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# **Merton Council**

## **Standards and General Purposes Committee Agenda**

### **Membership**

#### **Councillors:**

Peter McCabe (Chair)  
Adam Bush (Vice-Chair)  
Ben Butler  
John Dehaney  
Dickie Wilkinson  
David Williams MBE JP  
Hina Bokhari  
Mary Curtin  
Andrew Howard  
Brenda Fraser  
Nick Draper  
Martin Whelton

#### **Independent Persons:**

Clive Douglas  
Katy Willison

#### **Substitute Members:**

Omar Bush  
Nick McLean  
Jenifer Gould  
Edward Foley  
Caroline Cooper-Marbiah  
Edith Macauley MBE

**Date: Thursday 22 July 2021**

**Time: 7.15 pm**

**Venue: Council Chamber, Merton Civic Centre, Morden, SM4 5DX  
Council Chamber, Civic Centre, Morden, SM4 5DX**

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# Standards and General Purposes Committee Agenda

## 22 July 2021

- |   |                                    |         |
|---|------------------------------------|---------|
| 1 | Apologies for Absence              |         |
| 2 | Minutes of the previous meeting    |         |
| 3 | Declarations of Pecuniary Interest |         |
| 4 | Internal Audit Annual Report       | 1 - 22  |
| 5 | Annual Governance Statement        | 23 - 42 |
| 6 | Freedom of the Borough             | 43 - 48 |
| 7 | Complaints against Members         | 49 - 64 |
| 8 | Work Programme                     | 65 - 66 |
| 9 | Date of next meeting               |         |

To note: the next meeting of the Standards and General Purposes Committee (originally scheduled for 9 September 2021) will take place on 21 September 2021 to allow for the final accounts to be agreed at this meeting

### **Note on declarations of interest**

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. For further advice please speak with the Managing Director, South London Legal Partnership.

**Committee:** Standards and General Purposes Committee

**Date:** 22 July 2021

Agenda item:

Wards: All

**Subject:** Internal Audit Annual Report

Lead officer: Caroline Holland Director of Corporate Services

Lead member: Peter McCabe Chair of Standards and General Purposes

Contact officer: Margaret Culleton Head of Internal Audit

margaret.culleton@merton.gov.uk

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**Recommendation:**

That Committee review and comment on the Internal Audit Annual Report 2020/21

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**1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

1.1 The council has a responsibility for conducting, at least annually, a review of the effectiveness of the system of internal control. The review of effectiveness of the system of internal control is informed by the work of the internal auditors. This is detailed in the Accounts and Audit Regulations 2015

**Regulation 5** requires an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, and taking into account public sector internal auditing standards or guidance

**Regulation 6** requires bodies to review the effectiveness of the system of internal audit once a year and for the findings of the review to be considered by a committee of the body, or by the body as a whole, as part of the consideration of the system of internal control referred to in regulation 5.

1.2 The guidance accompanying the Regulations states that in practice councils are likely to take assurance from the work of Internal Audit when discharging their responsibility for maintaining and reviewing the system of internal control. External Audit and other review agencies and inspectorates are also potential sources of assurance.

1.3 The Annual Report summarises the work of Internal Audit in 2020/21 and provides the Head of Audit opinion on the adequacy and effectiveness of the internal control environment.

**2 DETAILS**

2.1 The overall opinion is that the internal control environment is satisfactory. During 2020/21 76% of Internal Audit reviews provided substantial or above levels of assurance.

- 2.2 There were four key financial audit completed in 2020/21, all with a substantial assurance.
- 2.3 There have been 8 limited assurance reports issued in 2020/21. In total 25 Priority 1 actions have been recommended in 2020/21, of which 17 have been implemented and 8 are currently in progress.

### **3 Head of Audit Assurance**

- 3.1 The Head of Audit is required to provide the Council with an opinion on the adequacy and effectiveness of the internal control environment. In the Annual Report on the work of Internal Audit during 2020/21 the Head of Internal Audit is satisfied that sufficient internal audit work has been undertaken to draw a reasonable conclusion as to the adequacy and effectiveness of the Council's control environment.

### **4 ALTERNATIVE OPTIONS**

- 4.1 There are no alternative options as the annual report is a key component of the Annual Governance Statement, which is a statutory requirement,

### **3 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1 No alternative consultation has taken place or is planned for this document.

### **4 TIMETABLE**

- 5.1 This report has been prepared to meet the timetable for the approval of the Statement of Accounts.

### **5 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1 None for the purposes of this report.

### **6 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1 The review of the effectiveness of the system of internal control and the annual report complies with the requirements of the Accounts and Audit Regulations 2015 as described in the report above.

### **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1 Effective and timely auditing and advice enable departments, voluntary organisations and schools to provide quality services to their clients. These client groups are often vulnerable members of the community, e.g. elderly people, disabled people, asylum seekers and voluntary organisations. The audit service helps to identify weak financial management and sometimes reflects weaknesses in other operational systems such as quality and ethnic monitoring. Audit,

therefore, has a crucial role in ensuring that Council resources are used to enable a fair access to quality services.

## **9 CRIME AND DISORDER IMPLICATIONS**

9.1 This report has already summarised activities in relation to fraud and irregularities

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1 A review of Risk Management has been included in this report.

10.2. The Audit Plan has a risk assessment formula built into the process. This takes such aspects as expenditure, income, and previous audit findings into account and calculates priorities and the frequency of the audit.

## **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

Appendix A Internal Audit Annual Report

Appendix B Internal Audit Activity 2020/21

## **12. BACKGROUND PAPERS**

Internal Audit files and papers.

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# **LONDON BOROUGH OF MERTON**

## **INTERNAL AUDIT ANNUAL REPORT YEAR ENDING 31<sup>ST</sup> MARCH 2021**

## 1. Head of Audit Assurance Opinion

1.1 As Head of Internal Audit for the London Borough of Merton, I am required to provide the Council with an opinion on the adequacy and effectiveness of the internal control environment: I base my opinion upon:

- All internal audit assignments undertaken during the year
  - Any follow up action taken in respect of previous audit work
  - Any significant recommendations not accepted by management and the consequent risks
  - Matters arising from previous reports to the Standards and General Purposes Committee
  - Any limitations, which may have been placed on the scope of the internal audit.

### Opinion

**I am satisfied that sufficient internal audit work has been undertaken to allow me to draw a reasonable conclusion as to the adequacy and effectiveness of the Council's control environment. In giving this opinion, it should be noted that assurance can never be absolute and, therefore, only reasonable assurance can be provided, subject to the limited assurance opinions detailed in this report.**

1.2 Where weaknesses in controls have been identified, action plans are in place. It is important that departments ensure that audit actions are implemented in a timely manner to ensure effective controls are in place.

## 2 The Internal Audit Assurance Framework

2.1. A key responsibility of Internal Audit is to give the organisation assurances about the levels of internal control being exercised in the areas of risk and in particular, where there are transactions that are considered "material" to the Council.

2.2. In order to give such an assurance, a balanced programme of Internal Audit reviews is constructed each year. This Annual Internal Audit Plan contains elements of all the Council's activities selected using a "Risk Based" approach. There are many tools used to achieve a balanced plan including undertaking systems reviews, regularity audits (e.g. schools), contract and computer audit, fraud and misappropriation reviews and an annual review of major financial systems such as the main accounting system, Payroll, Council Tax and Housing Benefits.

2.3 For each audit carried out, Internal Audit provides an opinion as to the quality of the control environment in the following processes:

- Risks have been identified, evaluated and managed
- Internal controls reduce risks to acceptable levels
- Action is being taken to promptly remedy significant failings or weaknesses
- The current levels of monitoring are sufficient

2.4 Each audit is given an opinion based on 4 levels of assurance depending on the conclusions reached and the evidence to support those conclusions. Members and management should note that the assurance level is an opinion of controls in operation at the time of the audit. The auditor will agree with management a number of recommendations which, when implemented, will result in a reduction of the exposure to risk. Each recommendation is given a priority ranking and an implementation date and these are monitored on a regular basis by the Internal Audit team. Priority 1 recommendations are defined as being those where major issues have been identified for the attention of senior management.

Levels of assurance	
<b>Full Assurance</b>	There is a sound system of control designed to achieve the system objectives and manage the risks to achieving those objectives. No weaknesses have been identified.
<b>Substantial Assurance</b>	Whilst there is a largely sound system of control, there are some minor weaknesses, which may put a limited number of the system objectives at risk.
<b>Limited Assurance</b>	There are significant weaknesses in key control areas, which put the system objectives at risk.
<b>No Assurance</b>	Control is weak, leaving the system open to material error or abuse.

PRIORITY OF RECOMMENDATIONS	
<b>1</b>	Major issues that we consider need to be brought to the attention of senior management.
<b>2</b>	Important issues which should be addressed by management in their areas of responsibility to avoid exposure to significant risk.
<b>3</b>	Minor issues where the risk is low. Action is advised to enhance control or improve operational efficiency.

2.5. In addition, each recommendation emanating from the audit review is given a priority rating of 1, 2 or 3 for implementation, with priority 1 being a high risk requiring immediate attention. All recommendations are followed up by Internal Audit to ensure that they have been implemented.

- 2.6. The audit plan for 2020/21 covered those area of high fraud risk, as identified through the Council's own assessments and through information from CIPFA, and other sources, where fraud risks are highlighted.
- 2.7 These audits reviewed the controls in place, although no fraud was identified in any of these reviews, a number of recommendations were made to improve the controls.

### **3 Planned coverage and output**

- 3.1 The plan was compiled with reference to the Council's Strategic Risk register and following discussions with each departmental management teams (DMTs). This ensured that audit work was focused on the Council's key risks and targeted areas where senior managers required independent assurance over controls in their service areas.
- 3.2 The Council's risk profile is constantly changing. Therefore, Internal Audit and the internal audit plan need to be flexible to be able to respond to these changing and emerging risks. The overall number of reports will be subject to change over the course of the year as audits may be deferred or no longer required. However, additional reviews may be added if concerns are raised about a specific control area or existing reviews may have their budgets increased.
- 3.3 The Internal Audit function is conscious of the significant pressure on resources that the Council is facing and has continued to identify where we can support management through looking to identify potential efficiencies and making recommendations for possibly fewer but better controls wherever possible.

#### **Covid 19 - Internal Audit reviews**

- 3.4 In August 2020, we completed an advisory high-level review on the Council's Covid 19 response, which looked at governance, decision making and the financial arrangements in place. The financial areas reviewed included completion of financial returns to the Ministry of Housing, Communities & Local Government (MHCLG), arrangements for grants received, debt repayments, and adjustments to the procurement process, including supplier relief.
- 3.5 The review has been carried out across the five-borough partnership (Merton, Sutton, Kingston, Richmond and Wandsworth) with comparisons and recommendations. This review forms part of the Annual Governance assurance work as well as highlighting areas requiring more detailed audit testing.
- 3.6 The review found the Council had responded effectively to Covid 19. The governance arrangements in all the Councils quickly adapted to online committees and engagement with Members was managed well. Decision-making arrangements were swiftly put into place with Gold and Silver daily group meetings set up as well as a regional South West London Group.
- 3.7 Comparative analysis showed much of what the Council did was similar to or the same as its neighbouring boroughs helped by the close working relationships

that officers have with their neighbouring colleagues.

- 3.8 During the emergency, decisions had to be made quickly by Councils and often these were made during Gold meetings or by individual officers. Some of these decisions were delegated decisions, some published as a key decision, or others approved by members. An area of good practice, is to keep a decision log, so that there is a clear record of when these decisions have been made, by who and when they need to be reviewed This will be helpful for the ongoing pandemic and future emergencies or changes in government advice or funding.
- 3.9 Following on from the main review, other Covid-related reviews were added to the Internal Audit Plan; -
- Procurement – Procurement Policy Notices (PPNs) (completed in August 2020)
  - Procurement PPNs (Completed in February 2021)
  - Community Testing grant – completed
  - Rough sleepers (commissioning) - in review
  - Infection Control grants- in review

#### 4. Internal Audit Assurances 2020/21

- 4.1. There were 38 audits undertaken during 2020/21, of these 33 have provided an assurance opinion. There were 3 advisory reports and 2 accounts checked and signed off.
- 4.2 There were 25 Substantial Assurances or above (76%) and 8 limited assurances (24%).
- 4.3 A full list of the assurances can be found in Appendix A. Action Plans for improvements are in place for all audits.

#### Financial systems

- 4.4 There were four key financial systems reviewed this year, which all received a substantial assurance.

