

Public Document Pack

Executive Member Decisions

Friday, 8th July, 2022
10.00 am

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Date Published: Friday 8th July 2022
Denise Park, Chief Executive

EXECUTIVE MEMBER DECISION



REPORT OF: Executive Member for Finance & Governance

LEAD OFFICER: Director of Finance

DATE: 28 June 2022

PORTFOLIO/S AFFECTED: All

WARD/S AFFECTED: All

KEY DECISION: No

SUBJECT: Counter Fraud Policy Statement and Strategy 2022-25

1. EXECUTIVE SUMMARY

To present the revised Blackburn with Darwen Borough Council Counter Fraud Policy Statement and Counter Fraud Strategy 2022-25 to the Executive Member for Finance & Governance for approval.

Each local government body operates through a governance framework which brings together an underlying set of legislative requirements, governance principles and management processes. The Chartered Institute of Public Finance and Accountancy (CIPFA) and the Society of Local Authority Chief Executives (SOLACE) have produced the "Delivering Good Governance in Local Government Framework" which is intended to be followed as best practice.

One of the core principles of the Framework is to promote values for the Council and demonstrate the values of good governance through upholding high standards of conduct and behaviour. These should be defined and communicated through codes of conduct and protocols. A key area of this is to ensure that there are robust policies and procedures in place for countering fraud and corruption.

The Policy Statement and Strategy provide a clear statement of the Council's commitment and approach to this area from the Leadership team down. They provide a framework that should ensure a consistent approach is in place to embed robust and effective counter fraud arrangements into the Council's culture so that it is an integral part of the systems and procedures followed by Members, Chief Officers and staff at all levels.

2. RECOMMENDATIONS

That the Executive Member:

-approves the revised Counter Fraud Policy Statement and Strategy.

3. BACKGROUND

Effective local government relies on public confidence in Councillors and Officers. Good corporate governance underpins credibility but the processes involved must be transparent to all stakeholders to be effective and to give a lead in community governance e.g. making potential partners in the public, private and voluntary sectors, as well as local citizens, aware of the concept. As part of this responsibility, leaders of public services organisations have a responsibility to embed effective standards for countering fraud and corruption in their organisations. This supports good governance

and demonstrates effective financial stewardship and strong public financial management.

The current Counter Fraud Policy Statement and Strategy have been in place since 2016. The revised documents, attached at Appendix 1 and 2, take account of the latest guidance set out in the Fighting Fraud and Corruption Locally Strategy (2020) and provide an effective structure and approach to ensure that the counter fraud arrangements in place are embedded into the everyday processes of financial management activity and decision making within the Council. They demonstrate to the local community and other stakeholders the Council's commitment to the prevention, deterrence and detection of fraud and corruption and the responsive approaches that the Council will follow in respect of any fraud identified.

The previous strategy focused upon pillars of activity that summarised the areas local authorities should concentrate efforts on. These were 'acknowledge', 'prevent' and 'pursue'. These pillars are still applicable. However two areas of activity have been included in the latest strategy which underpin tenets of those pillars. These are 'govern' and 'protect'. To govern involves ensuring the tone from the top whilst to protect recognises the harm that fraud can cause in the community and the importance of the Council protecting itself and its residents from fraud.

4. KEY ISSUES & RISKS

Effective local government relies on public confidence in Councillors and Officers. Good corporate governance underpins credibility but the processes involved must be transparent to all stakeholders to be effective and to give a lead in community governance e.g. making potential partners in the public, private and voluntary sectors, as well as local citizens, aware of the concept. As part of this responsibility, leaders of public services organisations have a responsibility to embed effective standards for countering fraud and corruption in their organisations. This supports good governance and demonstrates effective financial stewardship and strong public financial management.

In response to previous guidance issued by CIPFA the Council revised its Counter Fraud Policy and Strategy in 2016. The Fighting Fraud and Corruption Locally Strategy was published by Cifas, the UK's Fraud Prevention Service, in 2020. The Strategy was led by the Fighting Fraud and Corruption Locally Board, which is chaired by a representative of SOLACE and is supported by the Local Government Association who have endorsed the Strategy. The Fighting Fraud and Corruption Locally Strategy is the updated counter fraud and corruption strategy for local government. A full review of the Council's current Counter Fraud Policy and Strategy has therefore been undertaken to ensure that it is consistent with the Fighting Fraud and Corruption Locally Strategy 2020.

5. POLICY IMPLICATIONS

These are revised documents which will replace the previous Counter Fraud Policy and Counter Fraud Strategy approved in 2016.

6. FINANCIAL IMPLICATIONS

The Council has little recorded fraud. However, fraud risks have been identified, which if not controlled effectively could result in financial loss. Assurances will be sought from departments and tests carried out to ensure that effective measures are in place to reduce these risks

The Policy Statement and Counter Fraud Strategy provide a means of demonstrating the Council's commitment and approach to this area on a continuous basis, and that any cases of fraud or corruption identified will be dealt with appropriately. It serves also to help protect the Council's financial resources and assets. There are no additional costs linked to this Policy and Strategy.

7. LEGAL IMPLICATIONS

It is a requirement of the Accounts and Audit Regulations 2015 that those charged with responsibility for governance conduct an annual review of the effectiveness of the system of internal control. This involves ensuring a sound system of internal control is in place which facilitates the effective exercise of its functions and the achievement of its aims and objectives, and includes the effective arrangements for the management of fraud and corruption.

Effective counter fraud arrangements are a major component of good governance. The commitment of the Leadership Team to creating a culture that is resilient to the threats of fraud and corruption through the Policy Statement and Strategy document is therefore an essential part of complying with these Regulations. Failure to manage fraud and corruption risks effectively may give rise to increased financial loss or loss of assets and may adversely impact on the Council's reputation.

There are no additional legal implications in relation to this revised Policy Statement or Strategy.

8. RESOURCE IMPLICATIONS

There should be no additional resource implications of the revised Policy Statement or Counter Fraud Strategy.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

Director of Finance

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered as detailed in the attached briefing paper. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

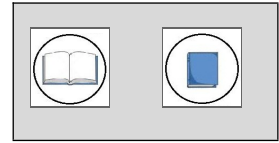
All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION: 0.01

CONTACT OFFICER: Colin Ferguson, Head of Audit & Assurance

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DATE:	10/06/2022
BACKGROUND PAPER:	Anti-fraud and Corruption Policy 2016 Counter Fraud Strategy 2016 - 2021





COUNTER FRAUD POLICY STATEMENT

Blackburn with Darwen Borough Council (the Council) is committed to the principles of good governance and recognises the importance of operating in an open and accountable manner, whilst demonstrating high standards of conduct. The Council expects all its stakeholders (including its councillors, employees, partners and contractors) to act honestly, with integrity and to safeguard the public purse. The Council does not accept any fraud or corruption and any identified case will be thoroughly investigated and appropriately dealt with.

