

AUDIT AND GOVERNANCE COMMITTEE AGENDA



16 March 2017

at 10.00 am

**in Committee Room B
Civic Centre, Hartlepool**

MEMBERS: AUDIT AND GOVERNANCE COMMITTEE

Councillors S Akers-Belcher, Belcher, Cook, Hamilton, Harrison, Martin-Wells and Tennant

Standards Co-opted Members; Mr Norman Rollo and Ms Clare Wilson

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

- 3.1 To confirm the minutes of the meeting held on 8 February 2017 which was adjourned and reconvened on 16 February 2017 and the meeting also held on the 16 February 2017.

4. AUDIT ITEMS

- 4.1 Mazars Report – Grant Report - *Assistant Director (Finance and Customer Services)*
- 4.2 Council Referral – 15 December 2016 – *Director of Finance and Policy and Chief Solicitor*
- 4.3 Internal Audit Plan 2016/17 Update - *Head of Audit and Governance*
- 4.4 Internal Audit Plan 2017/18 - *Head of Audit and Governance*
- 4.5 Organised Crime and Procurement Pilot Report - *Chief Solicitor and Head of Audit and Governance*



5. STANDARDS ITEMS

5.1 Business Report – Standards - *Chief Solicitor and Monitoring Officer*

6. STATUTORY SCRUTINY ITEMS

No items.

7. MINUTES FROM THE RECENT MEETING OF THE HEALTH AND WELLBEING BOARD

No items.

8. MINUTES FROM THE RECENT MEETING OF THE FINANCE AND POLICY COMMITTEE RELATING TO PUBLIC HEALTH

No items.

9. MINUTES FROM RECENT MEETING OF TEES VALLEY HEALTH SCRUTINY JOINT COMMITTEE

No items.

10. MINUTES FROM RECENT MEETING OF SAFER HARTLEPOOL PARTNERSHIP

No items.

11. REGIONAL HEALTH SCRUTINY UPDATE

12. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

ITEMS FOR INFORMATION

Date of next meeting – Thursday 23 March 2017 at 10.00 am in the Civic Centre, Hartlepool



AUDIT AND GOVERNANCE COMMITTEE

MINUTES AND DECISION RECORD

8 February 2017

The meeting commenced at 11.00 am in the Civic Centre, Hartlepool.

Present:

Councillor: Ray Martin-Wells (In the Chair).

Councillors: Stephen Akers-Belcher, Sandra Belcher, Rob Cook, Lesley Hamilton, Brenda Harrison and John Tennant.

Also Present: Councillors Christopher Akers-Belcher and Brenda Loynes
Ali Wilson, Karen Hawkins and Angela Latham - Hartlepool and
Stockton Clinical Commissioning Group

Officers: Peter Devlin, Chief Solicitor
Alastair Rae, Public Relations Manager
Laura Stones, Scrutiny Support Officer
Angela Armstrong, Principal Democratic Services Officer

117. Apologies for Absence

Apologies for absence were received from Independent Persons Norman Rollo and Clare Wilson.

118. Declarations of Interest

None.

119. Minutes of the meeting held on 19 January 2017

Confirmed.

120. Chair's Statement

The Chair read out to the Committee a statement which outlined his involvement with the media as Chair of Audit and Governance Committee on the subject of service provision within the Assisted Reproductive Unit at the University Hospital of Hartlepool. He did not consider that he had pre-judged matters that were to come before the Committee at today's meeting for the purposes of scrutiny and sought the Committee Members' views on

whether they were happy for him to continue to Chair the meeting. By a show of hands, the Members of the Committee indicated unanimously that Councillor Ray Martin-Wells should continue to chair the meeting.

121. Assisted Reproduction Unit at the University Hospital of Hartlepool (*Scrutiny Manager/Representatives from Hartlepool and Stockton Clinical Commissioning Group*)

The representatives from Hartlepool and Stockton Clinical Commissioning Group (CCG) gave a detailed and comprehensive presentation to the Committee which provided the background to the procurement process for the provision of an Assisted Reproductive Unit (ARU), an outline of the process undertaken, the proposals for future service delivery along with the communication process being undertaken by North Tees and Hartlepool NHS Foundation Trust with current patients of the Unit.

It was noted that the procurement process commenced on 26 August 2016 with an initial 9 expressions of interest received. A timetable was established which would have resulted in the service commencement on 1 April 2017. A number of providers had withdrawn from the process as in their view, the service provision expected was not a viable business option. The deadline for tender submission was 16 November 2016 and one bid was received. The evaluation commenced in line with the specification requirements and it was identified that the bidder had failed to deliver the requirements of the minimum 50% with respect to Quality as described in the Procurement and Evaluation Strategy (PES) and the tender documents.

As a result of the unsuccessful procurement process, the CCG Governing Body agreed to explore alternative options to sustain services in Hartlepool. After discussions with the current commissioned and contracted providers to determine delivery options based on the Governing Body's recommendations, the following options were available to retain the majority of service still to be delivered from the Hartlepool location:

- **Option 1** – North Tees and Hartlepool Foundation Trust (NTHFT) will continue to deliver unlicensed services; patients will choose a provider for licensed treatment (Gateshead Health Foundation Trust or Newcastle Upon Tyne Hospitals Foundation Trust) with the majority of treatment and work up undertaken in Hartlepool through shared protocols with the licensed provider of choice; or
- **Option 2** – NTHFT continue to deliver unlicensed services at UHH and Human Fertilisation and Embryology Authority (HFEA) licensed provision will be delivered at other sites in the region based on patient choice.

It was highlighted that based on the above options, the number of appointments patients undertaking the assisted reproductive process would require would be as follows: option 1 would result in 20-30 appointments

being undertaken in Hartlepool with 3 appointments across one week being undertaken in Gateshead or Newcastle. Option 2 would result in 10-20 appointments being undertaken in Hartlepool with up to 13 appointments undertaken at South Tees.

The representatives from the CCG indicated that to ensure continuation of delivery of services at Hartlepool, the options would need to be immediately progressed, subject to negotiations with contracted/commissioned providers. It was highlighted that communications were being managed through the current provider NTHFT who was working in accordance with HFEA regulations to manage the communication and process for patients with stored embryos, gametes and sperm.

The Chair questioned the communications undertaken as it appeared that the majority of people affected by the changes to service provision at the ARU had not been informed personally. In addition to this, the Chair indicated his disappointment at the timing of the press release which was issued at 5.00pm on a Friday night which did not leave any method of open communication for those people affected until the following Monday morning.

It was noted that due to a close family bereavement, the representative from UNISON was unable to attend the meeting, however he had provided a written statement which the Scrutiny Support Officer read out to the Committee. In summary, the statement noted UNISON was disappointed with the failure to award a contract for licensed fertility treatment within the ARU at Hartlepool. UNISON recognised the continuing hard work of all staff to maintain high standards within the Unit and deliver a top quality service at Hartlepool despite the constant pressure of potential job losses. In addition to this, UNISON were not convinced that all bidders failed to meet the necessary criteria within the contract specification and were concerned that the tendering process was flawed. The statement referred to the unsuccessful bidder who had expressed surprise that they were not successful as they already provided staff to the Unit. UNISON recognised the need to improve, strengthen and more importantly return services to the University Hospital of Hartlepool which was why the closure of such a nationally renowned unit sent out all the wrong signals. In conclusion, UNISON fully supported the Council's interventions in this matter.

A representative from the CCG indicated that they had been made aware that NTHFT had issued correspondence although they were unable to advise on the outcome of the procurement and the future of services. In addition to this, the press release had been issued in conjunction with the issue of correspondence referred to above by the NTHFT.

A Member referred to the fertility services provided within the University Hospital of Hartlepool which had been recognised as one of the best reproductive units within the Country adding that patients did have the opportunity to choose where they accessed these services but that Hartlepool should be included within those choices. In addition, the

Member sought clarification on the timescales utilised through the procurement process. A representative from the CCG commented that the CCG felt very passionately about providing a high standard of care across all services and this was why there was a clear specification with standards that had to be met by any providers wishing to provide this service. In relation to the timescales of the procurement process, the timetable was included within the presentation with all processes scheduled to allow enough time to enable the successful new provider to mobilise service provision promptly on 1 April 2017.

The Chair sought clarification on why the provider who had previously provided staff within the Unit and provided assisted fertility services for several other CCG's in other parts of the Country was not successful in securing a contract on this occasion. A representative from the CCG confirmed that they were not in a position to release any detailed information of the unsuccessful bidder as this was commercially sensitive information but did confirm that the NTHFT had delivered unlicensed and licensed services and had commissioned a member of staff to provide an element of that service on their behalf. It was confirmed that as part of the procurement process, all providers were notified of the requirements of the process and that the one bid received failed to meet the required standards for two of the questions when assessed against the criteria.

A Member expressed his disappointment at the outcome of the procurement process and questioned the integrity of the process undertaken. A representative from the CCG indicated that they were also disappointed to be in this situation and were continuing to work tirelessly to sustain services within Hartlepool. However, any potential providers had to demonstrate within their bid that they had the capability to retain and deliver the required services and unfortunately the bid that was received did not do that. It was noted that the procurement process was a quality process to identify good safe quality care appropriate to the required specification and it would be improper to go back to any unsuccessful bidders and ask them to make adjustments to their bid. In response to a question from a Member, the representative from the CCG confirmed that they were unable to reopen the procurement process as this would result in all previous procurements being reopened.

The Chair sought clarification on the negotiations being undertaken with other providers to continue to provide this service outside of the procurement process. The representative from the CCG confirmed that the negotiations that were ongoing were with existing providers of commissioned services of licensed services from the University Hospital of James Cook, Newcastle NHS Trust and Gateshead NHS Trust.

At this point in the meeting the Chair read out a statement that had been provided by the unsuccessful bidder for the provision of services within the Assisted Fertility Unit. In summary, it was noted that the unsuccessful bidder had been helping Hartlepool's IVF team to maintain a fertility service provision for several months and were very disappointed not to be awarded

the contract. The provider indicated that they would be grateful for and were deserving of an explanation from the CCG how this could be the case adding that they were a pioneering and leading provider of fertility services who operate a network of successful clinics across the UK, often working as a partner to local NHS services. A representative of the CCG indicated that correspondence had been sent to the unsuccessful bidder on 5 January 2017 outlining why the bid failed to meet the required standards. It was highlighted by a representative of the CCG that any unsuccessful bidders had the opportunity to challenge where one of their bids was unsuccessful and it was noted that to date, no challenge had been received.

The disappointment already expressed that there were no potential providers willing and able to provide the full assisted reproductive service within the University Hospital of Hartlepool was echoed across the whole Committee. A representative from the CCG indicated that the CCG shared this disappointment, however the continuation of the majority of an assisted reproductive service being delivered within Hartlepool was a key part to the ongoing negotiations with current providers.

A Member sought clarification on why after nine expressions of interest were shown at the beginning of the process, only one bid was received. A representative from the CCG commented that they were equally surprised to receive only one bid, especially after nine expressions of interest had been received along with three potential bidders attending a site visit to the University Hospital of Hartlepool.

Whilst Members recognised that some of the answers they were seeking were contained within commercially sensitive information, reassurance was sought by Members on the integrity of the process undertaken, alternatively it was suggested that a referral should be forwarded to the Secretary of State of Health to facilitate external examination of the process. The Chair indicated that the meeting could move into closed session which may provide the opportunity to discuss commercially sensitive information should Members feel that this would inform their considerations of the proposals.

The Chair invited members of the public in attendance to indicate if they wished to speak. A representative from the NEED group questioned the procurement process and why the CCG did not try harder to provide the full assisted reproductive service within Hartlepool. A representative of the CCG reiterated the level of initial interest shown and the fact that three providers had undertaken a site visit but only one bid was received with no bids being excluded from the process. In addition to this, it was confirmed by the CCG that the unlicensed element had never been given notice and that NTHFT continued to provide that element of the service. It was noted that not all providers can provide the licensed element of the service but that was offered at the University Hospital James Cook, Newcastle Hospitals FT and Gateshead Health FT. The ongoing negotiations with the current providers were for the licensed element of the service to be

undertaken within the University Hospital of Hartlepool with only the licensed element of the service, which was the final stage of the assisted reproductive service, being undertaken at one of the hospitals mentioned above. This would mean that the majority of the treatment would happen in Hartlepool.

It was noted by the Chair that the Committee needed to understand the reasoning and decision behind the decision that the bid received was unsuccessful and clarification was sought on whether the CCG were prepared to answer such questions within closed session. A representative from the CCG indicated that they would need to take legal advice on this issue before they could respond to that. However, it was noted that the aim of the ongoing negotiations between the CCG and the current providers was to continue to deliver the majority of the assisted reproductive service in a safe and secure environment within Hartlepool as it was highlighted that the current service provided by NTHFT was a fragile service and time was of the essence to ensure this service continued in Hartlepool. The alternative to securing this would be that all patients would have to travel outside of Hartlepool for all elements of the assisted reproductive services.

The Chair expressed concern that there were waiting lists in operation at other hospitals for assisted reproductive services and that moving the services provided within Hartlepool to those hospitals would only add to those waiting lists and cause unnecessary delays for the people accessing those services.

Recommended

The meeting was adjourned to be reconvened at a later date to be agreed with the Chair and Vice Chair of the Committee.

The meeting was adjourned at 12.30 pm

The meeting was reconvened on Thursday 15 February 2017 at 9.00am in the Civic Centre, Hartlepool.

Present:

Councillor: Ray Martin-Wells (In the Chair).

Councillors: Stephen Akers-Belcher, Sandra Belcher, Rob Cook, Lesley Hamilton, Brenda Harrison and John Tennant.

Also Present: Councillors Christopher Akers-Belcher, Tim Fleming Brenda Loyne and David Riddle
Ali Wilson, Jo Heaney, Michael Robson, Judith McGuinness, Will Smith and Angela Latham - Hartlepool and Stockton Clinical Commissioning Group

Officers: Peter Devlin, Chief Solicitor
Alastair Rae, Public Relations Manager
Joan Stevens, Scrutiny Manager
Angela Armstrong, Principal Democratic Services Officer

122. Apologies for Absence

Apologies for absence were received from Independent Persons Norman Rollo and Clare Wilson.

123. Declarations of Interest

None.

