for over 16% of PDBs and 7% of data protection complaints. Local government accounted for 8% of PDBs and 9% of data protection complaints. Lenders accounted for 6% of data protection complaints. This intelligence helps us to target our guidance, support and action in the areas where there is the greatest regulatory risk.

Working with others

In the modern world, data truly has no borders. The GDPR has an international impact, applying to every company which does business in Europe. Our international strategy commits us to maintaining the strong links we have in Europe and beyond. It also sets out a clear vision of where we need to develop our capacity to share investigatory information and to share best practice from international exemplars.

EU Data Protection Board figures indicated that from 25 May 2018 to 1 May 2019, there were around 240,000 cases across the EU (data protection complaints, data breaches, proactiveinvestigations or other similar issues). We received over 55,000 of these (roughly 23%). Where the data protection cases reported have cross-border implications throughout the EU, these are reported to a lead EU data protection authority. The UK is currently the lead supervisory authority on 93 of these cases.

In addition, the UK is working on behalf of UK citizens to uphold their information rights in 58 other cases where other EU data protection authorities are the lead supervisory authority, and the UK is a concerned supervisory authority.

We continue to grow and strengthen our links with the EU supervisory authorities to support ongoing data protection work, protecting the information rights of UK citizens. On a wider global stage, in October 2018 the Information Commissioner was elected as chair of the International Conference of Data Protection and Privacy Commissioners (ICDPPC), which brings together around 120 data protection offices across the world.

This role gives the UK an ability to not just share policy and enforcement experience, but to take on a leadership role within the global privacy and information rights community.

On a national level we have continued to develop and build relationships with other regulators including joining the UK Regulator's Network (UKRN). These relationships not only support our enforcement and operational work, but also enable us to ensure that data protection and information rights are a key topic across sectors.

Enabling innovation

Developing Sandbox

The GDPR requires businesses and organisations to focus on comprehensive data protection, embedding sound data governance in all processes. As organisations meet this challenge, we will encourage innovation through our approach to engagement and regulation.

In March 2019 we opened the beta phase of our regulatory sandbox, a new service designed to support organisations using personal data to develop products and services that are innovative and have demonstrable public benefit.

The Sandbox will enable participants to work through how they use personal data in their projects with our specialist staff to help ensure they comply with data protection rules. We expect that many of the products that will come into the Sandbox will be at the cutting edge of innovation and may be operating in particularly challenging areas of data protection where there is genuine uncertainty about what compliance looks like.

Delivering the Grants Programme

In 2018 we introduced a Research Grants Programme to promote good practice and support independent, innovative research and solutions, focused on privacy and data protection issues, to help to deliver long-term improvements to information rights. This gives the UK research community a stronger voice in how information rights evolve and to find solutions for privacy and data protection issues. We have earmarked £1m of funding for this programme over four years.

In 2018, we awarded grants to four organisations:

- Open Rights Group: Development of a digital tool to help individuals protect and enforce their information rights, particularly in the insurance and banking sectors. As part of the research a website, Data Rights Finder, was created to make contents of privacy policies more understandable. This allows a better understanding of how personal data is collected and used and what people can do about this. This also increases clarity about how personal data is being used for near-instant decisions for financial products.

- Imperial College London: Development of an online tool for the public and organisations to evaluate the risk of re-identification of pseudonymised data.
- Teeside University: Development of a prototype software tool for healthcare professionals to capture patient privacy preferences to allow sharing medical information securely to support research (as part of the Great North Care Record). Data sharing can lead to better outcomes for patients, as well as data-sharing for research leading to major advances for treatments. The research included evaluation of the tool with focus groups on ease of use, which also allowed patients to see the effect on the availability of their data. The tool captures privacy directives in fine and coarse-grain detail and providesreat benefits to privacy. It could be adapted for existing healthcare systems.
- London School of Economics: A project looking at children's information rights and privacy, with the intention of it leading to the production of an accessible online toolkit for children, parents and teachers to increase their awareness and competency around online privacy. This research particularly looked at children's capacity to consent, children's understanding of privacy and the potential risks related to this. This research work has clear links to our work to keep children safe online, which is also being progressed through our age-appropriate design code.

We also selected four innovative research projects to receive a total of over £275,000 in funding for Phase 2. These initiatives were:

- Connection at St Martin's in the Field: A project to engage with homeless people in London to better understand their knowledge and awareness about how their personal information is used. As well as providing an effective means of informing homeless people of their data rights and how to enforce them, the project will create an outreach process that can be taken up by other organisations.
- Oxford University: A study of six smart homes to study current privacy preferences and to prototype new tools, interfaces, and

approaches to smart home privacy. The project team will also gain an understanding of how these alternative design approaches might be integrated into processes and disseminate the resulting best practices.

- PHG Foundation: A project researching the nature of pseudonymised genomic data, its function as personal data under the GDPR, uses in medical research and how any potential associated risks may be mitigated.
- Cardiff University: A project to develop a training programme for researchers working with a wide range of routine public sector data.

Growing the ICO

Our people

The work outlined above has created challenges for the ICO in how we deliver our new powers and responsibilities, as well as meeting the growth in demand for our services as a result of the DPA 2018 and the GDPR.

During 2018/19, our workforce grew from 505 to more than 700. As demand for, and interest in, our work continues to increase into 2019/20, we are anticipating further increases to our workforce, eventually taking the ICO to an anticipated 825 full-time equivalent in early 2020/21. That will mean the ICO has almost doubled in size over three years.

As might be expected, training and developing our new staff has been a key feature of the past year.

We have appointed significant numbers of new staff to specialised roles: we doubled the size of the Data Protection Complaints Directorate, which was already our largest department, and we more than doubled the size of our Customer Contact department. At the same time, we have reviewed our structures, processes and use of technology to ensure we are delivering our services in an efficient and effective way, with a new service excellence programme continuing to guide our expansion plans.

To meet the challenges of the GDPR it was vital to recruit and retain staff with the right mix of skills and experience. A review of our pay arrangements helped to mitigate the risks posed by uncompetitive pay. We have also developed different ways of attracting the right people, including developing secondments, apprenticeships and research fellowships.

Keeping pace with developments in technology and cyber security is fundamentally important to our work. The challenges are as real for the ICO, as a regulator, as they are for those we regulate. As well as expanding our capacity to deal with the increased work, we have needed to increase our capability to deal with more complex areas.

Some of the most significant data protection risks to individuals, including cyber attacks, AI, cross-device tracking and machine learning, are now driven by the use of new technologies.

Last year we produced our Technology Strategy, which set out our plans in this area. During 2018/19, we took some significant steps to increase our technology capability and deliver that Technology Strategy. We also established a new Executive Directorate for Technology Policy and Innovation.

This increased capability in technology has already been hugely beneficial, contributing heavily to our Age appropriate design code to protect children from harm online. It has also allowed us to establish a Regulators and AI forum, which will let regulators share best practice on regulating AI.

These changes, together with the accompanying expansion of physical and technical infrastructure, were key to the ICO being able to meet the demand from DPA 2018, and was affordable because of the associated changes to our funding model.

Our resources

As the profile, responsibilities, powers and size of the organisation have increased, the ICO’s funding has been reviewed to ensure it is well resourced to deliver its vital role.

Under the previous funding model, organisations with fewer than 250 employees paid a data protection fee to the ICO of £35. Under the new model, organisations with ten or fewer staff and charities pay a fee of £40, while organisations with between 11 and 250 staff pay £60. Large organisations with over 250 staff previously paid a fee of £500, butnow pay £2,900.

In the past year the number of organisations paying the Data Protection fee increased by 16%, compared to a historic average yearly increase of 6%. However, due to the funding model change, this meant that our fee income increased by 86% in 2018/19 compared to 2017/18.

In the short term, it is vital that we continue to be adequately resourced to deliver against our responsibilities under the DPA 2018. We will continue to grow the numbers of organisations paying the fee and push for every single organisation required to pay the fee to do so.

In November, we issued our first penalty notices for non-payment of the data protection fee. Up to 30 April 2019, we issued over 3,800 notices of intent to fine for failure to pay the fee, and of these we received nearly 2,300 payments totalling around £627,000. For the same period, over 300 Final Penalty Notices were issued for non-payment of fees, resulting in nearly £100,000 in fees and penalties. In 2019/20, we will continue to investigate where companies have not paid the fee, particularly large companies.

An increase in the number of organisations paying the fee will not mean we have unlimited funding. We will resource ourselves according to our goals. If the income from fees consistently outstrips our needs, it will bring the potential to reduce the fee for all organisations, reducing the burden for every organisation, but ensuring that burden is shared equally.

Looking forward

As we take stock of all that has changed and been achieved in the year, it is clear there is much left to do. We will continue to strive to deliver regulatory outcomes which support our mission of upholding information rights for the UK public in the digital age and the trust and confidence in how data is used.

We will continue to focus on the areas identified as our regulatory priorities. These include:

- cyber security;
- AI, big data and machine learning;
- web and cross-device tracking for marketing purposes;
- children's privacy;
- use of surveillance and facial recognition technology;

- data broking;
- the use of personal information in political campaigns; and
- freedom of information compliance.

We will focus on ensuring our work is aligned to these priorities, keeping pace with the way the privacy and information rights landscape is changing. As the public's attitudes to how their information is used changes, we have an opportunity to make a real difference.

APPENDIX 3

DATA PROTECTION IMPACT ASSESSMENT TEMPLATE

Data Protection Impact Assessment
Section 1: Project Brief

PROJECT:

PROJECT OWNER:

DATE:

1. Project Brief
What is the project?
What does it aim to achieve?
What are the benefits to the organisation?
What are the benefits to individuals?
What are the benefits to other parties?
Have you or anyone else done something similar?
What existing policies, procedures and laws will apply?
Whose privacy may be impacted?
What date will the project be implemented?

Data Protection Impact Assessment
Section 2: Processing Activities

2. Does the project involve any of the following?	Yes or No	Notes
Systematic and extensive profiling which is based on automated processing with significant effects.		
Processing of special category or criminal offence data on a large scale.		
Systematic monitoring of publicly accessible places on a large scale.		
Use of technology that is new to the service or a change in how an existing system is being used.		*Please provide details of what changes are proposed.*
Use of profiling or special category data to decide on access to services which is based on any extent of automated decision-making.		
Profiling of individuals on a large scale.		
Processing of biometric data.		
Processing of genetic data.		
Matching (comparing two or more sets) of data or combining datasets from different sources.		
Collecting personal data from a source other than the individual without providing them with a privacy notice (invisible processing).		
Tracking individuals' location or behaviour, including but not limited to the online environment.		
Profiling children (up to the age of 18) or targeting marketing or online services at them.		*Please confirm the age of any children being targeted.*
Processing data that might endanger the individual's physical health or safety in the event of a security breach.		
Collecting personal data for a major project		
Large scale processing of personal data.		
Profiling or monitoring.		
Making decisions about whether individuals can access services or opportunities.		
Sensitive data or vulnerable individuals.		
Communication (by whatever means) of any advertising or marketing material which is directed to particular individuals.		
Sharing data between services.		
If you have not ticked any of the above, record the reasons why a DPIA is not needed and/or any issues that need to be considered below.		

Data Protection Impact Assessment
Section 3: Information Flows

3. Describe the collection, use and deletion of personal data			
What personal data will you collect? *Tick all that apply*			
Name ☐	Address ☐	Email address ☐	Financial data ☐
Age data ☐	Camera images ☐	Race ☐	Ethnic origin ☐
Political data ☐	Religion ☐	Trade union membership ☐	Genetic data ☐
Biometric data ☐	Health data ☐	Sex life ☐	Sexual orientation ☐
Other: *(please list categories / fields being collected)*			
Approximately how many individuals are likely to be affected by the project?			
How will you be collecting the data? *Online/paper forms, face-to-face, telephone, etc.…*			
Will you be collecting information directly from the individual or a third party?			
Is a privacy notice already in place covering this activity? *Please provide a copy.*			
Please explain what you will do with the data once it has been received? *Logged on a system, passed to someone else etc.…*			
Who will have access to the data? *Including particular job roles or contractors* etc...			
How and where will the data be stored?			
How long will the data retained for?			
How will the data be deleted?			

4. Initial assessment of lawful basis for processing
Before you can proceed, you must have a lawful basis for processing personal data. You will need to identify which of the lawful bases, as set out in the General Data Protection Regulations, applies to your processing activity.
Either a: If the project involves collecting **new** categories of data that you have not collected before, identify the lawful basis for processing: Lawful basis: **Choose an item.** If you are processing special category data, you will need to identify an additional lawful basis from the following: **Choose an item.** Comments:
Or b: If the project involves collecting **existing** categories of data in a different way to how it is collected currently, identify the lawful basis for processing from the Record of Processing Activity (ROPA). Lawful basis for existing data: Choose an item. If you are processing special category data, you will need to identify an additional lawful basis from the following: Choose an item. c: If the project involves using **existing data for a new purpose** identify the lawful basis for the new purpose and consider whether the new purpose is permitted. Lawful basis for new purpose: Choose an item. If you are processing special category data, you will need to identify an additional lawful basis from the following: Choose an item. ***Notes for Performance & Governance Team. Either:*** *1) Assess compatibility of original purpose with new purpose:* *a) Is the new purpose permitted by law?* *b) Is there a link between the purposes for original processing and the purposes of intended further processing?* *c) Would it be reasonable for data subjects to expect their data to be used in this way?* *d) What is the nature of the personal data?* *e) What are the consequences of the intended further processing for data subjects?* *f) Are there appropriate safeguards in both the original and intended further processing operations?* ***Or:*** *2) Have the data subjects given their consent to use the data for a new purpose?* ***Or:*** *3) Does the processing constitute a necessary and proportionate measure to safeguard important objectives of general public interest?*

5. Initial view of risks	
Are there any potential issues in relation to the data protection principles and rights below? See glossary pages 10 & 11	
Processing personal data in a way that is lawful, fair and transparent.	
Processing personal data for a specified and limited purpose.	
Processing only the minimum amount of personal data needed.	
Making sure personal data is accurate and up to date.	
Keeping personal data for no longer than necessary	
Putting appropriate security measures in place to protect personal data.	
Informing individuals about how their personal data is being used.	
Giving individuals access to their personal data when required.	
Rectifying inaccurate personal data about individuals when required.	
Erasing personal data about individuals when required.	
Restricting how an individual's personal data is used, if required.	
Providing individuals with their personal data in a way that allows them to reuse it for their own purposes (where applicable).	
Responding to requests from individuals who object to their personal data being processed.	
Responding to a requests for an automated decision to be reviewed by a member of staff (where applicable)	
Other rights in the Human Rights Act etc.…	
On which aspects of the project should a DPIA focus? *(to be reviewed by the Performance and Governance Team once the service has completed the template).*	

6. Risk assessment				
No.	**Why does the risk arise?**	**Potential Compliance Risk**	**Level of Risk**	**Further assessment**
1		Principles: Choose an item. Rights: Choose an item.		
2		Principles: Choose an item. Rights: Choose an item.		
3		Principles: Choose an item. Rights: Choose an item.		
4		Principles: Choose an item. Rights: Choose an item.		
5		Principles: Choose an item. Rights: Choose an item.		

Data Protection Impact Assessment
Section 7: Risk Solutions

7. Solutions						
No.	**Agreed Solution**	**Review of risk**	**Evaluation/ Comments**	**Responsible Officer/Sign Off**	**Date agreed**	**Date to be in place**
1		Choose an item.				
2		Choose an item.				
3		Choose an item.				
4		Choose an item.				
5		Choose an item.				
6		Choose an item.				

8. Stakeholders		
Record a note of any discussions with relevant individuals below.		
Corporate Governance		
Name	**Date Discussed**	**Notes**
Digital Services		
Name	**Date Discussed**	**Notes**
MKS ICT		
Name	**Date Discussed**	**Notes**
MKS Legal		
Name	**Date Discussed**	**Notes**
Other		
Name	**Date Discussed**	**Notes**

Please send this document to the Policy and InformationTeam at Dataprotectionofficer@maidstone.gov.uk for review and approval by the Data Protection Officer (DPO). Please do not start collecting any personal data until you have received confirmation that this assessment has been approved by the DPO.

Data Protection Impact Assessment
Section 9: Action Plan and Sign Off

9. Action Plan *Corporate Governance Officer to record a list of actions to be included in quarterly performance monitoring.*	
Action	**Responsible Officer**

10. Data Protection Officer sign off		
Name	**Note of any risks to be reported to the Information Governance Forum**	**Date**

Glossary

Automated decision-making: making a decision solely by automated means without any human involvement.

Biometric data: specific technical processing relating to the physical, physiological or behavioural characteristics of a natural person e.g. workplace access systems, identity verification or access control.

Genetic data: inherited or acquired characteristics of an individual which result from the analysis of a biological sample.

Large scale: taking into account the number of individuals concerned, the volume of data, variety of data, duration of processing and geographical extent of the processing.

Monitoring: automated analysis or predicting of behaviour, location, movements, reliability, interests, personal preferences, health, economic situation, performance.

Profiling: automated processing of information to evaluate certain things about an individual

Special category: data about race, ethnic origin, politics, religion, trade union membership, genetics, biometrics, health, sex life, sexual orientation.

Vulnerable individuals: who, for whatever reason, may find it difficult to understand how their information is used.

Lawful basis for processing

Consent: the data subject has given consent to the processing of his or her personal data for one or more specific purposes.

Performance of a contract: processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.

Compliance with a legal obligation: processing is necessary for compliance with a legal obligation to which the Council is subject.

Vital interests: processing is necessary in order to protect the vital interests of the data subject or of another natural person.

Task in the public interest: processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Council.

Legitimate interests: processing is necessary for the purposes of the legitimate interests pursued by the Council or by a third party.

Lawful basis for processing (special category)

Explicit consent: the data subject has given explicit consent to the processing for one or more specified purposes.

Employment and social protection law: necessary for the purposes of carrying out the obligations and exercising specific rights of the Council or of the data subject in the field of employment and social security and social protection law.

Vital interests: necessary to protect the vital interests of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent.

Legitimate activities: carried out in the course of legitimate activities by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim.

Data made public by the data subject: relates to personal data which are manifestly made public by the data subject.

Legal claims: necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity.

Substantial public interest: necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued.

Occupational medicine: necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services.

Public health: necessary for reasons of public interest in the area of public health.

Archiving purposes: processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes.

Glossary

Information Rights

The right to be informed – Individuals have the right to be given fair processing information, usually through privacy notices. This must be given in clear, plain English, free of charge, at the time the data is obtained.

The right of access – Individuals have a right to access their personal data, and some other supplementary information. We should be able to provide the information in a commonly used electronic format, or in a hard copy. Information should be easily accessible and collatable.

The right to rectification – Individuals have the right to have personal data rectified if it is inaccurate or incomplete. We must also inform any third parties with whom we have shared the data.

Right to erasure – Individuals have the right to request data is erased, and to prevent processing in certain circumstances. We must inform any third parties with whom we have shared the data.

Right to restrict processing – Individuals can also block or suppress processing of their data. We may still store it, but cannot process it further. We can also retain enough information as required, to ensure processing is restricted in the future.

Right to data portability – Data must be supplied in a commonly used and machine readable format such as a CSV file, that enables other organisations to use the data. This applies to data processed based on consent, or for the performance of a contract.

Right to object to processing – Individuals have the right to object to processing of data, but it must be on grounds relating to their own situation. We must stop processing the data unless we can demonstrate compelling legitimate grounds to continue processing.

Automated decision making/profiling – We can only carry out automated decision making under certain circumstances. If it is necessary for entering into a contract, it is authorised by law, or we have the subjects explicit consent.

Agenda Item 13

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE	**13 January 2020**

Annual Governance Statement Update

Final Decision-Maker	Audit, Governance and Standards Committee
Lead Director	Director of Finance, Business and Improvement
Lead Officer and Report Author	Head of Policy, Communications and Governance
Classification	Public
Wards affected	All

Executive Summary

This report provides an update on the progress with the Annual Governance Statement actions.

Purpose of Report

Noting

This report makes the following recommendations to this Committee:

That the Annual Governance Statement Update be noted.

Timetable	
Meeting	***Date***
Audit Governance and Standards	13 January 2020

Annual Governance Statement Update

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The four Strategic Plan objectives are: • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place Effective corporate governance arrangements ensure the council's priorities are understood and delivered.	Head of Policy, Communications and Governance
Cross Cutting Objectives	Effective corporate governance arrangements ensure the council's priorities are understood and delivered.	Head of Policy, Communications and Governance
Risk Management	The AGS considers and gives assurance on the Council's approach to risk management.	Head of Policy, Communications and Governance
Financial	This report has no direct financial implications. Carrying out the actions identified in the AGS helps to ensure that the Council maintains high governance standards.	Section 151 Officer & Finance Team
Staffing	There are implications for staff in relation to undertaking training.	Head of Policy, Communications and Governance
Legal	There are no legal implications.	
Privacy and Data Protection	Good governance is integral to upholding the principles of data protection.	Policy and Information Team
Equalities	Good governance will ensure the Council is adhering to the public sector equality duty.	Policy & Information Manager
Public Health	There are no implications	Public Health Officer
Crime and Disorder	There are no implications	Head of Policy, Communications and Governance
Procurement	There are no implications	Head of Policy, Communications and Governance

2. INTRODUCTION AND BACKGROUND

2.1 The Annual Statement of Corporate Governance for 2018-19 was considered and approved by the Committee on 30 July 2019. The statement contained an Action Plan for 2019-20. This report provides an update on the progress made against the Action Plan.

2.2 The actions outlined in Appendix A arose from areas identified in the corporate governance statement as requiring additional action to maintain the council's governance standards.

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3. AVAILABLE OPTIONS

3.1 The Committee could decide not to consider the action plan. Considering the action plan is however a key part pf the Committee's governance remit.

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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The Committee is asked to consider the updated action plan attached at Appendix A and make recommendations for further action as appropriate.

4.2 A number of areas were identified for action including:

- Ensuring there is sufficient resource to deliver the ambition for embracing growth and enabling infrastructure
- Property Maintenance; and
- Governance for Maidstone Property Holdings

4.3 Progress has been made in several areas since the action plan was agreed in July 2019.

4.4 An update on contract management was given to the Committee in September 2019 where is was highlighted that progress had been made on all recommendations from the Audit review with all but one completed. The internal audit team had now reassessed the assurance rating for contract management to Sound.

4.5 With regard to ensuring there is sufficient resource to deliver the council's ambition for embracing growth and enabling infrastructure a draft medium-term financial strategy was agreed by Policy and Resources Committee in November 2019. Over the past year, the priority of 'Embracing growth and enabling infrastructure' has been made more explicit through our developing plans for an Innovation Centre, for Maidstone East and a new Garden Community. Risk assessment reports on the budget strategy are regularly received and reviewed by the Committee.

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5. RISK

5.1 This report is presented for information only. Key corporate risks have been identified in the annual governance statement action plan and their status is included in the annual report on risk on this agenda.

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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 The Committee is invited to provide feedback on the progress with the action plan.

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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 This report has been provided to update the Audit, Governance and Standards Committee and will be publicly available via the committee papers on the council's website. Any recommendations for further action by the Committee in regard to the action plan will be carried forward.

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8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Annual Governance Statement Action Plan 2019-20 Update

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9. BACKGROUND PAPERS

Annual Governance Statement 2018-19

Key improvement area	Lead Officer	To be delivered by	Update
Ensuring sufficient resource to deliver the ambition for embracing growth and enabling infrastructure priority (link to Corporate Risk Register)	Director of Regeneration and Place	1 March 2020	The Regeneration and Economic Development service has been refocussed towards investment in / and delivery of the council's growth and infrastructure projects. The Council works in collaboration with Kent County Council to secure infrastructure monies above those sums collected via Section 106 and the Community Infrastructure Levy. Local Growth Fund monies were secured to part fund a programme of junction improvements to mitigate development in the current local plan. Whilst programmes such as this are complex to deliver, we understand that public consultation by Kent County Council will commence early in the new year for the detailed design proposals. Another example is the highways improvements outside of the Kent Medical Campus that are being accelerated by a successful bid to the National Infrastructure Productivity Fund, again with KCC. Monies secured exceeded £9m, to include a £0.5m loan from the Council, and this will fund improvements to two nearby roundabouts and provide the duelling of the road between them and works on site will commence next year. The Council and Kent County Council did also make a bid to the Housing Infrastructure Fund in respect of our joint landholdings at the Former Royal Mail Sorting Office site nearby to Maidstone East Station. Whilst this bid was unsuccessful, we were instead referred to Homes England to make a bid to their Small Sites Fund to unlock development, for which we have passed the first funding gateway.

Key improvement area	Lead Officer	To be delivered by	Update
			Furthermore, the Council has two mixed tenure housing developments on site at Brunswick Street and Union Street, and again the Council secured in excess of £0.6m from the MHCLG Land Release Fund to unlock these complex brownfield sites. Furthermore, a further bid has been made for a further two schemes for which the outcome is awaited. The Council has also secured Local Enterprise Partnership Local Growth Fund monies of £1m to fund improvements to the Maidstone East Ticket Office, plus £1m of National Station Improvement Funds. The Project will complete in August 2020.
Ensuring there is protection against bribery and corruption.	Monitoring Officer	As identified in Audit report	Online learning training modules have been made available to staff following a Team Talk in December on gifts and hospitality.
Capacity to deliver the investment and regeneration programme – (link to Corporate Risk Register)	Director of Regeneration and Place Director of Finance and Business Improvement	1 March 2020	The Business Rates Retention Pilot monies were in part used to create planning guidelines documents for the five town centre opportunity sites, all five have now been adopted. Current successes include the expansion of the Maidstone Property Holdings Ltd market rent portfolio, improvements at Mote Park, the Innovation Centre Development and recent public realm improvements to the town centre. Staffing resource has increased as well as extensive training for them, as well as strong partnerships with a number of consultancy firms. <u>Commercial Investment</u> As part of the commercial investment strategy, resources have been budgeted for ongoing maintenance and development of our new acquisition at Lockmeadow.

Key improvement area	**Lead Officer**	**To be delivered by**	**Update**
Property Maintenance, Health and Safety Compliance	Director of Finance and Business Improvement	1 March 2020	An asset management plan is under development. Ongoing compliance with our Health and Safety and other legal responsibilities in relation to the property portfolio is being monitored by the Corporate Leadership Team.
Governance for Maidstone Property Holdings	Chief Executive	1 March 2020	New Directors Appointed and trained. Ryan O'Connell has been appointed as company secretary. Furthermore, all the documents have been reviewed and refreshed by an external firm of specialist lawyers, and these were adopted by Full Council in December 2019, to include a new business plan for the company too.
Contract Management	Director of Finance and Business and Improvement	1 November 2019	A range of actions have been carried out to improve the standard of contract management, including publication of contract management guidance, officer training, improved liaison with MK Legal, and central monitoring of contracts.
Partner Relationships	Chief Executive	1 March 2020	There is a very strong working partnership in place with KCC, underpinned by the new Maidstone Strategic Infrastructure Working Group comprised by a councillors and senior officers form both authorities. In terms of Transport partnership working with KCC, this has been evidenced by the two authorities co-funding a Maidstone Transport Planner, and the joint commissioning of a Maidstone Transport Model to support the Local Plan Review. We have also continued to work closely with our partners in health and community safety on a number of projects and initiatives.

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE	**13 January 2020**

Audit – Declarations of Interest – Update

Final Decision-Maker	Audit, Governance & Standards Committee
Lead Head of Service	Patricia Narebor – Head of Mid Kent Legal Partnership
Lead Officer and Report Author	Patricia Narebor – Head of Mid Kent Legal Partnership
Classification	Public
Wards affected	N/A

Executive Summary

Mid Kent Audit Service undertook an audit into declarations of interest and the findings were outlined in the final report released in March 2019. The report provides an update on the action plan arising from the recommendations of the audit exercise relating to member and officer declarations of interests including related party transactions and member and officer gifts and hospitality.

Purpose of Report

Noting

This report makes the following recommendations to this Committee:

That the actions implemented to address the recommendations of the audit exercise relating to member and officer declarations of interest be noted.