The Council is committed to ensuring that opportunities for fraud and corruption are reduced to the lowest possible level through a combination of:

- **Govern** – having robust arrangements and executive support to ensure anti- fraud, bribery and corruption measures are embedded throughout the organisation;
- **Acknowledge** - acknowledging and understanding fraud risks, and the harm they cause to the organisation, its objectives and service users, and committing support and resource to tackling fraud in order to maintain a robust anti-fraud response;
- **Prevent** - preventing and detecting fraud by making better use of information and technology, enhancing fraud controls and processes and developing a more effective anti-fraud culture; and
- **Pursue** - punishing fraudsters and recovering losses by prioritising the use of civil sanctions, developing capability and capacity to investigate fraudsters and developing a more collaborative and supportive law enforcement response.
- **Protect** - recognising the harm that fraud can cause in the community. Protecting itself and its residents from fraud.

To achieve this, the Council will:

Govern

- Put in place a policy framework which supports the implementation of the counter fraud strategy.
- Set the 'tone from the top' by acknowledging the responsibility of the governing body for countering fraud and corruption.
- Communicate counter fraud arrangements throughout the Council and making them publically available to demonstrate the culture and commitment to preventing fraud.

Acknowledge:

- Ensure that all Council stakeholders understand that fraud is unacceptable.
- Clarify roles and responsibilities in relation to fraud.
- Identify, assess and review areas of greatest fraud risk.
- Enable managers to identify and mitigate fraud risks.
- Use the capacity and capability available effectively to investigate and prosecute fraud.

Prevent:

- Promote a culture of zero tolerance for fraud and corruption.
- Provide access to rules and procedures, which stakeholders will be expected to follow.
- Design and operate systems, rules and procedures, which minimise the risk of fraud.
- Increase awareness of fraud and corruption through a programme of training and communication.
- Encourage and enable stakeholders to raise serious concerns.
- Proactively seek out and follow up instances of potential fraud.

- Publicise cases to demonstrate success in fighting fraud.

Pursue:

- Formally investigate allegations of suspected fraud and corruption.
- Apply appropriate sanctions such as disciplinary action, criminal proceedings and recovery of losses when necessary, working with other organisations to achieve this.
- Seek redress for frauds, overpayments and losses.

Protect:

- Protect the Council from fraud, cyber-crime and future frauds through sharing intelligence with partner agencies and other local authorities, working within the law.

This policy will be implemented through the operation of the Council's Counter Fraud Strategy.

Signed:

Leader

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Chief Executive

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**Chair of Audit &
Governance Committee**



COUNTER FRAUD STRATEGY

2022 – 2025

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1 Introduction

1.1 The purpose of this Strategy is to set out clearly to our stakeholders:

- The Council's commitment and responsibilities for tackling fraud;
- Its role in the prevention of fraud; and
- Actions to pursue fraudsters and recover losses.

1.2 We all have a special responsibility for dealing with public funds and assets. The Council controls millions of pounds of public money and we take very seriously the high expectations of the public and the degree of scrutiny to which the affairs of the Council are subject. Proper accountability, achieved through probity, internal control and honest administration is therefore essential.

1.3 The Council's strategic response for counter fraud activity is based on the principles of govern, acknowledge, prevent, pursue and protect in line with the Fighting Fraud and Corruption Locally Strategy (2020) for local government, published by Cifas (the UK's Fraud Prevention Service) and consists of the following:

Govern	Acknowledge	Prevent	Pursue
Having robust arrangements and executive support to ensure anti- fraud, bribery and corruption measures are embedded throughout the organisation.	Acknowledging and understanding fraud risks and committing support and resource to tackling fraud in order to maintain a robust anti-fraud response.	Preventing and detecting more fraud by making better use of information and technology, enhancing fraud controls and processes and developing a more effective anti-fraud culture.	Punishing fraudsters and recovering losses by prioritising the use of civil sanctions, developing capability and capacity to investigate fraudsters and developing a more collaborative and supportive local enforcement response.
Protecting itself and its residents			
Recognising the harm that fraud can cause in the community. Protecting itself and its residents from fraud.			

1.4 The Strategy seeks to embed the 6 C's for effectively implementing an anti-fraud ethos throughout the Council which include:

- Culture – creating a culture where fraud and corruption are unacceptable and that is measurable.
- Capability – assessing the full range of fraud risks and ensuring that the range of counter fraud measures deployed is appropriate.
- Capacity – deploying the right level of resources to deal with the level of fraud risk that is monitored by those charged with governance.
- Competence – having the right skills and standards commensurate with the full range of counter fraud and corruption activity.
- Communication – raising awareness internally and externally, deterring fraudsters, sharing information, celebrating successes.
- Collaboration – working together across internal and external boundaries: with colleagues, with other local authorities, and with other agencies; sharing resources, skills and learning, good practice and innovation, and information.

- 1.5 Acts of dishonesty within our Council are rare and consistent with the rest of the public sector. However, as in all organisations, things may go wrong and, in case they do, we must have procedures for combating fraudulent or improper attempts to obtain assets or services.
- 1.6 The principles outlined in this strategy apply to all of our councillors and employees and they demonstrate, to the local community, our commitment to the prevention, deterrence, detection and investigation of all forms of fraud and corruption. The Council also expects that all outside individuals and organisations including suppliers, contractors and claimants will act towards the Council with honesty and integrity.
- 1.7 Section 10 of this Strategy outlines how stakeholders can report a fraud or raise a concern (via the Whistleblowing hotline) when potential acts of dishonesty are identified.

2 Fraud Definitions

- 2.1 This strategy document makes reference to the word “**fraud**”. Where the word fraud is used, it equally applies to instances of theft, corruption, bribery and money laundering. The definitions of such offences are set out in the following paragraphs.
- 2.2 As per the **Fraud Act 2006**, fraud is a criminal offence. Fraud is any action taken by an individual, group or organisation which is designed to facilitate dishonest gain at the expense of (or loss to) the Council, the residents of Blackburn with Darwen or the wider national community and can include:
- Fraud by False Representation: Dishonestly making a false representation, and intend by making the representation, to make a gain for themselves or another, or cause a loss or expose another to a risk of loss.
 - Fraud by (wrongly) failing to disclose information: Dishonestly failing to disclose information which they are under a legal duty to disclose, and intend by failing to disclose the information, to make a gain for themselves or another, or cause a loss or expose another to a risk of loss.
 - Fraud by abuse of position: Occupy a position in which the post holder is expected to safeguard, or not act against, the financial interests of another person, dishonestly and secretly abuse that position, and intend by such abuse, to make a gain for themselves or another, or cause a loss or expose another to a risk of loss.
- 2.3 **Theft** is stealing any property belonging to the Council or which has been entrusted to it (i.e. client funds), including cash, equipment, vehicles or data. Theft does not necessarily require fraud to be committed. Theft can also include the stealing of property belonging to our staff or members whilst on Council premises. A person is guilty of theft under the **Theft Act 1968** if they ‘dishonestly appropriate property belonging to another with the intent of permanently depriving the other of it’ or they dishonestly retain a wrongful credit. For example, where they do not report and repay an overpayment of salary or advance.
- 2.4 **Corruption** is defined as an act done with the intent to give some advantage which is inconsistent with a public servant’s official duty and the rights of others. In the public sector it can also be defined as the abuse of power by a public official for private gain. Forms of corruption vary but include bribery, extortion, nepotism, cronyism, embezzlement.
- 2.5 **Bribery** is defined as the offering, giving, soliciting or acceptance of inducements or reward designed to influence official action or decision making. Under the **Bribery Act 2010**, organisations are expected to implement anti-bribery measures and both organisations and individuals can face significant penalties for failure to meet these requirements.