124. Assisted Reproduction Unit at the University Hospital of Hartlepool *(Scrutiny Manager/Representatives from Hartlepool and Stockton Clinical Commissioning Group)*

The Scrutiny Manager confirmed that there had been no additional paperwork circulated since the previously adjourned meeting. The representatives from Hartlepool and Stockton Clinical Commissioning Group (CCG) provided a further presentation which recapped the procurement process undertaken for the provision of Assisted Reproduction Services including a detailed evaluation of the process and the three models of delivery considered as part of the process:

- 1) Model 1 Shared protocol (licensed contract with Newcastle Hospital Foundation Trust and Gateshead Health Foundation Trust;
- 2) Model 2 (Unlicensed contract with South Tees Hospital Foundation Trust) (STHFT);
- 3) Model 3 No fertility pathway at the University Hospital of Hartlepool UHH).

The representatives from the CCG indicated that the next steps to ensure the continuation of the delivery of services at Hartlepool would be to immediately progress with both models 1 and 2 (subject to on-going negotiations with contracted/commissioned providers) as follows:

- A shared protocol model delivered at UHH (NTHFT) with all unlicensed treatments and the preparation of patients for licensed treatments in line with the agreed protocols of the contracted licensed provider (Gateshead/Newcastle);
- Patients will have a choice of provider of licensed services following this pathway; reducing the additional travel time for the majority of appointments/treatments for those patients wishing to choose either of these providers; and
- Those patients accessing NTHFT for unlicensed treatment, who were then identified as requiring licensed Assisted Reproductive Services

and those who choose STHFT as the contracted licensed provider would immediately commence their pathway at STHFT. This would mean a patient having all appointments and treatments for their licensed care provided at the James Cook site.

In conclusion, it was indicated by the CCG representatives that market feedback and the procurement outcome had identified the option for both licensed and unlicensed services was not a sustainable viable option in the longer term for the Hartlepool site. The CCG representatives considered that the above solution offered the potential for the majority of the assisted fertility service (unlicensed) to remain delivered from the Hartlepool site and would provide patient choice.

The Chair sought clarification on the reference to the market feedback indicating that the option for both licensed and unlicensed services was not a sustainable viable option in the longer term for the Hartlepool site. A representative from the CCG responded that three individual organisations had expressed an interest in the tender process but had subsequently informed the CCG that due to the number of patients and level of investment required in line with the requirements for a laboratory, providing the assisted fertility service at the University Hospital of Hartlepool was not commercially viable and they therefore did not wish to participate in the procurement process for that service. In response to a question from the Chair, a representative from the CCG confirmed that no-one had specifically highlighted any detailed costings as part of the reason for not submitting tenders and confirmed that all financial arrangements included within the tender were national tariffs.

It was noted that CCG had expressed concerns in relation to litigation issues with the single bidder for the tender, however within the documentation circulated by the CCG, reference was also made to two organisations currently contracted by the CCG who were also facing ongoing litigation. A representative from the CCG referred to 'Never' events that do occasionally occur during a contract which were treated very seriously and typically may end up in litigation. These events were monitored very regularly with weekly updates and should the CCG consider it necessary, there were several means of escalation to undertake a detailed quality analysis and examination of those areas in conjunction with the Care Quality Commission (CQC) and NHS England.

Clarification was sought on the concerns around staffing noted against the single bidder for the provision of the service who was currently providing a similar service across 15 other units across the country as well as providing staff to support the current delivery of the ARU within the University Hospital of Hartlepool. A representative confirmed that bids could only be assessed and matched against the relevant criteria on the information included within that bid. In addition, it was confirmed that when assessing any bids, the project team involved did not have any prior knowledge of who had submitted the bids and the bids were marked independently.

A Member questioned whether the process was a nationally recognised process and how attractive providing services within Hartlepool was to providers. A representative from the CCG confirmed that the current tendering process was utilised across the whole of the North East and Cumbria and was in line with national guidance and regulations. It was highlighted that the CCG were proud of the service provided but recognised that there could be issues with providers and they were able to monitor and challenge providers where necessary. The CCG considered that the issue of not receiving more than one bid for the provision of the service was more to do with the service provision than the location of that service adding that it was unusual not to end up with a successful contract at the end of a tendering process and the CCG were disappointed to be in this position.

A discussion ensued on the anonymity of the tenders evaluated and whether it was easy to identify the providers in any way. A representative from the CCG responded that they were confident that there was no way of identifying any provider throughout the tendering process. In relation to retendering for the service, a representative from the CCG commented that nothing had changed within the market to suggest that an immediate re-procurement was appropriate. Members were disappointed to note that it appeared one of the reasons that the single bidder had not been successful was due to errors within their tendering documentation which had not supported their proven track record at delivering and staffing this type of service provision. Members were therefore questioning whether the Committee should support the undertaking of a new procurement exercise, which may or may not change the current outcome, or to accept the alternative models of delivery provided by the CCG.

The Chief Solicitor provided clarification on the regulations which governed contracts and the regulations which governed local authority scrutiny whereby a referral to the Secretary of State would need to meet the criteria of a substantial variation in service provision. Members were asked to be mindful of this in view of the above proposals provided by the CCG which would ensure the majority of the assisted fertility service (unlicensed) would remain in Hartlepool.

A member of the public addressed the Committee and asked a number of questions. The representatives provided clarification on a number of the issues and confirmed that negotiations were ongoing with the current providers of the service for the future provision of licensed assisted fertility services.

The CCG asked the Committee to note that they had genuinely tried to be open and transparent and were very confident in the procurement process. The paramount importance of the procurement process had always been to ensure a good quality service was provided for local people and was sustained into the future. The options provided would ensure that the majority of the assisted fertility service (unlicensed) could remain in Hartlepool with only the licensed element being provided out of in either Newcastle or Gateshead.

It was proposed that the Committee recommend that the CCG undertakes a new tender process for provision of licensed and unlicensed services from the Assisted Fertility Unit at the University Hospital of Hartlepool. This being in accordance with Option 1 of the five options laid down in your Procurement Outcome Report (page 4 of 6 refers). This proposal was support unanimously by the Committee. The Chair acknowledged the risks involved in this proposal adding that it would be very disappointing if the single bidder from the first round or procurement was excluded from the process. A representative from the CCG indicated that the procurement process would remain open and transparent.

Recommended

That the CCG undertakes a new tender process for provision of licensed and unlicensed services from the Assisted Fertility Unit at the University Hospital of Hartlepool. This being in accordance with Option 1 of the five options laid down in your Procurement Outcome Report (page 4 of 6 refers).

Meeting concluded at 10.30 am

CHAIR

AUDIT AND GOVERNANCE COMMITTEE

MINUTES AND DECISION RECORD

16 February 2017

The meeting commenced at 10.35 am in the Civic Centre, Hartlepool.

Present:

Councillor: Ray Martin-Wells (In the Chair)

Councillors: Stephen Akers-Belcher, Sandra Belcher, Rob Cook, Lesley Hamilton, Brenda Harrison and John Tennant

Norman Rollo, Independent Member

Also Present:

Councillor Christopher Akers-Belcher and David Riddle
Stephen Thomas, Healthwatch
Julie Lane and Keith Wheldon, North Tees and Hartlepool NHS Foundation Trust

Officers: Peter Devlin, Chief Solicitor
Claire McLaren, Assistant Director, Corporate Services
Alastair Rae, Public Relations Manager
Joan Stevens, Scrutiny Manager
Laura Stones, Scrutiny Support Officer
Angela Armstrong, Principal Democratic Services Officer

125. Apologies for Absence

None.

126. Declarations of Interest

There were no declarations at this point in the meeting, see minute 142.

127. Minutes of the meeting held on 8 February 2017

Due to the adjournment of the meeting held on 8 February 2017, the minutes were deferred for consideration to the next meeting of the Committee on 16 March 2017.

128. North Tees and Hartlepool NHS Foundation Trust – Quality Accounts 2016/17 *(Scrutiny Manager/Representatives from North Tees and Hartlepool NHS Foundation Trust)*

The representative from the North Tees and Hartlepool NHS Foundation Trust (NTHFT) gave a detailed presentation which showed that the key priorities for the Trust for 2016/17 had been:

- Mortality;
- Dementia Care;
- Safeguarding Adults (Learning Disabilities and Sensory Loss); and
- Infections.

Further detail was provided on the performance of the above key priorities. In addition to the above key priorities, a screen shot of the Safety Quality and Infections Dashboard was provided which was available on the NTHFT website as well as an update on the number of patients seen by the Specialist Palliative Care Team (SPC). Data was also provided from the Friends and Family Tests undertaken which showed that 93.94% of those who had undertaken the test would recommend the Trust to others with 1.49% who would not.

An overview of the Care Quality Commission (CQC) inspection undertaken between August and September 2016 was provided which included 15 'must do' actions and 50 'should do' actions. It was highlighted that all areas identified by the CQC had been addressed and an active operational group was in place to continuously review progress and improvements.

Consultation on the quality accounts had been undertaken in the latter months of 2016 including a market place event and consultation visits which will conclude in March 2017. It was noted that the draft Quality Accounts would be circulated to all stakeholders in March 2017 to be finalised in May 2017 for publication onto NHS Choices in June 2017.

A discussion ensued on the Friends and Family Test and how this was undertaken. A representative from the NTHFT indicated that Friends and Family forms were given to all patients on wards and those attending Accident and Emergency. In response to a question from a Member, the representative from NTHFT confirmed that where a patient was unable to complete the form, a friend or relative would be asked to complete the form on their behalf. A number of people commented that they had not received a form to complete despite a number of attendances at hospital. The Trust indicated they would investigate why all patients were not given forms when discharged.

The Scrutiny Manager indicated that the above comments would be used to contribute to the formulation of the third party declaration and authorised delegation to the Chair of the Committee in consultation with the Scrutiny Manager was sought to finalise this response.

Recommended

- (1) The presentation was noted and clarification sought where necessary.
- (2) The comments noted above would be used to contribute to the formulation the third party declaration.
- (3) That delegated authority be given to the Chair of the Committee in consultation with the Scrutiny Manager to finalise the third party declaration.

129. Verbal Update – Communications Proposals for Urgent and Emergency Care *(Public Relations Manager)*

The Chair provided the representatives from North Tees and Hartlepool NHS Foundation Trust (the Trust) with a copy of a leaflet recently circulated by the Trust and partner organisations entitled “Talk before you walk”. This leaflet had been created as part of a Communications Strategy to ensure all stakeholders were aware of the changes to urgent care services in Hartlepool and Stockton. In earlier communications, representatives from the Trust had suggested that the leaflet be distributed inside the Council’s Hartbeat magazine. In addition to this, the following was also being undertaken:

- An additional 3,000 copies of the leaflet to be given to the Council’s Communications Team to distribute within public buildings;
- A social media campaign will run leading up to the opening of new services, working with partner organisations to communicate the changes;
- Leaflets to be distributed to GP practices, hospital clinics, pharmacies, dentists, patients groups and Healthwatch;
- A member event had been held with attracted many Hartlepool residents to inform them of the changes;
- Articles in the local media, including the Hartlepool Mail; and
- Updates to all alliance websites.

The representatives from the Trust in attendance at the meeting recognised that this was a leaflet about the changes to urgent care service provision although acknowledged that this was the first time they had seen it. The Chair did not consider that this leaflet was very clear and should be amended to make it clearer that the changes were to the provision of urgent care in Hartlepool and Stockton which would be more likely to ensure people read it. As Members considered that the purpose of this leaflet was so unclear, they were not comfortable including it within the Council’s Hartbeat magazine. The representatives from the Trust in attendance indicated they would ensure the Committee’s views and comments were fed back to the appropriate team within the Trust.

Recommended

- (1) That the concerns raised by Members in relation to the content of the leaflet 'Talk before you walk' be forwarded to the appropriate representatives of the Trust.
- (2) That the Trust be informed that the leaflet 'Talk before you walk' would not be included within the Council's Heartbeat magazine unless it was amended as Members did not consider it was clear about the forthcoming changes to the current Urgent Care provision in Hartlepool.

130. Sharing of Medical Records – MIG (Medical Interoperability Gateway) (Scrutiny Manager)

The report informed the Committee that the rollout of the Medical Interoperability Gateway (MIG), which was an electronic system enabling health and care professionals providing a patient with treatment, to view a summary of their GP held medical records, with their consent. This could include details of medical conditions, medication, operations and treatment, tests that had been requested or carried out and contact details for next of kin or other carers. It would not include information about sensitive discussions the patient may have had with their GP.

In response to a request for clarification the Scrutiny Manager indicated that from the information provided, patients will be asked if they were happy for their information to be shared through this electronic system.

Recommended

The updated provided was noted.

131. Six Monthly Monitoring of Agreed Scrutiny Recommendations (Scrutiny Manager)

The report provided an outline of the progress made against the investigations undertaken by the Committee which highlighted that 58% (11) had been completed with 37% (7) in progress to complete. There was 1 recommendation outstanding which was that the Council continue to raise awareness of CVD through encouraging staff to become CPR trained. It was noted that North East Ambulance Service (NEAS) had agreed to provide training sessions for staff and an update was awaited on the progress of this.

Recommended

The progress made against the recommendations was noted.

132. Healthwatch Hartlepool – Investigation Report into Patient Experiences of Dementia Diagnosis *(Representatives from Healthwatch)*

A representative from Healthwatch presented a comprehensive report which provided the outcomes of the recent investigation into patient and carer experience of dementia diagnosis processes undertaken by Healthwatch Hartlepool, attached at Appendix 1. The detailed report included feedback from GPs and patients/carers/families.

In conclusion it was noted that overall there was evidence that diagnosis and associated procedures had improved across the GP practices that had participated in the investigation. However some patients and their families felt that there was still a stigma attached to their condition and this could impair their willingness to seek help and support at an early stage and more work around the misconceptions and prejudice around the condition was needed. Some patients had commented that the level of ongoing support once diagnosis was received could be improved along with the communication processes at the stage of diagnosis. Communications between GPs and the Memory Clinic appeared to work reasonably well in most instances and the introduction of The Bridge Centre had been extremely helpful in supporting patients and family members.

It was recommended within the report that the findings and conclusions were noted and acted upon by all relevant parties and that Healthwatch Hartlepool continued to monitor the ongoing development of patient experience of service delivery in this area.

A Member commented that everyone was concerned about dementia and alzheimer's and the associated problems which could affect people of all ages adding that this was a very good and comprehensive report.

Recommended

That the contents and associated recommendations of the Healthwatch Hartlepool Dementia Diagnosis Patient Experience report were noted.