Timetable	
Meeting	***Date***
Audit, Governance & Standards Committee	13 January 2020

Audit – Declarations of Interest – Update

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The recommendation and the agreed action plans will contribute to the Council achieving the strategic plan objective of a "thriving place" by ensuring that the Council's Constitutional requirements are administered and adhered to for the proper administration of the Council and to address risks which may arise.	Patricia Narebor Head of Mid Kent Legal Partnership
Cross Cutting Objectives	We do not expect the recommendations will directly impact the Council's cross cutting objectives	Patricia Narebor Head of Mid Kent Legal Partnership
Risk Management	The report introduces no risks that require separate description in the Council's risk registers, nor materially impacts any currently described.	Jen Warrillow Audit Manager
Financial	The proposals have no direct financial implications. The work of the Audit Governance and Standards Committee contributes towards strong financial governance in the Council.	Section 151 Officer & Finance Team
Staffing	We will deliver the recommendations with our current staffing.	Patricia Narebor Head of Mid Kent Legal Partnership
Legal	The Accounts and Audit Regulations 2015 require the Council to have a sound system of control which includes arrangements for the management of risk. This report is part of those arrangements and is designed to ensure that the appropriate controls are effective.	Patricia Narebor Head of Mid Kent Legal Partnership
Privacy and Data Protection	There are no privacy and data protection implications with this proposal.	Policy and Information Team
Equalities	This report does not describe circumstances which require an Equality Impact Needs Assessment.	Equalities and Corporate Policy Officer

Public Health	This report does not impact on population health or that of individuals.	Public Health Officer
Crime and Disorder	There are no crime and disorder implications for this report.	Patricia Narebor Head of Mid Kent Legal Partnership
Procurement	There are no procurement implications for this report.	Patricia Narebor Head of Mid Kent Legal Partnership

2. INTRODUCTION AND BACKGROUND

2.1 The Audit, Governance & Standards Committee is required to monitor audit activity (internal and external), review and comment on the effectiveness of the Council's regulatory framework and review and approve the Council's annual statements of accounts and scrutinise associated strategy and policy. This report provides an update on the implementation of the recommended actions arising from the audit exercise undertaken in relation to member and officer declarations of interest. A summary of the audit findings was provided at the Audit, Governance and Standards Committee meeting on 30 July 2019.

2.2 The audit focused on the following declarations and concluded that some areas had a weak audit rating:

2.3 **Members Declaration of Interest** - The audit testing established that the processes in place in relation to Member declarations of interest, Member Related Party Transactions and Officer and Member Gifts and Hospitality are generally effective, with some areas of minor improvement. This includes some Member failure to return completed disclosable pecuniary interests forms within the statutory deadline.

2.4 **Officer Declarations of Interests** – The audit testing established that all new employees are asked to submit their declaration of interests to HR as part of the corporate induction processes and these forms are stored on the employee's personnel file. However, the forms are not reviewed by line managers or the Council's monitoring officer. Additionally, there is no effective declaration of interest process in place for existing Council employees.

2.5 The following action plans were recommended and implemented by

MEMBERS:

Recommendation 1: Members Declaration of Interests - to collect and publish all Member declarations of interest on the Council's website, and introduce an escalation process for outstanding forms.

To address member failure to return declarations, Members were required to update their declarations. An escalation process of informing political party group leaders (for outstanding forms) was introduced and implemented. As at November 2019, all Members of the Borough Council had updated their declarations of interest and the online members' register of interests updated.

Recommendation 3: Members Related-Party Transactions – Introduce an escalation process for outstanding related party transaction forms.

Further follow up work was undertaken together with escalation to group leaders.   There has been a significant increase in the number of related party transaction forms which have now been received.   A guidance note has been prepared to update Members that the completed related party transaction form must be returned by the end of each April in relation to declarations for the preceding financial year to enable this element to be considered as part of the audit exercise.

Recommendation 4: Member Gifts and Hospitality declarations – The audit exercise established that no members have declared gifts or hospitality since May 2018

It was recommended that a process whereby Members receive periodic reminders of their obligation to declare all gifts and hospitality in excess of £100 be introduced.

A guidance note was circulated to all Members together with reminders to the group leaders regarding Members' obligations.

OFFICERS

Recommendation 2: Officer Declarations of Interests - The audit exercise established that there was no evidence of declarations of interests for officers being routinely collected or subject to review.

It was recommended that the responsibility for management and oversight of officer declarations of interest be reviewed. Introduce and embed a process for collecting and reviewing officer declarations (including shared service officers) periodically as required by the Constitution.

Guidance was issued to all officers explaining the process for declaring interests. Officers will be required to return their declarations on a bi-annual basis. With a view to embedding the system, an online return process is being arranged to enable forms to be completed electronically.

Recommendation 5: Officer Gifts and Hospitality declarations - The audit exercise established that inconsistent formatting and recording between directorate leads to discrepancies in the nature and detail of recording.

It was recommended that the officer gifts and hospitality registers be standardised to ensure consistency of declarations. Further a register be introduced to cover shared service officers.

A guidance note and standard notification form has been prepared. The wider leadership team of managers have been updated. HR created a team workshop tool to highlight the requirement for all teams to address officer declarations and gifts and hospitality in line with the revised arrangement.

The data base record for officer gifts and hospitality and officer declarations of interest has also been updated to enable regular review exercises to be undertaken in line with **Recommendation 6**

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3. AVAILABLE OPTIONS

3.1 The recommendations arising from the audit exercise have been implemented. Therefore no other alternative options can be recommended.

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4 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 This report provides the Council with assurance that declarations of interests by Members and officers are appropriately addressed and reviewed.

4.2 The recommendation is for the Committee to note the actions implemented to address the recommendations of the audit exercise.

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5 RISK

5.1 This report has no risk management implications.

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6 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 This report was compiled through earlier consultation between Officers.

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7 REPORT APPENDICES

None

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8 BACKGROUND PAPERS

None

Agenda Item 15

Audit, Governance & Standards Committee	**13th January 2020**

Annual Risk Management Report

Final Decision-Maker	Audit, Governance & Standards Committee
Lead Head of Service	Rich Clarke, Head of Audit Partnership
Lead Officer and Report Author	Alison Blake, Audit Manager
Classification	Public
Wards affected	All

Executive Summary

The report provides the Audit, Governance & Standards Committee with details of how Risk Management processes are working across the Council. This allows the Committee to gain assurance that effective processes are in place, which is a requirement of the Committee's Terms of Reference.

Purpose of Report

The purpose of this report is to provide information to members of the Audit Committee on the Council's risk management arrangements. As those charged with governance, the Committee must seek assurance over the effectiveness of the operation of the process.

This report makes the following recommendations to this Committee:

1. That the Risk Management Annual Report is **discussed** and **noted**.

Timetable

Meeting	***Date***
Audit, Governance & Standards Committee	13th January 2020

Annual Risk Management Report

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, risk management is a key component in the Council's governance. Good governance underpins everything that the Council does.	Alison Blake Audit Manager
Cross Cutting Objectives	We do not expect the recommendations will by themselves materially affect achievement of cross cutting objectives. However, risk management is a key component in the Council's governance. Good governance underpins everything that the Council does.	Alison Blake Audit Manager
Risk Management	Risk management is the focus of this paper.	Alison Blake Audit Manager
Financial	Risk management support is provided through the Mid Kent Audit partnership within existing budgets. This decision therefore has no direct financial implications. In general, effective risk management contributes towards strong financial governance and controls in the Council.	Section 151 Officer & Finance Team
Staffing	There are no staffing implications to this decision.	Alison Blake Audit Manager
Legal	There are no legal or statutory implications with this proposal.	Legal Team
Privacy and Data Protection	There are no privacy and data protection implications with this proposal.	Policy and Information Team
Equalities	This report does not describe circumstances which require an Equality Impact Needs Assessment.	Policy & Information Manager
Public Health	There are no public health implications for this report.	Public Health Officer
Crime and Disorder	There are no crime and disorder implications for this report.	Alison Blake Audit

		Manager
Procurement	There are no procurement implications for this report.	Head of Service & Section 151 Officer

2. INTRODUCTION AND BACKGROUND

1.1 Risk management is the process undertaken to identify, evaluate and manage risks. In early 2016 the Council implemented a risk management framework designed to improve the risk management process. This included reporting and monitoring mechanisms for key risk information to be communicated to Senior Officer and Member level. This framework was reviewed and updated in April 2019 to ensure that it remains fit for purpose and current.

1.2 We (Mid Kent Audit) have been working with the Council to update and maintain the comprehensive risk register. Including updating the corporate risks, and continued reporting and communication of key risk information.

1.3 Over the past 18months we have worked with the Council to create a positive risk culture, and ensure that the risk management process adds value. It is appropriate that risk information is reported to Members, via Audit Committee. The attached report (Appendix I) seeks to bring members up to date with the work undertaken since the last report to committee in July 2018.

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3. AVAILABLE OPTIONS

1.4 In order for any risk management process to be effective it is vital that risk information is reported, that risks are monitored and that action is taken to manage risks to an acceptable level. Reporting risks to Members is necessary to provide assurance that risks are being managed.

1.5 An alternative option would be to not report or monitor risks, but this would counter the effectiveness of the process, and would go against the terms of reference for this Committee.

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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

1.6 Effective risk management is a key component of sound governance. This Committee, as those charged with governance, must gain assurance that the Council is operating an effective risk management process, and that risks are being managed.

1.7 We therefore propose that the Committee notes the arrangements in place and provides comments on the operation of the risk management process.

5. RISK

5.1 This report is presented for information only and in itself has no risk management implications. The work that it describes helps to contribute towards effective risk management.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

1.8 The risk management framework was designed and updated through consultation with Corporate Leadership Team. All risk owners have been involved in the identification and assessment of the risks on the register.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 Unless requested otherwise, we will continue to report annually on the Council's Risk Management processes.

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Annual Risk Management Report

9. BACKGROUND PAPERS

The risk management framework was reported to Policy and Resources Committee in April 2019 and is publically available on the Council's **website**.

MID KENT AUDIT

Annual Risk Management Report

Audit, Governance & Standards Committee

January 2020

MAIDSTONE
Borough Council

Introduction

Risk management is how the Council identifies, quantifies and manages the risks it faces as it seeks to achieve its objectives. It is fundamental to the Council's governance, and contributes greatly to the successful delivery of services and the key priorities.

The purpose of this report is to provide assurance to Members that the Council has in place effective risk management arrangements, and that risks identified through this process are managed, and monitored appropriately. This enables the Audit, Governance & Standards (AGS) Committee to fulfil the responsibilities as set out in the Terms of Reference:

> *"In conjunction with Policy and Resources Committee to monitor the effective development and operation of risk management and corporate governance in the Council to ensure that strategically the risk management and corporate governance arrangements protect the Council."*

Roles & Responsibilities

We (Mid Kent Audit) have lead responsibility for supporting risk management processes across the Council. Our role includes regular reporting to Officers and Members, through the Corporate Leadership Team (CLT), Policy & Resources Committee and the AGS Committee. We also provide workshops and training, and facilitate the effective management of risks.

Having valuable and up to date risk information enables both Executive and oversight functions to happen effectively. The Policy & Resources Committee has overall responsibility for risk management and will review the substance of individual risks to ensure that risk issues are appropriately monitored and addressed.

As those charged with governance and oversight the AGS Committee should seek assurance that the Council is operating an effective risk management process.

Risk Management Process

The risk management framework is the guide that sets out how the Council identifies, manages and monitors risks. This includes the risk appetite statement, which articulates the Council's appetite for and tolerance of risk. The reviewed and updated framework was approved by Policy and Resources Committee in April 2019. In summary, the risk management process for the Council can be broken down into the following key components:

All risks are recorded on the comprehensive risk register, and it is this register that is used to generate risk information across the Council. In the main risks are identified at two levels:

Corporate level risks are more strategic in nature. By definition, these risks inherently carry a higher impact level as they affect multiple services. They are the risks that could prevent the Council from achieving its ambitions and priorities.

Operational risks are principally identified as part of the service planning cycle each year. They are directly linked with the day to day operation of services. However, operational risks can nonetheless have potential for significant impact.

You will see that there is a direct link between these two levels of risks. This is because where an individual or group of operational risks start to have a significant impact on delivery of strategic objectives consideration is given to escalating the risk to a corporate level.

Risks are assessed on ***impact*** and ***likelihood*** (definitions attached in Appendix 1B). The same definitions and scales are used for all risk assessments in order to achieve consistency in approach, and allow for comparisons over the period.

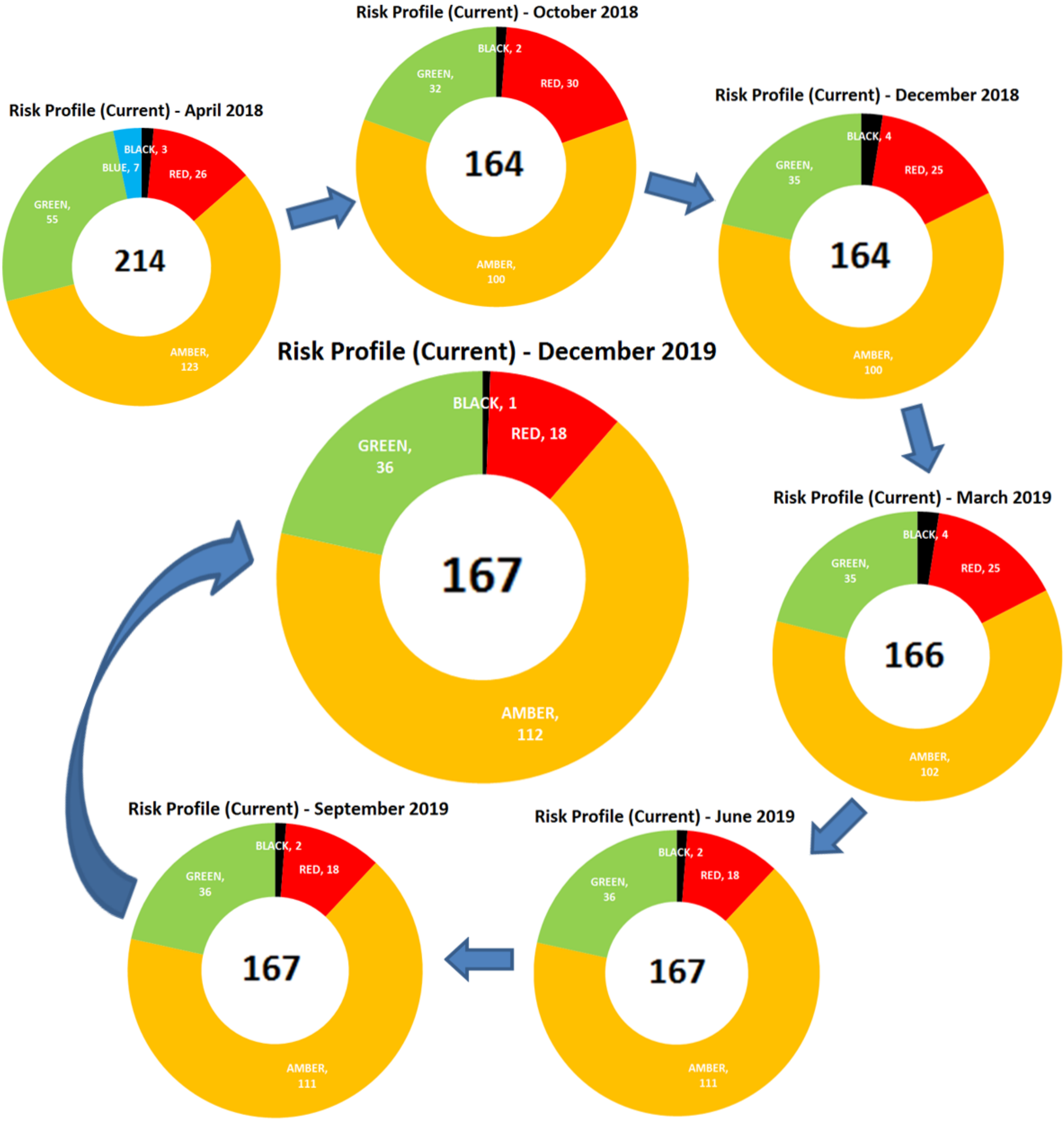
- **Impact:** This is a consideration of how severely the Council would be affected if the risk was to materialise.
- **Likelihood:** This is a consideration of how likely it is that the risk will occur. In other words, the probability that it will materialise.

In order to understand the scale of risks the following guidance is available to risk owners when assessing their risks:

Risk Rating		Guidance to Risk Owners
20-25	Risks at this level sit above the tolerance of the Council and are of such magnitude that they form the Council's biggest risks. The Council is not willing to take risks at this level and action should be taken immediately to treat, transfer or terminate the risk.	Identify the actions and controls necessary to manage the risk down to an acceptable level. Report the risk to the Audit Team and your Director. If necessary, steps will be taken to collectively review the risk and identify any other possible mitigation (such as additional controls).
12-16	These risks are within the upper limit of risk appetite. While these risks can be tolerated, controls should be identified to bring the risk down to a more manageable level where possible. Alternatively consideration can be given to transferring or terminating the risk.	Identify controls to treat the risk impact / likelihood and seek to bring the risk down to a more acceptable level. If unsure about ways to manage the risk, consult with the Internal Audit team.
5-10	These risks sit on the borders of the Council's risk appetite and so while they don't pose an immediate threat, they are still risks that should remain under review. If the impact or likelihood increases then risk owners should seek to manage the increase.	Keep these risks on the radar and update as and when changes are made, or if controls are implemented. Movement in risks should be monitored, for instance featuring as part of a standing management meeting agenda.
3-4	These are low level risks that could impede or hinder achievement of objectives. Due to the relative low level it is unlikely that additional controls will be identified to respond to the risk.	Keep these risks on your register and formally review at least once a year to make sure that the impact and likelihood continues to pose a low level.
1-2	Minor level risks with little consequence but not to be overlooked completely. They are enough of a risk to have been assessed through the process, but unlikely to prevent the achievement of objectives.	No actions required but keep the risk on your risk register and review annually as part of the service planning process.

Risk Profile

The diagrams below illustrate how the risk profile of the Council (i.e. the actual number of risks on the register and their RAG rating) has changed throughout the year. This is made up of corporate and operational risks, and is based on the ***current risk***, i.e. the risk impact and likelihood considering any existing controls in place to manage the risk, but before any further planned controls are introduced.



The change in the risk profile of the Council demonstrates how action is taken to manage risks and to capture emerging risks. Most notably action has been taken by officers which has resulted in a decrease in the number of **BLACK** and **RED** risks. The overall number of risks however has remained reasonably static throughout the year. All risks will be reviewed with services during the start of the new financial year to ensure that services risk registers remain current.

Corporate Risks

In January 2019 we ran a workshop with Members and officers to refresh the Council's corporate risks in light of the newly agreed Strategic Plan. This sought to identify any new or emerging risks and any risks which were no longer relevant due to successful management or the passage of time. The revised corporate risk register was reported to CLT and then agreed by the Policy & Resources Committee in April 2019.

CLT are responsible for the management of the corporate risks and review them quarterly. Furthermore any risk which is rated as **BLACK** is monitored monthly to review progress and provide guidance, support and focus where needed.

The following table shows the Council's current corporate risks (which are included in the diagrams above) and details the risk scores and how these scores changed over the course of the year:

Risk Title	Risk Score (I x L)				Direction of Travel
	Apr' 18	Mar' 19	Apr; 19	Dec'19	
Existing Corporate Risks kept following workshop discussion					
Poor Partner Relationships	(4 x 3) 12	(4 x 5) 20	(4 x 4) 16	(4 x 4) 16	
Insufficient workforce capacity & skills	(2 x 2) 4	(2 x 2) 4	(2 x 2) 4	(2 x 2) 4	
Financial restrictions	(4 x 4) 16	(4 x 4) 16	(4 x 4) 16	(4 x 4) 16	
Housing pressures increasing	(4 x 5) 20	(4 x 5) 20	(4 x 5) 20	(4 x 4) 16	
Contraction in retail and leisure	(4 x 3) 12	(4 x 3) 12	(4 x 3) 12	(4 x 3) 12	
Existing Corporate Risks not mentioned in workshop but kept					
IT security failure	(4 x 4) 16	(4 x 4) 16	(4 x 3) 12	(4 x 3) 12	
Major project failure	(4 x 4) 16	(4 x 4) 16	(4 x 4) 16	(4 x 4) 16	
Significant contractor failure		(4 x 3) 12	(4 x 3) 12	(4 x 3) 12	
Existing Corporate Risks kept with variation following workshop discussion					
Governance failures *Formerly a combination of:* ** Breakdown of governance controls*	(4 x 2) 8	(4 x 2) 8	(4 x 2) 8	(4 x 2) 8	
** Legal / compliance breach*	(4 x 3) 12	(4 x 2) 8			
** General Data Protection Regulations*	(4 x 3) 12	(4 x 3) 12			
Building incomplete communities *Formerly 'delivery of local plan review'*	(3 x 3) 9	(3 x 3) 9	(3 x 3) 9	(3 x 3) 9	
Corporate Risks added following workshop discussion					
Short term brexit impacts			(4 x 3) 12	(4 x 3) 12	
Environmental damage			(3 x 3) 9	(3 x 3) 9	
Loss of community engagement			(3 x 2) 6	(3 x 2) 6	

The detail of these risks has been reviewed and discussed at the Policy & Resources Committee. However, this illustrates that action is being taken to manage the risks and that processes are in place to ensure new emerging issues are captured or significant operational risks are appropriately escalated.

Operational Risks

Operational risk registers are in place for each service and are reviewed and updated routinely in line with their risk scores. Managers and Heads of Service are responsible for managing operational risks. In accordance with the Council's risk appetite, CLT receive quarterly updates on all current **RED** and **BLACK** risks and, as above, review **BLACK** risks monthly. The operational risk profiles are reported to Policy & Resources as part of their 6 monthly update and monitoring reports.

Next Steps

Risk management is a continuous process, and we will continue to build on and improve the arrangements to further strengthen the risk management process and develop a positive risk culture across the Council. In particular work is underway to **obtain a risk management system** to replace the current spreadsheet process. This will give us greater functionality in updating and reporting on risks and free up time to further develop other aspects of risk.

We have continued to receive a positive level of engagement and support from Senior Officers and Managers in the Council which has enabled the risk management process to develop and embed. So, we'd like to take this opportunity to thank officers for their continued work and support.

Appendix 1A

Maidstone Risk Management Process: One Page Summary

Step 1 – Identify Risks

Best done in groups, by those responsible for delivery objectives.

RISK is a *potential future* event that, if it materialises, has an *effect* on the achievement of our objectives.

Consider both threats and opportunities.

When to consider:

- Setting business aims and objectives
- Service planning
- Target setting
- Partnerships & projects
- Options appraisal

Establish the **risk owner**.

Document in the **risk register**.

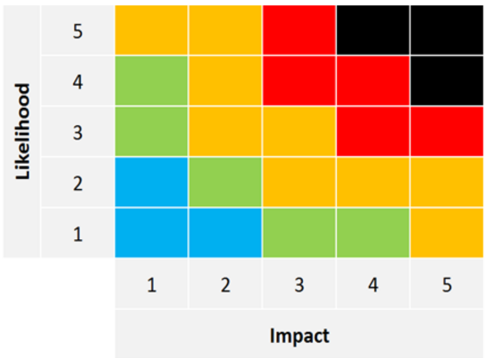
Step 2 – Evaluate Risks

Combination of the **impact** and **likelihood** of an event (the ***CURRENT RISK***).

Impact score is the highest from the different categories.

Establish your **key existing controls** and whether they are managing the impact and/or likelihood of the risk.

Scores can be depicted in the **risk matrix:**



Step 3 – Risk Response

Black – Above our ***tolerance***, immediate action and reporting to directors.
Red – Outer limit of our ***appetite***, immediate action.
Amber – Medium risk, review existing controls.
Green – Low risk, limited action, include in plans.
Blue – Minimal risk, no action but annual review.

Risk Response – 4Ts

- Treat (i.e. apply controls)
- Tolerate (i.e. accept risk)
- Transfer (e.g. insurance / partnership)
- Terminate (i.e. stop activity)

After your response; where does the risk score now? (the ***MITIGATED RISK***)

Step 4 – Monitor & Review

Completed risk registers returned to **Mid Kent Audit.**

- **Corporate Leadership Team** monthly monitoring of **black** risks. Quarterly reporting of all high level (**black** and **red**) risks.
- 6-monthly reporting to **Wider Leadership Team.**
- Risk registers sent quarterly to **directors** and **heads of service.**
- 6-monthly monitoring at **Policy & Resources Committee.**
- Annual monitoring of process by **Audit, Governance & Standards Committee.**

Mid Kent Audit facilitate the review and update of risk actions (as per your risk register) during the year for and high-level (**red** / **black**) risks.

Appendix 1B

Impact & Likelihood Scales

Risk Impact

Level	Service	Reputation	H&S	Legal	Financial	Environment
Catastrophic (5)	Ongoing failure to provide an adequate service	Perceived as a failing authority requiring intervention	Responsible for death	Litigation almost certain and difficult to defend Breaches of law punishable by imprisonment	Uncontrollable financial loss or overspend over £500k	Permanent, major environmental or public health damage
Major (4)	Failure to deliver Council priorities Poor Service, 5+ days disruption	Significant adverse national publicity	Fails to prevent death, causes extensive permanent injuries or long term sick	Litigation expected and uncertain if defensible Breaches of law punishable by significant fines	Financial loss or overspend greater than £250k	Long term major public health or environmental incident (1+ yrs)
Moderate (3)	Unsatisfactory performance Service disrupted 3-5 days	Adverse national publicity of significant adverse local publicity	Fails to prevent extensive permanent injuries or long term sick	Litigation expected but defensible Breaches of law punishable by fines	Financial loss or overspend greater than £50k	Medium term major public health or environmental incident (up to 1 yr)
Minor (2)	Marginal reduction in performance Service disrupted 1-2 days	Minor adverse local publicity	Medical treatment required Long term injuries or sickness	Complaint or litigation possible Breaches of regulations or standards	Financial loss or overspend greater than £10k	Short term public health or environmental incident (weeks)
Minimal (1)	No performance reduction Service disruption up to 1 day	Unlikely to cause adverse publicity	First aid level injuries	Unlikely to cause complaint Breaches of local procedures	Financial loss or overspend under £10k	Environmental incident with no lasting detrimental effect

Risk Likelihood

Level	Probability	Description
Almost Certain (5)	90% +	Without action is likely to occur; frequent similar occurrences in local government / Council history
Probable (4)	60% - 90%	Strong possibility; similar occurrences known often in local government / Council history
Possible (3)	40% - 60%	Might occur; similar occurrences experienced in local government / Council history
Unlikely (2)	10% - 40%	Not expected; rare but no unheard of occurrence in local government / Council history
Rare (1)	0% - 10%	Very unlikely to occur; no recent similar instances in local government / Council history

AUDIT, GOVERNANCE & STANDARDS COMMITTEE	**13 January 2020**

Counter Fraud & Corruption Policy

Final Decision-Maker	Audit, Governance & Standards Committee
Lead Head of Service	Rich Clarke, Head of Audit Partnership
Lead Officer and Report Author	Rich Clarke, Head of Audit Partnership
Classification	Public
Wards affected	All

Executive Summary

This Committee recommended for approval a refreshed Counter Fraud & Corruption Policy on 15 January 2018 with a provision to review in two years. This report presents that review and largely retains the document as before, bar an addition setting out guidance for people who become involved in an investigation.