**Table 2 Key Financial systems audit assurance for last 3 years**

Financial System	Assurance 2018/19	Assurance 2019/20	Assurance 2020/21
Payroll (iTrent)	Substantial	Substantial	Substantial
Pension Administration	Substantial	Substantial	Substantial
Cash and Bank			Substantial
Accounts Payable	Substantial		Substantial
Treasury management/pension investment	Substantial	Substantial	
Council Tax		Substantial	
Accounts Receivable		Substantial	

Fixed Assets		Substantial	
Budget setting and monitoring	Substantial		
General Ledger	Substantial		

### Key Areas for 2020/21

- 4.7 Internal Audit has continued to improve their level of engagement with all levels of management. This has been achieved by attending regular DMT's to discuss audit progress, meeting with key stakeholders prior to the start of the audit to agree the audit brief.
- 4.8 When the audit plan is set, discussions are held with all key people for input; this engagement has enabled the Internal Audit team to focus on the key areas of risk as well as work closely with management to formulate actions to address areas where improvement is required.
- 4.9 As set out in the above section we have identified areas of good practice and an effective control environment across the majority of the systems, processes and establishments reviewed. This includes the Council's key financial systems.
- 4.10 However there are a number of areas where further improvements are required to strengthen the control environment and we have summarised the key issues below.

**Table 3: Limited Assurance audits**

Audit	Number of Priority 1 recommendations	Actions in progress
Cyber Security	0	0
Building Control	3	1
Covid 19 Procurement	3	0
Disclosure Barring Service checks	2	2
Prepaid Cards	5	0
No Recourse to Public funds (Community and Housing)	2	1
Direct Payments	4	0
Care Management System (CM2000)	4	4

### Key issues

- 4.11 **Cyber Security.** Less than half of employees had completed information security training. A number of 'admin' accounts (30) were enabled that had not logged in for over 90 days. There were seven leaver accounts that were enabled

within the system, which included two accounts that had logged in after their respective leaving dates. Server Message Block (SMB) was enabled, which is noted as a vulnerable service. The maintenance weekend testing done over the Disaster Recovery (DR) functionality was not recorded and that the latest DR test had not been recorded. **Action taken:** The mandatory completion of the information security training will be addressed by the Corporate Management Team. A user access review will be performed as part of a wider cleansing programme of works - estimated closure December 2021. We will initially block accounts not logged in for 45 days with accounts that are no longer required being disabled or locked. SMB is now blocked at the firewall rule level. A fully recorded risk assessment will be completed on any testing done over functionality or DR testing carried out.

- 4.12 **Building Control.** This review found expenditure and income relating to chargeable building regulation services were not published each year. Separation of duties requirements were inadequate, reconciliations were not completed between the M3 system, and E5 on invoices raised, and income received. **Action taken:** The financial statements will be completed and signed by the Section 151 officer within 6 months of the end of the financial year. The duties undertaken by building control surveyors will be included in the review of the service to ensure there is adequate separate of duties. A reconciliation process will be introduced between the cheque book receipt, M3 and E5
- 4.13 **Covid 19 Procurement** Meetings were suspended, corporate oversight of decisions made, and an appropriate exit plan required agreement. The Covid-19 RAG risk rating register required review and update. Details of supplier relief granted were not held in a central record. **Action taken:** Meetings recommenced in July 2020 and will continue. A new process for supplier relief decisions was put in place in September 2020, to be overseen by Commercial services and the Operational Procurement Groups (OPGs). The authority will revert to normal payment methods going forward. The Covid-19 supplier risk rating spreadsheet will be made available to departmental OPG's and reviewed regularly.
- 4.14 **DBS** This review covered the arrangement between RBK and Merton on the Disclosure Barring Service checks. The SLA (2016) required a review and update to reflect the current requirement. Not all aspects of SLA between RBK and LB Merton were working as expected. Sample testing found evidence of new employees (requiring a DBS check), commencing employment prior to the DBS clearance without a risk assessment being completed. Significant delays in DBS renewals checks with a lack management oversight on expired DBS renewals. **Action taken:** Officers have been reminded of the need to ensure that either the checklist is signed off by the Manager or they are in receipt of an e-mail from the Manager demonstrating that the risk assessment has been completed. Kingston to report quarterly on the number of DBS checks carried out by the team. Kingston to seek customer satisfaction levels and report. Kingston to report on the time taken to get DBS checks back quarterly.
- 4.24 **Prepaid Cards.** This review found that guidance document previously recommended by Internal Audit in 2016 had been drafted by the service but had not been finalised. It was found that there were 14 active accounts open on the

system for employees that had left the employment of the council. Sample testing found that service agreements were not in place for all transactions. Receipts were not available for all expenditure. **Action taken:** A Prepaid Card Policy stipulating the use and management of the card has been agreed. A review of employee's access levels to the PFS systems will be carried out. Processes to be put in place to manage team cards to prevent misuse of card. Additional controls to be introduced for all petty cash accounts including reconciliations. Expenditure to be accompanied by receipt/invoice where it practically possible.

- 4.25 **No Recourse to Public Funds-** As part of the assessment process it is a requirement for the Council to check the immigration status of clients requesting assistance. It was found that three adults and two families were not registered on the NRPf connect database. Reviews carried out by social workers were not always consistent and evidence of immigration checks not undertaken. **Action taken:** Guidance, associated process and pathways will be relaunched and training for all staff to be undertaken. Information Project Manager will lead on update of the Mosaic system to ensure the system captures NRPf so that we can actively monitor immigration status and we shall have a regular report on this. Additional checks will be built into mosaic so that we can cross reference cases with the Home Office.
- 4.26 **Direct Payments** -The service user agreements were found to be under review as they did not fully comply with the most current legislation. A review of a sample of client agreements were missing, undated or unsigned. Evidence of regular monitoring was unavailable at the time of audit. **Action taken:** we now have a revised agreement which has been approved by legal services for compliance to relevant legislation and is now in use for all direct payment customers (both new and existing). All direct payment literature and documentation has been revised in line with this. As part of the ASC new restructure, we shall review our monitoring arrangements for these services.
- 4.27 **CM2000** Contracts have not been awarded under seal. Contract variations for the provider contracts were not documented. Despite the requirement for the main providers to use the care monitoring system (CM2000), compliance was not as required by the contract. System reports require updating to a usable format. **Action:** Legal services will be contacted for advice regarding, sealing of contracts, correcting the errors identified in the provider contracts, contract variation. The contractual arrangements with spot purchase providers will be reviewed. The use of Code-confirm will be considered where care providers consistently fail to ensure that care workers record aura compliant visits for opted in clients. The use of smart phones and RFID devices or similar technology will be investigated with a view to increasing aura compliance calls. Timesheets will be randomly requested from providers and incorporated into the contract monitoring and management arrangements. A review of available system monitoring reports will be carried out and a decision made regarding the reports required going forward as part of the contract monitoring and management process. Key Performance Indicators as stated in the contract will be reviewed to confirm current relevance to the service provision. A review of domiciliary care providers not using CM2000 has been agreed by C&H DMT and a project plan is in place.

## **5. Implementation of recommendations**

- 5.1 During 2020/21 Internal Audit made a total of 216 recommended improvement actions, including 25 Priority 1 (P1s) actions. Management has responded to each of our recommendations stating the action they will take and when it will be implemented.
- 5.2 At the time of this report 194 actions (90%) were fully implemented, of these 17 P1's has been implemented and 8 are still in progress.
- 5.3 For those outstanding actions, an expected implementation date is provided by the manager. Monthly reports are sent out to all managers for actions due and where these are over two months overdue, the Head of Service also receives a copy. If an action is more than 3 months overdue, then the appropriate Director is informed. Any overdue outstanding audit actions are then reported to Standards and General Purposes Committee.

## **6. Review of the Effectiveness of the System of Internal Audit**

- 6.1 A requirement laid down in the Accounts and Audit (England) Regulations 2015 states that 'the relevant body shall, at least once a year, conduct a review of the effectiveness of its internal audit'. An annual self-assessment against CIPFA's Code of Practice for Internal Audit in Local Government has to be carried out each year and an external assessment every 5 years.
- 6.2 A self-assessment has been undertaken against the Public Sector internal audit standard (PSIAS). This demonstrated substantial compliance with the standards. An external Assessment against the PSIAS was carried out in May 2018 and provided substantial assurance. Where actions have been identified these will be reviewed and included in the Quality Action Implementation Plan and progress reviewed.
- 6.3 The key focus of the review of the effectiveness of internal audit is the delivery of the service to the required standard in order to produce a reliable assurance on internal controls and the management of risks in the authority. In coming to a view on the effectiveness of the system of internal audit, the following factors are all indicators that should be taken into accounts.
- Performance of the internal audit provider (in-house and/or contractors) in terms of both quality and cost.
  - Views of external audit & reliance placed on work by internal audit.
  - Role and effectiveness of the Standards and General Purposes Committee.
  - The extent to which internal audit adds value to the organisation and helps delivery of objectives.
- 6.4 During 2020/21, the internal audit service has achieved the following: -
- Delivery of 100% of the audit plan

- 100% client satisfaction for audit work

## 7 Fraud Investigations

7.1 The Council's Anti-Fraud and Anti-Corruption Strategy sets out the Council's approach to detecting, preventing and investigating fraud and corruption. This strategy is supported by the Council's Whistleblowing Policy, which was reviewed and updated in 2020 and by the Council's Code of Conduct. The Internal Audit function has a key role in implementing this strategy and to ensure that the internal controls in place are robust to prevent fraud occurring or to tighten controls where fraud has occurred.

7.2 The South West London Fraud Partnership (SWLFP) was established on the 1<sup>st</sup> April 2015 as a 5-borough shared fraud investigation service between LB Merton, RB Kingston, LB Sutton, LB Richmond and led by LB Wandsworth.

### Update from the SWLFP

7.3 **Business Rates:** As part of the Covid-19 response, a grant has been made available to qualifying businesses with a rateable value under £51,000. As part of the post payment checks, Merton have provided a data file which SWLFP has formatted and arranged to be matched via CIFAS. This returned 10 accounts which have required enhanced checks into the validity of the claim and subsequent payment.

7.4 **Discretionary Grant:** As part of the pre-payment checks Merton have provided several data files for cases that have been identified as potentially eligible. SWLFP have formatted these into the required specification and arranged to be matched via CIFAS. 175 Discretionary Grant payments were uploaded and 1 was returned as a potential issue, this was passed back to the Discretionary Grants team for them to make further checks on the applicant.

7.5 **Second Round (LRSG):** Prior to Grant payments for the second national lockdown being made, visits were undertaken to approximately 586 businesses to ensure that they were closed in line with government guidance.

7.6 **Prosecution/Court Action:** Due to the fast-moving Covid-19 situation Court action was delayed, hearings are now going ahead although priority is being given to cases where defendants are on remand. There is a large backlog of cases in both the Criminal and Civil Court systems and we are in contact with Clarion and legal services in order to monitor tenancy fraud cases and ensure they are still being progressed.

7.7 During 2020/21, the SWLFP has undertaken counter fraud activities in the following areas:

- National Fraud Initiative (NFI)
- Blue badge/parking permits
- Council tax reduction/discount
- Employee fraud
- Housing tenancy fraud/abuse

## Investigation caseloads

- 7.8 In total 46 cases have been opened in 2020/21 as a result of the referrals received and concerns highlighted through proactive fraud drives and NFI matches during the year. A breakdown of fraud referrals accepted for investigation is shown in the table below:

2020/21	Open cases b/f	New	Total	Closed no sanction	Closed sanction	Open c/f
Tenancy	34	14	48	18	3	27
Right to buy	2	1	3	3	0	0
Housing apps rejected	1	1	2	0	1	1
Permit Fraud	3	1	4	2	1	1
Employee	3	8	11	8	1	2
CTR/SPD/HB	1	5	6	5	0	1
Other	7	16	23	11	1	11

- 7.9 **Tenancy Fraud-** Three properties were recovered in 2020/21. This allows for those on the Councils waiting list to be provided with the opportunity for a housing tenancy. Work is ongoing, including three cases with legal for consideration of legal action.

### Corporate Fraud (internal)

- 7.10 The corporate fraud cases involving employees for 2020/21, resulted in: -
- 1 disciplinary recommendation
  - 2 Prosecutions in progress (from previous years)
  - 6 No Further action
  - 2 Improvement recommendations

### National Fraud Initiative (NFI)

- 7.11 The NFI matches are: - Creditors, Market Traders, Personal Alcohol Licences, Parking, Payroll, Pensions, Personal Budgets, Residential Care, Council Tax & Electoral Registration. This data is matched between councils and within Merton.