133. Safer Hartlepool Partnership Performance *(Director of Regeneration and Neighbourhoods)*

The report provided an overview of the Safer Hartlepool Partnership performance for Quarter 2 – July 2016 to September 2016 (inclusive) along with comparisons with the same period in the previous year, where appropriate.

Recommended

The report was noted.

134. Minutes of the meeting of the Health and Wellbeing Board held on 19 September, 17 October and 5 December 2016

Received.

135. Minutes of the meeting of the meeting of the Tees Valley Health Scrutiny Joint Committee held on 21 October 2016

Received.

136. Transforming Care – Respite Services Review (*Scrutiny Manager*)

The report informed the Committee of a review into health funded respite care for adults with a learning disability and complex needs in relation to the wider Transforming Care agenda. The Tees Valley Joint Health Scrutiny Committee (TVJHSC) had received information on the proposals and the minutes of the meeting of the Tees Valley Health Scrutiny Joint Committee held on 21 October 2016 refer. In addition to this a further update report had been considered by the TVJHSC and this was attached at Appendix A.

It was noted that the TVJHSC would continue to be involved in this review and Members were asked if they would wish to receive updates as the project progressed.

Recommended

The information provided was noted and Members indicated their wish to receive further updates as the project progressed.

137. Minutes of the meeting of the meeting of the Safer Hartlepool Partnership held on 29 July 2016 and 23 September 2016

Received.

138. Regional Health Scrutiny Update

The Chair informed the Committee that discussions were ongoing at the North East Joint Health Scrutiny Committee on the Strategic Transformation Programme although definitive proposals were yet to be confirmed. The Chair indicated he would continue to keep the Audit and Governance Committee informed.

139. Any Other Items which the Chairman Considers are Urgent

The Chairman ruled that the following items of business should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B) (4)(b) of the Local Government Act 1972 in order that the matter could be dealt with without delay.

140. Any Other Business

The Scrutiny Manager informed the Committee that the Care Quality Commission (CQC) had undertaken a detailed piece of work in relation to the Tees, Esk and Wear Valley NHS Foundation Trust which examined safety, effectiveness, responsiveness etc. The CQC sought the Committee's view on the performance of TEWV. It was noted that previously, the Committee had on a number of occasions, made comments in a positive light in relation to mental health services provided including the ongoing work relating to dementia. Members' views were sought on the response to be forwarded to the CQC.

Recommended

That a response be drafted based on Members' previous comments in relation to the performance of the Tees, Esk and Wear Valley NHS Foundation Trust with delegated authority for the Chair to approve the content before forwarding to the CQC.

141. Local Government (Access to Information) (Variation Order) 2006

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

Minute 143 – Consideration of Investigation Report – SC09/2016 – Chief Solicitor and Monitoring Officer – This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to an individual (para1).

142. Declarations of Interest

Prior to the consideration of this item Councillors Stephen Akers-Belcher, Ray Martin-Wells and John Tennant declared a personal interest in this item.

Councillor S Akers-Belcher left the meeting at this point.

143. Consideration of Investigation Report – SC09/2016

(Chief Solicitor and Monitoring Officer) This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to an individual (para1).

Further details were included within the confidential section of the minutes.

Recommended

Further details were included within the confidential section of the minutes.

The meeting concluded at 12.05 pm

CHAIR

AUDIT AND GOVERNANCE COMMITTEE

16 March 2017



Report of: Assistant Director (Finance and Customer Services)

Subject: MAZARS REPORT - GRANT REPORT

1. PURPOSE OF REPORT

- 1.1 To inform Members of the Audit and Governance Committee that arrangements have been made for representatives from Mazars to be in attendance at this meeting, to present the content of the Grant Report.

2. BACKGROUND

- 2.1 This report updates the Audit and Governance Committee on Mazars progress in meeting their responsibilities as the Councils external auditor in relation to certification arrangements for specified claims and returns to Public Sector Audit Appointments.

3. FINDINGS OF MAZARS

- 3.1 Details of key messages are included in the main body of the report attached as Appendix 1.

4. RISK IMPLICATIONS

- 4.1 There is a risk that members of the Audit and Governance Committee do not receive the information needed to enable a full and comprehensive review of governance arrangements at the Council, leading to the Committee being unable to fulfil its remit. To mitigate this risk officers ensure members receive all relevant information.

5. FINANCIAL CONSIDERATIONS

- 5.1 There are no financial considerations.

6. LEGAL CONSIDERATIONS

- 6.1 There are no legal considerations.

7. CHILD AND FAMILY POVERTY CONSIDERATIONS

7.1 There are no child and family poverty considerations.

8. EQUALITY AND DIVERSITY CONSIDERATIONS

8.1 There are no equality and diversity considerations.

9. STAFF CONSIDERATIONS

9.1 There are no staff considerations.

10. ASSET MANAGEMENT CONSIDERATIONS

10.1 There are no asset management considerations.

11. RECOMMENDATIONS

11.1 That the Audit and Governance Committee:

i. Note the report of Mazars.

12. REASON FOR RECOMMENDATIONS

12.1 To ensure the Audit and Governance Committee is kept up to date with the work of the Councils External Auditor.

13. BACKGROUND PAPERS

13.1 Mazars Grant Report.

14. CONTACT OFFICER

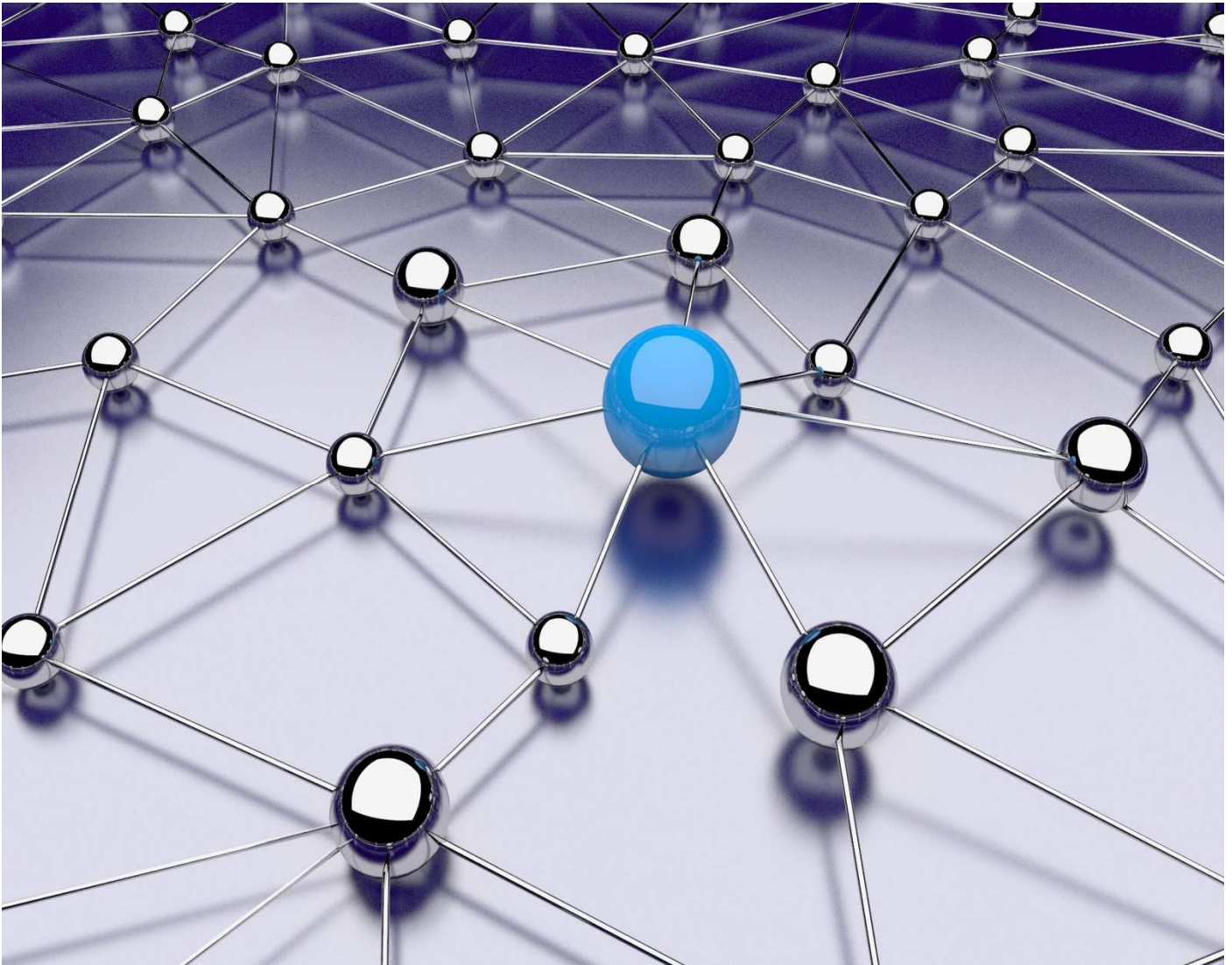
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Hartlepool Borough Council

4.1

Certification of claims and returns

Annual report 2015/16



Contents

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Our reports are prepared in the context of the Public Sector Audit Appointment Limited's 'Statement of responsibilities of auditors and audited bodies'. Reports and letters prepared by appointed auditors and addressed to the Council, its Members, Directors or officers are prepared for the sole use of the audited body and we take no responsibility to any Member, Director or officer in their individual capacity or to any third party.

Mazars LLP is the UK firm of Mazars, an international advisory and accountancy group. Mazars LLP is registered by the Institute of Chartered Accountants in England and Wales.

1 Background

The scope of our work

The Local Audit and Accountability Act 2014 transferred the Audit Commission's responsibilities to make certification arrangements for specified claims and returns to Public Sector Audit Appointments (PSAA). For 2015/16, the only claim or return within this regime was the housing benefit subsidy return.

The prescribed tests for our housing benefits work were set out in PSAA's HBCOUNT module and BEN01 Certification Instructions.

During the year we have also been engaged directly by the Council to undertake assurance work on the teachers' pensions return; our engagement was outside of the Audit Commission/PSAA regime. We have included the results of this work in this report to give Members a full understanding of our assurance and certification work for the year.

Our certificate

For the housing benefit subsidy return, on completion of the specified work we issue a certificate. The certificate states the claim has been certified either without qualification; without qualification following amendment by the Council; or with a qualification letter. Where we issue a qualification letter or the claim or return is amended by the Council, the grant paying body may withhold or claw-back grant funding.

For claims and returns that fall outside of the PSAA regime, we issue an assurance report or provide assurance in accordance with the requirements of the grant-paying body.

2 Findings

Housing benefits subsidy

Claim or return	Value of claim or return 2015/16	Amended	Qualified	Value of claim or return 2014/15	Amended	Qualified
Housing benefits subsidy return	£48,179,713	Yes	No	£47,942,800	Yes	Yes

For this year, we were able to gain sufficient assurance to amend the claim without a qualification letter. For 2014/15, the nature of the errors identified meant that a qualification letter was required even though the errors identified were small.

The underlying requirements are complex, therefore the identification of errors is not necessarily indicative of a weak control environment and officers have undertaken to follow-up all the issues identified and action as appropriate.

Teachers' pensions return

Claim or return	Value of claim or return 2015/16	Amended	Value of claim or return 2014/15	Amended
Teachers' pensions return	£4,586,353	No	£5,298,598	No

There were no reporting points in respect of the teachers' pensions return.

3 Fees

PSAA grant claims and returns

Claim or return	2016/17 scale fee	2015/16 scale fee	2014/15 scale fee
Housing benefits subsidy	£13,860	£10,297	£18,480

The fee for the housing benefits subsidy return is set by the regulator, PSAA, based on previous years' work – and to allow time for consultation, it is set several years in advance. Therefore the scale fee can vary from year to year.

Non-PSAA grant claims and returns

Claim or return	2015/16 fee	2014/15 fee
Teachers' pensions return	£2,500	£2,500

Should you require any further information on this report or on any other aspect of our work, please contact:

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AUDIT AND GOVERNANCE COMMITTEE

16 March 2017



Report of: Director of Finance and Policy and Chief Solicitor

Subject: COUNCIL REFERRAL – 15 DECEMBER 2016

1. PURPOSE OF REPORT

1.1 The purpose of the report is to enable members of the Audit and Governance Committee to consider matters referred to it from Council on 15th December 2016.

2. BACKGROUND

2.1 At the Council meeting of 15th December 2016 questions were asked regarding the Councils involvement in the recent Court Case that led to Angela Wilcox being convicted of various offences included theft and fraud. Angela Wilcox was an ex employee of Manor Residents Association (MRA) and was previously a member of the Council between 5th May 2011 and 5th July 2013.

2.2 It was resolved at the Council meeting that the Audit and Governance Committee:

- Examine the process involved in the awarding of Council contracts to Who Cares North East (WCNE).
- The Council write to the Charity Commission to ensure they are aware of the Court decision on 2nd December 2016 to enable them to take appropriate action as regulator of that sector.
- Consider whether an organisation with an Elected Member as an employee or on its Board be permitted to be awarded a contract with this Local Authority as this would represent the best opportunity to prevent fraud.