- 2.6 **Money laundering** is the process by which the proceeds of crime are changed so that they appear to come from a legitimate source. Legislation concerning money laundering is included within the Proceeds of Crime Act 2002 (the POCA) and Money Laundering Regulations 2007.
- 2.7 A **Whistleblower** is a person who tells someone in authority about alleged dishonest or illegal activities, including fraud, occurring in any public or private organisation. The **Public Interest Disclosure Act 1998** provides legal recourse for the person raising the concern should they feel they have been treated unfairly as a result of "whistleblowing".

3 **Responsibilities**

- 3.1 This Strategy details the responsibilities for countering fraud across the Council's stakeholders (including councillors, management and employees):

STAKEHOLDER	SPECIFIC RESPONSIBILITIES
Chief Executive	Ultimately accountable for the effectiveness of the Council's arrangements for countering fraud.
Deputy Director Legal & Governance (Monitoring Officer)	To advise Councillors and Officers on ethical issues, standards and powers to ensure that the Council operates within the law and statutory Codes of Practice.
Director of Finance (Section 151 Officer)	To ensure the Council has an adequately resourced and effective Counter Fraud and Internal Audit service.
Audit & Governance Committee	To monitor the Council's policies and consider the effectiveness of the Counter Fraud Framework.
Councillors	To support and promote the development of a strong counter fraud culture.
External Audit	Subject to the concept of materiality, provides reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity.
Audit & Assurance Team	To develop and implement the Counter Fraud Framework and promptly investigate cases of suspected fraud reported under this policy, via the Whistleblowing arrangements or the National Fraud Initiative. To make recommendations to improve controls and reduce the risk of fraud in the future.
Chief Officers & Managers	To promote staff awareness and refer all cases of suspected fraud to the Audit & Assurance Team. To ensure that they assess the risk of fraud in their service areas and reduce these risks by implementing strong internal controls designed to prevent and/or detect fraud, theft and corruption within their service areas.

STAKEHOLDER	SPECIFIC RESPONSIBILITIES
Employees	To comply with Council policies and procedures, to be aware of the possibility of fraud, and to report any genuine concerns to management, the Audit & Assurance Team or via the Whistleblowing arrangements.
Public, Partners, Suppliers, Contractors and Consultants	To be aware of the possibility of fraud against the Council and report any genuine concerns / suspicions.

3.2 The Council will continue to support its stakeholders to develop the appropriate skills and competencies to enable them to tackle fraud effectively.

4 **Aims & Objectives**

4.1 The Council is committed to ensuring that opportunities for fraud are reduced to the lowest possible level through a combination of:

Acknowledge:

- Ensure that all Council stakeholders understand that fraud is unacceptable.
- Clarify roles and responsibilities in relation to fraud.
- Identify, assess and review areas of greatest fraud risk.
- Enable managers to identify and mitigate fraud risks.
- Use the capacity and capability available effectively to investigate and prosecute fraud.

Prevent:

- Promote a culture of zero tolerance for fraud.
- Provide access to rules and procedures, which stakeholders will be expected to follow.
- Design and operate systems, rules and procedures, which minimise the risk of fraud.
- Share information with other authorities to deal with fraud locally and nationally, working within the law.
- Increase awareness of fraud through a programme of training and communication.
- Encourage and enable stakeholders to raise serious concerns.
- Proactively seek out and investigate instances of potential fraud.
- Publicise cases to demonstrate success in fighting fraud.

Respond:

- Formally investigate allegations of suspected fraud.
- Apply appropriate sanctions such as disciplinary action, criminal proceedings and recovery of losses when necessary, working with other organisations to achieve this.
- Seeking redress for frauds, overpayments and losses.

4.2 The counter **fraud** aims and objectives will be delivered through a combination of proactive and responsive approaches.

5 Proactive Approaches to Fraud

5.1 A number of **proactive** approaches will be adopted to achieve the aims and objectives of the Council's counter fraud policy.

Ensure that all Council stakeholders understand that fraud is unacceptable.

5.2 This will be **achieved** by:

- Having a clear statement of intent (the Counter Fraud Policy) approved by the Council.
- Communicating the Counter Fraud Policy and associated framework documents to all of the Council's stakeholders.

Clarify roles and responsibilities in relation to fraud.

5.3 This will be achieved by:

- Clearly identifying responsibilities for counter fraud within the Council (section 3 of this Strategy).
- As part of the production of the Annual Governance Statement an assessment will be made on the effectiveness of the Council's counter fraud arrangements, particularly in relation to the "CIPFA Code of Practice on managing the risk of fraud and corruption".

Identify, assess and review areas of greatest fraud risk.

5.4 This will **be** achieved by:

- Using the tools (available from CIPFA, Cabinet Office etc.) to understand the main fraud risks affecting local government, estimate the potential level of impact/loss and use this information to target resources more efficiently.
- Establish the level of resilience to the fraud threats and assess against a checklist for the arrangements that should be in place to minimise the risk of fraud taking place.
- Maintain a specific fraud risk register for the Council that takes account of the highest fraud risk areas.

Enable managers to identify and mitigate fraud risks.

5.5 This will be **achieved** by:

- Fraud risks to be acknowledged in the fraud risk register where applicable.
- Working with service managers to carry out initial fraud risk assessments of the potential fraud in their areas.

Use the capacity and capability available effectively to investigate and prosecute fraud.

5.6 This will be achieved by:

- Maintaining a counter fraud resource to act in an advisory and guiding capacity which is accessible to all stakeholders.

Promote a culture of zero tolerance for fraud.

5.7 This will be achieved by:

- Publicising the Council's Counter Fraud Policy.
- Publicising action taken against fraudsters.

Provide access to rules and procedures, which stakeholders are expected to follow.

5.8 This will be achieved by:

- Maintaining and publicising guidance to explain to members, employees and other stakeholders the process for managing and reporting fraud risks within the Council (section 9 of this Strategy).

Design and operate systems, rules and procedures, which minimise the risk of fraud.

5.9 This will be achieved by:

- System owners ensuring strong internal control procedures are in place to minimise the risk of fraud and that these controls operate effectively.
- Internal Audit will continue to review the efficacy of counter fraud internal controls put in place by management and provide independent assurance over fraud risk management.

Share information with other authorities to deal with fraud locally and nationally, working within the law.

5.10 This will be achieved by:

- Participation in the Cabinet Office's National Fraud Initiative (NFI) conducted every 2 years.
- Wherever possible and legal assist and exchange information with other appropriate bodies to assist in investigations to combat fraud.

Increase awareness of fraud through a programme of training and communication.