<b>NFI</b>	<b>Total Referrals</b>	<b>Processed (closed)</b>	<b>In Progress</b>	<b>Fraud / Error</b>	<b>To Review</b>
NFI 2018/19 – Main NFI	6661	406	1542	2/0	4713
NFI 2020/21 – Main NFI	6089	18	31	0/0	6040
Re-Check - Ctax to ER – 2020	1984	0	0	0/0	1984
Re-Check - Ctax to ER – 2021	2072	0	0	0/0	2072
	<b>16806</b>	<b>424</b>	<b>1573</b>	<b>2/0</b>	<b>14809</b>

7.12 As at 1<sup>st</sup> April 2021 for the main NFI (2018/19);

- 2 cases have been identified as fraud.
- **£3,240.00** has been identified as a saving due to 1 Waiting List application which has been cancelled as a result of the NFI match.

## 8. LOCAL GOVERNMENT TRANSPARENCY CODE

- 8.1 Under the code the Council is required to publish the following data regarding its Fraud Investigation activity. Listed below are 2020/21 figures (with 2019/20 comparative figures shown within brackets).

<b>Accredited number of occasions they use powers under the Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014, or similar powers</b>		
	20/21	(19/20)
Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014	3	12
The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013	0	3
<b>Total number (absolute and full time equivalent) of employees undertaking investigations and prosecutions of fraud</b>		
	Absolute	FTE
Fraud Investigation - SWLFP #	15 (15)	15 (15)
<b>Total number (absolute and full time equivalent) of professionally accredited counter fraud specialists</b>		
PINS trained Fraud Specialist	7 (6)	7 (6)
CIPFA Certificate in Investigative Practices	1 (2)	1 (2)
CIPFA Accredited Counter Fraud Specialist	4 (4)	4 (4)
<b>Total amount spent by the authority on investigation and fraud prevention</b>		
	20/21	(19/20)
Fraud Partnership	£xx	£123.2k
<b>Total number of fraud cases investigated.</b>		
SPD/Council tax reduction/ Housing/Tenancy related Investigations	0	3
Right to Buy	21	125
Permit Fraud Investigation	3	12
Other Investigations	3	4
	<u>26</u>	<u>21</u>
<b>TOTAL</b>	<b>53</b>	<b>165</b>

- 8.2 To ensure that sufficient knowledge and capability for fraud investigation was maintained Merton entered into a partnership with four neighbouring boroughs, the SWLFP. For 2020/21, the number of Fraud investigation officers and officers with specialist fraud qualifications relates to the pool of officers within the SWLFP team that can be called upon, Merton's funding contribution equates to 2 FTE investigators.

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**Audit Assurance Opinions: 2020/21**

AUDIT TITLE		Department	FINAL DATE	ASSURANCE LEVEL				RECOMMENDATIONS				
				FULL	SUBSTANTIAL	LIMITED	NO	Priority 1	Priority 2	Priority 3		
1	Local Land charge income review	CS	9/4/20		Y				6			
2	MSJCB	CS	5/6/20	Accounts								
3	Building Control	E&R	4/8/20	-	-	Y	-	3	14	-		
4	Troubled families grant-quarter 1	CSF	10/5/20	Y								
5	Building Control accounting concern	CS	15/5/20	Advisory								
6	Penalty Charge Notices	E&R	20/8/20	-	Y	-	-	-	2	-		
7	Blue Badge grant return	CS	24/8/20	Y								
8	Duplicate payment checks	CS	20/5/20	Advisory								
9	Pensions Shared Service	CS	8/9/20	Y	-	-	-	-	-	-		
10	Risk Management	CS	9/9/20	-	Y		-	-	2	-		
11	No Recourse to Public Funds (CSF)	CSF	18/9/20	-	Y	-	-	-	2	-		
12	Troubled families grant-quarter 2	CSF	18/9/20	Y								
13	Planning applications	ER	22/12/20		Y	-		-	8	-		

14	Direct Payments	CH	23/10/20	-	-	Y	-	4	6	-		
15	No Recourse to Public funds (CH)	CH	23/10/20	-	-	Y	-	2	2	-		
16	Contract compliance	CS	10/12/20	-	Y		-	1	7	1		
17	Covid 19 Procurement	All	12/10/20	-	-	Y	-	3	9	-		
18	Covid 19 response	All	16/10/20	-	Y	-	-	-	13	-		
19	Recruitment	CS	1/12/20	-	Y	-	-	1	9	-		
20	Mayors accounts	CS	12/11/20	Accounts sign off								
21	Troubled families grant-quarter 3	CSF	1/12/20		Y			-	13	-		
22	IT needs Assessment	CS	1/12/20	Advisory								
23	Prepaid cards	CSF	9/2/21			Y		5	6			
24	Community Testing grant	E&R	9/3/21	Y								
25	Troubled families grant-quarter 4	CSF	31/3/21	Y								
26	Whistleblowing Process Review	All	9/3/21		Y				1			
27	Procurement Cards	CS	25/3/21		Y				9			
28	Compliance and enforcement grant	E&R	7/5/21	Y								
29	Role of the Operational Procurement Groups	All	13/5/21	-	Y	-	-	-	8	-		
30	Corporate Procurement follow up	All	17/6/21	-	Y	-	-	-	3	3		
31	Payroll	CS	28/5/21		Y	-	-	-	4	-		
32	Disclosure Barring Service	CS	27/5/21			Y		2	3	2		
33	CM2000 Home care monitoring	CH	17/6/21			Y		4	13			

34	Cyber security	CS	24/6/21			Y		-	8	8
35	Mascot centre	All	19/5/21		Y				12	1
36	Cash and Bank	CS	19/5/21		Y				5	1
37	Accounts Payable	CS	Draft?		Y					
38	Declaration of Interests-Officers	CS	Draft		Y				7	

	<b>TOTALS</b>			<b>7</b> <b>(21%)</b>	<b>18</b> <b>(55%)</b>	<b>8</b> <b>(24%)</b>	<b>0</b> <b>(0%)</b>	<b>25</b> <b>(12%)</b>	<b>169</b> <b>(80%)</b>	<b>16</b> <b>(8%)</b>
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**Committee:** Standards and General Purposes Committee

**Date:** 22 July 2021

Wards:

**Subject:** Annual Governance Statement 2020/21

Lead officer: Caroline Holland – Director of Corporate Services

Lead member: Peter McCabe- Chair of Standards and GP Committee

Contact officer: Margaret Culleton- Head of Internal Audit

margaret.culleton@merton.gov.uk telephone: 0208 545 3149

## Recommendations:

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1. To endorse the final 2020/21 AGS (as contained in Appendix A) for inclusion within the Council's final Statement of Accounts.
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## 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report presents the Council's Annual Governance Statement (AGS) for 2020/21. This statement is required to comply with Regulation 6 (3) of the Accounts and Audit regulations 2015 and the CIPFA/SOLACE standards.
- 1.2 As required by the CIPFA standards, the draft AGS will be signed by the Chief Executive and Leader of the Council for inclusion in the draft accounts.

## 2. Details

1.1.

- 2.1 The purpose of the Annual Governance Statement is to report on the robustness of the Council's governance arrangements. Corporate governance is defined, for the purposes of this report as:

*'The framework of accountability to users, stakeholders and the wider community, within which organisations take decisions, and lead and control their functions, to achieve objectives. The quality of corporate governance arrangements is a key determinant of the quality of services provided by organisations'*

- 2.2 Regulation 5 (1) of the Accounts and Audit Regulations 2015 requires that the Council undertake an effective internal audit to evaluate the effectiveness of the risk management, control and governance processes, taking into account the Public Sector Internal Auditing Standards or guidance.
- 2.3 Regulations 6 (1)(3) states the Council must, each financial year, conduct a review of the effectiveness of the system of internal control and submit the findings of the review to members of the authority.

- 2.4 The Annual Review is a high-level review carried out by Internal Audit, which provides an assessment of whether the Council complied with the principles of the CIPFA/SOLACE framework for good governance during 2020/21.
- 2.5 The Council's Governance Framework is described in the Annual Governance Statement. This narrative sets out the key elements of governance within the Council and these arrangements which have been assessed as part of this review.
- 2.6 Effective Governance arrangements impact across areas in which we seek to make a difference in Merton, it operates and spans different levels of the Council.
- 2.7 The Council recognises the benefits of strong corporate governance as: -
- Behaving with integrity, demonstrating a strong commitment to ethical values, and respecting the rule of law
  - Ensuring openness and comprehensive stakeholder engagement
  - Defining outcomes in terms of sustainable economic, social and environmental benefits and determining the interventions necessary to optimise the achievement of the intended outcomes.
  - Developing the Councils capacity, including the capability of its leadership and the individuals within it.
  - Managing risks and performance through robust internal control and strong public financial management.
  - Implementing good practices in transparency, reporting, and audit, to deliver effective accountability.

#### Governance review

- 2.8 Council-wide governance arrangements have been assessed against the core principles and supporting criteria set out by CIPFA/SOLACE in their publication 'Delivering Good Governance in Local Government 2016' The Annual Governance Statement uses evidence from a number of specific and general sources spanning the Council's assurance framework and is supported by an annual review of effectiveness, which draws upon the following work:
- An annual review of the Council's governance arrangements against CIPFA standards, as summarised within this report,
  - The Annual Effectiveness Review of the System of Internal Audit and the Head of Internal Audit's opinion on the adequacy of the Council's internal control environment.
- 2.9 The review of the governance framework against the standard, confirms that it is fit for purpose. A number of areas have been identified as actions for the Council during 2021/22 (table 2 of the AGS).

#### Review of the work of Internal Audit

- 2.10 The Head of Audit is required to provide the Council with an opinion on the adequacy and effectiveness of the internal control environment. The work of

Internal Audit during 2020/21 was sufficient to draw a reasonable conclusion as to the adequacy and effectiveness of the Council's control environment.

- 2.11 Based on the work undertaken during 2020/21, there were 76% substantial and above assurances. The limited assurances covered: Cyber Security, Building Control, Covid 19 Procurement, Disclosure Barring Service checks, Prepaid cards, No Recourse to Public Funds, Direct Payments and Care Management 2000. All actions on these audits will be followed up to ensure implementation.

### **3. ALTERNATIVE OPTIONS**

- 3.1 There are no alternative options as the AGS is a statutory requirement, as stated at paragraph 1.1 above.

### **4. CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1 No external consultation has taken place or is planned for this document.

### **5 TIMETABLE**

- 5.1 This report has been prepared to meet the timetable for the approval of the Statement of Accounts.

### **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 7.1 There are no specific financial, resource or property implications apart from the need to implement the AGS Improvement Plan, which will be completed within existing resources

### **8 LEGAL AND STATUTORY IMPLICATIONS**

- 8.1 As stated above in paragraph 1.1 above, the Annual Governance Statement is a statutory requirement under Regulation 6 (3) of the Accounts and Audit Regulations 2015 as well as complying with CIPFA/SOLACE standards.

### **9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 9.1 There are no specific human rights, equalities or community cohesion implications, except in so far as this report is wholly concerned with good governance.

### **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 10.1 There are no specific risk management or health and safety implications other than the assessment of the Council's risk management arrangements in the AGS

### **11. APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- 11.1 Appendix I: Annual Governance Statement 2020/21.

### **12 BACKGROUND PAPERS – THE FOLLOWING DOCUMENTS HAVE BEEN**

**RELIED ON IN DRAWING UP THIS REPORT BUT DO NOT FORM PART OF  
THE REPORT**

- 12.1 Annual Governance Statement 2020/21
- 12.2 CIPFA / SOLACE Delivering Good Governance in Local Government –  
Framework 2016
- 12.3 CIPFA / SOLACE Delivering Good Governance in Local Government –

## ANNUAL GOVERNANCE STATEMENT 2020/21

This statement from the Leader and the Chief Executive provides assurance to all stakeholders that within Merton Council processes and systems have been established, which ensure that decisions are properly made and scrutinised, and that public money is being spent economically and effectively to ensure maximum benefit to all citizens of the borough.

### 1. Scope of responsibility

- 1.1. Merton Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently, and effectively.
- 1.2 This statement explains how Merton Council has complied with the principles of the CIPFA/SOLACE Framework *Delivering Good Governance in Local Government* (2016) and the requirements of regulation 6(1b) of the Accounts and Audit Regulations 2015 which requires all relevant bodies to prepare an annual governance statement. The Guidance has identified some seven core principles supported by a further 21 sub-principles against which local authorities should measure their compliance. The outcomes of such a review would then provide the key issues for Members to consider in relation to the production and content of the AGS.
- 1.3 The seven core principles are as follows: -
  - (a) Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.
  - (b) Ensuring openness and comprehensive stakeholder engagement.
  - (c) Defining outcomes in terms of sustainable economic, social, and environmental benefits.
  - (d) Determining the interventions necessary to optimise the achievement of the intended outcomes.
  - (e) Developing the entity's capacity, including the capability of its leadership and the individuals within it.