3. AWARDING COUNCIL CONTRACTS TO WCNE

3.1 The Connected Care contract was awarded to WCNE on 1st November 2011 and ended on 31st March 2013. The contract had a total value of

£340k per annum (part year effective in 2011/12) and covered the following elements of service:

- Navigators across the Borough: £100k (£50k from PCT and £50k from HBC)
- Town-wide Handyperson Service and delivery of a town wide Supported Access to Independent Living Service (SAILS) including advice, information, signing-posting, luncheon clubs, welfare notices, social activities: £240k (£120k from PCT funding for social care and £120k from PCT reablement funding)

- 3.2 On 28th March 2011, Cllr Ged Hall, the Portfolio Holder for Adult and Public Health considered and approved a report seeking an exemption from the Council's Contract Procedure Rules for two Borough-wide two year contracts for the services detailed above (Appendix 1). A pilot project delivering an innovative and pathfinder model of support within communities had been running in the south of Hartlepool since 2008. Several external evaluations had established the pilot to be successful and an expansion of this pilot concept to facilitate greater evaluation covering the whole Borough was central to the decision to agree an exemption to contract procedure rules.
- 3.3 In order to be more efficient in terms of contracting it was agreed to develop one overarching contract that encompassed the range of services described in 3.1 above. The new contract was to be awarded to WCNE, a community interest company (CIC) with a board of directors that would include representatives from across Hartlepool.
- 3.4 The CIC was set up specifically as a vehicle for the delivery of a connected care service arrangement. The contractual documentation was specific on the requirement to involve residents and community organisations from across Hartlepool as part of any connected care developments in their area.
- 3.5 On 30th August 2011 the Council's Cabinet approved a report reaffirming the decision of Cllr Ged Hall, the Portfolio Holder for Adult and Public Health Services, to award the full contract covering connected care navigation services, handyperson service and SAILS reablement service to WCNE (Appendix 2). This report took into account legal opinion received from Counsel on 16th August 2011 confirming that correct procedures and processes had been followed in relation to the proposed contracts for services which were classed as Part "B" services under the EC Public Sector Procurement Directives.
- 3.6 A report was presented to the Cabinet meeting on the 4th February 2013 with an update on services commissioned from WCNE from October 2011 to November 2012 following an interim review of the service. The interim review of the WCNE contract provided assurance that the Council was receiving the service paid for; the report stated that "the provider contributes to improving people's lives, promoting

their independence, safety and wellbeing, preventing isolation and exclusion, supporting people to live as independently as possible within their own homes and contributing towards timely, safe hospital discharges”.

- 3.7 Cabinet decide that a tendering process in relation to the contract be undertaken (Appendix 3). A tender process was undertaken and following an evaluation of the two bids received, the provision of low level support services was awarded to HVDA from 1st October 2013.

4. PUBLIC INQUIRY

- 4.1 Running parallel to this tendering process was a public inquiry, agreed by Council on 6th December 2012, undertaken by an independent barrister who received evidence examining the commissioning and letting of contracts by the Council and the relationship between elected Members and the voluntary/community sector in the award of contracts over this period. As part of the inquiry open sessions with the public were held.
- 4.2 The independent barrister also examined member's declarations of interest in relation to the formation of a contractual relationship between the Council and the voluntary and community sector.
- 4.3 The barrister's report was circulated to all Members of the Council on 20th October 2013. A public meeting was also held in the Council Chamber on 4th October 2013 where the author was in attendance to present the report and answer any questions from Councillors and members of the public. Four recommendations were made by the inquiry and actioned by the Council, these were:
- Additional guidance on the disclosure of interest is to provided to all Councillors by the Chief Solicitor,
 - Individual Councillors must continually update their declaration of interest to reflect any changes in circumstances,
 - Hartlepool Council should consider further expanding existing declarations of interest to provide details of employment, interests in property, etc,
 - Hartlepool Council should establish a defined group of officers to approve and record the reasons for any exemptions from their contract procedure rules.

5. INTERNAL AUDIT REVIEW

- 5.1 An internal audit review of MRA and WCNE also commenced on 6th February 2013 which reported its findings to the Audit and Governance Committee on 27th June 2013. The Committee at that time was chaired

by former Councillor Keith Fisher and comprised of Councillors Ainslie, S Akers-Belcher, Brash, Loynes, Robinson and Shields.

- 5.2 The conclusion of the audit report was that limited assurance could be placed on the procedures that were in place to manage funds HBC provide to WCNE. This was due to the fact that adequate administration arrangements were not in place for WCNE to manage payroll expenditure.
- 5.3 The audit also established anomalies with documentation provided as part of the MRA review. This information was passed onto the police which led to the arrest and conviction of three employees of MRA.
- 5.4 A letter was sent to the Charity Commission on 22nd December 2016 as requested by Council, attached as Appendix 4.

6. CONCLUSION

- 6.1 The awarding of the Connected Care contract to WCNE was taken following a thorough and transparent process that followed Council contract procedure rules. Cabinet made the final decision to award the contract at its meeting of 30th August 2011. This was accompanied by legal opinion received from Counsel on 16th August 2011 confirming that correct procedures and processes had been followed. Cabinet also decided to retender that work at its meeting of 4th February 2013.
- 6.2 A public inquiry was conducted by an independent Barrister which amongst other things reviewed the relationship between elected Members and the voluntary and community sector in the award of contracts. The recommendations made by the Barrister have been implemented by the Council.

7. RECOMMENDATION

- 7.1 That the Audit and Governance Committee review the contents of the report and update Council on its conclusions.

8. REASON FOR RECOMMENDATIONS

- 8.1 To allow the opportunity for the Audit and Governance Committee to report back to Council on the matters referred to it on 15th December 2016.

9. RISK IMPLICATIONS

- 9.1 There is a risk that the council does not comply with statutory requirements and best practice in the letting of contracts and the commissioning of services leading to non compliance with statutory requirements and reputational damage.

10. FINANCIAL CONSIDERATIONS

- 10.1 There are no financial considerations.

11. LEGAL CONSIDERATIONS

- 11.1 Although it was suggested at Council that where an Elected Member was either an employee and/or a Board representative of an organisation, that organisation should then be prohibited from entering into a contractual relationship with the Council, that would be a very draconian and probably an unjustified step to take. It should not be forgotten (fully appreciating reputational and other consequences) that these incidents of criminality related ostensibly to one individual albeit one who also held public office. Members and officers are bound by their respective Codes of Conduct. There is also a criminal sanction should a Member, without lawful excuse, fail to disclose a pecuniary interest (S.34 of the Localism Act, 2011 refers) and there is a similar provision relating to officers (S.117 of the Local Government Act, 1972). There are also specific provisions relating to misconduct in public office (appreciating the Law Commission is looking at proposals for reform) and a myriad of provisions covering offences of dishonesty.
- 11.2 Where Elected Members and officers hold position outside of the Council, they are bound by their obligations to that body. Corporate governance arrangements will undoubtedly seek to cover conflicts of interest, to ensure accountability and transparency of approach. Even in unincorporated bodies there should be sufficient 'checks and balances' to regulate the behaviour of individuals within that organisation and the relationship with other bodies, particularly where there is a connection with the Council. Members are legally obliged to submit and maintain their Register of Interests (accessible on the Council's website as a statutory requirement) and to declare those interests at meetings, which are formally recorded. This again provides some degree of oversight and accountability.
- 11.3 It is a common fact that Elected Members in a voluntary or other capacity may have an association with an outside organisation or other body. Some appointments even relate to nominations from the Council. It would be wrong, or at least a recessive action to seek to prohibit or otherwise limit Elected Members (and this should therefore apply to officers) involvement in organisations and other bodies outside of their

roles as Councillors. It would also materially restrict the Council in contracting with others (particularly schools, academies etc.) and it would be wrong to have any form of demarcation around which bodies the Council sought to enter into a contractual relationship with, in order to deliver services, subject to best value and other considerations. The spirit of the suggestion at Council to ensure that there should be a disassociation of Elected Members from other organisations and bodies is recognised, but it is neither a practical nor pragmatic solution. There are safeguards in any properly regulated system. It is though unfortunate that on occasions, there are individuals who seek personal gain which crosses a line into dishonesty. However, that should not be a reason to introduce measures which would undoubtedly unfairly penalise others and place potentially severe restrictions on the Council's ability to contract, exercise its functions and deliver its services.

12. CHILD AND FAMILY POVERTY CONSIDERATIONS

12.1 There are no child and family poverty considerations.

13. EQUALITY AND DIVERSITY CONSIDERATIONS

13.1 There are no equality and diversity considerations.

14. STAFF CONSIDERATIONS

14.1 There are no staff considerations.

15. ASSET MANAGEMENT CONSIDERATIONS

15.1 There are no asset management considerations.

16. BACKGROUND PAPERS

16.1 Adult and Public Health Portfolio Meeting Minutes – 28th March 2011
 Counsel Opinion – 16th August 2011
 Cabinet Meeting Minutes – 30th August 2011
 Cabinet Meeting Minutes – 4th February 2013
 Audit and Governance Committee Minutes – 27th June 2013
 Public Enquiry – 20th October 2013

17. CONTACT OFFICER

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ADULT AND PUBLIC HEALTH SERVICES PORTFOLIO

Report to Portfolio Holder
28 March 2011



Report of: Director of Child & Adult Services

Subject: CONNECTED CARE: DEVELOPING THE BUSINESS.

SUMMARY

1. PURPOSE OF REPORT

This report provides an overview of Connected Care in Owton Ward and the development of Who Cares (NE), a community interest company (CIC), to commission services for the people living in Owton.

Connected Care's three year contract ends in March 2011. This report evaluates the success of the model and recommends that a further 2 year contract should be extended to fund a pilot project to enable the services to be rolled out and evaluated across the borough.

The report seeks to secure an exception to the contract procedure rules that require a contract valued over £100,000 to go through a tender procurement process.

2. SUMMARY OF CONTENTS

Connected Care is a model which seeks to address fragmented service provision and provide local services that are co-designed and produced by local people and rooted in their local communities.

In 2008 Connected Care went live with a small team of navigators who work with people using low-level interventions and linking them to more specialist services when required.

In 2010 a community interest company (CIC) Who Cares (NE) was set up to develop and commission services to support the people in Owton to live more independently and achieve a better quality of life. The CIC has a Board of Directors drawn from local organisations that have a wealth of experience in developing local community services. Connected Care is embedded in Manor Residents Association, a thriving social enterprise with over 20 years experience of developing local services. It

has deep roots and strong networks into the community and an understanding of what is needed.

Connected Care has been funded by the Department of Health (DoH) as a pilot project as well as Hartlepool Borough Council (HBC), Primary Health Trust (PCT), Housing Hartlepool, Neighbourhood Regeneration Funding (NRF) and a range of funding drawn in by the CIC. Work is currently underway with the London Schools of Economics (LSE) to complete a cost benefit exercise in respect of the money that Connected Care saves a whole range of organisations through its early intervention model.

The services offered by Connected Care and the CIC include:

- A team of navigators working with people on a range of issues and providing timely support to prevent escalation of their difficulties that would require more costly intervention.
- A magazine 'Who Cares' which reaches every home in the Ward
- A handyperson repair service
- Outreach sessions at the local Primary Care Centre
- A Time Bank where people share their skills
- Future Jobs Fund helping people into training and jobs
- A Benefits and Welfare Advice service
- Partnership with Accent Foundation Trust to refurbish flats and support vulnerable young people with their tenancies
- Supported Access to Independent Living Services (SAILS) service providing support to vulnerable older people at home.

Several external evaluations of Connected Care in the last 2 years have all been positive, feedback from local people using the service is excellent and, in April 2009, HBC Scrutiny Forum recommended the roll-out of Connected Care across the town 'as a positive way of helping reach families that would not normally interact with either the Council or engage with health services'

Connected Care has been recognised with a major national award from 'In Control' in respect of being an excellent model of community work that encourages community engagement and participation.

Connected Care has applied to be a “Local Inclusion Lab” (a Cabinet Office Project to tackle multiple disadvantages in the context of the Big Society, efficiency and reform). If successful this will enable Connected Care to draw in further funding, a Community Organiser and business planning skills as well as expertise to evaluate the roll out of Connected Care across the borough. The project runs for 6 months from April – October 2011.

Connected Care is due to be rolled out to the rest of the borough over the next 2 years. Funding is in place from HBC and the PCT to enable this development for the core navigator service. The CIL is drawing in income from Housing Hartlepool, Northern Rock and various other organisations to support the low level services. The intention is to put in place a 2 year pilot enable the roll out of the Connected Care model across Hartlepool. The pilot would be funded from a recurrent PCT/LA budget as well as from re-ablement funding coming over to the council in April 2011.

Connected Care is a model which delivers low-level interventions that prevent or delay the need for more costly services if current needs are left to deteriorate. *This is a cost-effective service that meets the requirements for prevention and reablement, keeping people living independently in their own homes and connected to their communities.* Many people who receive support from Connected Care subsequently become volunteers to give back something to the local community which was there when they needed support. Connected Care is well placed to deliver the roll out of this service across Hartlepool.

This model is founded on effective partnerships and merged funding streams from HBC, NHS, Housing Associations and a range of other sources. It is a model that works and, for that reason, an exemption to the current contract procedure rules that requires a Tender exercise to be used for all contracts over the value of £100,000 is recommended. *The exemption request is based on the recommendation that the 2 year roll out is a pilot project to evaluate the roll out of Connected Care across the borough. Funding for this pilot project would be drawn from £200,000 recurrent PCT/LA sources and £480,000 from the reablement funding for 2011-2013.*

The Connected Care model meets the objectives of localism, the Big Society, place-based funding and empowering local communities. Over the next few months Connected Care/ Who Cares (NE) will be, together with a number of organisations from the Community and Voluntary sector (CVS), exploring the possibility of putting together a joint bid to take over some of the local authority's community centre buildings. Asset transfer would facilitate the development of hubs from which Connected Care could develop the business within local community settings in the North and Central areas of Hartlepool.

3. RELEVANCE TO PORTFOLIO MEMBER

Information on the success of Connected Care and the CIC in delivering its objectives together with developmental proposals for the next 2 years which will require an exemption to the current contract procedure of tendering for a contract whose value is in excess of £100,000.

4. TYPE OF DECISION

Key Decision – Test (i) and (ii) apply – Forward Plan Reference CAS 88/11.

5. DECISION MAKING ROUTE

Adult and Public Health Services Portfolio – 28 March 2011

6. DECISION REQUIRED

- Exempt CC from the current procedure of tendering for a contract whose value is in excess of £100,000. This will enable Connected Care, as a pilot project to secure funding which will pump prime the roll out of Connected Care and the CIC across Hartlepool over the next 2 years.
- Continue the Handyperson service for three years to enable this valuable service to continue to support vulnerable and older residents across Hartlepool.

Report of: Director of Child & Adult Services

Subject: CONNECTED CARE: DEVELOPING THE BUSINESS

1. PURPOSE OF REPORT

- 1.1 This report provides an overview of Connected Care in Owton Ward and the develop of Who Cares (NE) a community interest company (CIC), to commission services for the people living in Owton.
- 1.2 Connected Care's three year contract ends in March 2011. This report evaluates the success of this model and recommends that the contract be awarded to Connected Care as a pilot for a further 2 years to enable the model to be rolled out across the borough.
- 1.3 It is recommended that, as a pilot, the Connected Care service is exempted from the contract procedure rules that require a contract valued in excess of £100,000 to go through a tendering process. The Connected Care model is founded on effective partnerships and merged funding streams from Hartlepool Borough Council, the NHS, Housing Associations, Northern Rock and a range of other agencies. It is a model that works and meets the objectives of localism, Big Society, place-based funding and empowering local communities.