Purpose of Report

Recommendation

This report makes the following recommendations to this Committee:

1. That the Policy & Resources Committee be recommended to approve the Counter Fraud & Corruption Policy.

Timetable	
Meeting	***Date***
Audit, Governance & Standards Committee	13 January 2020
Policy & Resources Committee	(to be confirmed)

Counter Fraud & Corruption Policy

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's overall achievement of its aims by helping enhance the quality of corporate governance.	Rich Clarke Head of Audit Partnership 2 January 2020
Cross Cutting Objectives		
Risk Management	See below in report.	
Financial	The proposals set out are all within already approved budgetary headings and so need no new funding. It is consistent with the principles of good governance to have in place a robust Counter Fraud & Corruption Policy.	
Staffing	We will deliver the recommendations with our current staffing. The Mid Kent Audit team includes 3 officers with relevant professional qualifications, and we have access to further trained individuals in other teams and through call-off contractor arrangements. We will keep the required level of experience and expertise under review.	
Legal	The Council is free to set out policies on how it will address economic crime risk and incidents. The actions set out in the policy are within the Council's powers, which include investigating reports and referring for prosecution.	
Privacy and Data Protection	The Policy includes references to how we will use information to help identify and address risks of economic crime. The Policy also sets out that we will share information with others where useful and efficient. We will undertake all data sharing in line with applicable laws and policies.	
Equalities	The recommendation does not propose a change in service that requires an equalities impact assessment.	
Public Health	No relevant impact	

Issue	Implications	Sign-off
Crime and Disorder	The Policy aims to improve the Council's approach in dealing with specific forms of crime.	
Procurement	The Policy does not require any immediate procurement. Any future procurement exercises for products or services that would enhance our approach will be undertaken in line with applicable Standing Orders.	

2. INTRODUCTION AND BACKGROUND

2.1 This Committee recommended for approval a refreshed Counter Fraud & Corruption Policy on 15 January 2018, modelled around CIPFA's Counter Fraud Code of Practice. In keeping with good practice, that policy proposed a review cycle whereby it would come back to Members for re-consideration every two years.

2.2 The current document, attached, largely retains the Policy as approved in 2018 reflecting the continued good practice set out by CIPFA. It has some cosmetic modifications (including addition of further Maidstone BC branding) and minor text clarifications. However, the only modification of note is towards the end of the Policy (paragraphs 45-47) of additional guidance to those who may become involved in investigations.

2.3 This addition springs from experience of the audit team conducting investigations in the past two years and incorporates in the standard policy key tenets of guidance that has hitherto been provided individually during investigations.

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3. AVAILABLE OPTIONS

3.1 Members could choose to reject these additions and retain the Policy as approved in January 2018.

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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 We recommend approval of the Policy at Appendix 1. The Policy remains consistent with good practice as set out by CIPFA, and the addition of guidance for those subject to investigations will help standardise information previously provided case-by-case and make it available to people more generally.

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5. RISK

5.1 We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Risk Management Policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 The original Policy in 2018 underwent consultation with the Council's Corporate and Wider Leadership Teams. In compiling this update we have consulted with CIPFA as members of their Counter Fraud Network to seek any new developments for incorporation, but were advised of no new significant updates for inclusion.

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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 Once agreed, the Policy will replace the previous version available on the Council's intranet.

8. REPORT APPENDICES

- Appendix 1: Counter Fraud & Corruption Policy

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9. BACKGROUND PAPERS

CIPFA Code of Practice as per previous papers on 15 January 2018.

APPENDIX 1

COUNTER FRAUD AND CORRUPTION POLICY

Counter Fraud & Corruption Policy

Maidstone Borough Council

Policy Owner (Officer): Head of Audit Partnership
Policy Owner (Members): Policy & Resource Committee on recommendation of Audit, Governance & Standards Committee

Preparation Date: January 2020
Next Full Review: January 2022

Introduction

1. All fraud, bribery and corruption (collectively referred to as Economic Crime) is unacceptable The Council will not tolerate any Economic Crime that comes to its attention. Economic Crime diverts resources and limits the capacity of the Council to improve the lives and opportunities for its residents, businesses and visitors.

2. The Council should therefore safeguard its funds and resources against those minded to commit Economic Crime. This includes creating and upholding a culture of high ethical standards, honesty and transparency.

3. This policy aims to:

- Explain how the Council intends to tackle Economic Crime
- Provide guidance to Officers, and
- Ensure Officers can recognise Economic Crime and understand reporting needs.

Policy Statement

4. We seek to ensure we properly protect our resources from fraud, bribery and other economic crime.

5. The Section 151 Officer is responsible for overseeing and providing strategic management and support for work to tackle Economic Crime.

6. Officers must report any suspicions of Economic Crime as soon as possible to ensure proper investigations, minimise losses and maximise the chances of financial recovery. We set out routes for reporting in the Whistleblowing Policy (Appendix D) and summary reporting flow chart (Appendix A).

7. Mid Kent Audit will lead investigations into Economic Crime, calling on the expertise of other partner agencies (including the police) as needed. The decision on involving other agencies rests with the Head of Audit Partnership, after suitable consultation.

8. Under no circumstances should any Officer themselves begin an investigation into suspected or alleged Economic Crime.

9. All Officers must cooperate with investigations into Economic Crime. This includes:

- Providing information and intelligence
- Making time and documentation available to the investigators on request, and
- Not revealing information about open investigations to unauthorised people.

10. We will ensure consistency, fairness and objectivity in all our investigative work.

11. We encourage everyone to report genuine suspicions. We will provide all reasonable protection to those who raise genuine concerns in good faith. However, we will not tolerate malicious allegations and these may result in further action.

12. We will seek all available sanctions against those found to have committed Economic Crime. These include criminal, civil and disciplinary sanctions. We will also aim for repayment of any financial gain from individuals involved in Economic Crime.

Roles and Responsibilities

Members

13. As elected representatives, all Members of the Council have a duty to act in the public interest and do what they can to ensure the Council uses its resources properly.

14. Members therefore work within the Constitution which includes the Code of Member Conduct and Financial Regulations.

15. We encourage Members to use the reporting routes set out in appendices A and D to record any concerns or suspicious activity that comes to their notice.

Officers

16. We expect all officers to be alert to the possibility of Economic Crime and report any suspicious activity. We list possible channels for reporting at appendix D.

17. We also expect officers to apply with apt Code of Conduct and Council policy and procedures. Failing to adhere to policy and procedures may result in disciplinary action.

18. Officers must also properly account for and safeguard the money and assets in their charge.

Partners, suppliers, contractors and consultants

19. We expect all people and organisations working with the Council to be aware of the possibility of Economic Crime and report any genuine concerns or suspicions. We may demand specific adherence to this or similar policies in significant partnership arrangements.

Specific roles and responsibilities

20. Chief Executive: Overall accountability for the effectiveness of the Council's arrangements for tackling Economic Crime.

21. Section 151 Officer: To ensure the Council has adopted a fitting strategy, upholding an effective control environment and an adequately resourced and effective internal audit service to deliver detailed work on tackling Economic Crime.

22. Monitoring Officer: To advise Members and Officers on ethical issues, standards and powers to ensure the Council works within the law and Codes of Practice.

23. Audit, Governance & Standards Committee: To oversee the Council's strategies and policies and consider the effectiveness of arrangements for tackling Economic Crime. The Policy & Resources Committee formally approves the Policy.

24. External Audit: Statutory duty to ensure the Council has acceptable arrangements in place for ensuring economy, efficiency and effectiveness in its use of resources.

25. Head of Audit Partnership: Acts as Head of Counter Fraud in developing and carrying out this policy and providing suitable advice to Officers and Members. Also responsible for overseeing investigation of any reported issues and ensuring the Council deals with all suspected or reported irregularities quickly and suitably.

26. Mid Kent Audit: To consider and recommend action necessary to improve controls arising from irregularities and so reduce the risk of recurrence.

27. Management: To promote staff awareness and ensure prompt reporting of all suspected or reported irregularities. Also to put in place proper means within their services to assess the risk of fraud and other economic crime and to reduce those risks through effective control.

28. Mid Kent Human Resources: Advising with taking forward disciplinary proceedings against employees who have committed an offence. It is not unusual for criminal and disciplinary investigations to overlap. If there is overlap, the Council should seek to investigate separately but with close liaison. This may include sharing information at suitable times.

General Corporate Level Procedures

29. We will ensure there is support for work to tackle Economic Crime and all levels within the Council. We note CIPFA's Code of Practice on managing risk of fraud and corruption (*Fighting Fraud Locally*) and draw three key themes to support our approach.

Acknowledge and inform

- Assess and understand fraud risk
- Committing to tackling economic crime
- Preserving a robust response

Prevent and deter

- Using information and technology
- Improving controls
- Developing and maintaining a strong ethical culture

Pursue and hold to account

- Prioritising recovery and use of sanctions
- Collaboration
- Monitoring and reporting

Assessing and understanding fraud risk

30. We will continue development of this policy and strategy through gaining a clear understanding of the threat, emerging risks, trends and savings when dealing with Economic Crime. We will complete this risk assessment referring to benchmarking and published information (for example, CIPFA's Fraud Survey) at least yearly.

Committing resource

31. The risk assessment will support an annual plan for approval of Members as part of the Internal Audit & Assurance plan. This will include proactive targeting of higher risk topics, raising staff awareness and providing training and support materials.

Preserving a robust response

32. We will ensure all our Officers understand what Economic Crime is and their role in tackling it. This will include following the correct reporting procedures, especially Whistle-Blowing, and making sure suitable secure reporting channels remain available. We will also take seriously and act on reports of suspected Economic Crime.

Using Information and Technology

33. We will seek to make use of the information we hold in assessing risk and prevention and detection of Economic Crime. We may use personal information and data-matching to detect and prevent fraud, and ensure spending of public money in the most cost effective way.

34. We may also share information with others responsible for auditing or managing public funds.

Improving Fraud Controls

35. The most effective method of tackling Economic Crime is prevention. We will work over time to realign resources towards prevention and deterrence. This will include considering fraud risk in designing new systems and in general risk assessments of new and continuing ventures.

36. We will also consider developing best practice in the field, and learning from others. For example, by regular review of CIPFA's Code of Practice and other publications and membership of and engagement with relevant professional bodies.

37. We will also refer matters arising from investigations. Whatever their result, we will consider whether there are lessons for the Council to learn in improving controls.

Developing and Upholding a strong ethical culture

38. The culture and tone of the Council must be one of honesty with zero tolerance towards fraud and corruption. We show this already through codes of conduct for officers and members, but will continue to reinforce the right culture by:

- Raising awareness of Economic Crime with training for new and existing Officers and Members, making use of e-learning packages where fitting.
- Publicising the successes of efforts to tackle Economic Crime so the risk and result of detection are clear to potential offenders.

Prioritising recovery and use of sanctions

39. We will seek to ensure those who have committed Economic Crime are held to account for their actions; crime must not pay. Where we discover economic crime we will consider a full range of sanctions, including civil, disciplinary and criminal action. We will also seek to recoup losses and confiscate assets gained from crime.

40. Criminal prosecutions deter potential offenders and reinforce our lack of tolerance for economic crime. Successful prosecutions need professional investigation to ensure evidence gathering complies with law. Investigative staff must have proper training, suitable skills and access, where necessary, to specialist support to secure effective prosecution.

Collaborating with Others

41. We recognise that organised crime in particular works across boundaries and services. Effective cooperation and working with other agencies (including the Police) will be essential in developing and ensuring the success of our response.

42. This may include, in particular, sharing data and information with partner agencies. Where we do share data, we will do so in line with relevant laws and rules. We note such laws often specifically allow sharing in this circumstance (for example section 29 of the DPA 1998). We will also join regional and national data sharing exercises, such as the National Fraud Initiative, to help improve our work in tackling Economic Crime.

Monitoring and Reporting

43. We will provide regular updates to Senior Management and Members on reported Economic Crime and result of investigations. We will also report progress towards delivery of each year's counter fraud plan.

Further Advice and Support

44. We recognise the primary responsibility for prevention and detection of fraud rests with management. It is essential that Officers report irregularities or suspected irregularities to their line manager or, alternatively, to the Head of Service or Mid Kent Audit. We will provide all reasonable protection to those who raise genuine concerns in good faith.

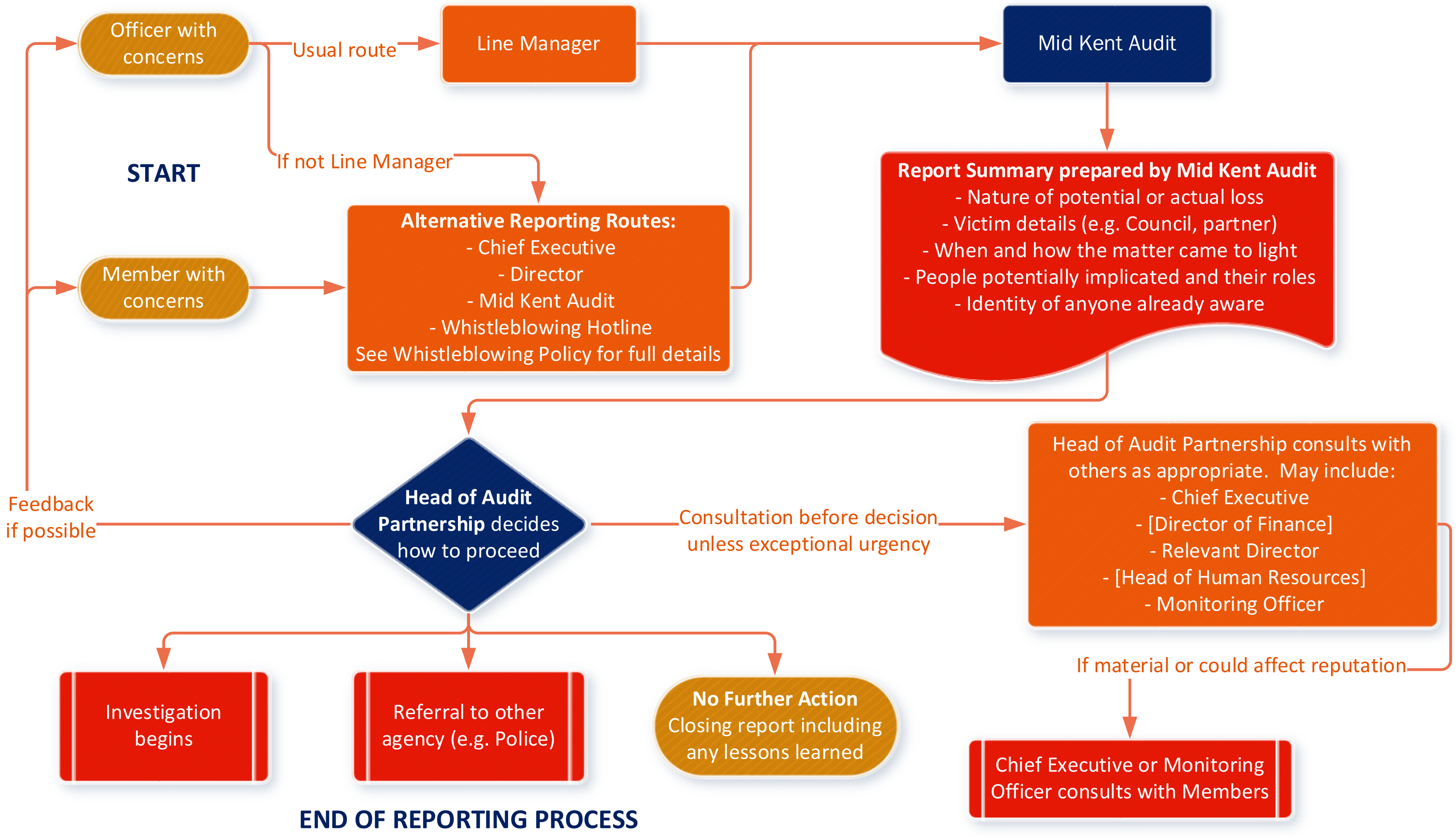
45. Reported suspicions may trigger an investigation, potentially a criminal investigation. We will conduct investigations in line with the Police and Criminal Evidence Act 1984 (PACE) and codes of practice. This includes incorporating the Human Rights Act 1998 in ensuring investigations are fair, proportionate and close within a reasonable time.

46. Nevertheless, we recognise that involvement in an investigation can cause stress and anxiety. People should ensure they seek suitable legal advice, which they can get with the help of Trade Unions or local Citizens Advice Bureau. People can also contact the Employee Assistance Line for general support.

47. This guidance and commitment extends to all involved in any investigation, whether as victim, witness or subject.

48. If you have a matter you wish to discuss, you can contact the Head of Audit Partnership on extension 2056 or rich.clarke@midkent.gov.uk for confidential advice.

Appendix A: Counter Fraud & Corruption – Reporting Process



Appendix B – Economic Crime Offences

Fraud

The Fraud Act 2006 defines three principal ways of committing fraud:

- Fraud by false representation (section 2);
- Fraud by failing to disclose information (section 3), and
- Fraud by abuse of position (section 4).

For fraud to occur, the person’s conduct must be dishonest. It must also intend to make a gain, or cause loss (or risk of loss) to someone.

The gain intended does not have to be personal for the individual, but could be for another person (who does not even need to know of the conduct).

It is not necessary for the conduct to succeed to be a crime. Even where the Council detects fraud before suffering loss, the person may have committed a criminal offence.

The Fraud Act also covers behaviour often known by other names, such as deception, forgery, extortion, conspiracy, embezzlement, misappropriation, peculation or false accounting.

Fraud carries a maximum sentence of 10 years imprisonment and an unlimited fine. Offenders may also face resulting action seeking to recover any assets gained because of criminal acts.

Bribery and Corruption

Bribery is giving or offering someone a financial or other advantage aiming to encourage that person to perform their duties improperly or to reward someone for having done so. It also covers asking for, agreeing to receive or accepting the advantage offered.

The Bribery Act 2010 reformed the law of bribery, making offences clearer and helping tackle it proactively. This includes separate offences for offering a bribe (section 1) and accepting a bribe (section 2).

It also introduced a corporate offence, which means the Council (and its individual senior officers) could face exposure to criminal liability for failing to prevent bribery (section 7).

What might form a ‘bribe’ is much broader than just money. It includes offering, seeking or accepting any advantage which can include gift, services or offers of employment.

Bribery carries a maximum sentence of 10 years imprisonment and an unlimited fine. Offenders may also face resulting action seeking to recover any assets gained because of criminal acts.

Theft

Under the Theft Act 1968, theft is physical misappropriation of any tangible assets. A person is guilty if they dishonestly appropriate property belonging to another with the intention of permanently depriving the other of it.

Theft carries a maximum sentence of 7 years' imprisonment. Offenders may also face resulting action seeking to recover any assets gained because of criminal acts.

Money Laundering

The Money Laundering Regulations set out that this is how criminals seek to disguise the origins and ownership of the results of their crimes. The intended result is to leave the criminal with money that no one can trace back so the criminal can then use it without suspicion.

Councils are increasingly used by criminals as unwitting parties in money laundering scams. All employees should be aware of the risk of money laundering and follow the procedures set out when they see suspicious transactions.

Economic Crime related to Council Tax and Business Rates

The Council keeps a separate Revenues Compliance team who lead on efforts to prevent and detect Economic Crime in these fields. See separate policies for further information.

Appendix C – Economic Crime Investigation Protocol

[Information about the process of undertaking an investigation, including specifics on the roles of officers in supporting investigation. For example, on safeguarding evidence and submitting to interview. This appendix will not be published in full outside the audit team or with advice from the audit team as it gives details of method].

Appendix D – Whistleblowing Policy & Procedures

[Existing separate policy].

Appendix E – Anti Bribery Policy & Procedures

[Further detail, including specifics on what we regard as 'adequate procedures' to act as a shield against the section 7 Corporate offence. Also will include information on 'facilitation payments' and other euphemisms that might seek to cover offences. Will be developed after further consultation with officers in relevant services].

Appendix F – Anti Money Laundering Policy & Procedures

[Policy and procedures maintained by Finance]

Appendix G – Investigation Liaison Protocols

[Any specific intra-council protocols. One already exists between audit/HR and there's scope for similar between audit/legal and audit/IT. These will be added to this document as they are developed. Could potentially include protocols with third parties, but they are more likely to be case-by-case. Will not be published in full outside the audit team and relevant services as they will give details of method].

AUDIT, GOVERNANCE & STANDARDS COMMITTEE	**13th January 2020**

Anti-Money Laundering Policy and Guidance

Final Decision-Maker	Audit, Governance & Standards Committee
Lead Head of Service	Chris Hartgrove – Interim Head of Finance
Lead Officer and Report Author	John Owen – Finance Manager
Classification	Public

Executive Summary

This report updates the Council's current Anti-Money Laundering Policy and guidance to various stakeholders of the Council on how to prevent, detect and report cases of fraud through money laundering.

Purpose of Report

This report is for discussion and to adopt at this Committee.

This report makes the following recommendations to this Committee:

1. That the Council's updated Anti-Money Laundering Policy is adopted and Mark Green, Director of Finance and Business Improvement (S151 Officer) is confirmed as the Council's Money Laundering Reporting Officer (MLRO).

Timetable	
Meeting	***Date***
Audit, Governance & Standards Committee	13th January 2020

Anti-Money Laundering Policy and Guidance

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, awareness of money laundering will support the Council's overall achievement of its aims by detecting and reporting fraud.	Interim Head of Finance
Cross Cutting Objectives	We do not expect the recommendations will by themselves materially affect achievement of cross cutting objectives. However, awareness of money laundering will support the Council's overall achievement of its aims by detecting and reporting fraud.	Interim Head of Finance
Risk Management	Already covered in the risk section	Interim Head of Finance
Financial	There are no financial implications to accepting this policy, however through staff, Members and contractors of the Council's awareness, this will hopefully reduce the risk of fraud against the Council.	Section 151 Officer & Finance Team
Staffing	None.	Interim Head of Finance
Legal	This report is drafted in accordance to the regulations of The Proceeds of Crime Act 2002, the Terrorism Act 200 and the Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017.	Team Leader (Corporate Governance), MKLS
Privacy and Data Protection	All information obtained for the purposes of money laundering checks and referrals must be kept (for at least five years) and processed in compliance with relevant Data Protection legislation.	Policy and Information Team
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Policy & Information Manager
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Public Health Officer
Crime and	The recommendation will have a negative	Interim Head

Disorder	impact on Crime and Disorder. The Community Protection Team have been consulted and mitigation has been proposed	of Finance
Procurement	There are no procurement implications for this report, however procurement is at risk of infiltration from serious and organised crime and organised crime groups could be benefitting from public sector contracts.	Interim Head of Finance Section 151 Officer

2. INTRODUCTION AND BACKGROUND

2.1 Money laundering involves the "cleaning" of illegal proceeds in order to disguise their criminal origin. The proceeds of criminal activity, usually cash, but also other illegally gained assets, are introduced into the organisation's systems where they are processed, enabling them to leave the systems appearing to come from a legitimate source.

2.2 The Proceeds of Crime Act 2002, the Terrorism Act 2000 and Money Laundering Regulations 2017 place obligations on the Council to establish internal procedures to prevent the use of their services for money laundering and the prevention of terrorist financing. The Council must also appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures of money laundering activity.

2.3 The previous policy drafted in October 2014 is required to be updated and adopted by this Committee due to the changes within the Money Laundering Regulations 2017. There is a more due diligence around checking perceived higher risk customers and where funds have been received, using a general risk based approach in respect to money laundering. These have been included within the updated policy as shown within **Appendix A**.

2.4 Accompanying this policy is a guidance document that sets out the procedures, which must be followed (for example reporting of suspicions of money laundering activity) to enable the Council to demonstrate compliance with its legal obligations.

2.5 The officer to receive disclosures about money laundering activity is the Money Laundering Reporting Officer (MLRO). The nominated officer must be someone within the Council, who

- can be trusted with the responsibility
- is senior enough to have access to all your customer files and records
- can decide independently whether or not they need to report suspicious activities or transactions - a decision that could affect your customer relations

The nominated person for this role is Mark Green, Director of Finance & Business Improvement (Section 151 Officer).

2.6 Whilst Local Authorities are not directly covered by the requirements of the Money Laundering Regulations 2017, guidance from finance and legal professions, including the Chartered Institute of Public Finance and Accounting (CIPFA), indicates that public service organisations should comply with the underlying spirit of the legislation and regulations.

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3. AVAILABLE OPTIONS

3.1 **Option 1:** The Committee could decide not to adopt the policy. However, the Chartered Institute of Public Finance and Accounting (CIPFA), indicates that public service organisations should comply with the underlying spirit of the requirements of the Money Laundering Regulations 2017 in establishing internal procedures to prevent the use of their services for money laundering and the prevention of terrorist financing. The Council must also appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures of money laundering activity.

3.2 **Option 2:** Subject to any legal obligations placed upon the Council, the Committee could amend the draft policy.

3.3 **Option 3:** The Committee could agree the attached policy. The attached policy has been produced in line with current guidance from the Proceeds of Crime Act 2002, the Terrorism Act 2000 and Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.

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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The recommended option is Option 3, to adopt the Anti-Money Laundering Policy & Guidance and to appoint Mark Green as the Money Laundering Reporting Officer (MLRO).

4.2 As stated above, the policy has been produced in line with current guidance from the Proceeds of Crime Act 2002, the Terrorism Act 2000 and Money Laundering Regulations 2017.

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5. RISK

5.1 This report discusses the risk of money laundering within the Council and is designed to make all relevant stakeholders aware of what constitutes money laundering and the procedures for reporting such incidents.

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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 None.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 Once the policy has been adopted by this Committee, it will be communicated to all relevant staff within the Council.

8. REPORT APPENDICES

- Appendix A: Anti-Money Laundering Policy & Guidance

9. BACKGROUND PAPERS

9.1 This report has been drafted from guidance from the following publications:

- The Proceeds of Crime Act 2002 http://www.legislation.gov.uk/all?title=Proceeds%20of%20crime
- The Terrorism Act 2000 http://www.legislation.gov.uk/all?title=terrorism%20act
- The Money Laundering Regulation 2017 http://www.legislation.gov.uk/uksi/2017/692/made
- HM Treasury https://www.gov.uk/government/publications/anti-money-laundering-legislation-guidance-notes
- Law Society http://www.lawsociety.org.uk/advice/anti-money-laundering/
- National Crime Agency http://www.nationalcrimeagency.gov.uk/

Anti-Money Laundering Policy & Guidance

1. Introduction

1.1. Money laundering involves the "cleaning" of illegal proceeds in order to disguise their criminal origin. The proceeds of criminal activity, usually cash, but also other illegally gained assets, are introduced into the organisation's systems where they are processed, enabling them to leave the systems appearing to come from a legitimate source.

1.2. Historically, legislation seeking to prevent the laundering of the proceeds of criminal activity was aimed at professionals in the financial and investment sector. However, it was subsequently recognised that those involved in criminal conduct were able to "clean" the proceeds of crime through a wider range of business and professional activities.

1.3. New obligations in respect of money laundering were therefore imposed by the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2017 which broaden the definition of money laundering and increase the range of activities within the statutory control framework. In particular, the duty to report suspicions of money laundering is strengthened and criminal sanctions imposed for failure to do so. There are also obligations under the Terrorism Act 2000.

1.4. The Council has therefore adopted a Money Laundering Policy, to comply with its requirements under the The Money Laundering, Terrorist Financing and Transfer of Funds 2017, the Proceeds of Crime Act 2002 and the Terrorism Act 2000.

1.5. The Council's policy is to do all it can to prevent, wherever possible, the organisation and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases.

1.6. It is important that all staff who are involved in processing financial transactions are aware of the issues surrounding money laundering, and to whom they should go to for further advice and guidance.

2. Roles and Responsibilities

2.1. This policy applies to all employees, members and contractors of the Council, and aims to maintain the high standards of conduct, which currently exist by preventing criminal activity through money laundering.

2.2. The officer to receive disclosures about money laundering activity is the Money Laundering Reporting Officer (MLRO). The Council has nominated Mark Green, Director of Finance and Business Improvement (S151) to undertake this role. The roles and responsibilities of the MLRO are as follows:

- To thoroughly understand the requirements of the Anti-Money Laundering legislation
- To understand the internal organisation and the degree/varieties of risk, including general risk assessment on the organisation
- To determine what constitutes a suspicious transaction
- To determine what is required in making a report
- To identify when a greater due diligence is required from particular customer, based on a risk-based approach;
- To be aware of who to report to
- To be aware of the "consent" provisions
- To conduct investigations
- To be aware of the criminal offences under the Act including "tipping off" and interfering with an investigation

2.3. Any disclosures will be notified to Internal Audit who will liaise with the identified above.

3. Local Authority Anti-Money Laundering Regulations

3.1. The 2007 regulations require that 'relevant businesses' adopt a number of key measures to counter money laundering. Whilst local authorities are not separately identified in the list of 'relevant businesses' there are some local authority activities that could come within the scope of the regulations. It is mainly accountancy and audit services, and the financial, company and property transactions undertaken by Legal Services. However, the safest way to ensure compliance with the law is to apply them to all areas of work undertaken by the Council.