5.11 This will be achieved by:

- Stakeholders will be encouraged to undertake the e-learning training, which has been designed to raise awareness to the possibility of fraud within the Council.
- Regular reminders will be issued to stakeholders of the existence of the Strategy and the e-learning training.
- Statistics on usage will be reported to the Audit & Governance Committee.
- Continued publication of cases to maintain awareness to the possibility of fraud within the public, private and voluntary sectors.

Encourage and enable stakeholders to raise serious concerns.

5.12 This will be achieved by:

- Maintaining effective referral, confidential reporting and whistleblowing arrangements.

Proactively seek out and investigate instances of potential fraud.

5.13 This will be achieved by:

- Undertake planned proactive fraud checks in areas identified as high risk.

- Data from different sources available within the Council matched as an effective way to identify potential fraud and error.

Publicise cases to demonstrate success in fighting fraud.

5.14 This will be achieved by:

- Analysing the number and value of reported fraud cases within the Council, and reporting these to the Audit & Governance Committee.
- Producing an annual fraud report, which is available to the public, which openly acknowledges the fraud risks the Council faces, the types of fraud that have occurred during the year, and, as required by the Department for Levelling Up, Housing and Communities (DLUHC) Transparency Code the resources committed to anti-fraud measures.

6 Responsive Approaches to Fraud

6.1 The Council will continue to provide a responsive approach to achieve the aims and objectives of the Council's Counter Fraud Policy.

Formally investigate allegations of suspected fraud.

6.2 This will be achieved by:

- Risk assessing fraud referral information to determine if internal (within the Council) or external investigation (e.g. Police) is appropriate.
- High risk internal investigations being undertaken by appropriately skilled officers with lower risk referrals being dealt with by line management.
- Investigations being undertaken in accordance with the Council's disciplinary policy and procedure with HR & Legal support, as required, with the objective of determining if a fraud has taken place.
- Investigation findings being reported to a Chief Officer.

Apply appropriate sanctions such as disciplinary action, criminal proceedings and recovery of losses when necessary, working with other organisations to achieve this.

6.3 This will be achieved by:

- Appropriate reporting of cases of fraud, or attempted fraud to the police.
- Taking disciplinary action in addition to, or instead of, criminal proceedings, depending on the circumstances of each individual case.

Seeking redress for frauds, overpayments and losses.

6.4 This will be achieved by:

- Making full use of the legal remedies available in all cases of fraud and attempted fraud.
- Consider, in addition or alternatively to criminal proceedings, all appropriate civil proceedings to recover any losses incurred by the Council.

7 Joint Working

7.1 We participate in the exchange of information between the Council and other public agencies to assist with the identification of fraud, bribery and corruption. Any such exchange of information will be undertaken in accordance with the principles contained

in the Data Protection Act 1998.

7.2 These public agencies may include:

- Police.
- External Audit.
- Local, regional and national auditor networks.
- National Anti-Fraud Network.
- CIPFA.
- Department of Work and Pensions.
- Central Government – Cabinet Office.
- Other local authorities.
- NHS bodies.

7.3 In order to try to stay one step ahead of the fraud to which the Council may be exposed, it will be necessary to undertake a regular review of national developments and strengthen systems and procedures. Key sources of information that will be used to inform the ongoing continuous improvement of the Counter Fraud Strategy will be:

- National Fraud Initiative Website.
- Protecting the Public Purse Report.
- HM Treasury Publications.
- Annual Fraud Reports.
- CIPFA Better Governance Forum (BGF.)
- National Anti-Fraud Network (NAFN).
- Intelligence Bulletins.

8 Performance Measures

8.1 Investigation activity itself does not represent the outcomes of our counter fraud work. We recognise that by preventing fraud we will reduce losses and the delivery of our counter fraud work plan will improve overall outcomes and achieve the aims & objectives of this policy.

8.2 We will measure the effectiveness of our counter fraud arrangements by focusing on outcomes such as:

- reducing the likelihood and impact of fraud (completion of assessments/reduce residual risks).
- increasing fraud awareness levels (completion of e-learning training).
- delivery of the proactive counter fraud work plan.
- zero tolerance to fraud (number of referrals / disciplinary results).
- successful prosecutions and other sanctions.

8.3 The Annual Fraud Report will include an evaluation of the success of this strategy in achieving its objectives. Success measures and indicators will include, but not be limited to, the following:

- % Completion of fraud risk assessments.
- % Reduction in residual fraud risk scores (following implementation of management actions).
- % Delivery of proactive counter fraud work plan.
- Value of frauds/errors identified through proactive counter fraud testing.
- Number of stakeholders completing fraud, bribery & corruption e-learning training.
- Number of suspected fraud cases identified.
- % of cases requiring formal investigation/police referral.
- % of cases achieving a positive outcome (prosecution/disciplinary action/loss

recovery).

9 Counter Fraud Policy Framework

9.1 The Council has put in place a policy framework which supports the implementation of this Counter Fraud Strategy. This framework is designed to encourage and raise awareness of all staff to the fraud risks. Increased awareness aids prevention and responsiveness.

9.2 The Council's counter fraud policy framework includes the following:

- Counter Fraud Policy Statement.
- Whistleblowing Policy.
- Money Laundering Policy & Strategy.
- Money Laundering (SFI 20).
- Bribery Act Statement.
- Gifts & Hospitality (SFI 21).
- Register of Personal Interests (SFI 12).
- Employee Code of Conduct.
- Members Code of Conduct.
- Information Security Policy.
- Fraud Response Plan (SFI 18).
- Corporate Enforcement & Prosecution Policy.
- Contract & Procurement Procedure Rules.

9.3 The Council's counter fraud policy framework will be regularly reviewed to ensure it remains up to date and fit for purpose. In addition there will be regular communications to all staff especially whenever a policy is amended or replaced. All policies will be signed off and supported at the highest level within the Council.

10 Further Information

Reporting a Fraud

10.1 There are a number of ways that individuals may raise a concern or report suspected fraud (see below). Employees are urged to consider the nature of the concern, whether it **involves** immediate management and the seriousness and sensitivity of the issues involved

10.2 If you feel that **you** are unable to discuss the issue with your immediate manager or you are a manager that requires further advice you can contact:

- Chris O'Halloran (Principal Internal Auditor – Counter Fraud)
Telephone: 01254 585728
Email: chris.o'halloran@blackburn.gov.uk
- Colin Ferguson (Head of Audit & Assurance)
Telephone: 01254 585326
- Email: colin.ferguson@blackburn.gov.uk

Dedicated Whistleblowing Hotline

10.3 The Council's Whistleblowing Policy encourages employees (and those of contractor and partner organisations) to report concerns that are in the public interest. The Policy outlines the process for raising concerns and the types of conduct that should be reported.