1. BACKGROUND

- 2.1 Connected Care was developed following a community-led audit in Owton Ward which highlighted the fragmented nature of services and the problems this caused people trying to access them. The audit identified what people wanted from services: good information, choice, local services delivered by a local workforce and outcomes that made a positive difference to the lives of people in Owton Ward.
- 2.2 Connected Care is an innovative model of service delivery which aims to bridge the gap in adult social care and health provision while ensuring that local communities directly influence the development of services:
 - Breaking down the barriers between organisations
 - Putting people in control of the services they need
 - Involving people in the design and delivery of services
 - Bringing services and communities together to provide webs of support.
- 2.3 Connected Care is able to support people who may not meet the FACS criteria and this contributes to prevention and early intervention initiatives which support people before they require more costly, secondary services.

- 2.4 Connected Care went live towards the end of 2008 with a small team of navigators who work with people using low-level interventions and linking them to more specialist services when required. The navigators work with people on a range of issues including debt, poverty and family welfare, volunteering, employment, health and social care, housing, mediation, home safety and bereavement.

A magazine 'Who Cares' is produced on a quarterly basis and reaches every home in Owton.

In the last 18 months, the navigators have supported over 1200 people to resolve their problems. A significant number of people who have been supported by Connected Care subsequently end up volunteering to put something back into the community which was there for them when they needed help.

- 2.5 In 2010 a Community Interest Company (CIC) Who Cares (NE) was established to develop and commission services to support the people in Owton to live independently and achieve a better quality of life. The CIC has a Board of Directors drawn from local organisations that have a wealth of experience in developing local community services. It has deep roots and strong networks into the community and an understanding of what is needed.
- 2.6 Core funding for the navigator service over the last 3 years has been provided by Hartlepool Borough Council, the Primary Care Trust and the Working Neighbourhood Fund with start-up costs being funded by the Department of Health 'Pathfinder' Pilot. The CIC has levered in funds from a range of organisations such as Housing Hartlepool, Accent Foundation Trust and Northern Rock.
- 2.7 In 2010 Connected Care was recognised with a major national award from the national charity 'In Control' in respect of being an excellent model of community work that is both innovative and successful at addressing people's needs at a community level.

Feedback from people who use the Connected Care Services and detailed outcomes from case studies evidence that local residents find the services accessible, approachable, efficient and helpful in joining up services and helping people access support in a timely way. The independent evaluation by Durham University of Connected Care services, a two year study concluding in early 2010, found that preventative work is being achieved. Access, choice, information, continuity and co-ordination (the outcomes requirements from the community-led audit in 2006) are met by the navigator service.

A second evaluation, independently commissioned by the Regeneration Services of Hartlepool Borough Council, reached the following conclusions:

- Connected Care embodies the Community Strategy's principles of effective partnership working, involvement and inclusion. It has a cross-cutting impact across all of the strategy's aims and is at the forefront of local service providers' approaches to Health and Wellbeing Agenda and
 - "Connected Care has improved access to services and delivered a range of outcomes for residents in Owton Ward. It connects strategically and operationally with service providers and has established commitment to secure its immediate future" (Independent Consultants Report, 2009).
- 2.8 Connected Care contributed to the Hartlepool Health Scrutiny Forum in 'Hard to Reach Families' in early 2009. The findings of the Scrutiny Forum were *'that the Connected Care programme be rolled out across the town as a positive way of helping reach families that would not normally interact with either the Council or engage with health services'*

3. CURRENT SERVICES

3.1 The services offered by Connected Care and the CIC include:

- **Navigators** working with people to resolve their problems and in partnership with other providers to influence and improve services. Regular outreach sessions at the Intra Health Primary Care Centre have resulted in a significant number of people registering with a local GP.
- **Handyperson service** that works in partnership with Housing Hartlepool, the Owton and Rossmere Neighbourhood Action Plans and Hartlepool Borough Council. The service has now been rolled out across the town and provides low level adaptations together with a range of practical assistance for older people and people with disabilities. Over 549 people have received services with 251 jobs being completed for people in the last three months. In excess of 40 new clients are seen each month. The demand for this service has seen a rapid growth over the last four months since taking on the local authority contract in October 2010. Occupational therapists refer directly into the service. 54% of users of this service have submitted feedback and comments on the quality of the service and the work undertaken is excellent. Comments, cards and letters are kept on file and provide evidence of the value provided by this service.

- **Time Bank**, developed in 2010, currently has approximately 25 members and 800 hours time-banked. People share their skills which affirm their self-worth and confidence as well as building social capital and community cohesion.
- **Supporting Access to Independent Living Services (SAILS)** currently has approximately 60 people on the programme who are being helped to live independently in their own homes. A range of services are provided including meals, gardening, dog walking and a call back service. This project is run by volunteers with 600 meals delivered and 215 call-backs completed each month. There is a growing demand for this service and clear evidence that it contributes to the delivery of social preventative care for older residents in respect of prevention/delay of entry to residential care, hospital admissions and readmissions. Connected Care is working with health and other local providers to identify potential and emerging funding streams for this valuable service.
- **Benefits and Welfare Advice service** employing a dedicated advice worker and having, to date, assisted 1290 clients and levered in £200,000 in unclaimed benefits.
- **Supported Accommodation Project** for young people designed to achieve positive outcomes for vulnerable young people aged 18-24 years old. This project draws together key partners: Northern Rock Foundation, Manor Residents Association, Connected Care and the CIC, Accent Foundation and Hartlepool Borough Council.
- 37 flats, due for demolition, because the area had become a centre for drugs, crime and vandalism, are being refurbished.
- The project comprises 8 one-bedroom flats, a 2 bedroom house and a 'crash-pad' for emergency use as well as on site office facilities. Connected Care provides a flexible service to the vulnerable young residents including welfare advice, adult education and employment support and assistance to develop independent living skills and sustain their tenancies. The area has been turned round and is a success story for community regeneration.

4. BUSINESS PLAN 2011 – 2013

4.1 Over the next 2 years Connected Care and the CIC will:

- Acquire charitable status for the CIC to increase its ability to compete for a range of funding resources
- Expand the work undertaken with partner agencies to maintain both care navigation and project services
- Maintain a flexible approach that enables an effective response to changing circumstances and the expected growth in demand. This will be achieved by:

- Maintain flexibility in job roles and responsibilities.
- Grow the volunteer base.
- Identify and responding to new and emerging funding streams.
- Work with partners to deliver cost effective services that provide positive outcomes for people.
- Continue improving the services delivered by Connected Care and the CIC including working towards both the MATRIX standard for Advice and Guidance and the Legal Services kite mark for benefits and advice provision.
- Explore business opportunities and potential income sources to be accessed and delivered via the CIC.
- Continue to work with the London School of Economics (LSE) to evidence the savings made through the provision of Connected Care Services.
- Continue to develop the CIC as the commissioning and business development arm of Connected Care.
- Diversify the numbers of funding streams to both maintain and expand provision.
- Incrementally develop and roll out Connected Care, as a PILOT project, across the central and north areas of Hartlepool.
Connected Care and MIND have recently completed an audit of the Burbank area of Hartlepool – report to be published spring 2011. Information from the audit will be utilised as a basis from which to develop the services identified by people as appropriate to Central Hartlepool.
- Develop a relationship with the emerging GP commissioning consortia to promote Connected Care as a cost-effective investment. *The increasing focus on prevention, early intervention and re-ablement services that delay or prevent admission / readmission to hospital is an agenda that Connected Care is well placed to deliver.*
- Explore, in partnership with a range of Community and Voluntary organisations (CVS), the potential to develop a joint bid to take over some of the local authority's community centre buildings. Asset transfer would facilitate the development of hubs from which Connected Care /Who Carers (NE) could develop the business within local community settings in the North and Central areas of Hartlepool.

5. FINANCIAL IMPLICATIONS 2011-2013

5.1 Hartlepool Borough Council and the Primary Care Trust will support Connected Care as a 2 year pilot with the following funding:

- £680,000 in total over two years which will comprise £200,000 from recurrent PCT/LA monies and £480,000 from the £1.3 million reablement funding that is being made available 2011-2013.

- The CIC will draw in additional income from a range of sources including Housing Hartlepool and Accent Foundation. There will also be the potential for maximising income generation through personal budgets, personal health budgets and the GP commissioning consortia. The work being completed by the London School of Economics (LSE) to evidence the cost savings utilised by low-level/preventative interventions will be useful in advocating for funding from a range of agencies ie community safety, education and children's services.
- If Connected Care is successful in being chosen as a "Local Inclusion Lab" (a Cabinet Office sponsored project lasting 6 months from April – October 2011. This project will look at resolving multiple disadvantages in the context of the Big Society, efficiency and reform) there will be opportunities for some limited funding, a Community Organiser, business planning skills expertise and support to evaluate the roll out of Connected Care/ Who Cares (NE) across the borough. Rolling out Connected Care across the borough during this period, if successful in the application process, will maximise the learning and evaluation. Conversely, failure to put a pilot project in place to roll out the model from April 2011 will mean that the potential advantages and learning opportunities arising from the Inclusion Lab will be lost.
- Following a meeting with Dr Posmyk, Dr Wood, PCT commissioners, Gerald Wistow and Connected Care on 22nd February 2011 it has been agreed that Connected Care will be part of the Pathfinder application that is being submitted by the nascent GP Commissioning Consortia.

6. EXEMPTION FROM CURRENT CONTRACT PROCEDURES

- 6.1 Connected Care is a model which delivers low-level interventions that prevent or delay the need for more costly services if current needs are left to deteriorate. This is a cost-effective service that meets the requirements for prevention and re-ablement, keeping people living independently in their own homes and connected to their communities.

Connected Care is well placed to deliver the roll out of this service across Hartlepool over the next 2 years. This model is founded on effective, established partnerships and merged funding streams from Hartlepool Borough Council, PCT, Local Housing Associations and a range of other funding sources. It is a model that is unique and has been built upon and rooted in the local community organizations which have dense networks, deep roots and a wealth of experience in growing local services and attracting resources, funding and volunteers. Connected Care is well placed to contribute to helping keep people at home and out of hospital as well as supporting them when they return home from hospital.

It is a model that works and which could not be replicated by a tender exercise.

7. RECOMMENDATIONS

It is recommended that:

1. An exemption to current contract procedure rules are waived so that Connected Care and the CIC can build on their current success and continue, as a 2 year pilot, to roll out this model of service provision to the central and north areas of Hartlepool. The pilot would be subjected to rigorous evaluation over this 2 year implementation period.
2. The Handyperson services contract continues for a further two years and continues to work across the borough of Hartlepool.

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ADULT AND PUBLIC HEALTH SERVICES PORTFOLIO DECISION RECORD

28 March 2011

The meeting commenced at 10.00 am in the Civic Centre, Hartlepool

Present:

Councillor Gerard Hall (Adult Services and Public Health Portfolio Holder)

Officers: Jill Harrison, Assistant Director, Adult Social Care
Geraldine Martin, Head of Service, Adult Social Care
Neil Harrison, Head of Service, Adult Social Care
Sylvia Pinkney, Public Protection Manager
Angela Hunter, Principal Democratic Services Officer

35. Connected Care: Developing the Business *(Director of Child and Adult Services)*

Type of decision

Key Decision – Test (i) and (ii) apply.

Purpose of report

The report provided an overview of Connected Care in Owton Ward and the development of Who Cares (NE), a community interest company (CIC), to commission services for the people living in Owton.

Connected Care's three year contract ends in March 2011. The report evaluated the success of the model and recommended that a further 2 year contract should be extended to fund a pilot project to enable the services to be rolled out and evaluated across the borough.

The report sought to secure an exception to the contract procedure rules that require a contract valued over £100,000 to go through a tender procurement process.

Issue(s) for consideration by Portfolio Holder

Connected Care is a model which seeks to address fragmented service provision and provide local services that are co-designed and produced by

local people and rooted in their local communities.

In 2008 Connected Care went live with a small team of navigators who work with vulnerable people using low-level interventions and linking them to more specialist services when required.

In 2010 a community interest company (CIC) Who Cares (NE) was set up to develop and commission services to support the people in Owton to live more independently and achieve a better quality of life. The CIC has a Board of Directors drawn from local organisations that have a wealth of experience in developing local community services. Connected Care is embedded in Manor Residents Association, a thriving social enterprise with over 20 years experience of developing local services. It has deep roots and strong networks into the community and an understanding of what is needed.

Connected Care has been funded by the Department of Health (DoH) as a pilot project as well as Hartlepool Borough Council (HBC), Primary Health Trust (PCT), Housing Hartlepool, Neighbourhood Regeneration Funding (NRF) and a range of funding drawn in by the CIC. Work is currently underway with the London Schools of Economics (LSE) to complete a cost benefit exercise in respect of the money that Connected Care saves a whole range of organisations through its early intervention model.

The services offered by Connected Care in Owton and the CIC include:

A team of navigators working with vulnerable people on a range of issues and providing timely support to prevent escalation of their difficulties that would require more costly intervention.

A magazine 'Who Cares' which reaches every home in the Ward

A handyperson repair service

Outreach sessions at the local Primary Care Centre

A Time Bank where people share their skills

Future Jobs Fund helping people into training and jobs

A Benefits and Welfare Advice service

Partnership with Accent Foundation Trust to refurbish flats and support vulnerable young people with their tenancies

Supported Access to Independent Living Services (SAILS) service providing support to vulnerable older people at home.

Several external evaluations of Connected Care in the last 2 years have all been positive, feedback from local people using the service is excellent and, in April 2009, HBC Scrutiny Forum recommended the roll-out of Connected Care across the town 'as a positive way of helping reach families that would not normally interact with either the Council or engage with health services'

Connected Care has been recognised with a major national award from 'In Control' in respect of being an excellent model of community work that encourages community engagement and participation.

Connected Care has applied to be a "Local Inclusion Lab" (a Cabinet Office Project to tackle multiple disadvantages in the context of the Big Society, efficiency and reform). If successful this will enable Connected Care to draw in further funding, a Community Organiser and business planning skills as well as expertise to evaluate the roll out of Connected Care across the borough. The project runs for 6 months from April – October 2011.