3.2. The following are examples of key factors could indicate that money laundering activity is taking place:

- Large volume/value cash transactions (e.g. sale of land/buildings) – sale proceeds could be received in cash. Identification procedures should apply when a client seeks to make a payment of £10,000 (€15,000) or greater, and/or where two or more transactions appear to be linked and involve a total payment of £10,000 (€15,000) or greater.
- Fraudulent Claims – if an accident has not actually taken place but a claim is made then monies received would be proceeds of crime.
- Payments are received from unexpected sources.
- The cancellation or reversal is made of a previous transaction.
- A substantial payment in cash is received from a new customer.

3.3. It is anticipated that there will only be a small number of occasions when relevant events are identified. If in doubt consult the nominated reporting officer (**see Appendix A**) and he will help you decide.

3.4. The size and scope of the activities of local authorities are such that few, if any, are likely to be immune from the risks surrounding money laundering. Chartered Institute of Public Finance and Accountancy (CIPFA) believes all public service organisations should embrace the underlying principles behind the money laundering legislation and regulations and put in place anti-money laundering policies, procedures and reporting arrangements, appropriate and proportionate to their activities.

4. Suggested Methods of Prevention

4.1. Cash payments of £10,000 (€15,000) or greater should not be accepted, and this should be made clear by way of notice in the reception area.

4.2. Identification procedures should apply in situations where payments are received from an unexpected source, where a new customer makes a substantial payment in cash, or where a new business relationship is established with a company or individual with whom the Council has not dealt before.

4.3. There are a number of methods of checking identification:

- Seeking references (trade, personal or bank) from reputable organisations or individuals with whom the subject of the enquiry has had dealings in the past.
- In the case of a company, asking to see audited accounts or checking their details with the Register of Companies (Companies House).
- In the case of individuals asking to see some independent evidence of their identity and address, for example a passport or a driving licence.
- Seeking independent verification of the source of funds being paid to the Council.
- Some companies may require further checks due to the level of risk for each one. Please see your Senior Officer or the MRLO for further assistance.

4.4. Once identification has been verified it is important that the evidence is retained for at least five years from the end of the business relationship or the one-off transaction(s).

5. Reporting Suspicions of Money Laundering

5.1. Where you know or suspect that money laundering activity is taking/has taken place, or you are concerned that your involvement in the matter may amount to a prohibited act under the legislation, you must disclose to the MLRO this suspicion or concern as soon as practicable. Your disclosure should be made to the MLRO on the pro-forma attached at **Appendix B**.

5.2. Once you have reported the matter to the MLRO you must follow any directions they may give you. You must not make any further enquiries into the matter yourself and you must not proceed with the transaction until given the all clear. Any necessary investigation will be undertaken by the (NCA). All employees will be required to cooperate with the MLRO and the authorities during any subsequent money laundering investigation.

5.3. If an employee suspects money laundering and does nothing about it, they can be in breach of the provisions of the legislation, and related Council procedures. Whilst the risk to the Council is low, it is important that all employees are aware of their responsibilities. The key responsibility of all employees is to promptly report any suspicion of money laundering to the MLRO.

6. Consideration of a disclosure by the Money Laundering Reporting Officer

6.1. Upon receipt of a disclosure report, the MLRO must note the date of receipt on his section of the report and acknowledge receipt of it. He should also advise you of the timescale within which he expects to respond to you.

6.2. The MLRO will consider the report and any other available internal information he thinks relevant e.g.:

- reviewing other transaction patterns and volumes;
- the length of any business relationship involved;
- the number of any one-off transactions and linked one-off transactions;
- any identification evidence held;

6.3. and undertake such other reasonable inquiries he thinks appropriate in order to ensure that all available information is taken into account in deciding whether a report to NCA is required (such enquiries being made in such a way as to avoid any appearance of tipping off those involved). The MLRO may also need to discuss the report with you.

6.4. Once the MLRO has evaluated the disclosure report and any other relevant information, he must make a timely determination as to whether:

- there is actual or suspected money laundering taking place; or
- there are reasonable grounds to know or suspect that is the case; and
- whether he needs to seek consent from the NCA for a particular transaction to proceed.

6.5. Where the MLRO does so conclude, then he must disclose the matter as soon as practicable to NCA on their standard report form and in the prescribed manner, unless he has a reasonable excuse for non-disclosure to the NCA (for example, if you are a lawyer and you wish to claim legal professional privilege for not disclosing the information).

6.6. Where the MLRO suspects money laundering but has a reasonable excuse for nondisclosure, then he must note the report accordingly; he can then immediately give his consent for any ongoing or imminent transactions to proceed.

6.7. In cases where legal professional privilege may apply, the MLRO must liaise with the legal adviser to decide whether there is a reasonable excuse for not reporting the matter to NCA.

6.8. Where consent is required from NCA for a transaction to proceed, then the transaction(s) in question must not be undertaken or completed until NCA has specifically given consent, or there is deemed consent through the expiration of the relevant time limits without objection from NCA.

6.9. Where the MLRO concludes that there are no reasonable grounds to suspect money laundering then he shall mark the report accordingly and give his consent for any ongoing or imminent transaction(s) to proceed.

6.10. All disclosure reports referred to the MLRO and reports made by him to NCA must be retained by the MLRO in a confidential file kept for that purpose, for a minimum of five years.

6.11. The MLRO commits a criminal offence if he knows or suspects, or has reasonable grounds to do so, through a disclosure being made to him, that another person is engaged in money laundering and he does not disclose this as soon as practicable to NCA.

7. Further Guidance and Advice

7.1. If you have any queries or require clarification on any of the issues in the policy please contact the MLRO in the first instance.

8. Useful Links

- The Proceeds of Crime Act 2002
  http://www.legislation.gov.uk/all?title=Proceeds%20of%20crime
- The Terrorism Act 2000
  http://www.legislation.gov.uk/all?title=terrorism%20act
- The Money Regulation 2017
  http://www.legislation.gov.uk/uksi/2017/692/made
- HM Treasury https://www.gov.uk/government/publications/anti-money-laundering-legislation-guidance-notes
- Law Society http://www.lawsociety.org.uk/advice/anti-money-laundering/
- National Crime Agency http://www.nationalcrimeagency.gov.uk/

Appendix A

PROCEEDS OF CRIME (ANTI-MONEY LAUNDERING) – MAIDSTONE BOROUGH COUNCIL'S AND YOUR OWN PERSONAL RESPONSIBILITIES

PURPOSE

These notes are important. They are designed to help you familiarise yourself with the legal and regulatory requirements relating to money laundering, as they affect both the organisation and you personally.

WHAT IS MONEY LAUNDERING?

Money laundering is the term used for a number of offences involving the proceeds of crime or terrorist funds. The following acts constitute the act of money laundering:

- concealing, disguising, converting, transferring or removing criminal property from the UK (Section 327 POCA);
- entering into or becoming concerned in an arrangement which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property (Section 328 POCA);
- acquiring criminal property, using criminal property; or possession of criminal property (Section 329 POCA).
- failure to report a suspicion of money laundering during the course of business he develops knowledge or suspicion (or has reasonable grounds for doing so) that another person is engaged in money laundering, and he does not make the required disclosure as soon as is practicable (Section 330 POCA)

Although the term 'money laundering' is generally used when describing the activities of organised crime – for which the legislation and regulations were first and foremost introduced – to most people who are likely to come across it or be affected by it, it involves a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

'Criminal property' is defined very widely in the law relating to money laundering. It includes not only the proceeds of crime committed by somebody else, but also possession of the proceeds of an individual's own crime – for example, the retention of monies from non-payment of income tax. It does not matter how small the amount of money involved is. It also includes the proceeds of crimes that take place abroad.

WHAT LAWS EXIST TO CONTROL MONEY LAUNDERING?

In recent years, new laws have been passed which shift significantly the burden for identifying acts of money laundering away from government agencies and more towards organisations and their employees. They prescribe potentially very heavy penalties, including imprisonment, for those who are convicted of breaking the law. These laws are important and a list of them appears at the end of these notes, together with a list of useful websites.

WHAT IS THIS ORGANISATION'S POLICY ON MONEY LAUNDERING?

Our policy is to do all we can to prevent, wherever possible, the organisation and its staff being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases. We cannot stress too strongly, however, that it is every member of staff's responsibility to be vigilant.

WHAT ARE THE MAIN MONEY LAUNDERING OFFENCES?

There are three principal offences – concealing, arranging, and acquisition/use/possession. These are dealt with under sections 327 to 330 of the Proceeds of Crime Act 2002.

Concealing (s.327) is where someone knows or suspects a case of money laundering, but conceals or disguises its existence. Arranging (s.328) is where someone involves himself or herself in an arrangement to assist in money laundering. Acquisition (etc) (s.329) is where someone seeks to benefit from money laundering by acquiring, using or possessing the property concerned. Failure to report (s.330)

There are also two 'third party' offences – failure to disclose one of the three principal offences, and 'tipping-off'. Tipping off is where someone informs a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated, or prejudicing an investigation.

All the money laundering offences may be committed by an organisation or by the individuals working for it.

WHAT ARE THE IMPLICATIONS FOR THE COUNCIL AND ITS STAFF?

The Council has accepted the responsibility to ensure that those of its staff who are most likely to be exposed to money laundering can make themselves fully aware of the law and, where necessary, are suitably trained. The Council has also implemented procedures for reporting suspicious transactions and, if necessary, making an appropriate report to the NCA.

The consequences for staff or committing an offence are potentially very serious. Whilst it is considered most unlikely that a member of staff would commit one of the three principal offences, the failure to disclose a suspicion of a case of money laundering is a serious offence in itself, and there are only very limited grounds in law for not reporting a suspicion.

Whilst stressing the importance of reporting your suspicions, however, you should understand that failure to do so is only an offence if your suspicion relates, in the event, to an actual crime.

WHAT ARE THE PENALTIES?

Money laundering offences may be tried at a magistrate's court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, up to six months in prison, or both. In a Crown Court, fines are unlimited, and sentences from two to 14 years may be handed out.

WHAT SHOULD I DO IF I SUSPECT A CASE OF MONEY LAUNDERING?

You should report the case immediately to the MLRO using the form in Appendix B. He will decide whether the transaction is suspicious and whether to make a report to the NCA. There is no clear definition of what constitutes suspicion – common sense will be needed. If you are considered likely to be exposed to suspicious situations, you will be made aware of these by your senior officer and, where appropriate, training will be provided.

SUMMARY

Robust money laundering procedures are essential if the Council and its staff are to comply with our responsibilities and legal obligations. It falls to you as a Councillor or a member of the Council's staff, as well as to the Council itself, to follow these procedures rigorously.

Appendix B

Confidential
Report to the Money Laundering Reporting Officer
Report of Money Laundering Activity

To: **Money Laundering Reporting Officer**

Report from	
Staff member's name	
Directorate / Department	
Details of suspected offence	
Names and address of the persons involved (If a company/public body please include details of the nature of their business)	
Nature, value, timing of activity involved (Please include full details e.g. what, when, where, how)	
Nature of suspicions regarding such activity	
Has any investigation been undertaken?	
Have you discussed your suspicion with anyone else?	

Signed and dated	

For completion by MLRO	
Date received	
Date acknowledged	
Unique case reference no.	
Are there reasonable grounds for suspecting money laundering activity?	
If yes, confirm date of report to NCA	
Is consent required from the NCA to any on-going or imminent transactions which would otherwise be prohibited act? If yes please confirm full details in the box.	
Date consent received from NCA	
Date consent given to employee for transaction to proceed	
If there are reasonable grounds to suspect money laundering, but you do not intend to report the matter to the NCA, please set out the reason(s) for non-disclosure	
Date consent given by you to the employee for transaction to proceed.	
Signed and dated	
THIS REPORT TO BE RETAINED FOR AT LEAST FIVE YEARS	

AUDIT, GOVERNANCE & STANDARDS COMMITTEE	**13th January 2020**

Treasury Management, Investment and Capital Strategies 2020/21

Final Decision-Maker	Council
Lead Head of Service	Chris Hartgrove – Interim Head of Finance
Lead Officer and Report Author	John Owen – Finance Manager
Classification	Public
Wards affected	All

Executive Summary

This report sets out the draft Treasury Management Strategy, Investment Strategy and Capital Strategy for 2020/21 for consideration by the Audit, Governance & Standards Committee and recommendation to Council for adoption. The strategies are attached as Appendices A-C to this report.

Purpose of Report

This report requires discussion from the Committee.

This report makes the following recommendations to this Committee:

1. That the Treasury Management Strategy for 2020/21 attached as Appendix A to this report is agreed and recommended to Council for adoption, subject to any amendments arising from consideration of the Capital Programme by Policy and Resources Committee at its meeting on 22nd January 2020.
2. That the Investment Strategy for 2020/21 attached as Appendix B to this report is agreed and recommended to Council for adoption.
3. That the Capital Strategy for 2020/21 attached as Appendix C to this report is agreed and recommended to Council for adoption.

Timetable	
Meeting	***Date***
Audit, Governance & Standards Committee	13th January 2020
Policy & Resources Committee	22nd January 2020
Council	26th February 2020

Treasury Management, Investment and Capital Strategies 2020/21

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The Treasury Management function ensures the safeguarding of Council finances and the liquidity of funds when liabilities become due to support the Strategic Plan objectives.	Interim Head of Finance
Cross Cutting Objectives	The report recommendations support the achievements of the cross cutting objectives embedded within the Strategic Plan.	Interim Head of Finance
Risk Management	Covered in Section 5 of this report.	Interim Head of Finance
Financial	This report relates to the financial activities of the Council in respect of Treasury Management and specific financial implications are therefore detailed within the body of the report.	Section 151 Officer & Finance Team
Staffing	None.	Interim Head of Finance
Legal	The legal implications are detailed within the body of the report which is compliant with statutory and legal regulations such as the CIPFA Code of Practice on Treasury Management in Local Authorities.	Team Leader (Corporate Governance), MKLS
Privacy and Data Protection	None.	Policy and Information Team
Equalities	The recommendations do not propose a change in service delivery therefore will not require an Equalities Impact Assessment (EIA).	Policy & Information Manager
Public Health	The recommendations will not negatively impact on population health or that of individuals.	Public Health Officer
Crime and Disorder	None.	Interim Head of Finance
Procurement	None.	Interim Head of Finance

2. INTRODUCTION AND BACKGROUND

2.1 The Council is required to operate a balanced budget, which broadly means that cash raised during the year must meet cash expenditure. The Treasury Management Strategy assists the Council in achieving this objective while maintaining value for money.

2.2 The first function of the Council's Treasury Management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low risk counterparties or instruments commensurate with the Council's low risk appetite, providing adequate liquidity initially before considering investment return.

2.3 The second function of the Treasury Management operation is the funding of the Council's capital plans. The capital plans provide a guide to the borrowing need of the Council, so this means longer term cash flow planning to ensure that the Council can meet its capital spending obligations. The management of longer-term cash may involve arranging long or short-term loans or using longer term cash flow surpluses. On occasion, any debt previously drawn may be restructured to meet Council risk or cost objectives.

2.4 The council has adopted the Treasury Management in Public Services: Code of Practice 2011 Edition ('the Code') issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).

2.5 CIPFA defines Treasury Management as:

"The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."

2.6 The current 2019/20 Treasury Management Strategy (TMS) was reviewed by this Committee and agreed by Council in February 2019. The current Strategy is primarily to:

- Utilise cash balances rather than loan debt to finance the capital programme in the short term, due to low investment returns and high counterparty risk in the current economic climate; and

- Further diversify its portfolio, as far as is operationally feasible, ensuring that a combination of secured and unsecured investments is considered. Greater use of local authority investments will be used where the borrowers offer a high level of security.

2.7 A mid-year monitoring report was considered by this Committee at its November 2019 meeting. Essentially the Council is taking a similar stance with its Strategy for 2020/21, however as cash balances will be fully utilised by the end of 2019/20, the Council will be looking to its borrowing options.

2.8 The Treasury Management Strategy for 2020/21 is set out at **Appendix A** to this report. It is consistent with the requirements of the CIPFA and MHCLG and has been developed in line with currently approved spending and financing proposals.

2.9 CIPFA revised the 2011 edition of the Code in 2017, which ensures that local authorities also take into account the risks involved with non-treasury investments. CIPFA have therefore recommended that authorities development an Investment Strategy – **Appendix B** and a Capital Strategy - **Appendix C** which set out the Council's risk appetite and specific policies and arrangements for non-treasury investments.

2.10 The three strategy documents are linked and support the overall Medium Term Financial Strategy (MTFS), alluding to the risk appetites around capital investment priorities and funding decisions including borrowing. Below is an illustration of how these documents are linked:

Table A.

MTFS – covers governance, long term plans and financial resourcing

TM Strategy
- Governance
- Long term Planning incl. MRP
- Risk appetite, key risks and sensitivities

Investment Strategy
- Approach, due diligence, risk appetite
- Governance process for approval and monitoring]
- Summary of material investments, guarantees and liabilities

Capital Strategy

2.11 Current investments as at 31st December 2019 total £19.5m. A list of these can be found within **Appendix D**.

2.12 The Council has entered into a borrowing position during 2019/20, currently £7m, to fund its capital programme, which is likely to increase in 2020/21. Although the Council had cash in hand as at 31 December, borrowing has been required as it is expected that cash balances will reduce over the next three months.

2.13 The existing Treasury Management Strategy provided approval for a range of sources of borrowing, including the Public Works Loan Board. In the event, PWLB rates increased by 100 bps during 2019/20, which made local authority borrowing a more cost-effective source of finance. To date, borrowing has been short term and has been procured from other local authorities. A list of local authorities from which the Council has procured borrowing can also be found within **Appendix D**. The approach to borrowing will remain under review and longer term finance may be sought, if prudent to do so, from financial institutions and possibly the Municipal Bonds Agency (however there is no issuance from this at present). Whilst PWLB rates are currently higher than rates available elsewhere in the market, if this position were to change, PWLB borrowing would be considered again.

2.14 The Policy & Resources Committee will consider a capital programme for the period 2020/21 to 2024/25 at its meeting on 22nd January 2020. The attached Strategy includes assumptions about the Capital Programme and it is not anticipated that the Capital Programme as finally agreed will differ significantly from these.

2.15 The following table shows the maximum prudential borrowing required to fund the draft capital programme. Internal borrowing will be fully utilised within 2019/20 programme and the Council will have to borrow externally from then on:

	2020/21 £m	**2021/22 £m**	**2022/23 £m**
Capital Programme	35.291	19.691	16.664
Other Funding Streams (incl. New Homes Bonus)	(10.552)	(3.464)	(2.927)
Maximum Prudential Borrowing	24.739	16.227	13.737
Estimated Internal Borrowing	(0.530)	(0.517)	(0.537)
Expected Borrowing	24.209	15.710	13.200

Investment Strategy

2.16 The Investment Strategy focuses on service investments (supporting local services by lending or buying shares) and commercial investments (property investment to generate a profit).

2.17 The Council has made one loan to Kent Savers for £25,000 in 2017/18 which is repayable in 2022/23 at an interest rate of 1%. A loan to Cobtree Manor Estates Trust has been agreed in 2019/20 for an amount of £323,000 repayment over 5 years at an annual interest rate of 3%. However, a loan to Maidstone Property Holdings Limited may also be made in the near future for which the interest rate applicable would be at commercial rates. There is a provision for such service loans of £1 million.

2.18 The Council does not currently have any investments in property that are considered to be purely commercial in nature. Acquisitions are limited to properties situated within the borough, with the intention of supporting the local community, housing and regeneration objectives rather than for the exclusive purpose of generating profits. All property investments are therefore classified as general fund capital projects.

Capital Strategy

2.19 The capital strategy gives a high-level overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of local public services along with an overview of how associated risk is managed and the implications for future financial sustainability.

2.20 The strategy forms part of the Council's integrated revenue, capital and balance sheet planning and requires annual approval by full Council. It sets out the long term context in which capital expenditure and investment decisions are made, and considers risk, reward and impact on the achievement of the Council's priority outcomes identified within the strategic plan.

2.21 A revised Capital Strategy was brought to this Committee on 30th July 2019 and agreed by Council on 25th September 2019. The strategy for 2020/21 is an update of this with the latest capital proposal plans for the Council.

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3. AVAILABLE OPTIONS

3.1 **Option 1:** The Committee could decide not to recommend the strategies to Council. The Council must adopt strategies for 2020/21 and should the Committee decide not to recommend it would need to recommend an alternative to Council. The strategies are in line with the necessary codes and practice guides and take a low risk approach favouring liquidity and security over return. As such the approach set out within the strategy is considered suitable for this Council.

3.2 **Option 2:** Subject to any legal obligations placed upon the Council, the Committee could amend the strategies prior to recommendation to Council. The Committee would need to provide Council with detailed reasons for the amendments and the risks and benefits that the proposed amendments provide in order for the Council to make a fully informed decision on the recommendation.

3.3 **Option 3:** The Committee could agree the attached strategies and recommend them to Council. The attached strategies have been produced in line with current guidance from CIPFA and the Ministry of Housing for Communities and Local Government (MHCLG). They have also been developed in line with advice and guidance from the Council's Treasury Management Advisors.

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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The recommended option is Option 3, to recommend to Council the Treasury Management Strategy, Investment Strategy and the Capital Strategy for 2020/21.

4.2 As stated above, the proposed strategy has been produced in line with current guidance from CIPFA and the Ministry of Housing for Communities and Local Government (MHCLG).

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5. RISK

5.1 Detailed risk management policies are included within the Treasury Management Practices and have been included in both investment strategies and capital strategies to which the Council adheres to. A brief description of these risks along with the Council's actions to mitigate these risks are as follows:

Liquidity Risk - Liquidity risk is the risk that cash will not be available when it is required. The Council has sufficient standby facilities to ensure that there is always sufficient liquidity to deal with unexpected occurrences. The Council also has an overdraft facility with Lloyds Bank of £500,000 plus the option of short-term borrowing.

Interest Rate Risk - Interest rate risk is the risk that unexpected changes in interest rates expose the Council to greater costs or a shortfall in income than have been budgeted for. This risk is mitigated by borrowing and lending on a fixed rate basis. The Council will also seek to minimise this risk by seeking expert advice on forecasts of interest rates from treasury management consultants and agreeing with them its strategy for the coming year for the investment and debt portfolios. It will also determine appropriate limits and trigger points which are set out in the annual Treasury Management Strategy.

Exchange Rate Risk - Exchange rate risk is the risk that unexpected changes in exchange rates expose the Council to greater costs or a shortfall in income than have been budgeted for. The Council has a minimal exposure to exchange rate risk as it has no powers to enter into loans or investments in foreign currency for treasury management purposes.

Inflation Risk - Inflation risk is the risk that unexpected changes in inflation expose the Council to greater costs or a shortfall in income than have been budgeted for. Inflation both current and projected will form part of the debt and investment decision-making criteria both within the strategy and operational considerations.

Credit and Counterparty Risk - Credit and counter-party risk is the risk of failure by a third party to meet its contractual obligations under an investment, loan or other commitment, especially one due to deterioration in its creditworthiness, which causes the Council an unexpected burden on its capital or revenue resources. Treasury management staff will add or delete counterparties to/from the approved counterparty list in line with the policy on criteria for selection of counterparties. Due to volatility of the financial market, Treasury Management staff will use information from various sources, e.g. brokers, Treasury Management Consultants and other local Authority experience to determine the credit worthiness of an institution and to decide if funds are at risk and agree best course of action with Director of Finance & Business Improvement.

Refinancing Risk - Refinancing risk is the risk that when loans or other forms of capital financing mature, that they cannot be refinanced where necessary on terms that reflect the assumptions made in formulating revenue and capital budgets. The Council currently borrows to fund a portion of its capital programme and will continue to do so in the coming years. In considering the affordability of its capital plans, the Council will consider all the resources currently available/estimated for the future together with the totality of its capital plans, revenue income and revenue expenditure forecasts for the forthcoming year and the two following years and the impact these will have on council tax. It will also take into account affordability in the longer term beyond this three year period.

Legal and Regulatory Risk - Legal and regulatory risk is the risk that either the Council, or a third party which it is dealing with in its treasury management activities, acts outside of its legal powers or regulatory requirements and as a result the Council incurs loss. The treasury management activities of the Council shall comply fully with legal statute, guidance, Codes of Practice and the regulations of the Council. The Authority will provide written evidence of its powers and authorities to any counterparty that requests us to do so. Counterparties will also provide their details to the Authority as a matter of course.

Fraud, Error and Corruption Risk - Fraud, error and corruption risk is the risk that the Council may fail to employ adequate systems, procedures and other arrangements which identify and prevent losses through such occurrences. The Council will seek to ensure an adequate division of responsibilities and maintenance at all times of an adequate level of internal checks which minimises such risks along with maintaining records of all treasury management transactions so that there is a full audit trail and evidence of the appropriate checks being carried out. Delegated members of staff have the responsibility for the treasury management function for the Council and the Director of Finance & Business Improvement authorises who these are. The Council also has a Fidelity Guarantee insurance policy with Zurich Insurance which covers against loss of cash through fraud or dishonesty of employees.

Risk Appetite – The Council takes a slightly higher risk with its non-treasury investments compared to its treasury management investments due to the fact that treasury investments are mainly maintaining funds in high security instruments for when they are required and non-treasury decisions are for service delivery where there is a different risk profile.

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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 None.

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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 This report will be considered by Council at its meeting on 26th February 2020.

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8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Treasury Management Strategy
- Appendix B: Investment Strategy
- Appendix C: Capital Strategy
- Appendix D: Investment and Borrowing Position as at 31st December 2019.

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9. BACKGROUND PAPERS

9.1 None.

Treasury Management Strategy Statement

Minimum Revenue Provision Policy Statement and Annual Investment Strategy

2020/21

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1.INTRODUCTION

1.1 Background

The Council is required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low risk counterparties or instruments commensurate with the Council's low risk appetite, providing adequate liquidity initially before considering investment return.

The second main function of the treasury management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer-term cash flow planning, to ensure that the Council can meet its capital spending obligations. This management of longer-term cash may involve arranging long or short-term loans or using longer-term cash flow surpluses. On occasion, when it is prudent and economic, any debt previously drawn may be restructured to meet Council risk or cost objectives.

The contribution the treasury management function makes to the authority is critical, as the balance of debt and investment operations ensure liquidity or the ability to meet spending commitments as they fall due, either on day-to-day revenue or for larger capital projects. The treasury operations will see a balance of the interest costs of debt and the investment income arising from cash deposits affecting the available budget. Since cash balances generally result from reserves and balances, it is paramount to ensure adequate security of the sums invested, as a loss of principal will in effect result in a loss to the General Fund Balance.

Whilst any commercial initiatives or loans to third parties will impact on the treasury function, these activities are generally classed as non-treasury activities, and are separate from the day to day treasury management activities. The Council does not

CIPFA defines treasury management as:

> *"The management of the local authority's borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."*

1.2 Reporting requirements

1.2.1 Capital Strategy

The CIPFA 2017 Prudential and Treasury Management Codes require all local authorities to prepare a capital strategy report which will provide the following:

- a high-level long term overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services
- an overview of how the associated risk is managed
- the implications for future financial sustainability

The aim of this capital strategy is to ensure that all elected members on the full council fully understand the overall long-term policy objectives and resulting capital strategy requirements, governance procedures and risk appetite.

This capital strategy is reported separately from the Treasury Management Strategy Statement. This ensures the separation of the core treasury function under security, liquidity and yield principles, and the policy and commercialism investments usually driven by expenditure on an asset. The capital strategy will show:

- The corporate governance arrangements for these types of activities;
- Any service objectives relating to the investments;
- The expected income, costs and resulting contribution;
- The debt related to the activity and the associated interest costs;
- The payback period (MRP policy);
- For non-loan type investments, the cost against the current market value;
- The risks associated with each activity.