- 10.4 The Council **operates** a single point of contact system for all whistleblowing matters. All notifications are initially dealt with by the Audit & Assurance team who can be contacted by;
- using the Council’s dedicated help line Tel: 01254 585688, which is staffed during normal office hours (an answering service operates at all other times);
 - e-mail to the Council’s dedicated whistleblowing in box whistleblowing@blackburn.gov.uk;
 - via a Head of Service or Director of the Council. In this situation the Head of Service or Director is then required to contact Audit & Assurance by using one of the methods listed above); and
 - confidential letter to the Audit & Assurance team in the Tower Block.
- 10.5 Calls or e-mails that are not fraud or audit related will be forwarded to the relevant **departmental** Director for action. If you request anonymity, any and all information which may identify you will be deleted before being passed on if at all possible/practicable.
- 10.6 If you use **the** e-mail method of whistleblowing you should provide the following information, where possible:
- the background and history of the concern (giving relevant names, dates, and places where possible); and
 - the reason why you are particularly concerned about the situation, and the possible implications of your concerns.

11 **Action Plan**

- 11.1 This Strategy sets out the developments the Council proposes over the next five years to further improve its resilience to fraud.
- 11.2 These developments include the following actions:

Action	Responsible Officer	Implementation Date
Publish the Council’s approved Counter Fraud Policy and Strategy.	Head of Audit & Assurance	July 2022
Approve the Council’s annual counter fraud plan (as part of the Audit & Assurance Annual Plan).	Audit & Governance Committee	March 2022
Undertake proactive fraud testing of major fraud risk areas.	Head of Audit & Assurance	March 2023
Review and evaluate controls within the Council-wide fraud risk register.	Head of Audit & Assurance	March 2023
Produce an annual fraud report for approval and publication.	Head of Audit & Assurance	June 2023

- 11.3 In addition the Council, specifically its Audit & Governance Committee will continue to receive updates on counter fraud activity at each scheduled meeting. These updates will consider the implementation of this Strategy.

EXECUTIVE MEMBER DECISION



REPORT OF:	Executive Member for Growth and Development
LEAD OFFICERS:	Strategic Director Growth and Development
DATE:	6/6/2022

PORTFOLIO/S AFFECTED:	Growth and Development
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WARD/S AFFECTED:	Darwen West;
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SUBJECT: J4 Skatepark Adjacent Land Acquisition and Grant of Lease

1. EXECUTIVE SUMMARY

The development of Junction 4 Skatepark requires additional land to enable the expansion.

The Council owns the freehold of the current site and leases it to the Junction 4 Skatepark CIC for a nominal rent plus associated costs. The opportunity to purchase the adjacent piece of land has presented itself and the land has been independently valued and a price agreed subject to Council approvals.

The purchase will be funded via the Darwen Town Deal programme.

2. RECOMMENDATIONS

That the Executive Member:

Approve the acquisition of land adjacent to J4 for the purposes of the expansion and development of the Skatepark/BMX facility.

Approve a new lease to Junction 4 Skatepark CIC of this acquired land by reference to the existing lease to J4 Skatepark CIC for a period of years which aligns with the current lease term of the current facility site. The most relevant terms are set out in the Legal Implications.

3. BACKGROUND

The Darwen Town Investment Plan (TIP) is an ambitious long-term growth framework for Darwen, with key outcomes including the potential to create / safeguard over 600 jobs; both create / engage over 200 new businesses in higher value economic activity; and connect over 10,000 homes and businesses to ultrafast broadband. The Plan has the potential to generate new economic activity (GVA) valued at over £400M over the next 15 years.

The East Lancashire Sports Village is a key element of the TIP and Junction 4 Skatepark's expansion and development is integral to the delivery of this programme of works. This requires additional land capacity and the opportunity to purchase an adjacent parcel of land has arisen. An independent valuation was commissioned and a price negotiated for the adjacent 0.69 Ha currently owned by a business operating on the same site. It has been agreed that the site will be separated by an acoustic fence once purchased from the business and form part of the demise of the Skatepark.

4. KEY ISSUES & RISKS

The acquisition of the land is vital to the delivery of J4 Skatepark development and is the only adjacent land available to acquire therefore the opportunity is too good to miss.

The current owner is keen to sell the land and has had other offers from interested parties for commercial use but has agreed to sell to the Council for wider community benefit of Darwen Town Centre.

There is a need to complete the acquisition as quickly as possible as there is funding available from National Cycling to complete dirt jumps and associated infrastructure. The additional land will also enable the Skatepark to access further external funding for future phases of their Development Plan and the scaling up to an Olympic standard facility.

5. POLICY IMPLICATIONS

Darwen Town Deal supports the BwD Corporate Plan 2019-2023 and specifically the following strategic objectives:

- Supporting young people and raising aspirations
- Connected communities
- Safe and clean environment
- Strong economy to enable social mobility
- Supporting our town centres and businesses

The Town Deal is a key strategic initiative within the Borough's new draft Local Plan 2019 – 2037, which is currently out to consultation.

6. FINANCIAL IMPLICATIONS

The acquisition of the land plus the Council's legal fees and site investigation costs relating to the purchase are included within the overall Town Deal funding package and will be funded via the early 5% CDEL Payment as reported and approved in March 2022 'Darwen Town Deal Update Report Executive Board report.

The long lease of the site to the Junction 4 Skatepark CIC is to be provided at a nominal rent. In view of this, the transfer of the land is at an estimated value that is less than best consideration (or an undervalue). Applying the requirements of the Local Government Action 1972: General Disposal Consent Order 2003, the undervalue has been estimated at £239,500. The ability to dispose of sites at an undervalue is permissible where it is to promote economic, social and/or environmental wellbeing as is the case here with the development of the Skatepark.

7. LEGAL IMPLICATIONS

The Council's in house legal team have acted for the Council and liaised with the vendors' Solicitors on the acquisition and lease by reference. The Council will need to pay any Stamp Duty Land Tax in respect of the purchased land.

The proposed new lease terms of the land to be purchased are summarised as follows:

Landlord

Blackburn with Darwen Borough Council, Town Hall, King William Street, Blackburn BB1 7DY

Tenant

Junction 4 Skatepark CIC (Company No. 10563359) off Blackburn Road, Next to Darwen Vale School. Blackburn BB3 0AL

Nature of Lease

The lease will be structured as a 'Lease by Reference'. Effectively it will be a new lease but instead of restating all the terms and conditions in full the Council will refer to the existing lease and then include a plan of the additional demise. Consequently, these Heads of Terms and the new lease will focus on the main conditions relating to this additional demise. The new lease will sit alongside and will be linked to the existing lease being subject to the same general terms and conditions.

Demise

Land adjoining Junction 4 Skatepark, Darwen shown edged red on the attached plan and comprising 0.69 ha (1.45 acres) or thereabouts.

The tenant will be responsible for the future maintenance and repair including any fences erected.

Term

The lease will commence simultaneously (or as close to as possible) with the Council's acquisition of the land in order to facilitate Junction 4 Skatepark's necessary works. The lease term will end on 16 March 2051.

Rent

An annual peppercorn rent, rates and all other outgoings payable monthly in advance on the 1st day of each month. The first payment becoming due on the execution of this lease.

User Clause

The demise will be used for the purposes of expanding the existing Skatepark facility and will be developed in accordance with the approved planning permission Ref: 10/22/0109. Future development/s for the remainder of the demise will require approval from both the Council (as landlord) and the Local Planning Authority.