### 2 The governance framework

- 2.1 The governance framework comprises the systems and processes, culture and values by which the authority is directed and the activities through which it accounts to, engages with and leads its communities. It enables the authority to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate services and value for money.
- 2.2 In March 2020, emergency planning and business continuity arrangements were put in place to protect and support the most vulnerable, supporting public health measures to reduce the spread of the virus and maintaining and adapting council services to continue to serve residents and businesses in the borough. LBM was able to continue to work with partners, local and regional authorities

across London and government through London emergency planning arrangements.

**Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law**

- 2.3 The Council's Constitution sets out how decisions are made and the procedures that are followed to evidence open and transparent policy and decision making and compliance with established policies, procedures, laws and regulations
- 2.4 The full council sets the policy and budgetary framework and is responsible for the appointment of the Mayor; members of other bodies such as Scrutiny, other Committees, and local committees. It also adopts the Code of Conduct for Councillors, agrees any changes to the Councils constitution and terms of reference for committees, panels, and other member bodies. These meetings are open to the public, except where personal or confidential matters are being discussed. Reports from local community forums (for each area; Wimbledon, Raynes Park, Collier Wood, Morden, and Mitcham) are reported regularly to Council.
- 2.5 In 2020/21 formal Committees continued to meet, including Cabinet, the Overview and Scrutiny Commission and the Planning Application and Licensing Committees. The Annual Meeting was postponed until the autumn 2020. An ordinary meeting of full Council was held in July 2020.
- 2.6 A calendar for upcoming meetings is published on the council's website and all the minutes of the committees are published including any reports discussed. During 2020/21 the meetings were live streamed and available through different format such as audio and video with closed captions and available on platforms such as YouTube, making it transparent and accessible to everyone
- 2.7 The Overview and Scrutiny Commission and Panels are responsible for holding the executive to account, influencing the decision-making process, and shaping the development of new policy. Scrutiny oversees the development of the council's business plan and budget and takes an active role on financial and performance monitoring of council services. Three scrutiny panels cover all portfolios, and all areas of council activity. The Commission comprises fourteen members, four of whom are statutory co-opted members. The chair of the Commission is the leader of the Merton Park Ward Independent Resident Group.
- 2.8 The Council has the following scrutiny panels: - Overview and Scrutiny Commission; Sustainable Communities Overview & Scrutiny Panel: Healthier Communities & Older People Scrutiny Panel: Children & Young People Overview & Scrutiny Panel
- 2.9 The External Scrutiny Protocol sets out scrutiny powers, duties and responsibilities of the council and its partners. The protocol seeks to ensure all partners, statutory and non-statutory, adhere to the same principles for effective scrutiny, provide information, consider recommendations, and respond to the relevant overview and scrutiny panel within an agreed time frame. The protocol

forms part of the council's constitution.

- 2.10 The key principles of scrutiny in Merton, set out in the scrutiny handbook, are that it should be member-led, consensual, evidence-based, and relatively informal. The handbook also contains advice for councillors and officers on their respective roles, guidance, and practical steps on how to achieve successful scrutiny. It is based on experience of scrutiny in Merton, best practice research and examples from other local authorities.
- 2.11 An annual Members Scrutiny Survey was issued in March 2020, with 17 responses received. The results were reported to the Overview and Scrutiny Committee on 15 July 2020 together with an action plan containing measures for innovation and improvements over the coming year. An annual report outlining the work of the Overview and Scrutiny function over the course of the municipal year covering key discussion items and recommendations was agreed at Overview and Scrutiny Committee on 15 July 2020 and approved by Full Council on 18 November 2020.
- 2.12 The Standards and General Purposes Committee is responsible for a range of non-executive functions, including electoral matters and personnel issues. It also has responsibility for considering and making recommendations to Full Council on any changes to the council's Constitution. Its functions include ensuring compliance with relevant laws and regulations, internal policies and procedures, and overseeing council accounts and audit activity.
- 2.13 The Standards and General Purposes Committee has overall responsibility for promoting corporate governance and ensuring controls are adequate and working effectively. The Committee is also concerned with the promotion and maintenance of high standards of conduct within the council; the enforcement of the Member Code of Conduct; and advising the council on ethical governance matters. The Committee monitors the registers maintained in relation to gifts and hospitality received by councillors and offered to and accepted by staff. The Committee comprises twelve members, and the Council's two Independent Persons regularly attend as observers.
- 2.14 The Standards and General Purposes Committee fulfils the role of an Audit Committee in accordance with CIPFA recommended best practice, and this committee has overall responsibility for ensuring controls are adequate and working effectively.
- 2.15 The Standards and General Purposes Committee meeting in July 2020 agreed to commence a review of the Council's constitution and appoints a working group of members in conjunction with the Monitoring Officer to carry out that review. This review is in progress and has been added as an action (see table 1)

**Developing the entity's capacity, including the capability of its leadership and the individuals within it**

- 2.16 The Council's constitution sets out the roles and responsibilities of members and senior officers. The role of the corporate management team, including the statutory chief officers, such as the Head of Paid Service, Section 151 officer as

well as the Monitoring officer is to support members in the policy and decision-making process by providing assessments and advice to ensure that decision making is rigorous.

- 2.17 The Council has a designated Monitoring officer, who, after consulting with the Head of Paid Service (Chief Executive) and Director of Corporate Services, reports to the Full Council, or the Leader in relation to an executive function, if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission would give rise to unlawful action. The Monitoring Officer also oversees members complaints and conduct, and matters referred by the Standards and General Purposes Committee and delivers reports and recommendations in respect of those to this Committee.
- 2.18 The Council has adopted codes of conduct for its staff and its Members, including co-opted members. These are provided to all staff as they are inducted into the organisation. Members and co-opted members sign an undertaking to abide by their Code of Conduct at the point of their election or appointment. These Codes are always available for reference and reminders and training are provided as necessary. Each year (after Annual Council) Members are asked to declare their interests and at the start of all committee meetings A Council response to the consultation on the draft model Code of Conduct for Councillors, from the LGA (Local Government Association) was approved at July 2020 Standards and General Purposes Committee.
- 2.19 Members' induction training is undertaken after each local government election. In addition, an on-going programme of training and awareness is available for Members with formal and informal events each year, including all major changes in legislation and governance issues. In 2021/22 revised Code of Conduct training sessions, will be provided to members on the requirement of the revised Code of Conduct. Details of training provided are also reported to the Standards and General Purposes Committee.
- 2.20 A corporate induction programme is delivered to all new staff joining the Council, supplemented by department specific elements. In addition, further developmental needs are identified through the Council's Appraisal Scheme.
- 2.21 During 2020/21 the council adopted formal London Resilience (Gold, Silver, Bronze) arrangements to manage the coronavirus response in the borough. This comprised a Gold Command team consisting of CMT members meeting regularly to discuss complex decisions, a Silver level group initially meeting daily to bring all decisions to one place and consider their impact and Bronze level departmental meetings, where issues around staffing levels and service provision are resolved

**Defining outcomes in terms of sustainable economic, social, and environmental benefits. Determining the interventions necessary to optimise the achievement of the intended outcomes**

- 2.22 In 2019 the Council underwent an LGA Peer Challenge. The LGA team assessed the council as well managed, with clear priorities, good relationships with key partners and a constructive relationship between officers and elected

members. They felt though that Merton would benefit from a clear narrative setting out the future ambition for the borough that was developed with councillors, residents, and partners. Due to the changes of the impact of Covid the Council is currently working on a change programme.

- 2.23 The Recovery and Modernisation Programme started in 2020/21, which will include implementation of the recommendations for the LGA. This programme will also seek to reframe the council's relationship with its communities and the voluntary and community sectors. It will also ensure integration across different parts of the system. It has three broad connected objectives:
- developing and embedding the opportunities and benefits already evident through the experience of responding to the pandemic.
  - reimagining, rethinking and redesigning operating models.
  - delivering substantial improvements, efficiencies, and savings.
- 2.24 The Council is currently working on a place-based ambition for the borough. There is currently a major engagement programme to inform this, starting in the spring of 2021. This will result in the agreement of a new ambition that will inform the development of the Business Plan for 2022/26.
- 2.25 The Community Plan has been developed by the Merton Partnership and sets the overall direction and vision for the borough. The Business Plan sets out the Council's priorities for improvement over the next four years and is reviewed every year to ensure that it always reflects the most important improvement priorities. Service Plans are reviewed every year to ensure they outline the key issues and priorities for the department. The Medium-Term Financial Strategy (MTFS) outlines how much money the Council expect to receive over the next four years and in broad terms what we expect to be spending this on.
- 2.26 Reports on progress of the 202/2115 Business Plan were made to Cabinet on 7 September 2020, 9 November 2020, 7 December 2020, 18 January 2021 and 22 February 2021
- 2.27 The Constitution contains the requirements for consulting scrutiny on the budget and business plan. There is an initial phase of scrutiny in November each year, with the second round in January representing the formal consultation of scrutiny on the proposed Business Plan, Budget, and Capital Programme
- 2.28 Merton's Climate Strategy and Action Plan was adopted in November 2020. It sets an aim to reach the net-zero targets formed as part of our climate emergency declaration to decarbonise the borough by 2050 and the Council by 2030. It sets out the transformative change and high-level actions required to create a green and circular economy, to decarbonise Merton's buildings and energy supply, support a switch from petrol and diesel vehicles to greener alternatives. Spend on projects which support the aims of Merton's Climate Strategy and Action Plan in 2020 was in the region of £2m. The overall investment cost of decarbonising the borough was estimated to be in the region on £3.1bn and further £88m to meet the Council's 2030 target.

- 2.29 During 2020/21 Merton prepared a Local Outbreak Control Plan, which outlines seven steps in local preparedness to prevent, control and manage COVID-19 incidents and outbreaks, if and when they emerge. It describes our local whole system response and it has been developed with a wide range of stakeholders and overseen by the Health and Wellbeing Board. It was signed off by Chief Executive, the Director of Public Health, the Cabinet Member for Health, Social Care and the Environment and was published first on 30th June 2020 (A refreshed local outbreak management plan was prepared in April 2021).

### **Managing risks and performance through robust internal control and strong public financial management**

- 2.30 The financial management of the Council is conducted in accordance with the Financial Regulations set out in the Constitution. The Council has designated the Director of Corporate Services, as the Chief Financial Officer in accordance with Section 151 of the Local Government Act 1972. The financial strategy ensures the economical, effective and efficient use of resources including a financial management process for reporting the Council's financial standing. The Council's financial management arrangements conform to the requirements of the CIPFA statement on the Role of the Chief Financial Officer in Local Government (CIPFA 2016). A new Financial Management code was introduced by Cipfa which is effective from April 2022 but should be reflected by the Council from April 2021. A review of the Council's Scheme of Management is to be reviewed in 2021/22.
- 2.31 The annual financial planning process includes two rounds of budget scrutiny each year where the public can make representations in writing and at meetings. Budget monitoring reports are also presented and discussed at the quarterly Overview and Scrutiny Committee financial monitoring task group. In 2020/21 the Overview and Scrutiny Panels and the Overview and Scrutiny Commission examined the budget and business plan proposals in February 2021 relating to the service areas within their remit, as well as scrutinising the draft service plans, prior to submission to Cabinet on 22 February 2021 and full Council on 3 March 2021. Consultation has taken place with business ratepayers on 17 February 2021
- 2.32 The Director of Corporate Services is required to report to Council as part of the budget process on the robustness of the estimates and the adequacy of the proposed financial reserves. The Business Plan 2021-25 including the General Fund Budget and Council Tax Strategy for 2021/22, and the Medium-Term Financial Strategy (MTFS) for 2021-25 was agreed by Cabinet in February 2021. Following the Final Local Government Settlement, a balanced budget was achieved for 2021-22 with a budget gap on the MTFS rising to circa £3.9m, increasing to £4.4 in 2022-24. A Council Tax of 3.99% was set for 2021-22 which was within the referendum principles. Risk remains constant due to DSG Deficit and loss of income and increased expenditure due to Covid 19 response
- 2.33 The financial impact on the Council was monitored throughout the year and reported regularly to the Overview and Scrutiny Commission. A monthly return detailing the impact to date and forecasts to the end of 2020/21 was submitted

to the Government to help inform the national response and funding arrangements. Additional funding was provided in the form of non ring-fenced grants to mitigate the financial impact on the Council, and ring fenced grants to deliver additional support and initiatives to residents and communities in addition to usual Council services. The council has been able to claim one-off funding to offset some of the loss of income attributed to the pandemic e.g. loss of income from closed leisure facilities, loss of rental income and loss of parking income. Additional funding has been provided by the Government to local authorities to cover additional costs. These costs are being regularly monitored and reported to MHCLG. Funding has also been provided for business and the voluntary sector.