Where a physical asset is being bought, details of market research, advisers used, (and their monitoring), ongoing costs and investment requirements and any credit information will be reported to Members, including the ability to sell the asset and realise the investment cash.

Where the Council has borrowed to fund any non-treasury investment, there should also be an explanation of why borrowing was required and why the MHCLG Investment Guidance and CIPFA Prudential Code have not been adhered to.

If any non-treasury investment sustains a loss during the final accounts and audit process, the strategy and revenue implications will be reported through the same procedure as the capital strategy.

To demonstrate the proportionality between the treasury operations and the non-treasury operation, high-level comparators are shown throughout this report.

A Revised Capital Strategy which relates to the Council's priorities was agreed by Council on 25th September 2019.

1.2.2 Treasury Management reporting

The Council is currently required to receive and approve, as a minimum, three main treasury reports each year, which incorporate a variety of policies, estimates and actuals.

a. **Prudential and treasury indicators and treasury strategy** (this report) - The first, and most important report is forward looking and covers:
   - the capital plans, (including prudential indicators);
   - a minimum revenue provision (MRP) policy, (how residual capital expenditure is charged to revenue over time);
   - the treasury management strategy, (how the investments and borrowings are to be organised), including treasury indicators; and
   - an investment strategy, (the parameters on how investments are to be managed).

The following reports are not required to be approved by Council but are to be reported and scrutinised to the relevant Committee. The Council has delegated this function to the Audit, Governance and Standards Committee.

b. **A mid-year treasury management report** – This is primarily a progress report and will update members on the capital position, amending prudential indicators as necessary, and whether any policies require revision.

c. **An annual treasury report** – This is a backward looking review document and provides details of a selection of actual prudential and treasury indicators and actual treasury operations compared to the estimates within the strategy.

A quarterly update on the Council's treasury management position is also provided through budget monitoring reports presented to Policy & Resources Committee.

1.3 Treasury Management Strategy for 2020/21

The strategy for 2020/21 covers two main areas:

Capital issues
- the capital expenditure plans and the associated prudential indicators;
- the minimum revenue provision (MRP) policy.

Treasury management issues
- the current treasury position;
- treasury indicators which limit the treasury risk and activities of the Council;
- prospects for interest rates;
- the borrowing strategy;
- policy on borrowing in advance of need;
- debt rescheduling;
- the investment strategy;
- creditworthiness policy; and
- the policy on use of external service providers.

These elements cover the requirements of the Local Government Act 2003, the CIPFA Prudential Code, MHCLG MRP Guidance, the CIPFA Treasury Management Code and MHCLG Investment Guidance.

1.4 Training

The CIPFA Code requires the responsible officer to ensure that members with responsibility for treasury management receive adequate training in treasury management. This especially applies to members responsible for scrutiny. Training has been planned for Members prior to the Audit Governance and Standards Committee meeting on the 13th January 2020. The Council's Treasury Advisors, Link Asset Services, will be providing this training with reference to this Strategy.

Staff regularly attend training courses, seminars and conferences provided by the Council's Treasury Consultants and CIPFA. Relevant staff are also encouraged to study professional qualifications delivered by CIPFA, the Association of Corporate Treasurers and other appropriate organisations.

Staff training needs are assessed regularly both as part of the appraisal process and when the responsibilities of individual members of staff change.

1.5 Treasury management consultants

The Council uses Link Asset Services, Treasury solutions as its external treasury management advisors.

The Council recognises that responsibility for treasury management decisions remains with the organisation at all times and will ensure that undue reliance is not placed upon the services of our external service providers. All decisions will be undertaken with regards to all available information, including, but not solely, our treasury advisers.

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

2 THE CAPITAL PRUDENTIAL INDICATORS 2020/21 – 2022/23

The Council’s capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the prudential indicators, which are designed to assist members’ overview and confirm capital expenditure plans.

2.1 Capital expenditure

This prudential indicator is a summary of the Council’s capital expenditure plans, both those agreed previously, and those forming part of this budget cycle. Members are asked to approve the capital expenditure forecasts.

The table below summarises the above capital expenditure plans and how these plans are being financed by capital or revenue resources. Any shortfall of resources results in a funding borrowing need. 2018/19 Actual was funded through internal borrowing.

Financing of capital expenditure £m	2018/19 Actual	2019/20 Estimate	2020/21 Estimate	2021/22 Estimate	2022/23 Estimate
Capital receipts	0.000	0.000	0.000	0.000	0.000
Capital grants	1.368	2.251	6.080	0.863	1.554
Capital reserves	0.000	0.000	0.000	0.000	0.000
Revenue (incl MRP)	4.623	4.364	6.423	5.443	4.729
Net financing need for the year	**10.141**	**37.204**	**22.788**	**13.385**	**10.381**

2.2 The Council’s borrowing need (the Capital Financing Requirement)

The second prudential indicator is the Council’s Capital Financing Requirement (CFR). The CFR is simply the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is essentially a measure of the Council’s indebtedness and so its underlying borrowing need. Any capital expenditure above, which has not immediately been paid for through a revenue or capital resource, will increase the CFR.

The CFR does not increase indefinitely, as the minimum revenue provision (MRP) is a statutory annual revenue charge which broadly reduces the indebtedness in line with each asset’s life, and so charges the economic consumption of capital assets as they are used.

The CFR includes any other long-term liabilities (e.g. PFI schemes, finance leases). Whilst these increase the CFR, and therefore the Council’s borrowing requirement, these types of scheme include a borrowing facility by the PFI/PPP lease provider and so the Council is not required to separately borrow for these schemes. The Council currently has £3.5m relating to Serco Paisa within the CFR.

The Council is asked to approve the CFR projections below:

£m	2018/19 Actual	2019/20 Estimate	2020/21 Estimate	2021/22 Estimate	2022/23 Estimate
Capital Financing Requirement					
Total CFR	12.097	48.780	71.038	83.906	93.750
Movement in CFR	8.87	36.68	22.26	12.87	9.84

Movement in CFR represented by					
Net financing need for the year	8.870	37.167	24.209	15.710	13.200
Less MRP/VRP and other financing movements	0.000	-0.484	-1.951	-2.842	-3.356
Movement in CFR	**8.870**	**36.683**	**22.258**	**12.868**	**9.844**

A key aspect of the regulatory and professional guidance is that elected members are aware of the size and scope of any commercial activity in relation to the authority's overall financial position. The capital expenditure figures shown in 2.1 and the details above demonstrate the scope of this activity and, by approving these figures, consider the scale proportionate to the Authority's remaining activity.

2.3 Minimum revenue provision (MRP) policy statement

The Council is required to pay off an element of the accumulated General Fund capital spend each year (the CFR) through a revenue charge (the minimum revenue provision - MRP), although it is also allowed to undertake additional voluntary payments if required (voluntary revenue provision - VRP).

MHCLG regulations have been issued which require the full Council to approve **an MRP Statement** in advance of each year. A variety of options are provided to councils, so long as there is a prudent provision. The Council is recommended to approve the following MRP Statement.

No borrowing was undertaken for capital expenditure incurred before 1 April 2008 or which in the future will be Supported Capital Expenditure.

From 1 April 2008 for all unsupported borrowing (including PFI and finance leases) the MRP policy will be*:*

- **Asset life method** – MRP will be based on the estimated life of the assets, in accordance with the regulations (this option must be applied for any expenditure capitalised under a Capitalisation Direction)

These options provide for a reduction in the borrowing need over approximately the asset's life.

Repayments included in annual PFI or finance leases are applied as MRP.

3 BORROWING

The capital expenditure plans set out in Section 2 provide details of the service activity of the Council. The treasury management function ensures that the Council’s cash is organised in accordance with the relevant professional codes, so that sufficient cash is available to meet this service activity and the Council’s capital strategy. This will involve both the organisation of the cash flow and, where capital plans require, the organisation of appropriate borrowing facilities. The strategy covers the relevant treasury / prudential indicators, the current and projected debt positions and the annual investment strategy.

3.1 Current portfolio position

The overall treasury management portfolio as at 31st December 2019 is shown below.

Date	Ref	Lender	Amount £m	Rate %	Start	End
22/11/2019	62	North Somerset District Council Council	3.000	0.8	22/11/2019	30/04/2020
22/11/2019	63	North Yorkshire County Council	4.000	0.97	22/11/2019	20/11/2020
		TOTAL	**7.000**			

The Council’s forward projections for borrowing are summarised below. The table shows the actual external debt, against the underlying capital borrowing need, (the Capital Financing Requirement - CFR), highlighting any over or under borrowing.

£m	2018/19 Actual	2019/20 Estimate	2020/21 Estimate	2021/22 Estimate	2022/23 Estimate
External Debt					
Debt at 1 April	0.000	0.000	7.000	43.940	19.870
Expected change in Debt	0.000	28.678	43.940	19.870	53.780
Other long-term liabilities (OLTL)	4.033	3.568	3.047	2.527	2.010
Expected change in OLTL	-0.465	-0.521	-0.520	-0.517	-0.537
Actual gross debt at 31 March	**3.568**	**31.725**	**53.467**	**65.820**	**75.123**
The Capital Financing Requirement	**12.097**	**48.780**	**71.038**	**83.906**	**93.750**
Under / (over) borrowing	**8.529**	**17.055**	**17.571**	**18.086**	**18.627**

Within the range of prudential indicators there are a number of key indicators to ensure that the Council operates its activities within well-defined limits. One of these is that the Council needs to ensure that its gross debt does not, except in the short term, exceed the total of the CFR in the preceding year plus the estimates of any additional CFR for 2020/21 and the following two financial years. This allows some flexibility for limited early borrowing for future years, but ensures that borrowing is not undertaken for revenue or speculative purposes.

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

3.2 Treasury Indicators: limits to borrowing activity

The operational boundary. This is the limit beyond which external debt is not normally expected to exceed. In most cases, this would be a similar figure to the CFR, but may be lower or higher depending on the levels of actual debt and the ability to fund under-borrowing by other cash resources.

	2018/19 £m	2019/20 £m	2020/21 £m	2021/22 £m	2022/23 £m
Borrowing	3.986	28.678	50.940	63.810	73.650
Other Long Term Liabilities	3.568	3.047	2.527	2.010	1.473
Total	7.554	31.725	53.467	65.820	75.123

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

1. This is the statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all councils’ plans, or those of a specific council, although this power has not yet been exercised.
2. The Council is asked to approve the following authorised limit:

	2018/19 £m	2019/20 £m	2020/21 £m	2021/22 £m	2022/23 £m
Borrowing	10.418	48.678	70.940	83.810	93.650
Other Long Term Liabilities	3.568	3.047	2.527	2.010	1.473
Total	13.986	51.725	73.467	85.820	95.123

3.3 Prospects for interest rates

The Council has appointed Link Asset Services as its treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. The following table gives their central view.

Link Asset Services Interest Rate View	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23
Bank Rate View	0.75	0.75	0.75	0.75	0.75	1.00	1.00	1.00	1.00	1.00	1.25	1.25	1.25	1.25
3 Month LIBID	0.70	0.70	0.70	0.80	0.90	1.00	1.00	1.00	1.10	1.20	1.30	1.30	1.30	1.30
6 Month LIBID	0.80	0.80	0.80	0.90	1.00	1.10	1.10	1.20	1.30	1.40	1.50	1.50	1.50	1.50
12 Month LIBID	1.00	1.00	1.00	1.10	1.20	1.30	1.30	1.40	1.50	1.60	1.70	1.70	1.70	1.70
5yr PWLB Rate	2.30	2.40	2.40	2.50	2.50	2.60	2.70	2.80	2.90	2.90	3.00	3.10	3.20	3.20
10yr PWLB Rate	2.60	2.70	2.70	2.70	2.80	2.90	3.00	3.10	3.20	3.20	3.30	3.30	3.40	3.50
25yr PWLB Rate	3.20	3.30	3.40	3.40	3.50	3.60	3.70	3.70	3.80	3.90	4.00	4.00	4.10	4.10
50yr PWLB Rate	3.10	3.20	3.30	3.30	3.40	3.50	3.60	3.60	3.70	3.80	3.90	3.90	4.00	4.00

The above forecasts have been based on an assumption that there will be an agreed deal on Brexit, including agreement on the terms of trade between the UK and EU, in due course.

The Monetary Policy Committee (MPC) left Bank Rate unchanged at 0.75% in 2019 due to the ongoing uncertainty over Brexit and more recently, due to the general election. In its meeting on 7 November, the MPC became more dovish due to increased concerns over the outlook for the domestic economy if Brexit uncertainties were to become more entrenched, and for weak global economic growth: if those uncertainties were to materialise, then it is likely the MPC would cut Bank Rate. However, if they were both to dissipate, then rates would need to rise at a "gradual pace and to a limited extent". Brexit uncertainty has had a dampening effect on UK GDP growth in 2019, especially around mid-year. If there were an eventual Brexit with no agreement on the terms of trade between the UK and EU, then it is likely that there will be a cut or cuts in Bank Rate to help support economic growth.

Bond yields / PWLB rates. There has been much speculation recently that we are currently in a bond market bubble. However, given the context that there are heightened expectations that the US could be heading for a recession, and a general background of a downturn in world economic growth, together with inflation generally at low levels in most countries and expected to remain subdued, conditions are ripe for low bond yields. While inflation targeting by the major central banks has been successful over the last thirty years in lowering inflation expectations, the real equilibrium rate for central rates has fallen considerably due to the high level of borrowing by consumers: this means that central banks do not need to raise rates as much now to have a major impact on consumer spending, inflation, etc. This has pulled down the overall level of interest rates and bond yields in financial markets over the last thirty years. Over the last year, many bond yields for terms of up to ten years in the Eurozone turned negative. In addition, there has, at times, been an inversion of bond yields in the US whereby ten-year yields have fallen below shorter-term yields. In the past, this has been a precursor of a recession. The other side of this coin is that bond prices are elevated, as investors would be expected to be moving out of riskier assets i.e. shares, in anticipation of a downturn in corporate earnings and so selling out of equities. However, stock markets are also currently at high levels as some investors have focused on chasing returns in the context of dismal ultra-low interest rates on cash deposits.

During the first half of 2019-20 to 30 September, gilt yields plunged and caused a near halving of longer term PWLB rates to completely unprecedented historic low levels. *(See paragraph 3.7 for comments on the increase in the PWLB rates margin over gilt yields of 100bps introduced on 9.10.19.)* There is though, an expectation that financial markets have gone too far in their fears about the degree of the downturn in US and world growth. If, as expected, the US only suffers a mild downturn in growth, bond markets in the US are likely to sell off and that would be expected to put upward pressure on bond yields, not only in the US, but also in the UK due to a correlation between US treasuries and UK gilts; at various times this correlation has been strong but at other times weak. However, forecasting the timing of this and how strong the correlation is likely to be is very difficult to forecast with any degree of confidence. Changes in UK Bank Rate will also impact on gilt yields.

One potential danger that may be lurking in investor minds is that Japan has become mired in a twenty-year bog of failing to get economic growth and inflation up off the floor, despite a combination of massive monetary and fiscal stimulus by both the central bank and government. Investors could be fretting that this condition might become contagious to other western economies.

Another danger is that unconventional monetary policy post 2008, (ultra-low interest rates plus quantitative easing), may end up doing more harm than good through prolonged use. Low interest rates have encouraged a debt-fuelled boom that now makes it harder for central banks to raise interest rates. Negative interest rates could damage the profitability of commercial banks and so impair their ability to lend and / or push them into riskier lending. Banks could also end up holding large amounts of their government's bonds and so create a potential doom loop. (A doom loop would occur where the credit rating of the debt of a nation was downgraded which would cause bond prices to fall, causing losses on debt portfolios held by banks and insurers, so reducing their capital and forcing them to sell bonds – which, in turn, would cause further falls in their prices etc.). In addition, the financial viability of pension funds could be damaged by low yields on holdings of bonds.

The overall longer run future trend is for gilt yields, and consequently PWLB rates, to rise, albeit gently. From time to time, gilt yields, and therefore PWLB rates, can be subject to exceptional levels of volatility due to geo-political, sovereign debt crisis, emerging market developments and sharp changes in investor sentiment. Such volatility could occur at any time during the forecast period.

In addition, PWLB rates are subject to ad hoc decisions by **H.M. Treasury** to change the margin over gilt yields charged in PWLB rates: such changes could be up or down. It is not clear that if gilt yields were to rise back up again by over 100bps within the next year or so, whether H M Treasury would remove the extra 100 bps margin implemented on 9.10.19.

Economic and interest rate forecasting remains difficult with so many influences weighing on UK gilt yields and PWLB rates. The above forecasts, (and MPC decisions), will be liable to further amendment depending on how economic data and developments in financial markets transpire over the next year. Geopolitical developments, especially in the EU, could also have a major impact. Forecasts for average investment earnings beyond the three-year time horizon will be heavily dependent on economic and political developments.

Investment and borrowing rates

- Investment returns are expected to remain low during 2020/21 with little increase in the following two years. However, if major progress was made with an agreed Brexit trade deal, then there is upside potential for earnings.
- Borrowing interest rates were on a major falling trend during the first half of 2019-20 but then jumped up by 100 bps on 9.10.19. The policy of avoiding new borrowing by running down spare cash balances has served local authorities well over the last few years. However, the unexpected increase of 100 bps in PWLB rates requires a major rethink of local authority treasury management strategy and risk management. Now that the gap between longer term borrowing rates and investment rates has materially widened, and in the long term Bank Rate is not expected to rise above 2.5%, it is unlikely that it will be beneficial for this authority to do any longer term borrowing for the next three years, or until such time as the extra 100 bps margin is removed.
- While this authority will not be able to avoid borrowing to finance new capital expenditure, to replace maturing debt and the rundown of reserves, there will be a cost of carry, (the difference between higher borrowing costs and lower investment returns), to any new short or medium-term borrowing that causes a temporary increase in cash balances as this position will, most likely, incur a revenue cost.

3.4 Borrowing strategy

The Council is currently maintaining an under-borrowed position. This means that the capital borrowing need (the Capital Financing Requirement), has not been fully funded with loan debt as cash supporting the Council's reserves, balances and cash flow has been used as a temporary measure. This strategy is prudent as investment returns are low and counterparty risk is still an issue that needs to be considered.

Against this background and the risks within the economic forecast, caution will be adopted with the 2020/21 treasury operations. The Director of Finance and Business Improvement will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances:

- if it was felt that there was a significant risk of a sharp FALL in borrowing rates, (e.g. due to a marked increase of risks around relapse into recession or of risks of deflation), then borrowing will be postponed.

- if it was felt that there was a significant risk of a much sharper RISE in borrowing rates than that currently forecast, perhaps arising from an acceleration in the rate of increase in central rates in the USA and UK, an increase in world economic activity, or a sudden increase in inflation risks, then the portfolio position will be re-appraised. Most likely, fixed rate funding will be drawn whilst interest rates are lower than they are projected to be in the next few years.

Any decisions will be reported to the Audit Governance and Standards Committee body at the next available opportunity.

3.5 Policy on borrowing in advance of need

The Council will not borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be within forward approved Capital Financing Requirement estimates and will be considered carefully to ensure that value for money can be demonstrated, and that the Council can ensure the security of such funds.

Risks associated with any borrowing in advance activity will be subject to prior appraisal and subsequent reporting through the mid-year or annual reporting mechanism.

3.6 New financial institutions as a source of borrowing and / or types of borrowing

Following the decision by the PWLB on 9 October 2019 to increase their margin over gilt yields by 100 bps to 180 basis points on loans lent to local authorities, consideration will also need to be given to sourcing funding at cheaper rates from the following:

- Local authorities (primarily shorter dated maturities)
- Financial institutions (primarily insurance companies and pension funds but also some banks, out of spot or forward dates)
- Municipal Bonds Agency (no issuance at present but there is potential)

The degree which any of these options proves cheaper than PWLB Certainty Rate is still evolving at the time of writing but our advisors will keep us informed.

3.7 Approved Sources of Long and Short term Borrowing

On Balance Sheet	Fixed	Variable
PWLB	●	●
Municipal bond agency	●	●
Local authorities	●	●
Banks	●	●
Pension funds	●	●
Insurance companies	●	●
Market (long-term)	●	●
Market (temporary)	●	●
Market (LOBOs)	●	●
Stock issues	●	●
Local temporary	●	●
Local Bonds	●	
Local authority bills	●	●
Overdraft		●
Negotiable Bonds	●	●
Internal (capital receipts & revenue balances)	●	●
Commercial Paper	●	
Medium Term Notes	●	
Finance leases	●	●

4 ANNUAL INVESTMENT STRATEGY

4.1 Investment policy – management of risk

The MHCLG and CIPFA have extended the meaning of 'investments' to include both financial and non-financial investments. This report deals solely with financial investments, (as managed by the treasury management team). Non-financial investments, essentially the purchase of income yielding assets, are covered in the Capital Strategy, (a separate report).

The Council's investment policy has regard to the following: -

- MHCLG's Guidance on Local Government Investments ("the Guidance")
- CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes 2017 ("the Code")
- CIPFA Treasury Management Guidance Notes 2018

The Council's investment priorities will be security first, portfolio liquidity second and then yield (i.e. return).

The above guidance from the MHCLG and CIPFA place a high priority on the management of risk. This authority has adopted a prudent approach to managing risk and defines its risk appetite by the following means: -

1. Minimum acceptable **credit criteria** are applied in order to generate a list of highly creditworthy counterparties. This also enables diversification and thus avoidance of concentration risk. The key ratings used to monitor counterparties are the short term and long-term ratings.

2. **Other information:** ratings will not be the sole determinant of the quality of an institution; it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate. The assessment will also take account of information that reflects the opinion of the markets. To achieve this consideration the Council will engage with its advisors to maintain a monitor on market pricing such as **"credit default swaps"** and overlay that information on top of the credit ratings.

3. **Other information sources** used will include the financial press, share price and other such information pertaining to the financial sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties.

4. This authority has defined the list of **types of investment instruments** that the treasury management team are authorised to use. The two categories of 'specified' and 'non-specified' investments.

    - **Specified investments** are those with a high level of credit quality and subject to a maturity limit of one year.

- **Non-specified investments** are those with less high credit quality, may be for periods in excess of one year, and/or are more complex instruments which require greater consideration by members and officers before being authorised for use. Once an investment is classed as non-specified, it remains non-specified all the way through to maturity i.e. an 18 month deposit would still be non-specified even if it has only 11 months left until maturity.

5. **Non-specified investments limit.** The Council has determined that it will limit the maximum total exposure to non-specified investments as being 10% of the total investment portfolio, however this could be breached periodically in times of low investment balances.

6. **Lending limits**, (amounts and maturity), for each counterparty will be set through applying the matrix table in paragraph 4.2.

7. **Transaction limits** are set for each type of investment in 4.2.

8. This authority will set a limit for the amount of its investments which are invested for **longer than 365 days** (see paragraph 4.4).

9. Investments will only be placed with counterparties from countries with a specified minimum **sovereign rating** (see paragraph 4.3).

10. This authority has engaged **external consultants** (see paragraph 1.5), to provide expert advice on how to optimise an appropriate balance of security, liquidity and yield, given the risk appetite of this authority in the context of the expected level of cash balances and need for liquidity throughout the year.

11. All investments will be denominated in **sterling**.

12. As a result of the change in accounting standards for 2019/20 under IFRS 9, this authority will consider the implications of investment instruments which could result in an adverse movement in the value of the amount invested and resultant charges at the end of the year to the General Fund. The Council does not have any of these investments at this time.

This authority will also pursue **value for money** in treasury management and will monitor the yield from investment income against appropriate benchmarks for investment performance, (see paragraph 4.5). Regular monitoring of investment performance will be carried out during the year.

Changes in risk management policy from last year.

The above criteria are unchanged from last year.

4.2 Creditworthiness policy

This Council applies the creditworthiness service provided by Link Asset Services. This service employs a sophisticated modelling approach utilising credit ratings from the three main credit rating agencies - Fitch, Moody's and Standard & Poor's. The credit ratings of counterparties are supplemented with the following overlays:

- "watches" and "outlooks" from credit rating agencies;
- CDS spreads that may give early warning of likely changes in credit ratings;
- sovereign ratings to select counterparties from only the most creditworthy countries.

This modelling approach combines credit ratings, and any assigned Watches and Outlooks in a weighted scoring system which is then combined with an overlay of CDS spreads. The end product of this is a series of colour coded bands which indicate the relative creditworthiness of counterparties. These colour codes are used by the Council to determine the suggested duration for investments. The Council will, therefore, use counterparties within the following durational bands*:*

- Yellow 5 years *
- Dark pink 5 years for Ultra-Short Dated Bond Funds with a credit score of 1.25
- Light pink 5 years for Ultra-Short Dated Bond Funds with a credit score of 1.5
- Purple 2 years
- Blue 1 year (only applies to nationalised or semi nationalised UK Banks)
- Orange 1 year
- Red 6 months
- Green 100 days
- No colour not to be used

The Link Asset Services' creditworthiness service uses a wider array of information other than just primary ratings. Furthermore, by using a risk weighted scoring system, it does not give undue preponderance to just one agency's ratings.

Typically, the minimum credit ratings criteria the Council use will be a short term rating (Fitch or equivalents) of F1 and a long term rating of A-. There may be occasions when the counterparty ratings from one rating agency are marginally lower than these ratings but may still be used. In these instances, consideration will be given to the whole range of ratings available, or other topical market information, to support their use.

All credit ratings will be monitored daily. The Council is alerted to changes to ratings of all three agencies through its use of the Link Asset Services' creditworthiness service.

- if a downgrade results in the counterparty / investment scheme no longer meeting the Council's minimum criteria, its further use as a new investment will be withdrawn immediately.

- in addition to the use of credit ratings the Council will be advised of information in movements in Credit Default Swap spreads against the iTraxx European Financials benchmark and other market data on a daily basis via its Passport website, provided exclusively to it by Link Asset Services. Extreme market movements may result in downgrade of an institution or removal from the Council's lending list.

Sole reliance will not be placed on the use of this external service. In addition this Council will also use market data and market information, as well as information on any external support for banks to help support its decision making process.

Y	Pi1	Pi2	P	B	O	R	G	N/C
1	1.25	1.5	2	3	4	5	6	7
Up to 5yrs	Up to 5yrs	Up to 5yrs	Up to 2yrs	Up to 1yr	Up to 1yr	Up to 6mths	Up to 100days	No Colour

	Colour (and long term rating where applicable)	**Money Limit**	**Transaction limit**	**Time Limit**
Banks *	**yellow**	**£5m**	**£5m**	**5yrs**
Banks	**purple**	**£3m**	**£3m**	**2 yrs**
Banks	**orange**	**£3m**	**£3m**	**1 yr**
Banks – part nationalised	**blue**	**£3m**	**£3m**	**1 yr**
Banks	**red**	**£3m**	**£3m**	**6 mths**
Banks	**green**	**£1m**	**£1m**	**100 days**
Banks	**No colour**	**Not to be used**	**£0m**	
Other institutions limit	**-**	**£1m**	**£1m**	**5yrs**
DMADF	**UK sovereign rating**	**unlimited**	**£5m**	**6 months**
Local authorities	**n/a**	**£5m**	**£5m**	**5yrs**
Housing associations	**Colour bands**	**£5m**	**£5m**	**As per colour band**
	Fund rating**	**Money Limit**		**Time Limit**

Money Market Funds CNAV	**AAA**	**£8m**	**£8m**	**liquid**
Money Market Funds LVNAV	**AAA**	**£8m**	**£8m**	**liquid**
Money Market Funds VNAV	**AAA**	**£8m**	**£8m**	**liquid**
Ultra-Short Dated Bond Funds with a credit score of 1.25	**Dark pink / AAA**	**£8m**	**£8m**	**liquid**
Ultra-Short Dated Bond Funds with a credit score of 1.50	**Light pink / AAA**	**£8m**	**£8m**	**liquid**

UK banks – ring fencing
The largest UK banks, (those with more than £25bn of retail / Small and Medium-sized Enterprise (SME) deposits), are required, by UK law, to separate core retail banking services from their investment and international banking activities by 1st January 2019. This is known as "ring-fencing". Whilst smaller banks with less than £25bn in deposits are exempt, they can choose to opt up. Several banks are very close to the threshold already and so may come into scope in the future regardless.