Planning

The tenant will be responsible for obtaining planning permission and all other necessary consents in connection with the proposed development.

Alienation

The tenant will not be permitted to assign, sublet the whole of the demise.

Insurance

The tenant will be responsible for arranging suitable insurance cover to cover all risks and will provide evidence when requested to do so.

Costs

Each party responsible for its own surveyor's fees and reasonable legal costs incurred in the preparation of this lease.

8. RESOURCE IMPLICATIONS

The land will be leased to J4 Skatepark and responsibility for the running costs, rates etc will be with the Operator.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

Extensive public consultation was planned and undertaken by the Board and project team. This helped to shape the Darwen TIP and prioritise projects. The Town Deal has a communications strategy, including a website, led by the Board, and it is the intention to continue to inform and engage the public and key stakeholders in the work of the Board.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1
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CONTACT OFFICER:	Clare Turner
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DATE:	6/6/2022
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BACKGROUND PAPER:	
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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

Agenda Item 3

Blackburn with Darwen Borough Council FRMP2 Proposed Measures

1. By 2021 the EA will work with Blackburn with Darwen LLFA to review the Darwen scheme proposals and ensure that residual surface water flood risk is taken in to consideration in scheme design.
2. By 2022 Blackburn with Darwen LLFA, the EA and United Utilities will work in partnership to ensure that any investment in to the area is in support of boosting socio economic factors in the Blackburn with Darwen areas.
3. By 2022 Blackburn with Darwen LLFA, the EA and United Utilities will work in partnership for the Waterfall Flood Risk Area to appraise options to alleviate flooding issues caused by interconnected networks.
4. By 2022 Blackburn with Darwen LLFA and United Utilities will investigate and share data for the Blackburn with Darwen Flood Risk Areas to identify joint working opportunities to reduce the risk of combined sewer flooding, taking in to consideration revised data associated with climate change.
5. By 2023 Blackburn with Darwen LLFA and the EA will undertake a study to map opportunities for natural flood management in the Blackburn with Darwen Catchment Area. Opportunities will be favoured where there are wider benefits for the Nature Recovery Network.
6. By 2024 Blackburn with Darwen LLFA, the EA and United Utilities will complete an investigation associated with Little Harwood Brook and Brownhill tunnel for the Little Harwood Catchment Area, to understand and identify options to reduce the impact of wider combined sewer issues.
7. By 2024 Blackburn with Darwen LLFA, EA and United Utilities will complete a feasibility study for the Blackburn with Darwen Catchment Area to identify options for utilising Reservoirs to store surface water during storm events.
8. By 2024 Blackburn with Darwen LLFA will update the Surface Water Management Plan for the Blackburn with Darwen Flood Risk Areas, as a part of the 10 yearly cyclical update process, to identify options to reduce the risk of flooding, as a product of climate change.
9. By 2025 the EA, Blackburn with Darwen LLFA and other RMAs will complete an investigation into the main river, canal and surface water flood risk for the Blackburn Flood Risk Areas to identify options to reduce combined flood risk.
10. By 2026 Blackburn with Darwen LLFA will work on a prioritised basis to progress options identified within the SWMP for the Blackburn with Darwen Flood Risk Areas to reduce the risk of flooding.
11. By 2026 the EA and Blackburn with Darwen LLFA will undertake revised modelling and implement increase monitoring systems, in key flood risk areas, to improve flood warnings and increase the community preparedness.
12. By 2026 Blackburn with Darwen LLFA in partnership with other RMAs will develop Community Flood Groups for Blackburn with Darwen Borough to create co-ordinated flood resilience resources.

Blackburn with Darwen Borough Council FRMP2 Proposed Measures

13. By 2027 Blackburn with Darwen LLFA will create a data driven approach to flood risk asset management.
14. By 2027 Blackburn with Darwen LLFA and other RMAs will progress natural flood management measures, with wider benefits, for the Blackburn with Darwen Catchment Area to reduce flood risk.
15. By 2027 Blackburn with Darwen LLFA, the EA and United Utilities will complete an initial assessment for Knuzden Brook to assess the options to reduce flood risk and consider the implications of erosion and debris build-up on flooding.
16. By 2027 Blackburn with Darwen LLFA, the EA and United Utilities will create a joint plan for the Blackburn with Darwen Borough to align and co-ordinate incident response.

Consultation on the draft flood risk management plans, 2021-2027: Summary of responses publication

Audience: External

May 2022

Overview

- A public consultation on the draft flood risk management plans (FRMPs) and associated Strategic Environmental Assessment (SEA) Environmental Report ran for 3 months, from 22 October 2021 to 21 January 2022.
- FRMPs are strategic plans that set out how to manage flood risk in nationally identified flood risk areas for the period 2021-2027, and are statutory plans required by the Flood Risk Regulations 2009. We have worked together with Lead Local Flood Authorities and other Risk Management Authorities to produce draft FRMPs.
- The consultation ran on the [Environment Agency's online consultation tool Citizen Space](#), and we engaged with both national and local stakeholders to encourage responses. We also ran a social media campaign to advertise the consultation.
- The consultation received 255 responses in total, of which 42 were from members of the public and 190 from organisations.

What's new?

- We have produced a document summarising the responses. The 'Summary of responses' is now available to view on [GOV.UK](#).
- Consultees had the option to indicate whether they would agree to their responses being published. All responses we have permission to publish are now available to view [online](#).

What's next?

- We are continuing to analyse responses as we identify actions to take as result of the consultation. We will agree and make any changes needed in the FRMPs and to the associated Strategic Environmental Assessment (SEA).
- We are also producing the Habitats Regulations Assessment and the SEA Statement of Environmental Particulars. We will publish the final FRMPs and accompanying documents in the Autumn of 2022.
- They will be accompanied by a 'You Said, We Did' publication that outlines how we have and will act on the views expressed in the consultation.
- We will keep you informed and work with you to finalise the plans.

Contact FRMP.CycleTwo@environment-agency.gov.uk



EXECUTIVE MEMBER DECISION

REPORT OF:	Executive Member of Growth and Development
LEAD OFFICERS:	Strategic Director of Growth and Development
DATE:	08 July 2022

PORTFOLIO/S AFFECTED: Growth and Development

WARD/S AFFECTED: All

SUBJECT: Flood Risk Management Plans (FRMPs) for local sources of flooding

1. EXECUTIVE SUMMARY

To comply with the Flood Risk Regulations 2009 the Council works with the Environment Agency (EA) to identify flood risk areas (FRA's) arising from sources of flooding.

The Council has a role as Lead Local Flood Authority (LLFA) and we worked with the EA to review the first cycle of preliminary flood risk assessments (PFRA's) that were published in 2016. Since then we have worked in collaboration to identify FRA's for the second cycle, known as FRMP2.

Under the Flood risk Regulations 2009, Blackburn with Darwen Borough Council as LLFA have a statutory duty to update the Flood Risk Management Plans, to be published 2022. The plans have been developed following extensive internal and external consultation (from April 2020 to Dec 2020), leading to a set of draft integrated measures to reduce flood risk within the borough. These measures include flood alleviation works but also include wider benefits.