- 2.34 Annual Service Plans are subject to regular monitoring and review, KPIs agreed and embedded within team service plans which in turn are integrated with individual's appraisal targets. Performance reports are produced in accordance with agreed timescales and include regular reporting of both Key and Service-related Performance Indicators.
- 2.35 The Council has a performance planning process supplemented by detailed business planning to establish, monitor, and communicate the Council's objectives. This includes a performance management system that sets key targets and reports on performance monitoring. The performance management framework is utilised to measure the quality of services for users, to ensure that they are delivered in accordance with the Council's objectives and that these services represent the best use of resources and value for money.
- 2.36 Review and challenge of PIs are established as part of service planning with monthly, quarterly, and annual returns e.g. monitor if changes markedly from prior measure. London Authority Performance Solutions provides current comparison data across London for approximately 30 Indicators to compare and challenge if our data changes markedly and report to Corporate Management Team
- 2.37 The Council has a risk management process to identify, assess and manage those significant risks to the Council's objectives including the risks of its key strategic partnerships. The risk management process includes a risk management strategy, corporate and directorate risk registers. Key corporate risks are regularly reviewed by the Corporate Risk Management Group, Corporate Management Team and an annual report is presented to the Standards and General Purposes Committee. An Internal Audit review on the effectiveness of the council's risk management arrangements was undertaken in 2019/20 and provided a substantial assurance.
- 2.38 During 2020/21 Covid-19 Risk register set up at an early stage of the pandemic to record any potential issues. These were evaluated and action plans put in place to mitigate significant risks. Registers were reviewed by divisional and departmental management teams on a regular basis. These risks were added to the main corporate risk register in January 2021.
- 2.39 Considerations of the Council's Key Strategic Risks, including Covid related risks

and the Risk Management Strategy 2019 was approved by Standards & General Purposes Committee in March 2021.

- 2.40 The Information Governance Board meet six weekly to discuss information governance issues and to review policy, procedures, and breaches, with representatives from each department and key officers. Information Security training has been in place for over 10 years. Additional bite size on-line cyber security training was put in place for officers in 2020/21. An Internal Audit review on Cyber Security in 2020/21, received a limited assurance and has recommended increased oversight on the numbers completing the Information Security training.
- 2.41 Business Continuity and Disaster Recovery Plans were reviewed and updated in 2020/21 as a result of the current Covid-19 pandemic.

**Implementing good practices in transparency, reporting, and audit to deliver effective accountability**

- 2.42 The Council's commitment to openness and transparency to publish data is freely available on the Councils website. A review of compliance with the Transparency Agenda undertaken in 2020/21.
- 2.43 To ensure that concerns or complaints from the public can be raised, the Council has an established formal complaints policy which sets out how complaints can be made, what should be expected and how to appeal. An annual complaints reports is presented to S&GP committee. There is a formal process to deal with Freedom of Information requests and Subject Access requests.
- 2.44 Declaration of Interests (officers) form and guidance was updated during 2020/21. The Gifts and Hospitality guidance and process are due to be reviewed in 2020/22.
- 2.45 A Whistleblowing Policy has been adopted to enable staff, partners and contractors to raise concerns of crime or maladministration confidentially. This has been designed to enable referrals to be made without fear of being identified. These arrangements are part of ensuring effective safeguarding, counter-fraud and anti-corruption arrangements are developed and maintained in the Council. The operation of this policy is overseen by the Head of Internal Audit, Head of Fraud, Legal human resources and the Monitoring Officer on a monthly basis.
- 2.46 The Whistleblowing Policy was reviewed and updated for approval at S&SP November 2020 committee. Regular Fraud update reports were presented to the Standards and General Purposes committee.
- 2.47 RIPA inspection undertaken by the Investigatory Powers Commissioner's Office (IPCO) in January 2020, which provided a satisfactory outcome, but with some recommendations for improvement. These covered revising the RIPA policy, adding an additional quality check and refresher training. All these recommendations were implemented, training was provided in January 2020 and a revised RIPA policy approved by S&GP Committee in July 2020.

- 2.48 The Council maintains an effective Internal Audit service that has operated, in accordance with the Public Sector Internal Audit Standards. The Council's assurance arrangements conform to the governance requirements of the *CIPFA Statement on the Role of the Head of Internal Audit (2019)*. An internal Public Sector Internal Audit Standards review for 2019/20 of the Internal Audit service concluded that the service is satisfactory and fit for purpose. A five-year external review was also undertaken in May 2018 and provided a compliance assurance.
- 2.49 Internal Audit is responsible for monitoring the quality and effectiveness of internal controls. Using the Council's risk registers and an audit needs assessment, a plan of internal audit work is developed. The outcome of the internal audit risk-based work is reported to Directors and regularly to the Standards and General Purposes Committee. Implementation of recommendations is monitored, and progress reported. Regular Fraud update reports are presented to the Standards and General Purposes Committee by the SWLFP. A revised Anti-Fraud and Corruption strategy was approved by the Standards and General Purposes Committee in 2019/20.

### **Ensuring openness and comprehensive stakeholder engagement**

- 2.50 The Community Plan 2020-25, was published in 2020, setting out the Merton Partnership's long-term ambition for the borough. This was updated to reflect recent learning and case studies from the Covid-19 response. This report was taken to the MPEB in October 2020.
- 2.51 The Merton Community Plan 2020 -2025 sets out the achievements of the Partnership over recent years and priorities for the next five years. The Community Plan has eight thematic priorities which were agreed by the relevant Thematic Networks of the Merton Partnership (Safer Merton, Health and Wellbeing, Children's Trust and Sustainable Communities and Transport).
- 2.52 The Merton Partnership is responsible for the delivery of the Merton Community Plan (the Sustainable Community Strategy). The Partnership is chaired by the Leader of the Council and hosts an annual themed conference. It has an Executive Board, also chaired by the Leader of the Council that meets quarterly and whose role is to set the strategic direction of the Partnership and manage the delivery of the priorities and targets set out in the Community Plan.
- 2.53 The Merton Partnership Governance Handbook and the Performance Management Framework set out the respective governance and performance management arrangements for the Merton Partnership, including the thematic partnerships sitting under the Partnership and Executive Board (namely the Health and Wellbeing Board, the Children's Trust, the Sustainable Communities and Transport Board, and the Safer and Stronger Communities (which also serves as the Community Safety Partnership).
- 2.54 The Merton Partnership and its thematic Boards and working groups provide a mechanism for the Council to engage with key stakeholders. Most of the Partnership Boards meet quarterly and have clear governance arrangements. The MVSC are being commissioned to provide training to community groups.

- 2.55 The principles guiding the relationship and conduct between the council and voluntary, community and faith sector is set out in the Merton Compact (last refreshed in 2011). The Merton Compact is a partnership agreement between local public bodies and the voluntary and community sector to improve the relationships. The Merton Compact subscribes to the principles of the National Compact, setting out principles and values of the partnership and aims to achieve a Compact way of working
- 2.56 The Merton Compact is monitored by the Compact Board, comprising of representatives from public bodies including Merton Council (political and officer), Merton CCG, the police, the Fire Brigade and South Thames College and local representatives from the voluntary, community and faith sector. A dispute resolution procedure has been developed to help organisations through the difficulties associated with disputes and disagreements. This group did not meet in 2020/21.
- 2.57 The Council maintains a Partnerships Register which captures details of partnership bodies the council is involved in that are outside the standing bodies of the council, but which inform policy development or implementation. The Partnerships Register is reviewed annually to ensure it is up to date and is published on the council's intranet and website.
- 2.58 The Merton Partnership developed a new Voluntary Sector and Volunteering Strategy in 2017 to inform and guide its collective approach to sustaining a thriving voluntary sector. This new Strategy will guide the requirements for the Council's Strategic Partner programme that commissions advice and information services, as well as support for the voluntary sector.
- 2.59 The Council publishes an annual report setting out expenditure with the Voluntary and Community Sector, including notional funding and business rate discounts. Merton partnership annual review was not produced in 2020/21 due to Covid
- 2.60 The Council has continued to work with partners, local and regional authorities across London and government through London emergency planning arrangements. The Chief Executive co-ordinator of the response in South West London and is Merton's representative on the London-wide local government response team,
- 2.61 The Council has increased its engagement with stakeholders on the pandemic, which has included:
- A dedicated set of Covid-19 web pages with advice on health, financial support, business support and stakeholder support with daily updates to local services, closures & the establishment of the Community Hub with MVSC,
  - Weekly borough e-newsletter, Merton Business e-newsletter, Social media, and e copy of My Merton. A weekly Covid-19 update to all members & MPs.

- An e-newsletter called Merton Together has been issued to a large partnership circulation during 2020/21 and publication has now moved to quarterly from twice yearly.
- 2.62 The Council worked with the VCS and CCG to mobilise the Community Response Hub and shielding service
- 2.63 Merton Partnership Annual Review was not produced in 2020/21 as it was not required by Overview and Scrutiny Commission. A Covid impact update report was submitted to February 2021 Merton Partnership Executive Board (MPEB) with contributions from each thematic
- 2.64 COVID-19 Community Engagement Group was established in 2020 as a reference group focusing on vulnerable and/or marginalised residents who are less engaged with public services, to inform and enhance the local COVID-19 response and recovery. This groups sits within the Health and Wellbeing Board (HWBB) structure.
- 2.64 Compact Board meetings were deferred since the last meeting in February 2020 due to Covid. A new Chair plans to restart meetings in autumn 2021, incorporating a light touch review of the role of the Compact Board.

### 3. Council owned companies

- 3.1 A review was carried out by the Committee on Standards in Public Life on Local Government Ethical Standards in January 2019 which recommended areas of best practice.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principles of openness and publish their board agendas and minutes and annual reports in an accessible place.

- 3.2 Merton Council has established two companies. During 2020/21 the Monitoring Officer commenced a review on the governance arrangements for the local authority owned companies, which will be completed in 2021/22 (added to action plan)

**CHAS 2013 Ltd (CHAS).** The company was incorporated on the 28<sup>th</sup> March 2013, to provide both desktop and onsite supplier/contract risk management assessment and services. There are 4 Council officers listed as Directors, the Director of Environment and Regeneration, the Assistant Director of Adult Social Services, Head of Regulatory Services, an officer from SLLP and a managing director. The accounts are audited by EY and filed and published with Companies House. A note is also included in the council's main accounts.

**Merantun Development Limited.** The company was incorporated on the 9<sup>th</sup> August 2017, to undertake new housing build for 77 residential units. There are 4 council officers listed as directors, the Assistant Director of Resources, Head of Regulatory Services, an officer from Sllp, and the Assistant Director of

## Sustainable Communities.

The shareholders board (Merantun Development Limited subcommittee) has 3 Councillors; the Leader of the council, Cabinet Member for Regeneration, Housing and Transport and the Deputy Leader and Cabinet Member for Finance. The sub committee meets 3 or 4 times a year and minutes and agendas are published on the council's website. The accounts are audited by Ernst & Young and are filed and published with Companies House.

A decision was made by Merantun Development Limited subcommittee in December 2020 to dissolve the company Merantun Development Ltd in 2021/22.

## **4 Review of effectiveness**

5.1 The London Borough of Merton has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by the work of the senior managers within the authority who have responsibility for the development and maintenance of the governance environment, Standards and General Purposes committee, the Head of Internal Audit annual report, and also by comments made by the external auditors and other review agencies and inspectorates and others as appropriate.

5.2 A governance review was undertaken on the Councils arrangements against each of the principles as summarised above. Other assurances are also considered such as: -

- The opinion of the external auditors in their reports and annual letter.
- Other review agencies, through their inspection arrangements, such as the Care Quality Commission and Ofsted.
- Assurance visit by Ofsted in October 2020 with a positive outcome.
- LGA peer reviews, PSN Code of Connectivity assessments.

5.3 The review has shown that the governance framework is consistent with the principles of the CIPFA / SOLACE best practice framework and the examples of the arrangements that should be in place. Internal Audit has reviewed the effectiveness of the system of internal control for 2020/21. The Head of Internal Audit opinion based on this work, is that the system of internal control is generally sound and effective. Controls to manage principal risks are monitored by service managers. This includes services with statutory responsibilities for the safety of vulnerable people.

## **6 Internal Audit Outcomes**

- 6.1 The Head of Audit is required to provide the Council with an opinion on the adequacy and effectiveness of the internal control environment. In the Annual Report on the work of Internal Audit during 2020/21 the Head of Internal Audit is satisfied that sufficient internal audit work has been undertaken to draw a reasonable conclusion as to the adequacy and effectiveness of the Council's control environment.
- 6.2 The review of the governance framework in place at the London Borough of Merton concluded that it is fit for purpose in accordance with the governance framework.