Ring-fencing is a regulatory initiative created in response to the global financial crisis. It mandates the separation of retail and SME deposits from investment banking, in order to improve the resilience and resolvability of banks by changing their structure. In general, simpler activities offered from within a ring-fenced bank, (RFB), will be focused on lower risk, day-to-day core transactions, whilst more complex and "riskier" activities are required to be housed in a separate entity, a non-ring-fenced bank, (NRFB). This is intended to ensure that an entity's core activities are not adversely affected by the acts or omissions of other members of its group.

While the structure of the banks included within this process may have changed, the fundamentals of credit assessment have not. The Council will continue to assess the new-formed entities in the same way that it does others and those with sufficiently high ratings, (and any other metrics considered), will be considered for investment purposes.

4.3 Country limits

Due care will be taken to consider the exposure of the Council's total investment portfolio to non-specified investments, countries, groups and sectors.

a) **Non-specified investment limit.** The Council has determined that it will limit the maximum total exposure to non-specified investments as being 10% of the total investment portfolio when investments balances are higher, however during periods when balances are run down (e.g. year end) the limit may be higher for a small period of time.

b) **Country limit.** The Council has determined that it will only use approved counterparties from the UK and from countries with a minimum sovereign credit rating of AA from Fitch. This list will be added to, or deducted from, by officers should ratings change in accordance with this policy.

c) **Other limits.** In addition:

- no more than 25% will be placed with any non-UK country at any time;
- limits in place above will apply to a group of companies;
- sector limits will be monitored regularly for appropriateness.

4.4 Investment strategy

In-house funds. Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e. rates for investments up to 12 months). Greater returns are usually obtainable by investing for longer periods. While most cash balances are required in order to manage the ups and downs of cash flow, where cash sums can be identified that could be invested for longer periods, the value to be obtained from longer term investments will be carefully assessed.

- If it is thought that Bank Rate is likely to rise significantly within the time horizon being considered, then consideration will be given to keeping most investments as being short term or variable.
- Conversely, if it is thought that Bank Rate is likely to fall within that time period, consideration will be given to locking in higher rates currently obtainable, for longer periods.

Investment returns expectations.
On the assumption that the UK and EU agree a Brexit deal including the terms of trade by the end of 2020 or soon after, then Bank Rate is forecast to increase only slowly over the next few years to reach 1.00% by quarter 1 2023. Bank Rate forecasts for financial year ends (March) are:

- Q1 2021 0.75%
- Q1 2022 1.00%
- Q1 2023 1.00%

The suggested budgeted investment earnings rates for returns on investments placed for periods up to about three months during each financial year are as follows:

2019/20	0.75%
2020/21	0.75%
2021/22	1.00%
2022/23	1.25%
2023/24	1.50%
2024/25	1.75%

Later years 2.25%

- The overall balance of risks to economic growth in the UK is probably to the downside due to the weight of all the uncertainties over Brexit, as well as a softening global economic picture.
- The balance of risks to increases in Bank Rate and shorter term PWLB rates are broadly similarly to the downside.
- In the event that a Brexit deal is agreed with the EU and approved by Parliament, the balance of risks to economic growth and to increases in Bank Rate is likely to change to the upside.

Investment treasury indicator and limit - total principal funds invested for greater than 365 days. These limits are set with regard to the Council's liquidity requirements and to reduce the need for early sale of an investment, and are based on the availability of funds after each year-end.

The Council is asked to approve the following treasury indicator and limit:

Upper limit for principal sums invested for longer than 365 days			
	2020/21	**2021/22**	**2022/23**
	£m	**£m**	**£m**
Investments in excess of 1 year maturing in each year	2	2	2

For its cash flow generated balances, the Council will seek to utilise its business reserve instant access and notice accounts, money market funds and short-dated deposits, (overnight to 100 days), in order to benefit from the compounding of interest.

4.5 Investment performance / risk benchmarking

This Council will use an investment benchmark to assess the investment performance of its investment portfolio against a rate of 3 month LIBOR plus 10bps.

4.6 End of year investment report

At the end of the financial year, the Council will report on its investment activity as part of its Annual Treasury Report.

4.7 External fund managers

£8.2m of the Council's funds is externally managed within Money Market Funds with following institutions:

- Goldman Sachs Asset Management International
- Aberdeen Standard Investments
- Federated Investors (UK) LLP

The Council's external fund managers will comply with the Annual Investment Strategy. The agreements between the Council and the fund managers additionally stipulate guidelines on duration and other limits in order to contain and control risk.

The Council fully appreciates the importance of monitoring the activity and resultant performance of its appointed external fund manager. In order to aid this assessment, the Council is provided with a suite of regular reporting from its manager.

In addition to formal reports, the Council also meets with representatives of the fund manager on a semi-annual basis. These meetings allow for additional scrutiny of the manager's activity as well as discussions on the outlook for the fund as well as wider markets.

5 APPENDICES

1. Prudential and treasury indicators and MRP statement
2. Interest rate forecasts
3. Economic background
4. Approved countries for investments
5. Treasury management scheme of delegation
6. The treasury management role of the section 151 officer

5.1 The Capital Prudential and Treasury Indicators 2020/21 to 2022/23 and MRP Statement

The Council's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

5.1.1 Capital expenditure

2018/19 £m	2019/20 £m	2020/21 £m	2021/22 £m	2022/23 £m
16.132	43.819	35.291	19.691	16.664

5.1.2 Affordability prudential indicators

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

5.1.3 Ratio of financing costs to net revenue stream

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

2018/19 %	2019/20 %	2020/21 %	2021/22 %	2022/23 %
-1.1	-0.7	3.3	4.4	5.0

2018/19 £m	2019/20 £m	2020/21 £m	2021/22 £m	2022/23 £m
-0.220	-0.155	0.614	0.807	0.955

The estimates of financing costs include current commitments and the proposals in this budget report.

5.1.4 Maturity structure of borrowing

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

The Council is asked to approve the following treasury indicators and limits:

	Upper Limit %	Lower Limit %
Under 12 months	100	0
12 months to under 24 months	100	0
24 months to under 5 years	100	0
5 years to under 10 years	100	0
10 years and within 20 years	100	0
20 years and within 30 years	100	0
30 years and within 40 years	100	0
40 years and within 50 years	100	0
50 years and within 60 years	100	0
70 years and within 80 years	100	0

5.1.5. Control of interest rate exposure

Please see paragraphs 3.3, 3.4 and 4.4.

5.2 Interest Rate Forecasts 2019 – 2021

Please see 3.3 of this report.

5.3 Economic Background

UK. Brexit. 2019 has been a year of upheaval on the political front as Theresa May resigned as Prime Minister to be replaced by Boris Johnson on a platform of the UK leaving the EU on 31 October 2019, with or without a deal. However, MPs blocked leaving on that date and the EU agreed an extension to 31 January 2020. In late October, MPs approved an outline of a Brexit deal to enable the UK to leave the EU on 31 January; however, even if a Conservative Government gains an overall majority in the general election on 12 December, there will still be much uncertainty as the detail of a trade deal will need to be negotiated by the current end of the transition period in December 2020.

While the Bank of England went through the routine of producing another quarterly Inflation Report, (now renamed the Monetary Policy Report), on 7 November, it is very questionable how much all the writing and numbers are worth when faced with the uncertainties of where the UK will be after the general election. The Bank made a change in their Brexit assumptions to now include a deal being eventually passed. Possibly the biggest message that is worth taking note of from the Monetary Policy Report, was an increase in concerns among MPC members around weak global economic growth and the potential for Brexit uncertainties to become entrenched and so delay UK economic recovery. Consequently, the MPC voted 7-2 to maintain Bank Rate at 0.75% but two members were sufficiently concerned to vote for an immediate Bank Rate cut to 0.5%. The MPC warned that if global growth does not pick up or Brexit uncertainties intensify, then a rate cut was now more likely. Conversely, if risks do recede, then a more rapid recovery of growth will require gradual and limited rate rises. The speed of recovery will depend on the extent to which uncertainty dissipates over the final terms for trade between the UK and EU and by how much global growth rates pick up. The Bank revised its inflation forecasts down – to 1.25% in 2019, 1.5% in 2020, and 2.0% in 2021; hence the MPC views inflation as causing little concern in the near future.

If economic growth were to weaken considerably,, the MPC has relatively little room to make a big impact with Bank Rate still only at 0.75%. It would therefore, probably suggest that it would be up to the Chancellor to provide help to support growth by way of a fiscal boost by e.g. tax cuts, increases in the annual expenditure budgets of government departments and services and expenditure on infrastructure projects, to boost the economy. The Government has already made moves in this direction and both of the largest parties have made significant promises in their election manifestos to increase government spending. The Chancellor has also amended the fiscal rules in November to allow for an increase in government expenditure. In addition, it has to be borne in mind that even if the post-election Parliament agrees the deal on 31 January 2020, the current transition period for negotiating the details of the terms of a trade deal with the EU only runs until 31 December 2020. This could prove to be an unrealistically short timetable for such major negotiations which leaves open two possibilities; one the need for an extension of negotiations, probably two years, or a no deal Brexit in December 2020.

As for **inflation** itself, CPI has been hovering around the Bank of England's target of 2% during 2019, but fell again in October to 1.5%. It is likely to remain close to or under 2% over the next two years and so it does not pose any immediate concern to the MPC at the current time. However, if there was a no deal Brexit, inflation could rise towards 4%, primarily because of imported inflation on the back of a weakening pound.

With regard to the **labour market,** growth in numbers employed has been quite resilient through 2019 until the three months to September where it fell by 58,000. However, this was about half of what had been expected. The unemployment rate fell back again to a 44 year low of 3.8% on the Independent Labour Organisation measure in September, despite the fall in numbers employed, due to numbers leaving the work force. Wage inflation has been edging down from a high point of 3.9% in July to 3.8% in August and now 3.6% in September, (3 month average regular pay, excluding bonuses). This meant that in real terms, (i.e. wage rates higher than CPI inflation), earnings grew by about 1.9%. As the UK economy is very much services sector driven, an increase in household spending power is likely to feed through into providing some support to the overall rate of economic growth in the coming months. The other message from the fall in wage growth is that employers are beginning to find it easier to hire suitable staff, indicating that supply pressure in the labour market is easing.

In the **political arena**, a general election could result in a potential loosening of monetary policy and therefore medium to longer dated gilt yields could rise on the expectation of a weak pound and concerns around inflation picking up although, conversely, a weak international backdrop could provide further support for low yielding government bonds and gilts.

USA. President Trump's massive easing of fiscal policy in 2018 fuelled a temporary boost in consumption in that year which generated an upturn in the rate of growth to a robust 2.9% y/y. **Growth** in 2019 has been falling after a strong start in quarter 1 at 3.1%, (annualised rate), to 2.0% in quarter 2 and then 1.9% in quarter 3; it is expected to fall further. The strong growth in employment numbers during 2018 has weakened during 2019, indicating that the economy is cooling, while inflationary pressures are also weakening; CPI inflation fell from 2.3% to 2.0% in September.

The Fed finished its series of increases in rates to 2.25 – 2.50% in December 2018. In July 2019, it cut rates by 0.25% as a 'midterm adjustment' but flagged up that this was not intended to be seen as the start of a series of cuts to ward off a downturn in growth. It also ended its programme of quantitative tightening in August, (reducing its holdings of treasuries etc). It then cut rates by 0.25% again in September and by another 0.25% in its October meeting to 1.50 – 1.75%.. At its September meeting it also said it was going to **start buying Treasuries again**, although this was not to be seen as a resumption of quantitative easing but rather an exercise to relieve liquidity pressures in the repo market. Despite those protestations, this still means that the Fed is again expanding its balance sheet holdings of government debt. In the first month, it will buy $60bn , whereas it had been reducing its balance sheet by $50bn per month during 2019. As it will be buying only short-term (under 12 months) Treasury bills, it is technically correct that this is not quantitative easing (which is purchase of long term debt).

Investor confidence has been badly rattled by the progressive ramping up of increases in tariffs President Trump has made on Chinese imports and China has responded with increases in tariffs on American imports. This **trade war** is seen as depressing US, Chinese and world growth. In the EU, it is also particularly impacting Germany as exports of goods and services are equivalent to 46% of total GDP. It will also impact developing countries dependent on exporting commodities to China.
However, in early November, a phase one deal was agreed between the US and China to roll back some of the tariffs which gives some hope of resolving this dispute.

EUROZONE. **Growth** has been slowing from +1.8 % during 2018 to around half of that in 2019. Growth was +0.4% q/q (+1.2% y/y) in quarter 1, +0.2% q/q (+1.2% y/y) in quarter 2 and then +0.2% q/q, +1.1% in quarter 3; there appears to be little upside potential in the near future. German GDP growth has been struggling to stay in positive territory in 2019 and fell by -0.1% in quarter 2; industrial production was down 4% y/y in June with car production down 10% y/y. Germany would be particularly vulnerable to a no deal Brexit depressing exports further and if President Trump imposes tariffs on EU produced cars.

The European Central Bank (ECB) ended its programme of quantitative easing purchases of debt in December 2018, which then meant that the central banks in the US, UK and EU had all ended the phase of post financial crisis expansion of liquidity supporting world financial markets by quantitative easing purchases of debt. However, the downturn in EZ growth in the second half of 2018 and into 2019, together with inflation falling well under the upper limit of its target range of 0 to 2%, (but it aims to keep it near to 2%), has prompted the ECB to take new measures to stimulate growth. At its March meeting it said that it expected to leave interest rates at their present levels "at least through the end of 2019", but that was of little help to boosting growth in the near term. Consequently, it announced a **third round of TLTROs**; this provides banks with cheap borrowing every three months from September 2019 until March 2021 that means that, although they will have only a two-year maturity, the Bank was making funds available until 2023, two years later than under its previous policy. As with the last round, the new TLTROs will include an incentive to encourage bank lending, and they will be capped at 30% of a bank's eligible loans. However, since then, the downturn in EZ and world growth has gathered momentum; at its meeting on 12 September, it cut its deposit rate further into negative territory, from -0.4% to -0.5%, and announced a **resumption of quantitative easing purchases of debt for an unlimited period;** (at its October meeting it said this would start in November at €20bn per month - a relatively small amount compared to the previous buying programme). It also increased the maturity of the third round of TLTROs from two to three years. However, it is doubtful whether this loosening of monetary policy will have much impact on growth and, unsurprisingly, the ECB stated that governments will need to help stimulate growth by ‘growth friendly’ fiscal policy.

On the political front, Austria, Spain and Italy have been in the throes of **forming coalition governments** with some unlikely combinations of parties i.e. this raises questions around their likely endurance. The latest results of German state elections has put further pressure on the frail German CDU/SDP coalition government and on the current leadership of the CDU. The results of the Spanish general election in November have not helped the prospects of forming a stable coalition.

CHINA. Economic growth has been weakening over successive years, despite repeated rounds of central bank stimulus; medium term risks are increasing. Major progress still needs to be made to eliminate excess industrial capacity and the stock of unsold property, and to address the level of non-performing loans in the banking and shadow banking systems. In addition, there still needs to be a greater switch from investment in industrial capacity, property construction and infrastructure to consumer goods production.

JAPAN - has been struggling to stimulate consistent significant GDP growth and to get inflation up to its target of 2%, despite huge monetary and fiscal stimulus. It is also making little progress on fundamental reform of the economy.

WORLD GROWTH. Until recent years, world growth has been boosted by increasing **globalisation** i.e. countries specialising in producing goods and commodities in which they have an economic advantage and which they then trade with the rest of the world. This has boosted worldwide productivity and growth, and, by lowering costs, has also depressed inflation. However, the rise of China as an economic superpower over the last thirty years, which now accounts for nearly 20% of total world GDP, has unbalanced the world economy. The Chinese government has targeted achieving major world positions in specific key sectors and products, especially high tech areas and production of rare earth minerals used in high tech products. It is achieving this by massive financial support (i.e. subsidies) to state owned firms, government directions to other firms, technology theft, restrictions on market access by foreign firms and informal targets for the domestic market share of Chinese producers in the selected sectors. This is regarded as being unfair competition that is putting western firms at an unfair disadvantage or even putting some out of business. It is also regarded with suspicion on the political front as China is an authoritarian country that is not averse to using economic and military power for political advantage. The current trade war between the US and China therefore needs to be seen against that backdrop. It is, therefore, likely that we are heading into a period where there will be a **reversal of world globalisation and a decoupling of western countries** from dependence on China to supply products. This is likely to produce a backdrop in the coming years of weak global growth and so weak inflation. Central banks are, therefore, likely to come under more pressure to support growth by looser monetary policy measures and this will militate against central banks increasing interest rates.

The trade war between the US and China is a major concern to **financial markets** due to the synchronised general weakening of growth in the major economies of the world, compounded by fears that there could even be a recession looming up in the US, though this is probably overblown. These concerns resulted in **government bond yields** in the developed world falling significantly during 2019. If there were a major worldwide downturn in growth, central banks in most of the major economies will have limited ammunition available, in terms of monetary policy measures, when rates are already very low in most countries, (apart from the US). There are also concerns about how much distortion of financial markets has already occurred with the current levels of quantitative easing purchases of debt by central banks and the use of negative central bank rates in some countries. The latest PMI survey statistics of economic health for the US, UK, EU and China have all been predicting a downturn in growth; this confirms investor sentiment that the outlook for growth during the year ahead is weak.

Interest Rate Forecasts

The interest rate forecasts provided by Link Asset Services in paragraph 3.3 are **predicated on an assumption of an agreement being reached on Brexit between the UK and the EU.** On this basis, while GDP growth is likely to be subdued in 2019 due to all the uncertainties around Brexit depressing consumer and business confidence, an agreement is likely to lead to a boost to the rate of growth in subsequent years which could, in turn, increase inflationary pressures in the economy and so cause the Bank of England to resume a series of gentle increases in Bank Rate. Just how fast, and how far, those increases will occur and rise to, will be data dependent. The forecasts in this report assume a modest recovery in the rate and timing of stronger growth and in the corresponding response by the Bank in raising rates.

- In the event of an **orderly non-agreement exit**, it is likely that the Bank of England would take action to cut Bank Rate from 0.75% in order to help economic growth deal with the adverse effects of this situation. This is also likely to cause short to medium term gilt yields to fall.
- If there was a **disorderly Brexit**, then any cut in Bank Rate would be likely to last for a longer period and also depress short and medium gilt yields correspondingly. Quantitative easing could also be restarted by the Bank of England. It is also possible that the government could act to protect economic growth by implementing fiscal stimulus.

However, there would appear to be a majority consensus in the Commons against any form of non-agreement exit so the chance of this occurring has diminished.

The balance of risks to the UK

- The overall balance of risks to economic growth in the UK is probably to the downside due to the weight of all the uncertainties over Brexit, as well as a softening global economic picture.
- The balance of risks to increases in Bank Rate and shorter term PWLB rates are broadly similarly to the downside.

- In the event that a Brexit deal was agreed with the EU and approved by Parliament, the balance of risks to economic growth and to increases in Bank Rate is likely to change to the upside.

One risk that is both an upside and downside risk, is that all central banks are now working in very different economic conditions than before the 2008 financial crash as there has been a major increase in consumer and other debt due to the exceptionally low levels of borrowing rates that have prevailed since 2008. This means that the neutral rate of interest in an economy, (i.e. the rate that is neither expansionary nor deflationary), is difficult to determine definitively in this new environment, although central banks have made statements that they expect it to be much lower than before 2008. Central banks could therefore either over or under do increases in central interest rates.

Downside risks to current forecasts for UK gilt yields and PWLB rates currently include:

- **Brexit** – if it were to cause significant economic disruption and a major downturn in the rate of growth.
- **Bank of England** takes action too quickly, or too far, over the next three years to raise Bank Rate and causes UK economic growth, and increases in inflation, to be weaker than we currently anticipate.
- A resurgence of the **Eurozone sovereign debt crisis.** In 2018, Italy was a major concern due to having a populist coalition government which made a lot of anti-austerity and anti-EU noise. However, in September 2019 there was a major change in the coalition governing Italy which has brought to power a much more EU friendly government; this has eased the pressure on Italian bonds. Only time will tell whether this new coalition based on an unlikely alliance of two very different parties will endure.
- Weak capitalisation of some **European banks**, particularly Italian banks.
- **German minority government.** In the German general election of September 2017, Angela Merkel's CDU party was left in a vulnerable minority position dependent on the fractious support of the SPD party, as a result of the rise in popularity of the anti-immigration AfD party. The CDU has done badly in recent state elections but the SPD has done particularly badly and this has raised a major question mark over continuing to support the CDU. Angela Merkel has stepped down from being the CDU party leader but she intends to remain as Chancellor until 2021.
- **Other minority EU governments.** Austria, Sweden, Spain, Portugal, Netherlands and Belgium also have vulnerable minority governments dependent on coalitions which could prove fragile.
- **Austria, the Czech Republic, Poland and Hungary** now form a strongly anti-immigration bloc within the EU. There has also been rising anti-immigration sentiment in Germany and France.
- In October 2019, the IMF issued a report on the World Economic Outlook which flagged up a synchronised slowdown in world growth. However, it also flagged up that there was **potential for a rerun of the 2008 financial crisis**, but his time centred on the huge debt binge accumulated by corporations during the decade of low interest

rates. This now means that there are corporates who would be unable to cover basic interest costs on **some $19trn of corporate debt in major western economies,** if world growth was to dip further than just a minor cooling. This debt is mainly held by the shadow banking sector i.e. pension funds, insurers, hedge funds, asset managers etc., who, when there is $15trn of corporate and government debt now yielding negative interest rates, have been searching for higher returns in riskier assets. Much of this debt is only marginally above investment grade so any rating downgrade could force some holders into a fire sale, which would then depress prices further and so set off a spiral down. The IMF's answer is to suggest imposing higher capital charges on lending to corporates and for central banks to regulate the investment operations of the shadow banking sector. In October 2019, the deputy Governor of the Bank of England also flagged up the dangers of banks and the shadow banking sector lending to corporates, especially highly leveraged corporates, which had risen back up to near pre-2008 levels.

- **Geopolitical risks,** for example in North Korea, but also in Europe and the Middle East, which could lead to increasing safe haven flows.

Upside risks to current forecasts for UK gilt yields and PWLB rates

- **Brexit** – if agreement was reached all round that removed all threats of economic and political disruption between the EU and the UK.
- The **Bank of England is too slow** in its pace and strength of increases in Bank Rate and, therefore, allows inflationary pressures to build up too strongly within the UK economy, which then necessitates a later rapid series of increases in Bank Rate faster than we currently expect.
- **UK inflation,** whether domestically generated or imported, returning to sustained significantly higher levels causing an increase in the inflation premium inherent to gilt yields.

Use of external fund managers – It is the Council's policy to use external fund managers for part of its investment portfolio. The fund managers will use both specified and non-specified investment categories, and are contractually committed to keep to the Council's investment strategy. The fund managers the Council currently engages with are for Money Market Funds and Enhanced Cash Funds.

The Council fully appreciates the importance of monitoring the activity and resultant performance of its appointed external fund manager. In order to aid this assessment, the Council is provided with a suite of regular reporting from its manager. This includes:

In addition to formal reports, the Council also meets with representatives of the fund manager on a semi-annual basis. These meetings allow for additional scrutiny of the manager's activity as well as discussions on the outlook for the fund as well as wider markets.

5.6 Approved Countries for Investments

This list is based on those countries which have sovereign ratings of AA- or higher, (we show the lowest rating from Fitch, Moody's and S&P) and also, (except - at the time of writing - for Hong Kong, Norway and Luxembourg), have banks operating in sterling markets which have credit ratings of green or above in the Link Asset Services credit worthiness service.

Based on lowest available rating

AAA
- Australia
- Canada
- Denmark
- Germany
- Luxembourg
- Netherlands
- Norway
- Singapore
- Sweden
- Switzerland

AA+
- Finland
- U.S.A.

AA
- Abu Dhabi (UAE)
- Hong Kong
- France
- U.K.

AA-
- Belgium
- Qatar

5.7 Treasury Management Scheme Delegation

(i) Full Council

- receiving and reviewing reports on treasury management policies, practices and activities;
- approval of annual strategy.

(ii) Audit Governance & Standards Committee/ Policy & Resources Committee /Full Council

- approval of/amendments to the organisation's adopted clauses, treasury management policy statement and treasury management practices;
- budget consideration and approval;
- approval of the division of responsibilities;
- receiving and reviewing regular monitoring reports and acting on recommendations;
- approving the selection of external service providers and agreeing terms of appointment.

(iii) Audit Governance & Standards Committee

- reviewing the treasury management policy and procedures and making recommendations to the responsible body.

5.8 The Treasury Management Role of the Section 151 Officer

The S151 officer is responsible for recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance;

- submitting regular treasury management policy reports;
- submitting budgets and budget variations;
- receiving and reviewing management information reports;
- reviewing the performance of the treasury management function;
- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function;
- ensuring the adequacy of internal audit, and liaising with external audit;
- recommending the appointment of external service providers.
- preparation of a capital strategy to include capital expenditure, capital financing, non-financial investments and treasury management, with a long term timeframe
- ensuring that the capital strategy is prudent, sustainable, affordable and prudent in the long term and provides value for money
- ensuring that due diligence has been carried out on all treasury and non-financial investments and is in accordance with the risk appetite of the authority
- ensure that the authority has appropriate legal powers to undertake expenditure on non-financial assets and their financing
- ensuring the proportionality of all investments so that the authority does not undertake a level of investing which exposes the authority to an excessive level of risk compared to its financial resources
- ensuring that an adequate governance process is in place for the approval, monitoring and ongoing risk management of all non-financial investments and long term liabilities
- provision to members of a schedule of all non-treasury investments including material investments in subsidiaries, joint ventures, loans and financial guarantees
- ensuring that members are adequately informed and understand the risk exposures taken on by an authority
- ensuring that the authority has adequate expertise, either in house or externally provided, to carry out the above
- creation of Treasury Management Practices which specifically deal with how non treasury investments will be carried out and managed, to include the following: -
    - Risk management (TMP1 and schedules), including investment and risk management criteria for any material non-treasury investment portfolios;

- Performance measurement and management (TMP2 and schedules), including methodology and criteria for assessing the performance and success of non-treasury investments;

- Decision making, governance and organisation (TMP5 and schedules), including a statement of the governance requirements for decision making in relation to non-treasury investments; and arrangements to ensure that appropriate professional due diligence is carried out to support decision making;

- Reporting and management information (TMP6 and schedules), including where and how often monitoring reports are taken;

- Training and qualifications (TMP10 and schedules), including how the relevant knowledge and skills in relation to non-treasury investments will be arranged.

Investment Strategy

Maidstone Borough Council
2020/21

Introduction

The Authority invests its money for three broad purposes:

- because it has surplus cash as a result of its day-to-day activities, for example when income is received in advance of expenditure (known as **treasury management investments**),
- to support local public services by lending to or buying shares in other organisations (**service investments**), and
- to earn investment income (known as **commercial investments** where this is the main purpose).

This investment strategy is new for 2020/21, meeting the requirements of statutory guidance issued by the government in January 2018, and focuses on the second and third of these categories.

Treasury Management Investments

The Authority typically receives its income in cash (e.g. from taxes and grants) before it pays for its expenditure in cash (e.g. through payroll and invoices). It also holds reserves for future expenditure and collects local taxes on behalf of other local authorities and central government. These activities, plus the timing of borrowing decisions, lead to a cash surplus which is invested in accordance with guidance from the Chartered Institute of Public Finance and Accountancy. The balance of treasury management investments is expected to fluctuate between £10.8m and £30m during the 2020/21 financial year.

Contribution: The contribution that these investments make to the objectives of the Authority is to support effective treasury management activities.

Further details: Full details of the Authority's policies and its plan for 2020/21 for treasury management investments are covered in a separate document, the treasury management strategy.