It is suggested that Connected Care is rolled out to the rest of the borough over the next 2 years. Funding is in place from HBC and the PCT to enable this development for the core navigator service focussed on supporting vulnerable people. The CIL is drawing in income from Housing Hartlepool, Northern Rock and various other organisations to support the low level services. The intention is to put in place a 2 year pilot enable the roll out of the Connected Care model across Hartlepool. The pilot would be funded from a recurrent PCT/LA budget as well as from re-ablement funding coming over to the council in April 2011.

Connected Care is a model which delivers low-level interventions that prevent or delay the need for more costly services if current needs are left to deteriorate. This is a cost-effective service that meets the requirements for prevention and reablement, keeping people living independently in their own homes and connected to their communities. Many people who receive support from Connected Care subsequently become volunteers to give back something to the local community which was there when they needed support. Connected Care is well placed to deliver the roll out of this service across Hartlepool.

This model is founded on effective partnerships and merged funding streams from HBC, NHS, Housing Associations and a range of other sources. It is a model that works and, for that reason, an exemption to the current contract procedure rules that requires a Tender exercise to be used for all contracts over the value of £100,000 is recommended. The exemption request is based on the recommendation that the 2 year roll out is a pilot project to evaluate the roll out of Connected Care across the borough. Funding for this pilot project would be drawn from £200,000 recurrent PCT/LA sources and £480,000 from the reablement funding for 2011-2013.

The Connected Care model meets the objectives of localism, the Big Society, place-based funding and empowering local communities.

Over the next few months Connected Care/ Who Cares (NE) will be, together with a number of organisations from the Community and Voluntary sector (CVS), exploring the possibility of putting together a joint bid to take over some of the local authority's community centre buildings. Asset transfer would facilitate the development of hubs from which Connected Care could develop the business within local community settings in the North and Central areas of Hartlepool.

The Portfolio Holder sought clarification on the reablement funding to be utilised for this pilot project. The Head of Service confirmed that this funding was allocated to PCTs to be transferred to local authorities. The funding was intended to be used to prevent hospital admissions and support people to retain their independence as well as supporting people to retain or regain their skills following a period of illness or a hospital stay. The aspects of the Connected Care model that were proposed to be funded from the reablement monies were the navigator service, the handyman scheme and the SAILS scheme. These key elements in particular had a proven impact supporting vulnerable people to remain living independently in their community. The Assistant Director indicated that £1.3m was available for 2011/12 and £1.2m for 2012/13 with one element of this funding being used to pilot this aspect of the connected care approach across the whole town. Plans were being agreed regarding how the remainder of the funding would be utilised to meet social care priorities that contribute to the delivery of better health outcomes.

It was recognised that the connected care model currently operating within the Owton area of the town had proven to be an excellent model for the delivery of services with Government ministers acknowledging this success on recent visits. A lengthy discussion followed on the background to the introduction of connected care and the success achieved since the model had been implemented. The number of and excellent work undertaken by community and voluntary organisations within the town was acknowledged and it was reiterated that local residents, residents' associations and the relevant community and voluntary organisations should be heavily involved in any proposals to roll out the connected care model to other areas of the town. This would ensure that services would be targeted to the particular needs of that area and measures should be taken to involve local groups and residents in the governance arrangements of the community interest company as was intended when the roll out of the scheme to other areas was first discussed.

In conclusion the Portfolio Holder noted that it was through the excellent partnership working and co-operation with the community and voluntary sector and the local authority that connected care had been so successful and it was hoped that this would continue through the roll out of the service across the town.

Decision

- (i) The request for Connected Care to be exempt from the current procedure of tendering for a contract whose value was in excess of £100,000 was approved. This would enable Connected Care, as a pilot project to secure funding which will pump prime the roll out of Connected Care navigators and the CIC with other voluntary organisations across Hartlepool over the next two years.
- (ii) The Handyperson service and SAILS service was approved to

continue for two years to enable these valuable services to continue to support vulnerable and older residents across Hartlepool.

36. Revision of 2011/2012 Fees and Charges – Public Protection *(Assistant Director, Regeneration and Planning)*

Type of decision

Non-key

Purpose of report

To consider the annual review of fees and charges in respect of services, licences and registrations undertaken by the Public Protection section of the Regeneration & Planning Division.

Issue(s) for consideration by Portfolio Holder

The report set out the services, licences and registrations undertaken under various enactments, together with current and recommended fees for 2011/2012. It was noted that the increase in fees would achieve a gross additional income of £8,000 although costs, including staff costs would also increase proportionally.

The Public Protection Manager highlighted the new legislative framework that introduced new licensing requirements for premises that regularly offer sexual entertainment to its customers. The Portfolio Holder was informed that should Council agree to the introduction of these new controls, it would be necessary to consider what fees should be charged in respect of the considering and granting of Sex Entertainment Venue (SEV) licence applications.

In response to a question from the Portfolio Holder, the Public Protection Manager confirmed that there were no changes to the hackney and private hire license fees. The Public Protection Manager clarified that a sex shop could be licensed under existing legislation but a venue proposing to provide regular sexual entertainment to its customers would be required to apply for a SEV licence.

The Portfolio Holder noted that during recent discussions on the Service Delivery Option Review for this area, funding had been identified to enable the service for the control of rats and mice in domestic premises to be provided free of charge.

Decision

The fees and charges for 2011/2012 to be implemented from 1 April 2011 were agreed.

37. Section 18 Standard for Health and Safety Enforcement (*Assistant Director, Regeneration and Planning*)

Type of decision

Non-key.

Purpose of report

To inform the Portfolio Holder of the progress made in meeting the Council's statutory obligations under Section 18 of the Health and Safety at Work etc Act 1974 and to seek approval of an action plan to fulfil unmet requirements.

Issue(s) for consideration by Portfolio Holder

The report provided details of the Council's statutory obligations under Section 18 of the Health and Safety at Work etc Act 1974, progress made in meeting the requirements and a proposed action plan to fulfil the unmet requirements. The Public Protection Manager confirmed that any capacity issues would be included within the Health and Safety Enforcement Plan to be submitted to the Portfolio Holder in June 2011 along with a revised Enforcement Policy.

The Portfolio Holder emphasised the importance of health and safety at work which was recognised through the observance of the annual Workers' Memorial Day. With this in mind, the Portfolio Holder sought clarification on the commitment of resources to health and safety at work. The Public Protection Manager confirmed that this area was included within the Service Delivery Option although no posts had been identified to be lost in this area of work in the recent review. The service area was fully staffed at present which was enabling the backlog of inspections to be gradually reduced, with high risk businesses being prioritised.

The Public Protection Manager informed the Portfolio Holder that should the action plan be approved, the Council could pledge its commitment online before 31 March 2011.

CABINET REPORT

30 August 2011



Report of: Director of Child and Adult Services

Subject: PROGRESS TO DATE ON THE DEVELOPMENT OF
CONNECTED CARE SERVICES IN HARTLEPOOL

SUMMARY

1. PURPOSE OF REPORT

- 1.1 To update Cabinet on the progress to date with the development of connected care services in Hartlepool.
- 1.2 To agree an Action Plan (**Appendix 5**) in response to the findings and subsequent recommendations of the Health Scrutiny Forum's investigation into 'connected care'.
- 1.3 To give an overview and update on progress regarding the contracts agreed relating to connected care services at Adult and Public Health Services Portfolio meeting on 28 March 2011.
- 1.4 To seek Cabinet approval to implement an appropriate chosen option 1 or 2 or 3 as described and to enter into the required contracts until 31 March 2012 or if Option 3, 2 year contract 1 October 2011 until 30 September 2013 with an option to extend for 12 month period subject to satisfactory performance and continued funding all contracts irrespective of chosen option require an exception from the Council's Contract Procedure Rules.

2. SUMMARY OF CONTENTS

- 2.1 The report provides information on the proposed contracts, the financial impact of the provision of the services and also background information regarding the development of Who Cares (NE) as a Community Interest Company. The report details the justification for making an exception to the Council's Contract Procedure Rules to award the contracts.

3. RELEVANCE TO CABINET

- 3.1 The report provides an update on issues previously discussed by Cabinet and requires decisions which are related to previous Cabinet Executive reports.
- 3.2 The Action Plan and proposed contracts contribute to the strategy of providing a range of services.

4. TYPE OF DECISION

- 4.1 Key decision.

5. DECISION MAKING ROUTE

- 5.1 Cabinet.

6. DECISION(S) REQUIRED

- 6.1 Cabinet are asked to decide which Option (1 or 2 or 3) they wish to progress in relation to the contracts relating to connected care and reablement services.
- 6.2 If Options 1 or 2 are chosen, Cabinet are requested to approve an exception to the Contract Procedure Rules in respect of awarding short term contracts until 31 March 2012 to the value of no more than £100,000 (50k Primary Care Trust/50k LA) for the provision of a care navigation service and no more than £40,000 for the provision of handyperson service.
- 6.3 If Option 3 is chosen this reconfirms the Adult and Public Health Services Portfolio decision to award the contract to Who Cares (NE) subject to 3.5.
- 6.4 Cabinet to approve the action plan (**Appendix 5**) relating to connected care prepared in response to the Health Scrutiny Committee's inquiry into connected care.

Report of: Director of Child and Adult Services

Subject: PROGRESS TO DATE ON THE DEVELOPMENT OF
CONNECTED CARE SERVICES IN HARTLEPOOL

1. PURPOSE OF REPORT

- 1.1 To update Cabinet on the progress to date with the development of connected care services in Hartlepool.
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2. BACKGROUND

- 2.1 Turning Point, a national social care organisation, developed the connected care model following research undertaken in 2004. It advocates community-led commissioning, bringing the voice of the community to the design and delivery of all health, housing, education and social care service delivery.
- 2.2 The connected care model was established in Hartlepool following a community audit in the Owton ward during 2006 and has been in operation since 2008. It is delivered by Manor Residents Association through various funding streams including Department of Health, Hartlepool Borough Council, Hartlepool Primary Care Trust, Northern Rock and several other organisations. The Council and Primary Care Trust funding was used to fund care navigators as part of the council and PCT revenue funding budgets.

- 2.3 The care navigators who work within connected care listen to the residents of the community to identify their problems and concerns and guide, support and help link services to meet their needs. Staff for this team were recruited from the community.
- 2.4 In 2010, following a number of problems with the contracted provider for a handyperson service who carried out low level jobs for vulnerable people to support their independence in their own homes it was decided to terminate the contract. Manor Residents Association via the connected care model agreed to fulfil the remaining term of the contract, up to 31 March 2011. The arrangement for this service was funded through the Working Neighbourhood Fund.
- 2.5 On 28 March 2011, the Portfolio Holder for Adult and Public Health considered and approved a report seeking an exemption from the Council's Contract Procedure Rules for two borough-wide two year contracts. These included the care navigation service which was proposed to continue to be funded by the council and PCT's revenue funding streams and other low-level social care and health-related services and a handyperson service. The low-level social care and health services and handyperson services were to be funded by the PCT's monies identified by the Government for re-ablement, i.e. services to support individuals back to independence following admission to hospital and discharge from hospital or the prevention of admissions to hospital or care homes. In order to be more efficient in terms of contracting it was agreed to develop one overarching contract that encompassed the range of services described above. The new contract was to be awarded to Who Cares (NE), a community interest company (CIC) with a board of directors that would include representatives from across the borough of Hartlepool. The CIC was set up specifically as a vehicle for the delivery of a connected care service arrangement. The contractual documentation was to be very specific on the requirement to involve residents and community organisations from across Hartlepool as part of any connected care developments in their area. The total annual value of the two contracts was £340,000.
- 2.6 It had always been the intention to develop a CIC as a vehicle to deliver and facilitate a connected care approach, although this has taken longer than first anticipated. Who Cares (NE) are a Community Interest Company limited by guarantee and were formed and registered at Companies House on 15 March 2010 (**Appendix 1**). The directors and associated information being listed in the Memorandum of Association (copy attached at **Appendix 2**).
- 2.7 Who Cares (NE) are governed by a Memorandum of Association signed by all the Directors and by the Articles of Association (also attached as **Appendix 3**), which governs the scope of directors' powers and responsibilities. Within the Articles it also details the decision making processes by which the Who Cares (NE) are governed.

- 2.8 We are unable to determine the track record of the organisation as it has only been in existence for 17 months and the first full year accounts have not yet been published.
- 2.9 The first year of trading is for the financial year 2010/2011 and those accounts will not be submitted to the charities commission until 15 December 2011, (as detailed in **Appendix 4**).
- 2.10 Whilst Who Cares (NE) are a formative company who do not have experience in managing contracts, we have evidence that as the services were hosted by Manor Residents Association from which Who Cares (NE) was developed, it could be assumed that Who Cares (NE) have been involved in managing the delivery of a contract. To date no adverse concerns have been raised about the quality of delivery of a connected care service and the work it has undertaken.
- 2.11 Who Cares (NE) has been developed to:
- promote and improve the health and well being of people who live within the vicinity where the CIC operates;
 - where required, to engage with other agencies in partnership to deliver the services;
 - to develop partnerships with other agencies to ensure that where there are gaps the services, it is accessible and responsive to the needs of local people.
- 2.12 The implementation of the decision detailed in 2.5 was delayed due to the time taken to finalise the funding arrangements with the Primary Care Trust, who were charged by the Government to agree the re-ablement funding plans. Until funding was formally agreed via the PCT Board, the council made the decision not to progress the contracting process with Who Cares (NE) as this may have left the council open to a contractual risk and therefore potential financial risk. As a result of the delay in getting formal agreement via the PCT Board (which was received on 5 July 2011), we did not carry out the usual new provider accreditation checks for the reasons outlined above until this point and therefore the contracting process was not progressed.
- 2.13 Contract awards are subject to a number of considerations, including the accreditation process referred to in 2.12 above. The accreditation process follows the corporate process. As part of this accreditation process, consideration is given to a number of issues and advice is sought from other areas in the Council with the specialist expertise and knowledge such as finance and risk to verify compliance and assess risk. This process includes carrying out financial checks and seeking references. In the case of the accreditation process for Who Cares (NE), it was felt that the information that had been supplied did not provide the Council with sufficient assurance to allow a contract of this value to be awarded Who Cares (NE) at this point.