**Table 1 Update on issues identified in previous years review for 2020/21**

Issues	Action taken
<p>1. A recovery plan for the easing of the lockdown and an assessment of the long-term disruption and consequences arising from the coronavirus pandemic</p>	<p>During 2020/21, the Council started planning for recovery. This included short term, medium term and long-term changes, with an assessment undertaken on services to restart, stop, retain or change.</p> <p>The Council started working on a place-based ambition for the borough. A major engagement programme to inform this is currently taking place. This will result in the agreement of a new ambition that will inform the development of the Business Plan for 2022/26.</p> <p><b>This action has been rolled over into the 2021/22 action plan.</b></p>
<p>2. LGA review- summary of recommendations</p> <ul style="list-style-type: none"> <li>• Develop a strategic vision for Merton as a place, with priorities that reflect the council's place-shaping role. The council's Business Plan reviewed to ensure that capacity is focused to deliver the new objectives.</li> <li>• Review budget planning in line with the strategic vision to allow for the development of a clearer Medium-Term Financial Strategy.</li> <li>• Rationalise internal governance to allow for more streamlined decision making. Improve the scrutiny function at the council, to ensure scrutiny of political objectives through more effective agenda setting</li> </ul>	<p>Working groups were set up for 5 work streams, each with a senior management lead and a CMT lead. This work started in 2019/20 and was put on hold at the early stage of the pandemic but recommenced during 2020/21. This work is part of the Recovery and Modernisation programme.</p> <p><b>This action will be included in the above action and rolled over</b></p>

<p>3. Corporate Business Plan &amp; balanced budget</p>	<p>The Business Plan 2021-25 approved 03-03-2021. Saving targets have been set. Following the Final Local Government Settlement, a balanced budget was achieved for 2021-22 with a budget gap on the MTFS rising to circa £14.3m in 2024-25. A Council Tax of 3.99% was set for 2021-22 which is within the referendum principles. Risk remains constant due to DSG Deficit and loss of income and increased expenditure due to Covid 19 response.</p> <p><b>This action has been rolled over to the action plan for 2021/22 (increasing financial pressures) as there remains significant risk and uncertainty on both funding and also the impact of the pandemic on residents and businesses.</b></p>
<p>4. Annual Savings Programme (from 2019/20 action plan) We might fail to deliver the savings of £15.7m which have been agreed for the period 2020/21 to 2023/24 (the period of budget decisions required by this council).</p>	<p>The monthly monitoring report is forecasting a shortfall in savings in 2020/21 of £2.1 million due to the impact of Covid 19 Delivery of savings is carefully monitored and reported as they are critical to balance the budget and reported to government for potential further support.</p> <p><b>This action will be included in the increased financial pressure action for 2021/22</b></p>
<p>5. Brexit (from 2019/20 action plan) A working group of members and officers to monitor the impact of Brexit</p>	<p>During 2020/21 the Council participated in London-wide planning and information-sharing arrangements to mitigate uncertainty. A programme of communication was undertaken, which included communicating with providers of goods and services, the public, voluntary and community partners as well as business. Residents were provided with information on how to register for the settled status.</p> <p>The Council has undertaken all actions on Brexit advised by the government.</p> <p><b>This action can be closed</b></p>
<p>6. Internal Audit work relating to Declaration of Interests Officers The guidance was not readily available, and officers were not routinely completing the forms, those officers in a senior role, budget holder</p>	<p>A new form and guidance have been prepared for officer Declaration of Interest and the process started for the completion and review of these. An internal Audit review provided a Substantial Assurance, with some recommendation for improvement.</p>

<p>or those responsible for procurement. The declaration of interest form has been in the process of being updated for the last few years but has not been agreed.</p>	<p><b>This action can be closed</b></p>
<p>7. Public Contract Regulations/Contract Standing Orders (from 2019/20 action plan) and Internal Audit work relating to Procurement. Recent audit findings have found the following weaknesses: -</p> <p>Improvements required on compliance with CSO on tendering, exemptions and extensions to contracts Evidence of signed contracts or extensions letters (by both parties) not in place. Contract monitoring was found to be limited. Contract Register requires updating.</p>	<p>Regular training is now in place for managers on CSO. Issues identified in the audit have been discussed at the corporate procurement board and monitoring of compliance is included in the Operational Procurement Groups. Another internal audit review has been requested for 2020/21.</p> <p>A review and update of Contract Standing Orders was started in September 2020, in conjunction with a wider review of the constitution and the drive to improve compliance with legislative requirements is being further supported through the introduction of specialist procurement training for those individuals who are responsible for procurement as part of their normal duties.</p> <p><b>This action has been rolled over into 2021/22 action plan.</b></p>

**Table 2 Issues identified for 2021/22:**

<b>Issues</b>	<b>Action</b>	<b>Responsible Officer</b>
<p>1.A recovery plan for the easing of the lockdown and an assessment of the long-term disruption and consequences arising from the coronavirus pandemic <b>Carried over from 2020/21 action plan</b></p>	<p>A Recovery and Modernisation Programme to reframe the council's relationship with its communities and the voluntary and community sectors to ensure integration across different parts of the system. It has three broad connected objectives:</p> <p>The Council is currently working on a place-based ambition for the borough. A major engagement programme to inform this is currently taking place. This will result in the agreement of a new ambition that will inform the development of the Business Plan for 2022/26.</p>	<p>Chief Executive</p>
<p>2. Increasing financial pressures. <b>Carried over from 2020/21 action plan</b></p>	<p>Budget setting for 2022/23 will begin early following a further review of existing savings proposals as part of budget monitoring, and an updated evaluation of financial risks and potential growth. This will seek to protect the Council's financial position by identifying early whether or not</p>	<p>Director of Corporate Services</p>

	additional savings proposals are required for next year so that we can set the budget without drawing on unearmarked reserves. The forecast will be updated based on the latest information available at key points over the next year. As at the end of May 2021 the expected budget gap for 2022/23 remains at £3.9m as set out in the budget report	
3.Constitution	Review of the Council's constitution by a member working group. This was agreed by Full Council on 7 <sup>th</sup> July 2021.	Monitoring officer
4.Financial Regulation and procedures and departmental Schemes of Delegation	Review and update of the financial regulations and procedures and Scheme of Delegation.	Director of Corporate Services
5.Contact Standing Orders  <b>Carried over from 2020/21 action plan</b>	A review and update of Contract Standing Orders has been undertaken, in conjunction with a wider review of the constitution and the drive to improve compliance with legislative requirements is being further supported through the introduction of specialist procurement training for those individuals who are responsible for procurement as part of their normal duties. This was agreed by Full Council on 7 <sup>th</sup> July 2021.	Chair of Procurement Board
6.Governance review of Local Authority Trading companies	A review of the governance arrangements	Monitoring officer

- 6.3 We propose over the coming year to take steps to address the above matters to further enhance our governance arrangements. We are satisfied that these steps will address the need for improvements that were identified in our review of effectiveness and will monitor their implementation and operation as part of our next annual review.

**Signed: Leading Member**

**Signed: Chief Executive**

## **Committee: Standards and General Purposes Committee**

**Date: 22 July 2021**

### **Subject: Freedom of the Borough – Report of the working group**

Lead officer: Louise Round, Monitoring Officer, [louise.round@merton.gov.uk](mailto:louise.round@merton.gov.uk)

Lead member: Councillor Peter McCabe, Chair, Standards and General Purposes Committee

Contact officer: Amy Dumitrescu, Interim Democracy Services Manager, [amy.dumitrescu@merton.gov.uk](mailto:amy.dumitrescu@merton.gov.uk)

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#### **Recommendations:**

- A. That the Standards and General Purposes Committee recommends to Council that the award of Freedom of the Borough be made to Richard John Guy for his sporting achievements and continuing work within the community
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#### **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. At its meeting on 11 March 2021, the Standards and General Purposes Committee established a small working group to consider nominations for the award of the freedom of the borough and report back.
- 1.2. The working group comprised of Councillors Stephen Alambritis, David Williams, Hina Bokhari and Peter Southgate.
- 1.3. This report sets out the findings and recommendations of the working group.

#### **2 DETAILS**

- 2.1. The working group met once on 29 June 2021 to consider the nomination of Mr Richard (Dickie) John Guy submitted by Councillor Alambritis (appendix A). No other nominations were received.
- 2.2. Members noted that the Freedom of the Borough is an important honour that requires careful thought prior to bestowal. Members also noted the criteria and process for awarding Freedom of the Borough (set out in Appendix 1 of this report), in particular that it should only be awarded in exceptional circumstances where the prospective recipient is an individual or organisation of distinction and has rendered eminent services to the borough.
- 2.3. Members agreed that the nomination for Mr Guy met the criteria and demonstrated that he made a substantial contribution to the Borough. The nomination is supported by all Groups on the Council and therefore would meet the 2/3 requirement at Council.
- 2.4. The working group therefore recommended that the nomination should be agreed by the Standards and General Purposes Committee to Council as soon as possible.
- 2.5. Next Steps:

- 2.6. If the Committee accepts the recommendation of the working group in respect of the freedom of the borough nomination of Mr Richard John Guy the next steps are:
- a) To arrange a special meeting under section 249 of the Local Government Act 1972. The Chief Executive has the power to call a meeting for this purpose under Council Procedure Rule 3.1(d);
  - b) That special meeting could either precede the ordinary meeting already scheduled for 15 September or be fixed on a separate day
  - c) If Council accepts the nomination, it it would pass the resolution to bestow the Freedom of the Borough on Mr Richard John Guy. Such a resolution would require the agreement of two thirds of the members of the council present and voting at the meeting
- Council would then be held to award the Freedom of the Borough to Mr Guy.

### **3 ALTERNATIVE OPTIONS**

- 3.1. The Committee may reject the recommendations of the working group or may choose different actions to implement the recommendations.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. Members of the working group have discussed their recommendations with the political groups.

### **5 TIMETABLE**

- 5.1. To be determined by the Standards and General Purposes Committee and Council.

### **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. Any expenditure associated with conferring the Honorary Freedom of the Borough and the presentation of a framed certification of commendation will be from existing budgets

### **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. Section 249 (paragraphs 5 and 6) of the Local Government Act 1972 provides that the ) the Council of a London Borough may admit a person of distinction or someone who has , in the opinion of the council, rendered eminent services to the borough to be an honorary freeman of the borough.
- 7.2. As stated above, a resolution to confer such status requires a two thirds majority of members present and voting at a special meeting. Having conferred such status, the Council may spend such reasonable sum as it thinks fit for the presenting an address or a casket containing an address to a person

### **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. None

### **9 CRIME AND DISORDER IMPLICATIONS**

9.1. None

**10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

10.1. None

**11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Appendix A Nomination Form

**12 BACKGROUND PAPERS**

12.1. None

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## **NOMINATION FOR FREEDOM OF THE BOROUGH**

1. Name of the person or organisation being nominated for Freedom of the Borough.

MR DICK GUY

2. Freedom of the Borough is a high honour which should only be awarded in exceptional circumstances where the prospective recipient is an individual or organisation of distinction and has rendered eminent services to the borough.

Candidates should have a strong and continuing connection with and commitment to Merton or have made a major contribution to national life and in doing so have enhanced the reputation of the borough.

Candidates should have made a substantial contribution to the borough in any area of activity, which could include:

- artistic and cultural endeavours
- business, economic growth and prosperity
- charitable work
- improvement to the built and natural environment
- religious and spiritual life
- sports activities
- civic service

The award may be granted posthumously.

3. The award of the Freedom of the Borough requires support of 2/3 of Council. Nominations should therefore first be discussed within your political group and, where appropriate, with other group leaders. In your opinion, is the nomination likely to achieve the required 2/3 support at Council?