Service Investments: Loans

Contribution: The Council lends money to its subsidiaries, its suppliers, local businesses, local charities, housing associations, local residents and its employees to support local public services and stimulate local economic growth. The Council has made loans to Kent Savers for £25k in 2017/18 which is repayable in 2022/23 at an interest rate of 1% and an interest free loan to One Maidstone CIC Limited with a current amount owing of £48,000. A loan to Cobtree Manor Estates Trust has been agreed in 2019/20 for an amount of £323,000 repayment over 5 years at an annual interest rate of 3%. However, a loan to Maidstone Property Holdings Limited may also be made in the near future for which the interest rate applicable would be at commercial rates. There is a provision for this service loans of £1 million.

Security: The main risk when making service loans is that the borrower will be unable to repay the principal lent and/or the interest due. In order to limit this risk, and ensure that total exposure to service loans remains proportionate to the size of the Authority, upper limits on the outstanding loans to each category of borrower have been set as follows:

Table 1: Loans for service purposes in £ millions

Category of borrower	31.3.2019 actual			2020/21
	Balance owing	Loss allowance	Net figure in accounts	Approved Limit
Subsidiaries				1.000
Local businesses	0.073		0.073	0.073
Local charities				0.323
TOTAL	**0.073**	**0.000**	**0.073**	**1.396**

Accounting standards require the Authority to set aside loss allowance for loans, reflecting the likelihood of non-payment. The figures for loans in the Authority's statement of accounts from 2018/19 onwards will be shown net of this loss allowance. However, the Authority makes every reasonable effort to collect the full sum lent and has appropriate credit control arrangements in place to recover overdue repayments.

Risk assessment: The Authority assesses the risk of loss before entering into and whilst holding service loans by assessing the borrower's ability to repay the loan, based on past financial performance. This is monitored over the period of the loan in line with the agreed repayment terms.

Commercial Investments: Property

Contribution: The Council does not currently have any investments in property that are considered to be purely commercial in nature. Acquisitions are limited to properties situated within the borough, with the intention of supporting the local community, housing and regeneration objectives rather than for the exclusive purpose of generating profits. All property investments are therefore classified as general fund capital projects.

Third Party Loan Commitments and Financial Guarantees

The Authority has contractually committed to repay the loan on behalf of Serco Paisa for works to the leisure Centre which has a balance as at 31st March 2019 of £2.527m.

Capacity, Skills and Culture

Elected members and statutory officers: The Section 151 Officer has ultimate decision making powers on investment decisions and has a number of key officers with the necessary skills to assess such projects, including the Corporate Property Manager, Head of Finance, as well as the use of external consultants.

Each project is evaluated on its affordability and prudence to bear additional future revenue cost associated with each investment. It is established if the use of new or existing revenue resources to finance capital investment over competing needs for revenue expenditure and the scope for capital investment to generate future revenue savings or income, taking into account the risks associated with each proposal.

Commercial deals: The Section 151 Officer is involved with all decision making for capital projects and is aware of the core principles of the prudential framework in regard to the following:

- *service objectives, eg strategic planning for the authority*
- *stewardship of assets, eg asset management planning*
- *value for money, eg option appraisal*
- *prudence and sustainability, eg implications for external debt and whole life costing*
- *affordability, eg implications for council tax*
- *practicality, eg achievability of the forward plan.*

Corporate governance: The investment strategy is reviewed by Audit, Governance and Standards Committee prior to approval by full Council. Investment opportunities will be considered on a case by case basis with reference to the strategy, and a mid-year report will be provided during the year to ensure that the strategy remains fit for purpose.

Investment Indicators

The Authority has set the following quantitative indicators to allow elected members and the public to assess the Authority's total risk exposure as a result of its investment decisions.

Total risk exposure: The first indicator shows the Authority's total exposure to potential investment losses. This includes amounts the Authority is contractually committed to lend but have yet to be drawn down and guarantees the Authority has issued over third party loans.

Table 5: Total investment exposure in £millions

Total investment exposure	**31.03.2019 Actual**	**31.03.2020 Forecast**	**31.03.2021 Forecast**
Treasury management investments	15.000	2.000	2.000
Service investments: Loans	0.073	0.061	1.049
TOTAL INVESTMENTS	15.073	2.061	3.049
Commitments to lend (Serco Loan – Leisure Centre)	2.527	2.010	1.473
TOTAL EXPOSURE	17.600	4.071	4.522

How investments are funded: Government guidance is that these indicators should include how investments are funded. Since the Authority does not normally associate particular assets with particular liabilities, this guidance is difficult to comply with. However, the following investments could be described as being funded by borrowing. The remainder of the Authority's investments are funded by usable reserves and income received in advance of expenditure.

Table 6: Investments funded by borrowing in £millions

Investments funded by borrowing	31.03.2019 Actual	31.03.2020 Forecast	31.03.2021 Forecast
Treasury management investments	0.000	0.000	0.000
Service investments: Loans	0.000	0.000	1.000
TOTAL FUNDED BY BORROWING	0.000	0.000	1.000

The above table does not include investments funded by borrowing which form part of the Council's capital programme. Details of this expenditure are included within the Capital Strategy.

Rate of return received: This indicator shows the investment income received less the associated costs, including the cost of borrowing where appropriate, as a proportion of the sum initially invested. Maidstone Borough Council's treasury management loans interest will outweigh investments, hence is why there is a negative figure forecasted for 2020/21.

Table 7: Investment rate of return (net of all costs)

Investments net rate of return	2018/19 Actual	2019/20 Forecast	2020/21 Forecast
Treasury management investments	0.73%	0.78%	-3.07%
Service investments: Loans	1.00%	2.86%	2.96%
ALL INVESTMENTS	1.73%	3.64%	-0.11%

APPENDIX C

MAIDSTONE BOROUGH COUNCIL

CAPITAL STRATEGY

CONTENTS

1. INTRODUCTION

1.1 CIPFA's Prudential Code, which governs the Council's capital investment and borrowing, introduced a new requirement in 2019/20 for a Capital Strategy. The intention was to ensure that councils provide a high-level overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of local public services, along with a description of how associated risk is managed and the implications for future financial sustainability.

1.2 Accordingly, the Capital Strategy articulates in a single place a number of strategies and policies that the Council already addresses elsewhere: it is an overarching document linking the Strategic Plan, the Medium Term Financial Strategy, the Treasury Management Strategy and the Asset Management Plan.

2. CAPITAL EXPENDITURE AND LINKS TO OTHER CORPORATE STRATEGIES

Strategic Plan

2.1 Capital expenditure at Maidstone Borough Council plays a vital part in the Council's Strategic Plan, since long term investment is required to deliver many of the objectives of the plan.

2.2 The current Strategic Plan went through a thorough process of discussion and refinement over the period June – October 2018 and was approved by Council on 12 December 2018. It sets out four objectives, as follows:

- Embracing Growth and Enabling Infrastructure
- Homes and Communities
- A Thriving Place
- Safe, Clean and Green.

The ways in which capital expenditure can support these priorities are described below.

Embracing Growth and Enabling Infrastructure

The Council has a vital role in leading and shaping our borough as it grows. This means being proactive in policy and master planning for key sites in the borough, and where appropriate, investing directly ourselves.

Separate objectives, set out below, address specifically the development of new housing, and other investments intended to make Maidstone a thriving place. In order to enable these developments to take place, investment in infrastructure will be needed. In general, infrastructure schemes are funded from the benefits gained from the development. To address any potential funding gap, the Council will enable infrastructure spending, to the extent that it meets our strategic priorities.

Accordingly, £3 million has been set aside within the current capital programme to contribute towards provision of local infrastructure, and to indicate our intention to invest to unlock development and attract matching funding.

Homes and Communities

The Strategic Plan seeks to make Maidstone a place where people love to live and can afford to live. This means a range of different types of homes, including affordable housing.

The Council plans to developing new housing, providing a mixture of tenures, under the Housing Development and Regeneration Investment Plan agreed by Policy and Resources Committee in July 2017. Developments are under way at Brunswick Street and Union Street. Lenworth House was acquired in 2018/19, and further developments are envisaged. The Council is seeking partnerships to enable further development to take place.

In total, £67 million has been provided in the capital programme for the Housing Development and Regeneration Investment Plan.

We aim, and are required by law, to address homelessness and rough sleeping. The Council has invested in temporary accommodation for homeless families, thereby ensuring a good standard of accommodation and providing a more cost-effective solution than is offered by the private sector. In 2018/19 we acquired 17 homes for use as temporary accommodation and we have purchased a further 10 units in 2019/20, for which £5 million has been provided in the capital programme.

The Council also works with Kent County Council Social Services to deliver adaptations and facilities to enable disabled people to remain at home. This work forms part of the capital programme, although it is funded directly by central government grant. £4 million has been provided in the capital programme for Disabled Facilities Grants.

A Thriving Place

The Strategic Plan seeks to make Maidstone a borough that is open for business, attractive for visitors and is an enjoyable and prosperous place to live for our residents. This can be achieved through investment in the County town and rural service centres.

There are a number of ways in which the Council will take the lead, including working with partners and through direct investment ourselves. The Council has a successful track record of acquiring property as part of its Commercial Investment Strategy. These acquisitions both generate a return that supports the revenue budget and contribute to making Maidstone a thriving place. We will continue to seek good quality investment opportunities.

Where appropriate, we will seek to achieve the necessary scale of investment by identifying joint venture partners. The amount available for direct investment by Maidstone Council is governed by the overall size of the capital programme, but we will adopt a flexible approach within this constraint in order to take advantage of investment opportunities that meet our criteria.

Specific projects that will contribute to a Thriving Place include Maidstone East, where the Council is working in partnership with Kent County Council to redevelop a key site next to the railway station, and the Kent Medical Campus, where the Council has secured external funding to match the Council's own funds to provide £10.5 million in total to create an Innovation Centre for growing businesses in the life science, heathcare and med-tech sectors.

The Council has already made a significant investment in improving the public realm in the Town Centre. The current capital programme includes a further investment of £1.5 million, including partner contributions, in the bus station to improve its efficiency and attractiveness to customers.

Safe, Clean and Green

The Council seeks to protect and where possible enhance our environment and to make sure our parks, green spaces, streets and public areas are of a high quality.

Recent investment has included a programme of developments in our flagship local park, Mote Park. An Adventure Zone opened in May 2019 and plans are under way for the construction of a new Visitor Centre. Mote Park Lake is effectively a reservoir, and we are required to reduce the risk of the lake overtopping the dam at its western end. The necessary work is due to take place in Summer 2020 and current estimates are that the total scheme cost will be around £2 million.

The floods of winter 2013/14 highlighted the risks faced by the borough generally. Maidstone Borough Council is part of the Medway Flood Partnership, which includes the Environment Agency and Kent County Council. The Partnership plans to spend at least £19 million over the next five years in the Medway catchment area, of which Maidstone is contributing £1 million.

Medium Term Financial Strategy

2.3 The overall context for the MTFS is one where the Council is increasingly dependent on locally-generated resources, whether from Council Tax or a range of other income streams, including parking income, planning fees and the Council's property portfolio. The MTFS supports the Council's need to become financially self-sufficient.

2.4 In drawing up the capital programme, there is therefore a focus on schemes that both meet strategic priorities and are self-funding. Specifically:

- the Commercial Investment Strategy builds on the Council's existing commercial investment property portfolio and assumes that we will continue to expand the portfolio, subject to opportunities arising that generate the required rate of return.

- the Housing Development and Regeneration Investment Plan provides for the Council to develop housing ourselves, thereby addressing the need for new homes in the borough and generating long term revenue returns through developing homes for market rent.

2.5 Below is a table of the latest draft capital programme which is due to be discussed at Policy and Resources Committee on 22nd January 2020.

Table 1: Capital Programme 2019/20 to 2024/25

	19/20 Updated £000	20/21 £000	21/22 £000	22/23 £000	23/24 £000	24/25 £000	Total £000
Brunswick Street - Net Cost of Scheme	2,514	-230	-579				1,705
Union Street - Net Cost of Scheme	975	-550	-2,141				-1,715
Springfield Mill	2,275	1,077	36				3,388
Indicative Schemes	1,200	7,490	9,460	6,700			24,850
Housing Delivery Partnership		100	4,900	5,000	10,000	10,000	30,000
Acquisitions Officer		80	80	80	80	80	400
Disabled Facilites Grant	1,570	800	800	800	800	800	5,570
Temporary Accommodation	3,236	2,190					5,426
Gypsy Site Improvement Works	42						42
CCTV Upgrade and Relocation	150						150
Commercial Waste	180						180
Street Scene Investment	147	25					172
Flood Action Plan	100	363	300	300			1,063
Electric Operational Vehicles		100					100
Housing Rent Management IT System		50					50
Installation of Public Water Fountains		15					15
Sub-total Communities, Housing & Environment	12,391	11,510	12,856	12,880	10,880	10,880	71,397
Continued Improvements to Play Areas	422						422
Commercial Projects - Crematorium and Cemetery Projects	140	130					270
Mote Park Visitor Centre	156	2,000	340				2,496
Mote Park Lake - Dam Works	267	1,650	100				2,017
Other Parks Improvements	100						100
Museum Development Plan	11	125	225	39			400
Sub-total Heritage, Culture & Leisure	1,097	3,905	665	39	0	0	5,706
High Street Regeneration	547						547
Asset Management / Corp Property	1,017	867	175	175	175	175	2,584
Feasibility Studies	113	50	50	50	50	50	363
Infrastructure Delivery	1,200	600	600	600	600	600	4,200
Software / PC Replacement	124	287					411
Digital Projects	20	20	20	20	20	20	120
Acquisition of Commercial Assets	24,850	6,500	3,500	2,500	2,500	2,500	42,350
Kent Medical Campus - Innovation Centre	649	8,250	1,500				10,399
Garden Community	150	325	325	400	400	400	2,000
Granada House extension		2,227					2,227
Sub-total Policy & Resources	28,670	19,126	6,170	3,745	3,745	3,745	65,201
Mall Bus Station Redevelopment	1,540	750					2,290
Bridges Gyratory Scheme	121						121
Sub-total Strategic Planning, Sustainability & Transportation	1,661	750	0	0	0	0	2,411
Sub-Total	**43,819**	**35,291**	**19,691**	**16,664**	**14,625**	**14,625**	**144,715**
Section 106 Contributions	28	57	63	480	59	69	756
TOTAL	**43,847**	**35,348**	**19,754**	**17,144**	**14,684**	**14,694**	**145,471**

Treasury Management Strategy

2.6 The Treasury Management Strategy sets out how the Council manages its investments and cash flows, including banking, money market and capital market transactions, and how optimum performance is assured whilst managing the risks associated with these activities.

2.7 The specific aspects of the Treasury Management Strategy that are relevant here are how it addresses the Council's capital expenditure plans and how borrowing needs are met. Capital expenditure is funded from the New Homes Bonus, internal resources, borrowing and third party contributions such as Section 106 payments on new developments. The Council has relied primarily on New Homes Bonus and internal resources, but has now entered into a borrowing position with the purchase of the Lockmeadow Leisure Complex. External borrowing will increase owing to the reduction in New Homes Bonus payments and the scale of the capital programme.

2.8 The current local authority funding regime does not set cash limits for borrowing. However, borrowing must be sustainable in terms of the Council's ability to fund interest payments and ultimately repayment of capital.

2.9 Further details are set out in Section 4.

Asset Management Plan

2.10 The longer term maintenance of the Council's capital assets is addressed by the Council's Asset Management Plan. The Asset Management Plan ensures that the Council's assets, as a resource, support the delivery of the Council's objectives by:-

- Providing a suitable standard of accommodation for services including those shared with other authorities
- Maintaining commercial investment assets and ensuring that they deliver the required rate of return
- Providing an asset management service to the property holding company
- Meeting the needs of the local community by maintaining assets in parks and open spaces and other community assets
- Safeguarding local heritage through ownership and preservation of historic and scheduled ancient monuments.

The current capital programme includes a provision of £2 million for Corporate Property Improvements, based on the requirements of the Asset Management Plan.

2.11 The Asset Management Plan is currently under review. An updated Plan is due to be considered by Policy and Resources Committee in early 2020.

3. GOVERNANCE FRAMEWORK

Background

3.1 Capital expenditure proposals are developed in response to the Council's strategic priorities, as described in the previous section. Individual schemes are incorporated in the capital programme, which is included within the Council's Medium Term Financial Strategy.

3.2 The MTFS states that capital schemes will be reviewed and developed so that investment is focused on strategic priorities. The MTFS is updated on an annual basis, as part of the annual budget cycle.

3.3 Subsequent to preparation of the MTFS and its approval by Council each year, capital estimates form part of the annual budget that is submitted to Council for approval.

Developing capital expenditure proposals

3.4 The development of capital expenditure proposals follows certain core principles for the inclusion of schemes within the capital programme. Schemes may be included in the capital programme if they fall within one of the four following categories:

(i) Required for statutory reasons, eg to ensure that Council property meets health and safety requirements;

(ii) Self-funding schemes focused on Strategic Plan priority outcomes;

(iii) Other schemes focused on Strategic Plan priority outcomes; and

(iv) Other priority schemes which will attract significant external funding.

3.5 All schemes within the capital programme are subject to appropriate option appraisal. Any appraisal must comply with the requirements of the Prudential Code and the following locally set principles:

(a) Where schemes fit within a specific strategy and resources are available within the capital programme for that strategy, such as the Asset Management Plan, the schemes would also be subject to appraisal and prioritisation against the objectives of that strategy. These schemes must be individually considered and approved by the relevant service committee.

b) Where schemes can be demonstrated to be commercial in nature and require the use of prudential borrowing, a business case must first be prepared.

3.6 Where schemes do not fit within the criteria above but an appropriate option appraisal has been completed, they may still be included within the programme if they fall within one of the four categories set out above.

3.7 If, following all considerations, there are a number of approved schemes that cannot be accommodated within the current programme, a prioritised list of schemes that can be added to the programme as future resources permit will be created and approved by Policy and Resources Committee, thus allowing officers to focus funding efforts on delivering schemes that are next in priority order.

3.8 The MTFS requires the Council to identify actual funding before commencement of schemes. Accordingly, while schemes may be prioritised for the programme, ultimately commencement of any individual scheme can only occur once all the necessary resources have been identified and secured.

3.9 The MTFS principles require that the Council will maximise the resources available to finance capital expenditure, in line with the requirements of the Prudential Code, through:

a) The use of external grants and contributions, subject to maintaining a focus on the priority outcomes of its own strategies;

b) Opportunities to obtain receipts from asset sales as identified in the Asset Management Plan and approved for sale by Policy and Resources Committee;

c) The approval of prudential borrowing when the following criteria also apply to the schemes funded by this method:

i. they are commercial in nature;

ii. the outcome returns a financial benefit at least equal to the cost incurred by borrowing to fund the schemes;

iii. after covering the cost of funding, a further financial or non-financial benefit accrues to the Council that directly or indirectly supports the objectives of the strategic plan or the medium term financial strategy.

d) The use of New Homes Bonus for capital purposes in line with the Council's strategic plan priorities;

e) The implementation of a community infrastructure levy (CIL) and the management of its use, along with other developer contributions (S106), to deliver the objectives of the infrastructure delivery plan.

3.10 Service managers submit proposals to include projects in the Council's capital programme. Bids are collated by Corporate Finance who calculate the financing cost (which can be nil if the project is fully externally financed). Each Committee appraises the proposals based on a comparison with corporate priorities. Policy & Resources Committee recommends the capital programme which is then presented to Council in March each year.

3.11 Prior to any capital commitment being entered into, a detailed report setting out a full project appraisal and detailed financial projections is considered by the relevant service committee.

3.12 All capital expenditure must be financed, either from external sources (government grants and other contributions), the Council's own resources (revenue, reserves and capital receipts) or debt (borrowing, leasing and Private Finance Initiative). Further details are set out in section 4 of the Capital Strategy.

Performance Monitoring

3.13 The Council has a corporate project management framework that applies to most of the projects included within the capital programme. This provides for designation of a project manager and sponsor, and includes a mechanism for progress on corporate projects to be reported quarterly to a Corporate Projects Board.

3.14 Financial monitoring of capital projects is addressed by the Council's Financial Procedure Rules. Individual Member Service Committees receive quarterly reports on capital expenditure for the services for which they are responsible.

Capitalisation

3.15 Accounting principles govern what counts as capital expenditure. Broadly, it must yield benefits to the Council and the services it provides, for a period of more than one year. This excludes expenditure on routine repairs and maintenance of non-current assets which are charged directly to service revenue accounts.

3.16 The Council has adopted a minimum threshold of £10,000 for capitalisation.

Asset Disposals

3.17 The Council's policy for asset disposals is set out in a policy adopted by Policy and Resources Committee at its meeting on 25th July 2017.

3.18 The policy distinguishes between the following categories.

- Operational Property held and used by the Council for the direct delivery of services for which it has either a statutory or discretionary responsibility. Assets may be disposed of if they have reached the end of their economic or useful life.

- Investment Property held by the Council for revenue generation purposes, which should be assessed by its potential for improved rates of return by either better asset management, or disposal and re-investment of the receipt.

- Community assets such as open space. The Council will not usually dispose of areas of parks or other areas which are classed as public open space.

3.19 Certain schemes within the capital programme are partially funded through sale of some of the completed asset(s) to partner organisations. In this case, the capital scheme value is shown net of these receipts in the capital programme, as the receipt is ringfenced for this purpose.

4. FINANCING THE CAPITAL PROGRAMME

4.1 Typically, local authorities fund capital expenditure by borrowing from the Public Works Loan Board, which offers rates that are usually more competitive than those available in the commercial sector. Maidstone Borough Council has so far not borrowed to fund its capital programme, instead relying primarily on New Homes Bonus to fund the capital programme. Borrowing is however likely to be required in future.

Financing Requirement

All capital expenditure must be financed, either from external sources (government grants, including New Homes Bonus, and other contributions), the Council's own resources (revenue, reserves and capital receipts) or debt (borrowing, leasing and other long term liabilities). The planned financing of the expenditure set out in Table 1 is as follows:

Table 2: Capital Financing

	19/20	20/21	21/22	22/23	23/24	24/25	Total
	£000	£000	£000	£000	£000	£000	£000
External sources	6,131	10,552	3,464	2,927	2,927	2,927	28,928
Own resources	15,000	0	0	0	0	0	15,000
Debt	22,688	24,739	16,227	13,737	11,698	11,698	100,787
TOTAL	**43,819**	**35,291**	**19,691**	**16,664**	**14,625**	**14,625**	**144,715**

4.2 Debt is only a temporary source of finance, since loans and leases must be repaid, and this is therefore replaced over time by other financing, usually from revenue, which is known as minimum revenue provision (MRP). Alternatively, proceeds from selling capital assets (known as capital receipts) may be used to replace debt finance. Planned MRP is set out below; no assumptions have been made here about capital receipts.

Table 3: Replacement of debt finance

	19/20	20/21	21/22	22/23	23/24	24/25	Total
	£000	£000	£000	£000	£000	£000	£000
MRP	484	1,951	2,842	3,356	3,750	4,045	16,428
Capital receipts	0	0	0	0	0	0	0
TOTAL	**484**	**1,951**	**2,842**	**3,356**	**3,750**	**4,045**	**16,428**

4.3 The Council's full minimum revenue provision statement is included within the Treasury Management Strategy.

4.4 The Council's cumulative outstanding amount of debt finance is measured by the capital financing requirement (CFR). This increases with new debt-financed capital expenditure and reduces with MRP and capital receipts used to replace debt. The CFR is expected to increase by £12.868m during 2020/21. Based on the above figures for expenditure and financing, the Council's estimated CFR is as follows:

Table 4: Prudential Indicator: Estimates of Capital Financing Requirement

	19/20 £000	20/21 £000	21/22 £000	22/23 £000	23/24 £000	24/25 £000
Brought forward	12,097	48,780	71,038	83,906	93,750	101,130
Capital Expenditure	43,819	35,291	19,691	16,664	14,625	14,625
External funding	-6,131	-10,552	-3,464	-2,927	-2,927	-2,927
Own resources	-521	-530	-517	-537	-568	-580
MRP	-484	-1,951	-2,842	-3,356	-3,750	-4,045
TOTAL CFR	**48,780**	**71,038**	**83,906**	**93,750**	**101,130**	**108,203**

Borrowing Strategy

4.5 The Council's main objectives when borrowing are to achieve a low but certain cost of finance while retaining flexibility should plans change in future. These objectives are often conflicting, so the Council will seek to strike a balance between cheap short-term loans (currently available at around 1.0%) and long-term fixed rate loans where the future cost is known but higher (currently 3 – 3.4%).

4.6 Projected levels of the Council's total outstanding debt (which comprises borrowing and other long-term liabilities) are shown below, compared with the capital financing requirement.

Table 5: Prudential Indicator: Gross Debt and the Capital Financing Requirement

	31.03.19 actual £000	31.03.20 forecast £000	31.03.21 budget £000	31.03.22 budget £000	31.03.23 budget £000	31.03.24 budget £000	31.03.25 budget £000
Debt (excl.PFI & leases)	0	22,688	47,427	63,654	77,391	89,089	100,787
Capital Financing Requirement	12,097	48,780	71,038	83,906	93,750	101,130	108,203

4.7 Statutory guidance is that debt should remain below the capital financing requirement, except in the short-term. As can be seen from table 5, the Council expects to comply with this in the medium term.

4.8 Liability benchmark: To compare the Council's actual borrowing against an alternative strategy, a liability benchmark has been calculated showing the lowest risk level of borrowing. This assumes that cash and investment balances will be fully utilised to fund the capital programme. This benchmark is currently £11m and is forecast to fall to £2m over the next three years.

Table 6: Borrowing and the Liability Benchmark

	31.03.19 actual £000	31.03.20 forecast £000	31.03.21 budget £000	31.03.22 budget £000	31.03.23 budget £000	31.03.24 budget £000	31.03.25 budget £000
Outstanding borrowing	0	18,688	43,427	59,654	73,391	85,089	96,787
Liability benchmark	4,000	22,688	47,427	63,654	77,391	89,089	100,787

4.9 The Council is legally obliged to set an affordable borrowing limit (also termed the authorised limit for external debt) each year. In line with statutory guidance, a lower "operational boundary" is also set as a warning level should debt approach the limit.

Table 7: Prudential Indicators: Authorised limit and operational boundary for external debt

Operational Boundary

	31.03.19 actual £m	31.03.20 forecast £m	31.03.21 budget £m	31.03.22 budget £m	31.03.23 budget £m	31.03.24 budget £m	31.03.25 budget £m
Borrowing	3.986	28.678	50.940	63.810	73.650	81.030	88.100
Other Long Term Liabilities	3.568	3.047	2.527	2.010	1.473	0.905	0.309
Total	**7.554**	**31.725**	**53.467**	**65.820**	**75.123**	**81.935**	**88.409**

Authorised Limit

	31.03.19 actual £m	31.03.20 forecast £m	31.03.21 budget £m	31.03.22 budget £m	31.03.23 budget £m	31.03.24 budget £m	31.03.25 budget £m
Borrowing	10.418	48.678	70.940	83.810	93.650	101.030	108.100
Other Long Term Liabilities	3.568	3.047	2.527	2.010	1.473	0.905	0.309
Total	**13.986**	**51.725**	**73.467**	**85.820**	**95.123**	**101.935**	**108.409**

4.10 Treasury investments arise from receiving cash before it is paid out again. Investments made for service reasons or for pure financial gain are not generally considered to be part of treasury management.

4.11 The Council's policy on treasury investments is to prioritise security and liquidity over yield, that is to focus on minimising risk rather than maximising returns. Cash that is likely to be spent in the short term is invested securely, for example with the government, other local authorities or selected high-quality banks, to minimise the risk of loss. Money that will be held for longer terms is invested more widely, including in bonds, shares and property, to balance the risk of loss against the risk of receiving returns below inflation. Both short-term and longer-term investments may be held in pooled funds, where an external fund manager makes decisions on which particular investments to buy and the Council may request its money back at short notice.