- 2.14 Following legal opinion from Counsel on the 16 August 2011, it was confirmed that the correct procedures and processes have been followed in relation to the proposed contracts for services detailed above and which are classed as Part 'B' services under the EC Public Sector Procurement Directives.
- 2.15 Where a service falls under a 'health and social services' classification under the applicable Regulations as Part B services do, then there is usually a need to ensure general transparency and this would normally include advertisement which can be satisfied through an advertisement on the Council's own website with a short description of the contract for those services. This is the usual process for advertisement of Part B services and contracts that a whole range of local and national providers could undertake on behalf of the council. This process was been endorsed through the opinion from Counsel.
- 2.16 However, the delivery of the connected care model is a unique way of operating and delivering services. It is very specific in how and what is delivered to local areas and is developed and facilitated by residents and local organisations. In this case, if the Council is satisfied that there would be no impact on the internal (i.e. domestic) market, because the development of a connected care approach can only be delivered in this very specific and unique way with local residents and organisations then those circumstances can dictate that the Council (as in this instance) do not need to advertise to open up competition, through advertisement etc. This is the basis on which the Portfolio Holder made his decision on 28 March to exempt the proposed contracts discussed in this report to Who Cares (NE) from formal external advertisement. It is again the premise on which cabinet are asked to exempt the Part B services described in this report as part of the options for the future delivery of the reablement funded services and the connected care navigation service.
- 2.17 As a result of the pre contractual accreditation process described in 2.13 above, Who Cares (NE) have been informed that they will not be awarded the proposed contracts unless they can provide adequate assurances as required by the council.

3. PROPOSALS

- 3.1 A number of implications follow from the decision not to progress to contract award at this point with Who Cares (NE) as agreed at the Adult and Public Health Services Portfolio on 28 March 2011. These implications are primarily linked to the Council's ability to deliver on the re-ablement plan agreed with the Primary Care Trust. To mitigate these implications and to ensure the services are delivered and the funding is retained the following options are proposed for consideration:

Option 1 - Minimal risk to the council

The services currently being provided on the basis of previous held contracts with Manor Residents Association, namely the care navigation service in Owton (value £100,000 p.a. 50/50 split between PCT and LA) and the borough-wide handyperson service (value £40,000 p.a.), this will be a continuation of services through a new contractual arrangement in the form of two Part B contracts for the period up to 31 March 2012. These contracts will be between the Council and Manor Residents Association and its Trustees.

and

Until 31 March 2012, to ensure the reablement funding is used as agreed and remains within the borough, in-house social care services will provide the priority elements of the Supported Access to Independent Living Services that were to be commissioned from Who Cares (NE). These low-level health and social care services include luncheon clubs, a home visiting service and welfare notices and will be delivered from the funding agreed with the Primary Care Trust

Option 2 – Minimal risk to the council

The services currently being provided by Manor Residents Association, namely the care navigation service in Owton (value £100,000 p.a 50/50 split between PCT and LA) and the borough-wide handyperson service (value £40,000 p.a) be Awarded to Who Cares (NE) in the form of two Part B contracts for the period up to 31 March 2012. These contracts will be between the Council and Who Cares (NE). However, in order to support the organisations development and to mitigate financial risk to the council, to agree a payments schedule that gave payments in arrears. This approach has been discussed and agreed with the Chief Financial Officer.

and

Until 31 March 2012, to ensure the reablement funding is used as agreed and remains within the borough, in-house social care services will provide the priority elements of the Supported Access to Independent Living Services that were to be commissioned from Who Cares (NE). These low-level health and social care services include luncheon clubs, a home visiting service and welfare notices and will be delivered from the funding agreed with the Primary Care Trust.

Option 3 – Higher risk

To reconfirm the decision of Adult and Public Health Services Portfolio holder at his meeting on 28 March 2011 to award the full contract covering connected care navigation services, handyperson service and SAILS reablement service to Who Cares (NE) as per the portfolio holders decision

for a period of two years up to 2013 with an option to extend for a further two years subject to performance and funding being available.

This option would be dependant upon submission of the appropriate trading accounts up to the end of March 2011 which the council would then get independently audited to ensure probity. However in order to support the organisations development and to mitigate financial risk to the council, the council to agree a payments schedule that gave payments in arrears.

This option would enable Who Care (NE) to develop its governance arrangements and provide adequate reassurance to the council that it was able to contract effectively with the council.

If Who Cares (NE) is unable to provide assurances via its independently audited accounts to the council's satisfaction then it is proposed that a market testing exercise will be undertaken followed by a subsequent procurement exercise to tender and commission, with re-ablement funding, a connected care model of service delivery and low-level social care and health care support services. The vehicle for this will be through a 12 month contract, from 1 April 2012 to 31 March 2013, with an option to extend for a further 12 months subject to satisfactory performance and re-ablement funding being secured for a further year.

- 3.2 The above proposals continue to support the development of a connected care model across the town and would enable the Council to meet its re-ablement obligations in the short-term until a suitable solution can be commissioned.
- 3.3 If Cabinet decide to adopt option 1 or 2 then as a part B contract with a value of £100,000 the care navigation service exceeds the financial limits detailed within the Contract Procedure Rules, contracts that exceed the limit of £60,000 require the undertaking of a competitive tender exercise. Therefore, to proceed with the contract award for the care navigation service an exception to the Rules is required. Contract Scrutiny Committee will be informed of the awarding of the contracts at the earliest opportunity.
- 3.4 If Cabinet decide to adopt option 1 or 2 then as a part B contract with a value of £40,000 the Handyperson service exceeds the financial limits of informal quotes (£5,000) and under Contract Procedure Rules formal quotes would normally be required to select a provider. As the service currently offers excellent value for money we are seeking an exception to the rules to award the contract for the Handyperson service.
- 3.5 If Cabinet decide to recommend Option 3 this in effect reconfirms the Adult and Public Health Services Portfolio holders decision made to award the full contracts to Who Cares (NE) at his meeting on 28 March 2011. This would be done with a risk mitigation strategy based on payment in arrears and a requirement for the submission of the appropriate trading accounts to the end of March 2011 to be independently verified by the council.

4. RECOMMENDATIONS

- 4.1 Cabinet are asked to decide which Option 1 or 2 or 3 they wish to progress in relation to the contracts relating to connected care and reablement services
- 4.2 **If Option 1 or 2 is chosen** Cabinet to approve an exception to the Contract Procedure Rules in respect of awarding short term contracts until 31 March 2012 to the value of no more than £100,000 (50k PCT/50k LA) for the provision of a care navigation service and no more than £40,000 for the provision of handyperson service.
- 4.3 If Option 3 is chosen this endorses and confirms the Adult and Public Health Services Portfolio decision to award the contract to Who Cares (NE) subject to 3.5.
- 4.4 Cabinet to approve the action plan (Appendix 5 refers) relating to connected care prepared in response to the Health Scrutiny Committee's inquiry into connected care.

Company No. 7188871 - Pin 2857

16 March 2010

Our ref: UK/7188871

63154

SWITCHMEDIA

MANAGING DIRECTOR
WHO CARES (NE) COMMUNITY INTEREST COMPANY
MANOR RESIDENTS ASSOCIATION COMMUNITY RESOURCE CENTRE
KILMARNOCK ROAD
HARTLEPOOL
CLEVELAND
TS25 3NU

Welcome to Switch and Congratulations!

WHO CARES (NE) COMMUNITY INTEREST COMPANY was successfully incorporated on 15/03/2010!

We are pleased to inform you that your Company registration number as issued by the Registrar of Companies is: 7188871

Establishing a professional online presence and protecting your Company's identity, brand, or Trade Mark from your competitors and other third parties is a wise and recommended precaution in a fiercely competitive environment. Our Switch Hosting packages combines the necessary features for you to project your company image and enables you to stake your claim and make use of any of the names that you feel appropriate to your business - in case someone else does!

The following domain names have been identified on your behalf. These are still available and yours to register today!

wencic.com
whocaresnecommunityinterestcompany.com
whocaresnecommunityinterestcompany.co.uk
who-cares-ne-community-interest-company.co.uk

A wider selection, or alternative domain names can be researched at www.switchmedia.co.uk or by calling our office. Domains £20+VAT each. Hosting free for 12 months.

You pay just £20 plus VAT (£23inc VAT) annually for each domain name. The hosting package is free for the first 12 months to help get your business off to a flying start. There are no hidden fees with our packages unlike some providers who charge extra for services that Switch offer as standard (e.g. Hosting, virus scan, spam blocker, or the ability to change your website). Our package includes all of the following:-

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- 2... A free, published webpage with your company information and contact details online (change for free anytime!)
- 3... A dedicated Account Manager to offer assistance and help you achieve the most from your business and the Internet.
- 4... FTP access to upload your own web pages if required at your convenience, and as often as you require!
- 5... 2 x POP3 Mailbox facility to both send and receive business e-mails from your domain, e.g. info@yourdomain.com.
- 6... Access to our WebMail facility to send and receive your e-mails whilst on the move from anywhere in the world.
- 7... 200MB Premium commercial web space within our secure and dedicated communications centre.
- 8... Technical support for optimal use of our services without the premium rate phone charges.

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Yours faithfully,


Natalie Sinclair
New Business Support Team
natalie.sinclair@switchmedia.co.uk

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Certificate of Incorporation of a Community Interest Company

Company No. 7188871

The Registrar of Companies for England and Wales hereby certifies that:

WHO CARES (NE) COMMUNITY INTEREST COMPANY

is this day incorporated under the Companies Act 2006 as a private company; that the company is limited; and that it is a community interest company

Given at Companies House, Cardiff, the 15th March 2010



Companies House
— for the record —



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

The Companies Act 2006

Community Interest Company Limited by Guarantee

Memorandum of Association

of

Who Cares (NE) Community Interest Company

The Companies Act 2006
Community Interest Company Limited by Guarantee
Memorandum of Association

of

Who Cares (NE) Community Interest Company

Each subscriber to this Memorandum of Association wishes to form a company under the Companies Act 2006 and agrees to become a member of the Company.

Name of each subscriber

Authentication by each subscriber

✓ Elizabeth Anne McGrath

Dated [24 . 2 . 2010]

E A McGrath

✓ Kevin Henry Cranney

Dated [24 . 2 . 2010]

K H Cranney

✓ Ray Harriman

Dated [24 . 2 . 2010]

R Harriman

✓ Angela Wilcox

Dated [24 . 2 . 10 .]



The Companies Act 2006

Community Interest Company Limited by Guarantee

Articles of Association¹

of

Who Cares (NE) Community Interest Company

(CIC Limited by Guarantee, Schedule 1, Small Membership)

The Companies Act 2006 Community Interest Company Limited by Guarantee

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The Companies Act 2006

Articles of Association

of

Who Cares (NE) Community Interest Company

INTERPRETATION

1. Defined Terms

1.1 The interpretation of these Articles is governed by the provisions set out in the Schedule at the end of the Articles.

1.2 COMMUNITY INTEREST COMPANY AND ASSET LOCK

2. Community Interest Company

2.1 The Company is to be a community interest company.

3. Asset Lock²

3.1 The Company shall not transfer any of its assets other than for full consideration.

3.2 Provided the conditions in Article 3.3 are satisfied, Article 3.1 shall not apply to:

- (a) the transfer of assets to any specified asset-locked body, or (with the consent of the Regulator) to any other asset-locked body; and
- (b) the transfer of assets made for the benefit of the community other than by way of a transfer of assets into an asset-locked body.

3.3 The conditions are that the transfer of assets must comply with any restrictions on the transfer of assets for less than full consideration which may be set out elsewhere in the memorandum and Articles of the Company.

3.4 If:

3.4.1 the Company is wound up under the Insolvency Act 1986; and

3.4.2 all its liabilities have been satisfied

3.5 For the purposes of this Article 3, the following asset-locked body is specified as a potential recipient of the Company's assets under Articles 3.2 and 3.4:

3.6 Name: Manor Residents Association

3.7

3.8 Charity Registration Number (if applicable): 11211221

3.9 Company Registration Number (if applicable): 6298405

Registered Office: Manor Residents Association, Community Resource Centre,
Kilmarnock Road, Hartlepool, TS25 3NU

4. Not for profit

4.1 The Company is not established or conducted for private gain: any profits or assets are used principally for the benefit of the community.

OBJECTS, POWERS AND LIMITATION OF LIABILITY

5. Objects³

The objects of the Company are to carry on activities which benefit the community and in particular (without limitation) to

- To promote and improve for the public benefit the health and wellbeing of people living or working in areas where the CIC operates, working in partnership with other local organisations.
- To convene and support local partnerships to help ensure that health, social care and other service delivery is accessible and responsive to the needs of local people.
- To engage, support and contract with local community organisations to ensure the provision of low-level support services to meet the needs of the local community by filling gaps in existing provision.

6. Powers

6.1 To further its objects the Company may do all such lawful things as may further the Company's objects and, in particular, but, without limitation, may borrow or raise and secure the payment of money for any purpose including for the purposes of investment or of raising funds.

7. Liability of members⁴

The liability of each member is limited to £1, being the amount that each member undertakes to contribute to the assets of the Company in the event of its being wound up while he or she is a member or within one year after he or she ceases to be a member, for:

- 7.1 payment of the Company's debts and liabilities contracted before he or she ceases to be a member;
- 7.2 payment of the costs, charges and expenses of winding up; and
- 7.3 adjustment of the rights of the contributories among themselves.

DIRECTORS

DIRECTORS' POWERS AND RESPONSIBILITIES⁵

8. Directors' general authority

Subject to the Articles, the Directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

9. Members' reserve power

- 9.1 The members may, by special resolution, direct the Directors to take, or refrain from taking, specific action.
- 9.2 No such special resolution invalidates anything which the Directors have done before the passing of the resolution.

10. Chair

The Directors may appoint one of their number to be the chair of the Directors for such term of office as they determine and may at any time remove him or her from office.

11. Directors may delegate⁶

- 11.1 Subject to the Articles, the Directors may delegate any of the powers which are conferred on them under the Articles or the implementation of their decisions or day to day management of the affairs of the Company:

- 11.1.1 to such person or committee;

- 11.1.2 by such means (including by power of attorney);

- 11.1.3 to such an extent;

- 11.1.4 in relation to such matters or territories; and

- 11.1.5 on such terms and conditions;

as they think fit.

- 11.2 If the Directors so specify, any such delegation of this power may authorise further delegation of the Directors' powers by any person to whom they are delegated.
- 11.3 The Directors may revoke any delegation in whole or part, or alter its terms and conditions.

DECISION-MAKING BY DIRECTORS

12. Directors to take decisions collectively⁷

Any decision of the Directors must be either a majority decision at a meeting or a decision taken in accordance with Article 18. [In the event of the Company having only one Director, a majority decision is made when that single Director makes a decision.]