YES

NO

**4. Please use the box below to outline your nominee's outstanding achievements in the Borough or on the international stage which have brought pride and satisfaction to the Borough. Continue on a separate sheet if necessary**

I have been approached by many people now re putting forward former Wimbledon FC goalkeeper, Mr Dick Guy for Freedom of the Borough. Many are aware of the famous FA Cup tie of 25/01/1975 when non-league Wimbledon were playing Leeds United at Elland Road. There was a penalty. Lorimer (nicknamed "Lash" because of his hard shot) stepped up to take it and Guy saved it. Keith Macklin (Yorkshire TV) was the commentator and he famously said "Dick Guy can have the freedom of Wimbledon this weekend. They can make him the freeman of the borough" If you google "Guy saves Lorimer penalty" it comes up on You Tube at just 105 seconds total and the Macklin statement is at 53 seconds. It is not just about that moment. Guy has stayed loyal to the club and his outstanding achievements in Merton are set out below:

5  
C  
F

'Dickie Guy had been our much-loved president since 2004 and remains a true club legend. *He first joined the club in 1967 from Tooting & Mitcham and made nearly 600 first-team appearances in goal over the following 11 years. At one point he played in 275 consecutive games - and only missed one game in a run of 449 matches between January 1970 and August 1977.* Dickie shot to national acclaim in 1975 when Wimbledon, then playing in the non-League, faced the mighty Leeds United in the FA Cup at Elland Road. The reigning First Division champions were awarded a penalty in the dying minutes but Dickie famously saved Peter Lorimer's spot kick to clinch an heroic 0-0 draw. To this day, the result remains one of the tournament's most-cherished moments. In the previous round, Dickie also kept a clean sheet as The Dons beat First Division Burnley 1-0, becoming the first non-League team for 54 years to defeat a top-flight team away from home. Although Dickie spent most of his career playing in the non-League he was part of the Wimbledon team that won promotion into the Football League and continued playing at that level.

He eventually left to join Maidstone, but his heart and soul remained at Plough Lane. He carried on supporting the club and stood shoulder to shoulder with fans when they launched AFC Wimbledon in 2002. In recognition of his loyalty and service, Dickie was invited to become club president two years later. In a recent interview in the club's official history, *We Are Home*, he said: "I fell quiet for a few seconds; I honestly felt humbled to have been asked. It remains a deep honour for me to still be in the role." Dickie remains an ardent supporter and an ever-present at matches home and away to this day.

**NOMINTED BY CLLR ALAMBRITIS on MONDAY 22 MARCH 2021**

## **Committee: Standards and General Purposes Committee**

**Date: 22 July 2021**

Wards: All

### **Subject: Member Complaints**

Lead officer: Louise Round, Monitoring Officer

Lead member: Councillor Peter McCabe, Chair, Standards and General Purposes Committee

Contact officer: Louise Round, Monitoring Officer

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### **Recommendations:**

- A. To agree that the Standards and General Purposes Committee appoint a sub-committee to undertake hearings as and when required to consider complaints against members under the members complaints process, part 5A of the Council's Constitution (Appendix A).
  - B. To agree the number of members required to sit on the Sub-Committee and to ask the relevant political groups to nominate their representatives for appointment by the Chief Executive using her delegated authority.
  - C. To note the verbal update from the Monitoring Officer on complaints against members received since the last ordinary meeting of the Committee in March 2021.
- 

## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. At its' meeting on 7 July 2021, Council agreed a revised process for dealing with complaints that members had breached the code of conduct which would apply to all complaints received after 8 July 2021 as attached at Appendix A.
- 1.2. As part of this process and following consultation with the cross-party Constitution Working group, the revised process now requires that in the event there is a failure to comply with the code of conduct, the Monitoring Officer will review the investigating officer's report and in consultation with the Independent Person, will either (a) refer the matter to the Hearings Subcommittee which is a sub-committee of the Standards and General Purposes Committee or (b) seek local resolution. A sub-committee of the Standards and General Purposes Committee is therefore required to be appointed.

## **2 DETAILS**

- 2.1.1 The revised process requires that, following a complaint, if an investigation is undertaken and the outcome of that investigation is that there is no breach of the code of conduct, then there is no requirement for a hearing and the matter is simply reported to the Standards and General Purposes Committee for information. However, if the conclusion of the investigating officer is that

there has been a breach then, on receipt of a report concluding that there had been a breach, the matter would proceed straight to a hearing by the sub-committee.

- 2.1.2 The default position should be a hearing by a hearings sub-committee. Whilst there is still the power for the full committee to conduct hearings this would be by exception.
- 2.1.3 It is considered sensible to appoint a hearings sub-committee on a standing basis, given that matters may be referred straight to hearing as describe above, rather than have to convene a full meeting of the committee to appoint a subcommittee on a case by case basis.
- 2.1.4 The sub-committee will be subject to the proportionality requirements contained in the Local Government and Housing Act 1989, however the subcommittee does not have to be drawn from among the membership of its parent committee. It is therefore proposed that the Standards and General Purposes Committee decide how many members should be on the sub-committee and provide nominations thereafter to Democratic Services.
- 2.1.5 Under these proportionality requirements, there are a number of proposed options for members to consider. The table below sets out the proportionality for varying sizes of sub-committee with the exact proportion and then the actual figure in brackets. This is based on the current make-up of the Council and would be required to be reviewed after the May 2022 elections. The final option would require local agreement between groups for the Merton Park Ward Independent Residents Group to be given a seat from the Conservative allocation as per the below, unless members wish to negotiate an alternative option to allow a member from the MPWIR group to sit on the sub-committee.

<b>NO OF MEMBERS</b>	<b>LABOUR</b>	<b>CONSERVATIVE</b>	<b>LIBERAL DEMOCRATS</b>	<b>MERTON PARK INDEPENDENTS</b>
<b>5</b>	<b>2.83 (3)</b>	<b>1.42 (1)</b>	<b>0.50 (1)</b>	<b>0.25 (0)</b>
<b>7</b>	<b>3.97 (4)</b>	<b>1.98 (2)</b>	<b>0.70 (1)</b>	<b>0.35 (0)</b>
<b>9</b>	<b>5.10 (5)</b>	<b>2.55 (2*)</b>	<b>0.90 (1)</b>	<b>0.45 (1*)</b>

- 2.1.6 It is noted that the Appointments sub-committee at Merton has recently used 5 members and this would allow for the same number of groups to be represented on the sub-committee as 7 members (see above).
- 2.1.7 Whilst 7 members could provide for representation of all groups (with local agreement) and would be manageable in terms of members availability, members may feel that this would be too large a group for this purpose.
- 2.1.8 It is also noted that the current membership of Standards and General Purposes Committee is 12 members and therefore the sub-committee should be made up of less members than this as

- the working group felt the whole committee hearing each complaint was not necessary.
- 2.1.9 The procedure for dealing with hearings is set out in the schedule to the complaints process (Appendix A).
  - 2.1.10 The meeting of the Hearings Sub-committee will be open to the press and public unless confidential or exempt information under Part VA Local Government Act 1972 and the Subcommittee resolves to go into private session having considered whether it is appropriate to do so, taking into account the public interest in the meeting.
  - 2.1.11 Council has delegated the authority to amend these arrangements to the Standards and General Purposes Committee.
  - 2.1.12 Training will be provided on the revised code of conduct to all members in Autumn 2021.
  - 2.1.13 Changes to the membership of the sub-committee can be agreed by the Standards and General Purposes Committee and there would be provision for substitutions particularly in the event that there was a conflict of interest for a member on the sub-committee who was therefore unable to be part of that particular hearing.

### **3 ALTERNATIVE OPTIONS**

- 3.1. The Committee could choose not to accept the recommended changes although these were considered to be an improvement on the processes as currently drafted and have been agreed by Council.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. The changes proposed in this report have been the subject of consultation with the cross party working group and the Council's two independent persons.

### **5 TIMETABLE**

- 5.1. If the Committee agrees the proposals set out in this report, they will take immediate effect applying to all complaints received after 8 July 2021.

### **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. There are no financial implications arising from this report.

### **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. The statutory framework governing member conduct is set out in the Localism Act 2011 and the proposals contained in this report are compliant with it.

### **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. None

### **9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. None

### **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

None

**11. APPENDICES**

Appendix A – Members Complaints Process as agreed at Full Council 7 July 2021

## **Part 5A Addendum**

### **PROCEDURE FOR DEALING WITH COMPLAINTS MADE AGAINST ELECTED OF CO- OPTED MEMBERS FOR BREACH OF THE MEMBERS CODE OF CONDUCT**

#### **1. Background**

This procedure sets out the arrangements adopted by the Council pursuant to s,28(6) Localism Act 2011 as to how a complaint that an elected or co-opted member of this authority has failed to comply with the authority's Code of Conduct can be made and how the authority will deal with allegations of a failure to comply with the authority's Code of Conduct.

Under the Localism Act 2011 the authority must appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated and whose views can be sought by the authority at any other stage or by a member against whom an allegation has been made.

#### **2. The Code of Conduct**

The Council has adopted a Code of Conduct for members.

#### **3. Making a Complaint**

- 3.1 A complaint must be made in writing, preferably using the Complaint Form on the authority's website and emailed or sent to:

The Monitoring Officer  
London Borough of Merton  
London Road  
Morden  
Surrey  
SM4 5DX

Or emailed to: [louise.round@merton.gov.uk](mailto:louise.round@merton.gov.uk)

- 3.2 The Monitoring Officer has statutory responsibility for maintaining the register of members' interests and is responsible for administering the system in respect of complaints of member misconduct. In the Monitoring Officer's absence, the Deputy Monitoring Officer will undertake this role.
- 3.3 The authority will not normally investigate anonymous complaints unless there is a clear public interest in doing so.
- 3.4 The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it and will keep the complainant informed about the progress of the complaint.

3.5 The Monitoring Officer will inform the member against whom a complaint has been made that a complaint has been made and will give details of the complaint to them. The Monitoring Officer has the discretion, which will only be exercised in exceptional circumstances, not to inform the member of the complaint at this stage if the Monitoring Officer is of the view that there is a risk that an investigation could be frustrated or a case prejudiced by the member knowing the details.

#### **4. Will the complaint be investigated?**

4.1 The Monitoring Officer will review every complaint received.

4.2 The complaint must be:

- against a person who was a member of the authority at the time of the conduct complained of; and
- in respect of conduct of that member while acting, claiming to act or giving the impression to a reasonable member of the public that they are acting in their official capacity as a member; and
- in relation to an alleged breach of the Code of Conduct in force at the relevant time.

4.3. If in the view of the Monitoring Officer the complaint does not fall within 4.2 above the matter will not be considered and the complainant will be informed that there will be no further action.

4.4 Where the complaint meets the above criteria, and in order to establish a preliminary view of the circumstances of the complaint and to decide whether it should be investigated and/ or whether there may be a course of action which could be taken to resolve the issues promptly without the need for formal action, the Monitoring Officer may consult or meet with any other relevant persons, which may include the Leader of the Council or Group Leaders, the Chief Executive or any other officers, the complainant and the member against whom the complaint has been made.

4.5 This decision will normally be taken within 14 days of receipt of the complaint. The complainant and the member against whom the complaint is made will be informed of the Monitoring Officer's decision and the reasons for that decision.

4.5 The Monitoring Officer may consult the Council's Independent Person at any point during her consideration of a complaint and must so consult where she considers a matter should be referred for formal investigation

4.6 In assessing whether a complaint should be investigated the following factors will be taken into consideration:

- *Public interest* – the decision whether to investigate will be a proportionate response to the issues raised and expected outcomes will take into account the wider public interest and the costs of undertaking an investigation. Complaints will only be investigated where the allegations are reasonably considered to be serious matters which justify the time and resources of an investigation;
- *Alternative course of action* – a complaint will only be investigated where there is no other action which could be taken which would achieve an appropriate outcome in the circumstances of the case (see paragraph 4.8 below);
- *Member’s democratic role* – where a complaint relates to a matter more appropriately judged by the electorate at the local elections, the Monitoring Officer will not normally refer these matters for investigation;
- *Previous action* - if the complaint or a substantially similar complaint has already been subject to a previous investigation or some other action relating to the code of conduct or other related process, the matter will ordinarily not be referred for further action. Complaints which are already the subject of other internal or external processes will not be investigated;
- *Vexatious/repeated complaints* – the Monitoring Officer will not refer for investigation a complaint that is the same or substantially the same as one previously made by the complainant or which is considered to be vexatious or frivolous or designed to harass or insult individuals;
- *Timing of the alleged conduct* – if there are significant delays between the incident complained of and the complaint the matter will not ordinarily be considered further unless there are very good reasons for the delay. Complaints should normally be made within three months of the date upon which the alleged misconduct occurred;
- *Ulterior motive* – no further action is likely to be taken if the complaint is considered to be motivated by malice, political motivation or retaliation, or can be characterised as being ‘tit-for tat’;
- *Subject-matter* – complaints which are really about Council services, its policies or performance will be referred to the relevant service area in accordance with the Council’s complaints procedure;
- *Member complaints* – Complaints by Members against another Member will not usually be investigated if the Monitoring Officer considers that the complaint is of a kind

which could be more appropriately addressed through political group processes, political party complaints procedures or informal mediation.