We submitted our draft measures to the EA in Dec 2020. Since then the EA have gone through a national level consultation and the final process of finalising the FRMP for current cycle 2021-2027 is to approve and publish the FRMP2 plans.

2. RECOMMENDATIONS

That the Executive Member:

- Approves the Flood Risk Management Plan (FRMP2) measures for the borough 2021 – 2027 (Appendix A)

3. BACKGROUND

The Flood and Water Management Act 2010 (FWMA) designates Blackburn with Darwen Borough Council as a Lead Local Flood Authority (LLFA) responsible for managing flood risk from 'local' sources; surface water, groundwater and ordinary watercourses.

Under the Flood Risk Regulations 2009, Blackburn with Darwen Borough Council as LLFA have a statutory duty to update the Flood Risk Management Plan (FRMP2) for priority flood risk areas defined by the UK Government (DEFRA). Across the North West of England, 15 areas have been identified as a high priority flood risk area as defined by an exercise undertaken in 2018 by DEFRA, and Blackburn with Darwen is one of them. The FRMP's are strategic plans that have measures (actions) to address surface water and river and sea flooding.

Since 2020 we have been working with the EA and other Risk Management Authorities (RMA's) on this and following to extensive internal and external consultation, we have developed a set of draft integrated FRMP2 measures to reduce flood risk across the Borough. These measures include flood alleviation works but also includes wider benefits for the borough. Our draft measures were submitted to the EA in Dec 2020. Since then the EA have gone through a national level consultation which was delayed due to Covid 19. A national level 3 month public consultation on the draft FRMP's was launched by EA on 22 October 2021 and runs for 3 months until 21 January 2022. The draft FRMP's for England cover the period from 2021 – 2027.

The FRMPs will support and contribute to the delivery of the ambitions in the [National Flood and Coastal Erosion Risk Management Strategy for England](#), and also help implement the [government's 25 year environment plan](#).

Our FRMP measures will contribute to the delivery of our Lancashire local Flood Risk Management Strategy.

The Strategic Environmental Assessments (SEA) and Habitats Regulation Assessments (HRA), has been produced by the FRMP National Team with assistance from the EA legal team.

Please see attached appendix A, the final draft Flood Risk Management Plan (FRMP2) measures for the borough 2021 – 2027.

4. KEY ISSUES & RISKS

Since 2020 the Councils drainage team have been working with the EA, and other Risk Management Authorities (RMA's), to comply with our statutory duty to update the Flood Risk Management Plan (FRMP2). Following extensive internal and external consultation (from April 2020 to Dec 2020), we have developed a set of draft integrated measures to reduce flood risk within the borough. These measures include flood alleviation works but also includes wider benefits. We submitted our draft measures to the EA in Dec 2020. Since then the EA have gone through a national level consultation and are in process of finalising the FRMP for current cycle 2021-2027.

The Councils primary purpose for these FRMP2 measures is to comply with our statutory duty and also to ensure that, as far as is reasonably practicable, the risk of flooding to human health and life, the environment, economic activity, infrastructure and cultural heritage arising from surface water, groundwater and ordinary watercourses is minimised.

The [Strategic Environmental Assessments](#) (SEA) and [Habitats Regulation Assessments](#) (HRA), has been produced by the FRMP National Team with assistance from the EA legal team.

5. POLICY IMPLICATIONS

These FRMP measures will complement our Lancashire Local Flood Risk Management Strategy, the Councils Local Plan and Highway Asset Management Policy.

6. FINANCIAL IMPLICATIONS

No additional funding is required in the delivery of these FRMP measures as the statutory functions are funded by existing revenue streams and annual Capital Local Transport Plan allocations.

Funding for drainage improvements to ensure homes and businesses are better protected from flooding is bid for on a 6 yearly cycle through Defra Grant in Aid funding and we are presently in year 2 of this cycle with a £5.97M allocation to deliver flood mitigation schemes in the Borough.

7. LEGAL IMPLICATIONS

The Flood and Water Management Act 2010 (FWMA) designates Blackburn with Darwen Borough Council as a Lead Local Flood Authority (LLFA) responsible for managing flood risk from 'local' sources; surface water, groundwater and ordinary watercourses.

Under the Flood Risk Regulations 2009, Blackburn with Darwen Borough Council as LLFA have a statutory duty to update the Flood Risk Management Plan (FRMP2) for priority flood risk areas defined by the UK Government (DEFRA). Across the North West of England, 15 areas have been identified as a high priority flood risk area as defined by an exercise undertaken in 2018 by Defra, and Blackburn with Darwen is one of them.

The FRMP is supported by a Strategic Environment Assessment and Habitats Regulations Assessment; both of these documents screen out any likely significant effects and recommend that any such effects are managed on a project/scheme level.

8. RESOURCE IMPLICATIONS

None

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. (*insert EIA link here*)

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. (*insert EIA attachment*)

10. CONSULTATIONS

The EA carried out a national level public consultation on the draft Flood Risk Management Plans (FRMP 2) from 22 October 2021 for 3 months until 21 January 2022.

See Appendix B for a high-level “Summary of the responses” document, it is available to view on [GOV.UK](https://www.gov.uk)

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council’s Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1
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CONTACT OFFICER:	Dwayne Lowe
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DATE:	7 th July 2022
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BACKGROUND PAPER:	
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EXECUTIVE MEMBER DECISION

REPORT OF: Executive Member Finance & Governance

LEAD OFFICERS: Director of Finance

DATE: 28th June 2022

PORTFOLIO/S AFFECTED: ALL

WARD/S AFFECTED: ALL

SUBJECT: EMD-Strategy for Re-procurement of Council's Insurance Requirements from 1 April 2023

1. EXECUTIVE SUMMARY

The Council's current long term insurance agreement with Zurich Municipal ends on 31 March 2023. Under the requirements of the Constitution and Financial Procedure Rules the Council is required have adequate insurance cover in place. The intention is to carry out a formal re-tender of the insurance arrangements, with support from the Council's insurance broker Aon Risk Solutions (Aon), to have new insurance policies in place from 1 April 2023.

The cost of the current insurance arrangements is approximately £1.3m, including insurance premium tax or VAT where applicable. This includes relevant costs of premiums which are recharged to those Council schools that source some or all of their insurance cover via the traded service offer from the Council's Insurance Team and the premium for the Council's Commercial and Industrial property portfolio. The latter premium is recharged to tenants, where applicable, under the terms of the leases.

The aim of the tender exercise is to select the successful provider(s) of the Council's insurance requirements under a long term agreement(s) (LTA). Bidders will be requested to provide bids for an initial three year long term agreement, with an option to extend for up to a further two years.

2. RECOMMENDATIONS

That the Executive Member:

- approves the proposed arrangements to carry out a formal tender for the Council's insurance arrangements, with support from the Council's insurance broker, Aon Risk Solutions, and the Council's Procurement team.
- notes that, following evaluation, the decision regarding the award of the contract to the preferred bidder(s) is delegated to the Director of Finance, unless there is a significant variation in the terms of insurance offered or there is a budget variation of £250,000.