Table 8: Treasury management investments

	31.03.19 actual £000	31.03.20 forecast £000	31.03.21 budget £000	31.03.22 budget £000	31.03.23 budget £000	31.03.24 budget £000	31.03.25 budget £000
Short-term investments	15,014	4,000	4,000	4,000	4,000	4,000	4,000
Longer-term investments	0	2,000	2,000	2,000	2,000	2,000	2,000
Total	**15,014**	**6,000**	**6,000**	**6,000**	**6,000**	**6,000**	**6,000**

4.12 Decisions on treasury management investment and borrowing are made daily and are therefore delegated to the Director of Finance and Business Improvement and staff, who must act in line with the treasury management strategy approved by council. Quarterly reports on treasury management activity are included within the budget monitoring reports which are presented to the council Policy & Resources Committee with the half yearly and annual reviews which are scrutinised by Audit, Governance and Standards Committee then recommending to Full council. The Audit, Governance and Standards Committee is responsible for scrutinising treasury management decisions.

Revenue Budget Implications

4.13 Although capital expenditure is not charged directly to the revenue budget, interest payable on loans and MRP are charged to revenue, offset by any investment income receivable. The net annual charge is known as financing costs; this is compared to the net revenue stream i.e. the amount funded from Council Tax, business rates and general government grants.

Table 9: Prudential Indicator: Proportion of financing costs to net revenue stream

	2018/19 actual	2019/20 forecast	2020/21 budget	2021/22 budget	2022/23 budget	2023/24 budget	2024/25 budget
Financing costs (£m)	-0.220	-0.155	0.614	0.807	0.955	1.065	1.172
Proportion of net revenue stream	-1.14%	-0.75%	3.30%	4.43%	4.98%	5.56%	6.11%

4.14 Due to the very long-term nature of capital expenditure and financing, the revenue budget implications of expenditure incurred in the next few years will extend beyond 5 years into the future. The Director of Finance and Business Improvement is satisfied that the proposed capital programme is prudent, affordable and sustainable.

5. OTHER LONG TERM LIABILITIES

5.1 This section deals with other long term liabilities to which the Council has committed itself in order to secure capital investment. The Council has no Private Finance Initiative Schemes, but the following scheme is a similar contract as it is defined as a service concession arrangement.

5.2 The Council entered into an agreement during 2009/10 with Serco, the managing contractor of Maidstone Leisure Centre, to undertake a major refurbishment of the centre. Under the terms of the agreement Serco have initially funded the cost of the works through a loan, and the Council are then repaying this loan over a 15 year term, by equal monthly instalments. The principal element of this loan is reflected on the Council's Balance Sheet, and will be written down annually by the amount of principal repaid. Interest paid on the loan is charged to revenue.

Investments for Service Purposes

5.3 The Council can make investments to assist local public services, including making loans to local service providers, local small businesses to promote economic growth, Charities and the Council's subsidiaries that provide services. In light of the public service objective, the Council is willing to take more risk than with treasury investments, however it still plans for such investments to provide value for money to the tax payer.

5.4 Decisions on service investments are made by the relevant service manager in consultation with the Director of Finance and Business Improvement and relevant committee (where appropriate), and must meet the criteria and limits laid down in the investment strategy. Most loans are capital expenditure and purchases will therefore also be approved as part of the capital programme.

6. COMMERCIAL ACTIVITIES

6.1 The Council originally developed a Commercialisation Strategy in 2014, in response to the withdrawal of Revenue Support Grant and the freedoms and flexibilities offered to local authorities through the Localism Act. A review of the Strategy in November 2016 indicated that it had been successful in promoting a more business-like approach to the Council's revenue generating activities, but new initiatives had met with varying degrees of success.

6.2 It was decided by Policy and Resources Committee, on the basis of this review, to refocus the strategy on housing and regeneration, which provided the opportunity both to generate a financial return for the Council and to support its strategic priorities. As a result, a Housing Development and Regeneration Plan, to which reference has already been made here, was developed and adopted in July 2017. Similarly, the Council's Commercial Property Investment Strategy is intended to support the local economy and regeneration objectives, as well as to generate a financial return.

6.3 Accordingly, none of the Council's capital investment is undertaken for purely commercial purposes.

7. KNOWLEDGE AND SKILLS

7.1 The Council employs professionally qualified and experienced staff in senior positions with responsibility for making capital expenditure, borrowing and investment decisions. The Director of Finance and Business improvement is a qualified accountant with over 15 years' experience in local government, the Corporate Property Manager and the team are experienced in Property Management and the Council pays for junior staff to study towards relevant professional qualifications including CIPFA, ACT (treasury),and ACCA.

7.2 The Council currently employs Link Asset Services as treasury management advisers and a number of property consultants including Harrisons Property Surveyors Limited and Sibley Pares Limited. This approach is more cost effective than employing such staff directly, and ensures that the Council has access to knowledge and skills commensurate with its risk appetite.

7.3 The Council carries out consultation as part of the development of the MTFS in order to establish the wider community's priorities for budget spending. In addition, consultation is carried out each year on the detailed budget proposals with individual Service Committees about budget proposals relating to the services within their areas of responsibility.

8. RISK MANAGEMENT

8.1 The capital programme forms an increasingly important part of the Council's strategy for delivering its overall priorities. Accordingly, it is of fundamental importance that the associated risks are managed actively. The Council has a comprehensive risk management framework, through which risk in relation to capital investment is managed at all levels.

Corporate

8.2 Corporate risks are identified and reported on a quarterly basis to the Corporate Leadership Team and twice a year to the Policy and Resources Committee. Risks are owned by named Directors and controls developed to mitigate risk. Risks at this level may be generic, relating to a number of capital projects, although it is possible that a single capital project could pose a corporate risk.

Financial

8.3 A Budget risk register seeks to capture all known budget risks and to present them in a readily comprehensible way. The budget risk register is updated regularly and is reviewed by the Audit, Governance and Standards Committee at each meeting.

8.4 Typically, risks in this area would relate to funding of the capital programme and over/underspending on individual capital projects.

8.5 For all risks shown on the Budget Risk Register, appropriate controls have been identified and their effectiveness is monitored on a regular basis.

Service

8.6 Individual service areas maintain risk registers, with identified risk owners and details of controls to mitigate risk.

Project

8.7 The Council's project management framework requires managers to maintain risk registers at a project level.

Maidstone Borough Council Investments/Borrowing as at 31st December 2019

Investments

Counterparty	Type of Investment	Principal £	Start Date	Maturity Date	Rate of Return	MBC Credt Limits	
						Suggested Term	Maximum Deposit
London Borough of Croydon	Fixed Term Deposit	2,000,000	01/05/2018	01/05/2020	1.05%	5 Years	£5,000,000
Svenska Handelbanken	Call Account	1,290,000			0.60%	12 Months	£3,000,000
Goldman Sachs International Bank	Notice Account Deposit	2,000,000			0.90%	6 months	£3,000,000
Lloyds Bank Plc	Notice Account Deposit	3,000,000			0.95%	12 Months	£3,000,000
HSBC Bank Plc	Notice Account Deposit	3,000,000			0.90%	12 Months	£3,000,000
Aberdeen Asset Management	Money Market Fund	0			0.73%	2 Years	£8,000,000
Federated Investers LLP	Money Market Fund	770,000			0.74%	2 Years	£8,000,000
Goldman Sachs	Money Market Fund	0			0.67%	2 Years	£8,000,000
		12,060,000					

Borrowing

Counterparty	Type of Institution	Principal £	Start Date	Maturity Date	Rate of Return
North Somerset District Council Counc	Local Authority	3,000,000	22/11/2019	30/04/2020	0.80%
North Yorkshire County Council	Local Authority	4,000,000	22/11/2019	20/11/2020	0.97%
		7,000,000			

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE	**13 January 2020**

Budget Strategy – Risk Assessment Update

Final Decision-Maker	Audit, Governance and Standards Committee
Lead Head of Service/Lead Director	Mark Green, Director of Finance and Business Improvement
Lead Officer and Report Author	Mark Green, Director of Finance and Business Improvement
Classification	Public
Wards affected	All

Executive Summary

This report provides an update on the budget risks facing the Council. The government's announcement of the Provisional Local Government Finance Settlement on 20 December 2019 provided confirmation of announcements made before the General Election and gave confidence that the Council can set a balanced budget for 2020/21. However, over the medium term there continues to be uncertainty about funding arrangements. The risk of a disorderly exit from the EU in the short term has receded but there remains a risk that new trading arrangements with the EU will not be agreed by December 2020.

This report makes the following recommendations to this Committee:

That the Audit Governance and Standards Committee notes the updated risk assessment of the Budget Strategy provided at Appendix A.

Timetable	
Meeting	***Date***
Audit, Governance and Standards Committee	13 January 2020

Budget Strategy – Risk Assessment Update

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The Medium Term Financial Strategy and the budget are a re-statement in financial terms of the priorities set out in the strategic plan. They reflect the Council's decisions on the allocation of resources to all objectives of the strategic plan.	Director of Finance and Business Improvement
Cross Cutting Objectives	The cross cutting objectives are reflected in the MTFS and the budget.	Director of Finance and Business Improvement
Risk Management	Matching resources to priorities in the context of the significant pressure on the Council's resources is a major strategic risk. Specific risks are set out in Appendix A.	Director of Finance and Business Improvement
Financial	The budget strategy and the MTFS impact upon all activities of the Council. The future availability of resources to address specific issues is planned through this process.	Director of Finance and Business Improvement
Staffing	The process of developing the budget strategy will identify the level of resources available for staffing over the medium term.	Director of Finance and Business Improvement
Legal	The Council has a statutory obligation to set a balanced budget and development of	Director of Finance and Business Improvement

	the MTFS and the strategic revenue projection in the ways set out in this report supports achievement of a balanced budget.	
Privacy and Data Protection	No implications.	Director of Finance and Business Improvement
Equalities	The Council's budgeted expenditure will have a positive impact as it will enhance the lives of all members of the community through the provision of resources to core services. In addition it will affect particular groups within the community. It will achieve this through the focus of resources into areas of need as identified in the Council's strategic priorities.	Director of Finance and Business Improvement
Public Health	None identified.	Director of Finance and Business Improvement
Crime and Disorder	None identified.	Director of Finance and Business Improvement
Procurement	None identified.	Director of Finance and Business Improvement

2. INTRODUCTION AND BACKGROUND

2.1 The remit of the Audit Governance and Standards Committee includes consideration of risk. Members have requested that the Budget Risk Matrix and Risk Register be updated and reported to each meeting of the Committee, so that it continues to be fully briefed on factors likely to affect the Council's budget position.

Delivering the revenue budget

2.2 The immediate risks to delivering the revenue budget include:

- failure to contain expenditure within agreed budgets
- failure to deliver planned savings
- shortfall in fees and charges against budgeted income
- failure of commercial initiatives (eg property investment, income generating activities in parks)
- costs of litigation exceed budgeted provision.

The last item is a new addition to the budget risk register. The Council is often engaged in litigation and generally the costs of any award against the Council and associated costs of legal advice can be met from within budgets. However, it is prudent to acknowledge the risk that provisions may not in fact be sufficient to cover all likely costs.

Notwithstanding the above risks, for the current financial year 2019/20, projections indicate that a balanced budget position will be achieved.

2.3 The Council agreed a Medium Term Financial Strategy for 2020/21 to 2024/25 at its meeting on 18 December 2019. It also agreed the principle of increasing Council Tax in line with inflation. Given the other assumptions included within the MTFS, and following announcement of the Provisional Local Government Funding Settlement on 20 December 2019, this means that the Council will be able to set a balanced budget for 2020/21.

2.4 The Provisional Local Government Funding Settlement gave no further indications about funding arrangements for 2021/22 and subsequent years. Although Maidstone Borough Council is now largely dependent on locally generated resources, the amount of business rates that we are allowed to retain at a local level is a key variable in budget setting, and will depend on the overall post-2021/22 funding regime. There is also a risk that negative Revenue Support Grant, which was due to be levied on the Council in 2019/20 before political pressure forced it to be withdrawn, may be resurrected, even if in another guise. The position for 2021/22 onwards therefore remains very unclear.

Delivering the capital budget

2.5 The capital programme plays a vital part in delivering the Council's corporate objectives and helps to secure revenue income generation. The Council will have to borrow to fund the capital programme, for the first time, this year. The availability of funding is therefore important.

2.6 The main source of funding for local authorities has been the Public Works Loan Board. However, in October 2019, the PWLB's rates were increased for all loans, such that the 50 year maturity rate went up from 1.8% to 2.8%. As a result, very few local authorities have borrowed from the PWLB since then.

2.7 Whilst other sources of funding than the PWLB remain available, HM Treasury's readiness effectively to cease funding local authority capital expenditure may indicate a lack of support for local authority investment which would put at risk our capital programme.

External factors

2.8 In reports over the past year, the adverse financial consequences from a disorderly Brexit were highlighted as a 'red' risk.

2.9 The UK is now expected to leave the EU on an agreed basis on 31 January 2020. However, future trading arrangements with the EU are still to be agreed and there remains a risk of disruption if this has not happened by the government's deadline of 31 December 2020.

2.10 The Budget Risk Register has been reviewed in light of developments since it was last reported to members. A summary of the changes to the risk register is set out below.

	Risk	Factor considered	Implications for risk profile
N	Adverse financial consequences from a disorderly Brexit	The UK is expected to leave the EU on an agreed basis on 31 January 2020 but there remains a risk of disruption if new trading arrangements are not agreed by 31 December 2020.	Impact – moderate (reduced) Likelihood – possible (no change)
H	Adverse impact from changes in local government funding	The Provisional Local Government Finance Settlement has provided clarity about the position for 2020/21, but the position from 2021/22 remains unclear.	Impact – moderate (reduced) Likelihood – possible (no change)
O	Litigation costs exceed budgeted provisions	The Council is often engaged in litigation and generally the costs of any award against the Council and associated costs of legal advice can be met from within budgets. However, it is prudent to acknowledge the risk that provisions may not in fact be sufficient to cover all likely costs.	Impact – major (new) Likelihood – unlikely (new)

2.11 Appendix A sets out the budget risks in the form of a Risk Matrix and Risk Register. Additionally, at the Committee's request, the possible monetary impact of the risks has been indicated. Note that it is very difficult to quantify the financial impact of risks in precise terms. The information is provided simply to give an indication of the order of the risks' financial magnitude.

2.12 Members are invited to consider further risks or to propose varying the impact or likelihood of any risks.

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3. AVAILABLE OPTIONS

3.1 Option 1 - The Committee may wish to consider further risks not detailed in Appendix A or vary the impact or likelihood of any risks. This may impact the Council's service planning and/or be reflected in the developing Medium Term Financial Strategy.

3.2 Option 2 - The Committee notes the risk assessment set out in this report and makes no further recommendations.

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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 Option 2 – It is recommended that the Committee notes the risk assessment.

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5. RISK

5.1 Risk is addressed throughout this report so no further commentary is required here.

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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

6.1 Each year the council as part of the development of the MTFS and the budget carries out consultation on the priorities and spending of the council. A Residents' Survey has just been completed for the 2020/21 budget and the results will be reported to Service Committees as part of the budget setting process.

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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

7.1 The Audit, Governance and Standards Committee plans to continue keeping the budget risk profile under review at subsequent meetings.

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8. REPORT APPENDICES

The following document is to be published with this report and forms part of the report:

- Appendix A: Budget Strategy Risks

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9. BACKGROUND PAPERS

None.

APPENDIX A

Budget Strategy Risks

The risk matrix below provides a summary of the key budget risks. The risk register that follows provides more detail.

Likelihood					
5					
4			L		
3		M	G,H, I,N	B	J
2		E	C	A,D, O	
1		K	F		
	1	*2*	*3*	*4*	*5*
	Impact				

- Black – Top risk
- Red – High risk
- Amber – Medium risk
- Green – Low risk
- Blue – Minimal risk

A. Failure to contain expenditure within agreed budgets	**I. Constraints on council tax increases**
B. Fees and Charges fail to deliver sufficient income	**J. Capital programme cannot be funded**
C. Commercialisation fails to deliver additional income	**K. Increased complexity of government regulation**
D. Planned savings are not delivered	**L. Collection targets for Council Tax and Business Rates missed**
E. Shared services fail to meet budget	**M. Business Rates pool fails to generate sufficient growth**
F. Council holds insufficient balances	**N. Adverse financial consequences from a disorderly Brexit**
G. Inflation rate predictions in MTFS are inaccurate	**O. Litigation costs exceed budgeted provisions**
H. Adverse impact from changes in local government funding	

The budget risks may be ranked, based on the scores shown below, as follows:

		Financial impact (in any one financial year)				
Risk	Ranking	Lower	Upper	Mid-point	Likelihood	Weighted
		£000	£000	£000	%	£000
J. Capital programme cannot be funded	1	500	1,500	1,000	50	500
B. Fees and Charges fail to deliver sufficient income	2	200	600	400	50	200
L. Collection targets for Council Tax and Business Rates missed	3	100	300	200	75	150
H. Adverse impact from changes in local government funding	4=	100	500	300	50	150
N. Adverse financial consequences from a disorderly Brexit	4=	100	500	300	50	150
D. Planned savings are not delivered	6	250	750	500	25	125
A. Failure to contain expenditure within agreed budgets	7=	200	600	400	25	100
G. Inflation rate predictions in MTFS are inaccurate	7=	100	300	200	50	100
I. Constraints on council tax increases	7=	100	300	200	50	100
O. Litigation costs exceed budgeted provisions	10	100	500	300	25	75
C. Commercialisation fails to deliver additional income	11	100	300	200	25	50
M. Business Rates pool fails to generate sufficient growth	12	50	100	75	50	38
E. Shared services fail to meet budget	13	50	150	100	25	25
F. Council holds insufficient balances	14	100	300	200	5	10
K. Increased complexity of government regulation	14	50	150	100	5	5

Budget Strategy Risk Register

The following risk register sets out the key risks to the budget strategy. The register sets out the consequences of each risk and the existing controls in place.

Ref	Risk (title & full description)	Consequences	Key Existing Controls	Overall Risk rating		
				I	L	∑
A	**Failure to contain expenditure within agreed budgets** The Council overspends overall against its agreed budget for the year	Failure to meet the budget makes it more likely that the Council will have to rely on short term expedients to balance the budget from year to year, rather than following a coherent long term strategy.	- Embedded and well established budget setting process - Medium Term Financial Strategy - Balanced budget agreed by Council for 2019/20. - Strong controls over expenditure and established process for recovering from overspends	4	2	8
B	**Fees & Charges fail to deliver sufficient income** Fee charging services may be affected if there is a downturn in the economy, resulting in Fees and Charges failing to deliver the expected level of income.	The total value of all Council income from fees and charges is around £20 million. A loss of income for service budgets will require restrictions on expenditure levels and delivery of all objectives may not be met.	- Fees and charges are reviewed each year, paying careful attention to the relevant market conditions - Where the Council is operating in a competitive market, the aim is to ensure price sensitivity does not lead to a loss of income. - Procedures are in place to ensure that fees and charges are billed promptly (or in advance) and that collection is maximised.	4	3	12
C	**Commercialisation fails to deliver additional income** The commercialisation strategy, which is now centred on housing and regeneration, does not deliver the expected level of income.	The medium term financial strategy includes a contribution from commercial opportunities, so any shortfall would have an impact on the overall strategy.	- The Council set aside a provision of £0.5m against losses from activities that do not deliver. This provision is cash limited but available to cover short term losses. - Individual risks associated with specific projects within commercialisation strategy	3	2	6

Ref	Risk (title & full description)	Consequences	Key Existing Controls	Overall Risk rating		
				I	L	∑
		Income generation from commercial activities supports the revenue budget and is required in ordered to pay back capital investment.	will be assessed, both as part of the project appraisal process and during the course of delivering the projects.			
D	**Planned savings are not delivered** Failure to deliver savings and / or failure to monitor savings means that the Council cannot deliver a balanced budget	The level of saving required to achieve a balanced budget is significant and non-delivery of these savings will have a major consequence on managing financial viability of the organisation. Not achieving savings will impact the overall delivery of the Medium Term Financial Strategy and would require appropriate action, which might include the suspension of some Council services, redundancies, etc.	- The risks associated with delivery of savings proposed in the current Medium Term Financial Strategy have been reviewed as part of the budget setting process. - Savings proposals are separately identified and monitored in the Council's general ledger. - The ability to achieve the targeted savings is monitored quarterly in budget monitoring reports to the Corporate Leadership Team and to Service Committees.	4	2	8
E	**Shared Services** Shared services, which are not entirely under the Council's control, fail to perform within budgeted levels.	Failure of a shared service to manage within the existing budget will have the same consequences as for any overspending budget, ie it would require appropriate action, which might include the suspension of some Council services, redundancies, etc.	The arrangements governing shared services include a number of controls that minimise the risk of budget overspends and service failure, including quarterly reporting to a Shared Service Board comprising representatives of the authorities involved. The shared services are required to report regularly on financial performance and key indicators.	2	2	4
F	**Insufficient Balances** Minimum balance is insufficient to cover unexpected events OR Minimum balances exceed the real need and resources are held without identified purpose with low investment returns	Additional resources would be needed which would result in immediate budget reductions or use of earmarked reserves. The Council would not gain best value from its resources as Investment returns are low in the current market.	- The Council has set a lower limit below which General Fund balances cannot fall of £2 million. - At the beginning of the 2019/20 financial year usable reserves stood at £15.1 million.	3	1	3

Ref	Risk (title & full description)	Consequences	Key Existing Controls	Overall Risk rating		
				I	L	∑
G	**Inflation rate predications in MTFS are inaccurate** Actual levels are significantly above or below prediction	Unexpected rises will create an unbudgeted drain upon resources and the Council may not achieve its objectives without calling upon balances. Services have supported the budget strategy through savings. Levels below those expected would result in an increase in balances or unused resources that could be used to achieve strategic priorities.	- Allowances for inflation are developed from three key threads: ○ The advice and knowledge of professional employees ○ The data available from national projections ○ An assessment of past experience both locally and nationally - MTFS inflation projections are based on the government's 2% inflation target.	3	3	9
H	**Adverse impact from changes in local government funding** The financial implications of the new local government funding regime to be introduced in 2021/22 remain unclear.	The Council no longer receives Revenue Support Grant (RSG), but the amount of Business Rates that it retains depends on the funding regime set by central government.	- The Medium Term Financial Strategy to 2024/25 includes an adverse scenario which allows for a significant impact on the Council's resources, - The Council has developed other sources of income to ensure it can maximise its resources while dealing with the consequences of government strategy.	3	3	9
I	**Constraints on council tax increases** The limit on Council Tax increases means that the Council must manage expenditure pressures even if these potentially give rise to cost increases greater than the referendum limit.	The limit on Council Tax increases means that additional pressures, such as those arising from providing temporary accommodation, have to be absorbed by making savings elsewhere.	- The budget for 2019/20 incorporates a Council Tax increase of 3%. - Budget planning is based around the assumption of a 2% increase in 2020/21. .	3	3	9
J	**Capital Programme cannot be funded** Reduction or total loss of funding sources means that the capital programme cannot be delivered	The main sources of funding are: ○ Internal borrowing ○ PWLB borrowing ○ New Homes Bonus	- Council has been able to fund the capital programme without recourse to borrowing so far,	5	3	15

Ref	Risk (title & full description)	Consequences	Key Existing Controls	Overall Risk rating		
				I	L	Σ
		○ Capital Grants ○ Developer contributions (S106) A reduction in this funding will mean that future schemes cannot be delivered.	- Council has confirmed in the past that borrowing is acceptable if it meets the prudential criteria. - Local authorities continue to be able to access borrowing at relatively low cost through the Public Works Loan Board but there is a risk that this may be subject to restrictions in future.			
K	**Increased complexity of government regulation** Complexity of financial and other regulations along with increasing delays in providing guidance reduce the ability of the Council to identify risks at an early stage.	On a number of occasions, most recently with the introduction of GDPR, the financial consequences of government regulation have been significant. Failure to provide adequate warning would leave the council little time to prepare through the medium term financial strategy. In general these events bring consequences to other agencies and external relationships.	- The Council has formal procedures for monitoring new legislation, consultations and policy / guidance documents. - Our relationships with organisations such as the Council's external auditor provide access to additional knowledge regarding relevant future events.	2	1	2
L	**Business Rates & Council Tax collection** Council fails to maintain collection targets for business rates and council tax	Failure to achieve collection targets will reduce the level of key resources to ensure a balanced budget. This will mean further cuts in other budgets or the cost of financing outgoing cash flow to other agencies in relation to taxes not yet collected. Business rates amount to around £60 million in 2019/20 and Council Tax due amounts to around £110 million.	- The Council has a good track record of business rates and Council Tax collection. - Steps are taken to maximise collection rates, such as active debt collection, continual review of discounts, etc. - Nonetheless, increasingly difficult trading conditions for some businesses may lead to a deterioration in collection performance.	3	4	12
M	**Business Rates pool**	Changes in RV or instability in growth will result in a reduction in income from business rates and a potential consequence for the Council.	- The pool is monitored quarterly Kent wide and Maidstone is the administering authority. The projected benefit of the pool across Kent as a	2	3	6

Ref	Risk (title & full description)	Consequences	Key Existing Controls	Overall Risk rating		
				I	L	Σ
	Changes to rateable value (RV) or instability of business rates growth within the pool may not generate projected levels of income		whole is projected to be around £10m in 2019/20. - Provisions have been made when projecting business rates income for bad debts and losses on appeal so any loss of income would relate to the excess over the provisions already made.			
N	**Adverse financial consequences from a disorderly Brexit.** There remains a risk that the UK could leave the EU without a trade agreement in December 2020.	Short term - Increased costs in delivering services, eg arising from traffic congestion Medium term/ long term – Risk of recession, which could lead to a fall in business rates income, increasing pressure on homelessness budgets, and adverse central government funding settlements.	- Thorough preparation for Brexit, with an officer Brexit business continuity planning group to co-ordinate our response and liaise with other Kent authorities	3	3	9
O	**Litigation costs exceed budgeted provisions.** The Council is often engaged in litigation and generally the costs of any award against the Council and associated costs of legal advice can be met from within budgets. However, it is prudent to acknowledge the risk that provisions may not in fact be sufficient to cover all likely costs.	Costs in excess of budget would require a drawing on reserves and the identification of savings in subsequent years in order to replenish the level of reserves.	- Corporate Leadership Team is updated regularly on outstanding legal cases. - Appropriate professional advice is taken at all times.	4	2	8

Impact & Likelihood Scales

RISK IMPACT

Level	Service risk	Reputation Risk	H&S	Legal Risk	Financial Risk	En'ment Risk
Catas-trophic (5)	Ongoing failure to provide an adequate service	Perceived as failing authority requiring intervention	Responsible for death	Litigation almost certain and difficult to defend. Breaches of law punishable by imprisonment or significant fines	Uncontrollable financial loss or overspend over £500k	Permanent, major environmental or public health damage
Major (4)	Failure to deliver Council priorities Poor service. Disrupted 5 days+	Significant adverse national publicity	Fails to prevent death, causes extensive perm injuries or LT sick		Financial loss or overspend greater than £250k	Long term major public health or environmental incident (1yr+)
Moderate (3)	Unsatisfactory performance Service disrupted/ stopped 3-5 days	Adverse national publicity or significant adverse local publicity	Fails to prevent extensive, permanent injuries or LT sickness	Litigation expected, but defensible Breaches of law punishable by fines	Financial loss or overspend greater than £50k	Medium term major public health or environmental incident (up to 1yr)
Minor (2)	Marginal reduction in performance Service disrupted/ stopped 1-2 days	Minor adverse local publicity	Medical treatment required, potential long term injury or sickness	Complaint likely, litigation possible Breaches of regs or standards	Financial loss or overspend greater than £10k	Short term public health or environmental incident (weeks)
Minimal (1)	No significant service impact Service disruption up to 1 day	Unlikely to cause adverse publicity	First aid level injuries	Unlikely to cause complaint Breaches of local procedures	Financial loss or overspend under £10k	Environmental incident with no lasting detrimental effect

RISK LIKELIHOOD

Type	Probability	Detail description
Almost certain (5)	90%+	Without action is likely to occur; frequent similar occurrences in local government/Council history
Probable (4)	60%-90%	Strong possibility; similar occurrences known often in local government/Council history
Possible (3)	40%-60%	Might occur; similar occurrences experienced in local government/Council history
Unlikely (2)	10%-40%	Not expected; rare but not unheard of occurrence in local government/Council history
Rare (1)	0%-10%	Very unlikely to occur; no recent similar instances in local government/Council history