4.8 Where the Monitoring Officer considers that a complaint can be resolved without the need for a formal investigation she may take one or more of the following actions:

- asking the member to acknowledge that his/her conduct was unacceptable and to offer an apology or other remedial action by the authority.
- referring the matter to group leaders or officers
- asking the member to be attending training

4.9 Matters which might appropriately be dealt with as described in 4.8 above may include:

- Misunderstanding of procedures or protocols
- Misleading, unclear or misunderstood advice from officers
- Lack of experience or training
- A general deterioration of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect.
- Allegations and retaliatory allegations from the same individuals

4.10 If such action does not resolve the complaint, the Monitoring Officer will reconsider whether the complaint merits formal investigation.

4.11. The Monitoring Officer may in exceptional circumstances, refer a complaint to the Standards and General Purposes Committee to determine if an investigation is the appropriate course of action.

4.11 If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to refer the matter to the police and other regulatory agencies.

## **5. How is the investigation conducted?**

5.1 If the Monitoring Officer in consultation with the Independent Person decides that a complaint merits formal investigation, she will appoint an investigating officer and agree a timescale in which to undertake

the investigation. This will normally take no more than 12 weeks from the appointment.

- 5.2 The investigating officer will contact the complainant and the member against whom a complaint has been made and undertake such investigation as is appropriate in all the circumstances.
- 5.3 At the end of the investigation, the investigating officer will produce a draft report and will seek comments and views on the draft report from the complainant and the member against whom the complaint has been made.
- 5.4 Having received and taken account of any comments which have been made, the Investigating Officer will send a copy of the final report to the Monitoring Officer.
- 5.5 If at any time the investigation is frustrated, for example, if significant witnesses are not available for interview, the Monitoring Officer shall decide what action to take, including, in consultation with the Independent Person, terminating the investigation. Such a decision will be reported to the Standards and General Purposes Committee.

**6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**

- 6.1 The Monitoring Officer will review the Investigating Officer's report and if she is satisfied in consultation with the Independent Person that the report is sufficient, the Monitoring Officer will inform the complainant and the member concerned that she is satisfied that no further action is required. A copy of the investigating officer's final report will be given to the complainant and the member concerned. The report will be referred to the Standards and General Purposes Committee without question or debate, unless the member concerned requests that it not be reported.
- 6.2 If the Monitoring Officer is not satisfied that the investigation has been conducted properly, she may ask the investigating officer to reconsider his/her report.

**7 What happens if the investigating officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

- 7.1 The Monitoring Officer will review the investigating officer's report and in consultation with the Independent Person, will either (a) refer the matter to the Hearings Subcommittee which is a sub-committee of the Standards and General Purposes Committee or (b) seek local resolution.
- 7.2 *Local resolution*

The Monitoring Officer may consider that the matter can

reasonably be resolved without the need for a hearing. In such a case, she will consult with the Independent Person and the complainant and seek to agree a fair resolution which helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards and General Purposes Committee for information but will take no further action.

### **7.3 *Monitoring Officer consideration of whether a matter proceeds to Local hearing***

If the Monitoring Officer considers, in consultation with the Independent Person, that the matter should be referred directly to a hearing or if, in accordance with paragraph 7.2 above, the member has failed to comply with the suggested informal resolution, she shall refer the matter to the Hearings Subcommittee which shall proceed to conduct a hearing in accordance with paragraphs 8-11 of this procedure and the hearings procedure attached as the schedule to this procedure.

7.4 Where the Monitoring Officer considers it appropriate, she may refer a complaint falling within paragraph 7.3 above to the full Standards and General Purposes Committee for hearing instead of to the Hearings Subcommittee and in such cases the provisions of paragraphs 8-11 below and the schedule shall apply.

## **8. Pre Hearing Process**

8.1 Prior to a hearing, an officer from the Council's Democracy Services team will write to the member subject to the complaint ("the member") proposing a date for the hearing before the Hearings Subcommittee.

8.2 Democracy Services will outline the hearing procedure to the member and request a written response within a set time in relation to whether the member:

- Wants to attend the hearing
- Wants to be represented at the hearing by a solicitor, barrister or any other person
- Disagrees with any of the findings of fact in the investigation report in which case the member should be asked to set out those facts which are in dispute
- Wants to give evidence to the Hearings Subcommittee either verbally or in writing

- Wants to call relevant witnesses to give evidence to the hearing and to provide details of the witnesses
- Wants any part of the hearing to be held in private and reasons for the request
- Wants any part of the investigation report or other relevant documents to be withheld from the public and reasons for the request

8.3 Democracy Services will refer the member's response to the Monitoring Officer to comment in order to ensure that all parties are clear about the remaining factual disputes and can deal with these issues at the hearing. The Monitoring Officer will also ascertain from the investigating officer whether the complainant will be giving evidence at the hearing and whether the investigating officer will be calling any witnesses to give evidence.

8.4 The Monitoring Officer will prepare a report for the hearing which will:

- Summarise the allegation
- Outline the main facts of the case which are agreed
- Outline the main facts which are not agreed
- Indicate whether the member and the investigating officer will be present at the hearing
- Indicate the witnesses, if any, who will be asked to give evidence
- Outline the proposed procedure for the hearing
- Include the Investigating Officer's report
- Include the views of the Independent Person

## **9 The Hearing**

9.1 The hearing is before the Hearings Subcommittee and the Independent Person will be in attendance to provide his/her views before a decision is made.

9.2 The procedure for local hearings is set out in the schedule. The Chair of the Hearings Subcommittee shall have discretion to vary that procedure if s/he considers it is reasonably necessary to do so in order to ensure a fair and efficient hearing.

9.3 The meeting of the Hearings Subcommittee will be open to the press and public unless confidential or exempt information under Part VA Local Government Act 1972 and the Subcommittee resolves to go into

private session having considered whether it is appropriate to do so, taking into account the public interest in the meeting being

- 9.4 The Hearings Subcommittee can determine the number of witnesses and the way in which witnesses can be questioned.
  - 9.5 If the member fails to attend the hearing, the Hearings Sub Committee can decide whether to proceed in the member's absence and make a determination or whether to adjourn the hearing to a later date.
  - 9.6 The Hearings Subcommittee will decide on the balance of probabilities whether it is more likely than not that the member is in breach of the Code of Conduct. The Hearings Subcommittee must seek the views of the independent person before making a decision on the allegation.
  - 9.7 If the Hearings Subcommittee concludes that the member did not fail to comply with the Code of Conduct, it will dismiss the complaint.
  - 9.8 If the Hearings Subcommittee concludes that the member did fail to comply with the Code of Conduct, the Subcommittee will then consider what action, if any, it should take. In doing this, the Hearings Subcommittee will give the member the opportunity to make representations to the Committee and will consult the Independent Person.
- 10. What action can the Hearings Subcommittee take where a member has failed to comply with the Code of Conduct?**
- 10.1 The Hearings Subcommittee may:
    - Issue a public censure or reprimand the member
    - Ask the member to apologise
    - Publish its findings in respect of the member's conduct
    - Report its findings to Council for information including a recommendation that the member be removed from any committee of the Council
    - Recommend to the member's Group Leader (or in the case of un- grouped members recommend to Council or to committees) that the member be removed from any or all committees of the council
    - Recommend to the Leader of the Council that the member be removed from the Cabinet or removed from particular portfolio responsibilities
    - Recommend to Council that the member be replaced in any Council appointed roles

- Instruct the Monitoring Officer to arrange training for the member
- Recommend to Council removal from all outside appointments to which the member has been appointed or nominated by the authority
- Withdraw facilities provided to the member by the Council, such as computer, website and/or internet access
- Exclude the member from the Council's offices or other premises with the exception of meeting rooms as necessary for attending council and committee meetings
- The Hearings Subcommittee has no power to suspend or disqualify the member or to withdraw members' allowances.

## **11. What happens at the end of the hearing?**

- 11.1 At the end of the hearing the Chair of the Hearings Subcommittee will state the decision of the committee
- 11.2 As soon as practicable thereafter, the Monitoring Officer will prepare a formal decision notice in consultation with the Chair and send a copy to the complainant, the member, and make the decision notice available for public inspection unless, in a case where the Subcommittee's conclusion is that the member is not in breach of the code of conduct, the member requests that the notice of decision is not published

## **12. Revision of these arrangements**

With the exception of paragraph 10 above, the Council has delegated the authority to amend these arrangements to the Standards and General Purposes Committee

## **13. Appeals**

There is no right of appeal for the complainant or the member against a decision of the Monitoring Officer or the Hearings Subcommittee.

If the complainant believes that the authority has failed to deal with the complaint properly, they may wish to make a complaint to the Local Government Ombudsman.

## Schedule to Part 5 A

### PROCEDURE FOR HEARINGS BEFORE THE HEARINGS SUBCOMITTEE

1. Introductions
2. The Committee will consider whether to resolve to exclude the press and public from the hearing if one of the grounds set out in schedule 12A to the Local Government Act 1972 applies, taking into account the public interest in the hearing being open to the public.
3. The Chair of the Subcommittee will outline the hearing procedure. The Chair can depart from the procedure outlined below where he/she considers it expedient to do so in order to secure the fair consideration of the matter. This may include combining the stages of making findings of fact and considering whether such facts amount to a breach of the Code of Conduct.

#### **Findings of Fact**

4. The Subcommittee should consider whether there are any significant disagreements about the facts contained in the investigating officer's report. If there is no disagreement about the facts the committee can move on to the next stage of the hearing (go to paragraph 11)
4. Where there is a disagreement the investigating officer will be invited to make representations to support the findings of fact and with the Committee's permission, call witnesses to give evidence.
5. The member against whom the complaint has been made will be given the opportunity to challenge the evidence put forward by any witness called by the investigating officer by asking the witness questions.
6. The member will then be given the opportunity to make representations and with the Committee's permission, call any witnesses to give evidence.
7. The investigating officer will be given the opportunity to challenge the evidence put forward by any witness called by the member by asking the witness questions.
7. At any time, the Committee and independent person may question any of the people involved or any witnesses.
8. The Committee may take legal advice, in private if necessary, from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the committee in private will be shared with the meeting as a whole.

- 9 The committee may retire to consider its decision on a finding of facts in private.
- 10 Once the Committee has made its decision, the Chair will announce the Committee's finding of fact to the meeting.

**Did the member fail to comply with the Code of Conduct?**

11. The committee should then consider whether, based on the facts it has found, the member has failed to comply with the Code.
12. The member will be invited to make representations on the matter.
13. The investigating officer will be invited to make representations.
14. The independent person will be invited to express his or her views
15. The committee may, at any time, question the member, investigating officer or independent person on any point raised in the representations.
16. The member will be invited to make any final relevant points.
17. The committee may retire to consider its decision in private
18. Once the committee has made its decision, the Chair will announce the committee's decision to the meeting as to whether the member has failed to comply with the Code.

**If there is a finding that the member has not failed to comply with the Code of Conduct**

19. Where the committee decides that the member has not failed to comply with the Code, the committee can consider whether it wishes to make any recommendations to the authority.

**If there is a finding that the member has failed to comply with the Code of Conduct**

20. If the committee decide that the member has failed to comply with the Code, it will consider representations from the member, investigating officer and independent person as to:
  - Whether the committee should apply a sanction
  - What form any sanction should take.
21. The committee may question the investigating officer, member and independent person and take legal advice, to make sure they have the information they need in order to make an informed decision.

22. The committee may consider in private whether to impose a sanction and if, so what sanction it should be.
23. The Chair will announce the decision to the meeting.
24. The committee will also consider whether it should make any recommendations to the authority with a view to promoting high standards of conduct.

#### **The written decision**

25. As soon as practicable the Monitoring Officer will prepare a formal decision notice in consultation with the Chair and send a copy to the complainant, the member and make the decision available for public inspection unless, in a case where the Subcommittee's conclusion is that the member is not in breach of the code of conduct, the member requests that the notice of decision is not published.

## **Standards and General Purposes Committee**

### **Forward work plan**

#### September

- Internal Audit progress report on annual audit plan
- Update on RIPA authorisations (March and September)
- Complaints against Members
- Recruitment of Independent Person
  
- Final Accounts
  
- Temporary and Contract Staff update
- Work programme

#### November

- External Audit Annual Letter
- Internal Audit progress report on annual audit plan
- Annual Gifts and Hospitality report (members)
- Annual Gifts and Hospitality report (officers)
- Annual Complaints report
- Risk management
- Appointment of Independent Person
  
- Complaints against Members
- Work programme

#### March

- External Audit Certification of Claims report
- External Audit progress report
- External Audit Plans for Council and Pension Fund accounts
- Internal Audit Plan
- Internal Audit progress report
- Update on RIPA authorisations (March and September)
- Temporary and Contract Staff update
- Complaints against Members
- Work programme

**Add as required:**

- Polling Places
- Constitutional amendments
- Review of members' interests
- Independent / co-opted members
- Reports on dispensations issued by Monitoring Officer
- Report on payment exceeding £1000 as a result of maladministration as directed by the LGO.