The current LTA was for a three year period, with an option to extend for a further two years. This arrangement provided a level of certainty about the Council's insurance costs during the period of the LTA whilst providing an option for the Council to re-tender for its insurance requirements after three years if the insurance market changed significantly during the period. Aon have advised that this period is the optimal LTA and so it is proposed that we re-tender on this basis for the new insurance contracts from 1 April 2023.

3. BACKGROUND

Under the Council's Constitution and Financial Procedure Rules the Director of Finance is required to arrange and administer all insurance cover subject to Executive Board approval. Self-insurance may be approved where this is deemed to be the most economically advantageous option.

There is also a legal requirement for the Council to have insurance to cover motor liabilities.

The current insurance LTA with Zurich Municipal has been in place since 1 April 2017. In March 2021 the Director of Finance approved a waiver to extend the agreement from 31 March 2022 until 31 March 2023 due to market conditions at that time. There is a need to carry out an appropriate procurement exercise to ensure that the relevant insurance policies are in place after this date to provide continuity of cover.

As the value of the insurance contracts is over the threshold prescribed under the UK Public Procurement Regulations, the proposal is to carry out a formal procurement for the main insurances using a YPO Framework and separate procurements for specialist areas of insurance through quotation exercises in a format to be agreed with the Head of Contracts and Procurement and Aon.

Aon have recommended the use of a YPO Framework for the formal tender of the main insurances noting that some of the main benefits include -

- Greater market engagement than some other competitive tendering exercises;
- Leading Insurers in the Public Sector specialism are members;
- Technical scope and capability in Public Sector and Corporate contracting authorities activities can be extensive;
- Pre tender Insurer engagement;
- Pre-qualification questionnaire's already pre-agreed;
- Dynamic Purchasing System where additional markets can be added at relatively short notice;
- Allows for direct markets to be compared against open market and allows for an independent Broker to analyse and evaluate response from Direct Markets against other markets; and
- Official Journal of the European Union (OJEU) compliant.

There is a fee of 0.5% of the total contract amount however, this is paid by the winning insurer as a rebate fee to YPO and the Council would not be directly charged for the use of the Framework.

The insurances and related services that will be re-procured include the following areas:

- Property, including material damage, work in progress, all risks, business interruption, money, and theft;
- Casualty, including public and employers liability, officials indemnity, libel and slander and professional negligence;
- Motor fleet;
- Additional covers including balance of risks, fidelity guarantee, land charges, personal accident, business travel, Public Health Act, computer and property owners;
- Terrorism;
- Engineering and engineering inspection;
- Claims handling; and
- Marine.

In January 2021, prior to the waiver being approved to extend the current LTA for a further year to 31 March 2023, Aon advised that the insurance industry was experiencing the first hard market (where Insurers tend to tighten their underwriting standards leading to premiums/terms of insurance that are less favourable) in 20 years. This had been driven by various factors including global losses, changes in medicine/ technology, changes in the discount rate used to calculate the value of long tail injury claims, low interest rates and the impact of Covid.

During 2020 Aon saw premiums for cover increasing from between 10% and 35% depending on the type of cover and claims experience. At the time Aon advised that previous experience of hard markets suggested that they lasted for three years but they felt that this could extend to five years this time due to the impact of the Solvency II Directive, concerning the amount of capital that EU insurance companies must hold to reduce the risk of insolvency.

As part of the tender preparation the insurance team will review the Council's existing insurance cover requirements, excesses, stop loss levels and indemnity limits with Aon with the aim of identifying alternative options for the future insurance arrangements for tenders to bid on, as well as the existing basis. This will include:

- Increasing the level of self-insurance by identifying alternative excess limits for bids to be provided; and
- Consideration of the options available to schools given the opportunity that they now have to use the Risk Protection Arrangement (RPA) for their cover requirements. The RPA is now available to schools directly through the Department for Education, as an alternative to the Insurance team's existing traded service offer.

Alternative excess limits may provide cost saving opportunities for the Council whilst also making the Council a more attractive insurance risk for insurers and increase the number of bids received.

Directors will be asked to identify key contacts within each of their departments to work with the Insurance Team to ensure that the details provided to potential insurers regarding the Council's insurance requirements are accurate and up to date. Colleagues from Procurement will also provide appropriate advice and support throughout the procurement process as and when required. This will ensure compliance with the Council's contract procurement rules and procurement law and mitigate the risk of any challenge. The new insurance arrangements will commence from 1 April 2023 and last for a minimum of three years, with an option to extend for a period of up to a further two years.

The tender specification will be prepared with technical advice and support from the insurance broker Aon. The proposal is to evaluate the tenders received on the basis of Price, Scope of cover provided and Quality in accordance with the below table.

	<u>Price</u>	<u>Scope</u>	<u>Quality</u>
Property, Casualty, Motor	60	20	20
Computer, Crime/FG, PA and Travel, Terrorism, Medical Malpractice, Marine, Hired in Plant	60	20	20

Engineering	30	10	60
Cyber	60	20	20

The invitation to tender will be issued towards the end of September with a closing date at the end of October 2022. Following this Aon will evaluate the tenders received, alongside an in-house evaluation, and prepare a report on the tender results, setting out their recommendations regarding the successful proposals. This will be considered by the Insurance Team, in liaison with the Director of Finance. Following this, a report will be prepared setting out the recommendations regarding the award of the insurance contract(s) for approval by the Director of Finance in early 2023.

4. KEY ISSUES & RISKS

Executive Member approval is required for the proposed procurement strategy.

If the Council does not have the required insurance cover in place, it is breaching its statutory responsibilities. The Council would have to fund legal costs associated with defending any claims made against it and pay any proven claims along with associated third party costs from the Council's revenue budget and reserves. Depending on the nature of the claims, these could be significant sums.

5. POLICY IMPLICATIONS

None

6. FINANCIAL IMPLICATIONS

The Council provides for the insurance premium in its Revenue Budget. The 2022/23 budget provision for insurance is £1.345m. The price element of the tenders received will be assessed against the present premiums and the budget provision. The final costs will not be known until the full details for each policy is finalised with the successful bidder.

7. LEGAL IMPLICATIONS

Failure to procure adequate and appropriate insurance cover will place the Council in breach of its statutory responsibilities. It will give rise to a significant risk of litigation, claims and complaints. The associated costs would have to be borne directly by the Council.

The contract will be in a form approved by legal officers in the Contracts and Procurement team. Procurement via a YPO framework will comply with the requirements of the Public Contracts Regulations 2015.

8. RESOURCE IMPLICATIONS

Officer time in carrying out the re-procurement of the insurance arrangements will be considerable but will be undertaken using existing resources within the Audit & Assurance and Contracting and Procurement teams.

Assistance will also be required from relevant departments across the Council to provide the required information for the tender.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

Director of Finance

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

VERSION:	1
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CONTACT OFFICER:	Colin Ferguson – Head of Audit & Assurance
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DATE:	10 June 2022
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BACKGROUND PAPER:	Nil
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