13. Calling a Directors' meeting

13.1 Two Directors may (and the Secretary, if any, must at the request of two Directors) call a Directors' meeting.

13.2 A Directors' meeting must be called by at least seven Clear Days' notice unless either:

13.2.1 all the Directors agree; or

13.2.2 urgent circumstances require shorter notice.

13.3 Notice of Directors' meetings must be given to each Director.

13.4 Every notice calling a Directors' meeting must specify:

13.4.1 the place, day and time of the meeting; and

13.4.2 if it is anticipated that Directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

13.5 Notice of Directors' meetings need not be in Writing.

13.6 Notice of Directors' meetings may be sent by Electronic Means to an Address provided by the Director for the purpose.

14. Participation in Directors' meetings

14.1 Subject to the Articles, Directors participate in a Directors' meeting, or part of a Directors' meeting, when:

14.1.1 the meeting has been called and takes place in accordance with the Articles; and

14.1.2 they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

14.2 In determining whether Directors are participating in a Directors' meeting, it is irrelevant where any Director is or how they communicate with each other.⁸

14.3 If all the Directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

15. Quorum for Directors' meetings⁹

- 15.1 At a Directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.
- 15.2 The quorum for Directors' meetings may be fixed from time to time by a decision of the Directors, but it must never be less than two, and unless otherwise fixed it is two or one-third of the total number of Directors, whichever is the greater.
- 15.3 If the total number of Directors for the time being is less than the quorum required, the Directors must not take any decision other than a decision:
- 15.3.1 to appoint further Directors; or
- 15.3.2 to call a general meeting so as to enable the members to appoint further Directors.

16. Chairing of Directors' meetings

The Chair, if any, or in his or her absence another Director nominated by the Directors present shall preside as chair of each Directors' meeting.

17. Decision-making at meetings¹⁰

- 17.1 Questions arising at a Directors' meeting shall be decided by a majority of votes.
- 17.2 In all proceedings of Directors each Director must not have more than one vote.¹¹

18. Decisions without a meeting¹²

- 18.1 The Directors may take a unanimous decision without a Directors' meeting in accordance with this Article by indicating to each other by any means, including without limitation by Electronic Means, that they share a common view on a matter. Such a decision may, but need not, take the form of a resolution in Writing, copies of which have been signed by each Director or to which each Director has otherwise indicated agreement in Writing.
- 18.2 A decision which is made in accordance with Article 18.1 shall be as valid and effectual as if it had been passed at a meeting duly convened and held, provided the following conditions are complied with:
- 18.2.1 approval from each Director must be received by one person being either such person as all the Directors have nominated in advance for that purpose or such other person as volunteers if necessary ("the Recipient"), which person may, for the avoidance of doubt, be one of the Directors;
- 18.2.2 following receipt of responses from all of the Directors, the Recipient must communicate to all of the Directors by any means whether the resolution has been formally approved by the Directors in accordance with this Article 18.2;
- 18.2.3 the date of the decision shall be the date of the communication from the Recipient confirming formal approval;

18.2.4 the Recipient must prepare a minute of the decision in accordance with Article 32.

19. Conflicts of interest¹³

19.1 Whenever a Director finds himself or herself in a situation that is reasonably likely to give rise to a Conflict of Interest, he or she must declare his or her interest to the Directors unless, or except to the extent that, the other Directors are or ought reasonably to be aware of it already.

19.2 If any question arises as to whether a Director has a Conflict of Interest, the question shall be decided by a majority decision of the other Directors.

19.3 Whenever a matter is to be discussed at a meeting or decided in accordance with Article 18 and a Director has a Conflict of Interest in respect of that matter then, subject to Article 20, he or she must:

19.3.1 remain only for such part of the meeting as in the view of the other Directors is necessary to inform the debate;

19.3.2 not be counted in the quorum for that part of the meeting; and

19.3.3 withdraw during the vote and have no vote on the matter.

19.4 When a Director has a Conflict of Interest which he or she has declared to the Directors, he or she shall not be in breach of his or her duties to the Company by withholding confidential information from the Company if to disclose it would result in a breach of any other duty or obligation of confidence owed by him or her.

20. Directors' power to authorise a conflict of interest

20.1 The Directors have power to authorise a Director to be in a position of Conflict of Interest provided:

20.1.1 in relation to the decision to authorise a Conflict of Interest, the conflicted Director must comply with Article 19.3;

20.1.2 in authorising a Conflict of Interest, the Directors can decide the manner in which the Conflict of Interest may be dealt with and, for the avoidance of doubt, they can decide that the Director with a Conflict of Interest can participate in a vote on the matter and can be counted in the quorum;

20.1.3 the decision to authorise a Conflict of Interest can impose such terms as the Directors think fit and is subject always to their right to vary or terminate the authorisation.

20.2 If a matter, or office, employment or position, has been authorised by the Directors in accordance with Article 20.1 then, even if he or she has been authorised to remain at the meeting by the other Directors, the Director may absent himself or herself from meetings of the Directors at which anything relating to that matter, or that office, employment or position, will or may be discussed.

- 20.3 A Director shall not be accountable to the Company for any benefit which he or she derives from any matter, or from any office, employment or position, which has been authorised by the Directors in accordance with Article 20.1 (subject to any limits or conditions to which such approval was subject).

21. Register of Directors' interests

The Directors shall cause a register of Directors' interests to be kept. A Director must declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the Company or in any transaction or arrangement entered into by the Company which has not previously been declared.

APPOINTMENT AND RETIREMENT OF DIRECTORS¹⁴

22. Methods of appointing Directors

- 22.1 Those persons notified to the Registrar of Companies as the first Directors of the Company shall be the first Directors.
- 22.2 Any person who is willing to act as a Director, and is permitted by law to do so, may be appointed to be a Director by a decision of the Directors.

23. Termination of Director's appointment¹⁵

A person ceases to be a Director as soon as:

- (a) that person ceases to be a Director by virtue of any provision of the Companies Act 2006, or is prohibited from being a Director by law;
- (b) a bankruptcy order is made against that person, or an order is made against that person in individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d) the Directors reasonably believe he or she is suffering from mental disorder and incapable of acting and they resolve that he or she be removed from office;
- (e) notification is received by the Company from the Director that the Director is resigning from office, and such resignation has taken effect in accordance with its terms (but only if at least two Directors will remain in office when such resignation has taken effect); or
- (f) the Director fails to attend three consecutive meetings of the Directors and the Directors resolve that the Director be removed for this reason.

24. Directors' remuneration¹⁶

- 24.1 Directors may undertake any services for the Company that the Directors decide.

24.2 Directors are entitled to such remuneration as the Directors determine:

- (a) for their services to the Company as Directors; and
- (b) for any other service which they undertake for the Company.

24.3 Subject to the Articles; a Director's remuneration may:

- (a) take any form; and
- (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.

24.4 Unless the Directors decide otherwise, Directors' remuneration accrues from day to day.

24.5 Unless the Directors decide otherwise, Directors are not accountable to the Company for any remuneration which they receive as Directors or other officers or employees of the Company's subsidiaries or of any other body corporate in which the Company is interested.

25. Directors' expenses

25.1 The Company may pay any reasonable expenses which the Directors properly incur in connection with their attendance at:

- (a) meetings of Directors or committees of Directors;
- (b) general meetings; or
- (c) separate meetings of any class of members or of the holders of any debentures of the Company,

or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

MEMBERS¹⁷

BECOMING AND CEASING TO BE A MEMBER¹⁸

26. Becoming a member¹⁹

26.1 The subscribers to the Memorandum are the first members of the Company.

26.2 Such other persons as are admitted to membership in accordance with the Articles shall be members of the Company.

26.3 The Directors shall from time to time be the only members of the Company.

26.4 No person shall be admitted a member of the Company unless he or she is approved by the Directors.

- 26.5 Every person who wishes to become a member shall deliver to the company an application for membership in such form (and containing such information) as the Directors require and executed by him or her.

27. Termination of membership²⁰

- 27.1 Membership is not transferable to anyone else.
- 27.2 Membership is terminated if:
- 27.2.1 the member dies or ceases to exist;
 - 27.2.2 otherwise in accordance with the Articles; or
 - 27.2.3 a member ceases to be a Director.

DECISION MAKING BY MEMBERS

28. Members' meetings²¹

- 28.1 The Directors may call a general meeting at any time.
- 28.2 General meetings must be held in accordance with the provisions regarding such meetings in the Companies Acts.²²
- 28.3 A person who is not a member of the Company shall not have any right to vote at a general meeting of the Company; but this is without prejudice to any right to vote on a resolution affecting the rights attached to a class of the Company's debentures.²³
- 28.4 Article 28.3 shall not prevent a person who is a proxy for a member or a duly authorised representative of a member from voting at a general meeting of the Company.

29. Written resolutions

- 29.1 Subject to Article 29.3, a written resolution of the Company passed in accordance with this Article 29 shall have effect as if passed by the Company in general meeting:
- 29.1.1 A written resolution is passed as an ordinary resolution if it is passed by a simple majority of the total voting rights of eligible members.
 - 29.1.2 A written resolution is passed as a special resolution if it is passed by members representing not less than 75% of the total voting rights of eligible members. A written resolution is not a special resolution unless it states that it was proposed as a special resolution.
- 29.2 In relation to a resolution proposed as a written resolution of the Company the eligible members are the members who would have been entitled to vote on the resolution on the circulation date of the resolution.

- 29.3 A members' resolution under the Companies Acts removing a Director or an auditor before the expiration of his or her term of office may not be passed as a written resolution.
- 29.4 A copy of the written resolution must be sent to every member together with a statement informing the member how to signify their agreement to the resolution and the date by which the resolution must be passed if it is not to lapse. Communications in relation to written notices shall be sent to the Company's auditors in accordance with the Companies Acts.
- 29.5 A member signifies their agreement to a proposed written resolution when the Company receives from him or her an authenticated Document identifying the resolution to which it relates and indicating his or her agreement to the resolution.
- 29.5.1 If the Document is sent to the Company in Hard Copy Form, it is authenticated if it bears the member's signature.
- 29.5.2 If the Document is sent to the Company by Electronic Means, it is authenticated [if it bears the member's signature] or [if the identity of the member is confirmed in a manner agreed by the Directors] or [if it is accompanied by a statement of the identity of the member and the Company has no reason to doubt the truth of that statement] or [if it is from an email Address notified by the member to the Company for the purposes of receiving Documents or information by Electronic Means].
- 29.6 A written resolution is passed when the required majority of eligible members have signified their agreement to it.
- 29.7 A proposed written resolution lapses if it is not passed within 28 days beginning with the circulation date.

ADMINISTRATIVE ARRANGEMENTS AND MISCELLANEOUS

- 30. Means of communication to be used**
- 30.1 Subject to the Articles, anything sent or supplied by or to the Company under the Articles may be sent or supplied in any way in which the Companies Act 2006 provides for Documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Company.
- 30.2 Subject to the Articles, any notice or Document to be sent or supplied to a Director in connection with the taking of decisions by Directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or Documents for the time being.
- 30.3 A Director may agree with the Company that notices or Documents sent to that Director in a particular way are to be deemed to have been received within an agreed time of their being sent, and for the agreed time to be less than 48 hours.
- 31. Irregularities**

The proceedings at any meeting or on the taking of any poll or the passing of a written resolution or the making of any decision shall not be invalidated by reason of any accidental informality or irregularity (including any accidental omission to give or any non-receipt of notice) or any want of qualification in any of the persons present or voting or by reason of any business being considered which is not referred to in the notice unless a provision of the Companies Acts specifies that such informality, irregularity or want of qualification shall invalidate it.

32. Minutes

32.1 The Directors must cause minutes to be made in books kept for the purpose:

32.1.1 of all appointments of officers made by the Directors;

32.1.2 of all resolutions of the Company and of the Directors (including, without limitation, decisions of the Directors made without a meeting); and

32.1.3 of all proceedings at meetings of the Company and of the Directors, and of committees of Directors, including the names of the Directors present at each such meeting;

and any such minute, if purported to be signed (or in the case of minutes of Directors' meetings signed or authenticated) by the chair of the meeting at which the proceedings were had, or by the chair of the next succeeding meeting, shall, as against any member or Director of the Company, be sufficient evidence of the proceedings.

32.2 The minutes must be kept for at least ten years from the date of the meeting, resolution or decision.

33. Records and accounts²⁴

The Directors shall comply with the requirements of the Companies Acts as to maintaining a members' register, keeping financial records, the audit or examination of accounts and the preparation and transmission to the Registrar of Companies and the Regulator of:

33.1 annual reports;

33.2 annual returns; and

33.3 annual statements of account.

33.4 Except as provided by law or authorised by the Directors or an ordinary resolution of the Company, no person is entitled to inspect any of the Company's accounting or other records or Documents merely by virtue of being a member.

34. Indemnity

34.1 Subject to Article 34.2, a relevant Director of the Company or an associated company may be indemnified out of the Company's assets against:

- (a) any liability incurred by that Director in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or an associated company;
- (b) any liability incurred by that Director in connection with the activities of the Company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006); and
- (c) any other liability incurred by that Director as an officer of the Company or an associated company.

34.2 This Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

34.3 In this Article:

- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
- (b) a "relevant Director" means any Director or former Director of the Company or an associated company.

35. Insurance

35.1 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant Director in respect of any relevant loss.

35.2 In this Article:

- (a) a "relevant Director" means any Director or former Director of the Company or an associated company;
- (b) a "relevant loss" means any loss or liability which has been or may be incurred by a relevant Director in connection with that Director's duties or powers in relation to the Company, any associated company or any pension fund or employees' share scheme of the company or associated company; and
- (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

36. Exclusion of model articles

The relevant model articles for a company limited by guarantee are hereby expressly excluded.

SCHEDULE

INTERPRETATION

Defined terms

1. In the Articles, unless the context requires otherwise, the following terms shall have the following meanings:

Term	Meaning
1.1 "Address"	includes a number or address used for the purposes of sending or receiving Documents by Electronic Means;
1.2 "Articles"	the Company's articles of association;
1.3 "asset-locked body"	means (i) a community interest company, a charity ²⁵ or a Permitted Industrial and Provident Society; or (ii) a body established outside the United Kingdom that is equivalent to any of those;
1.4 "bankruptcy"	includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;
1.5 "Chair"	has the meaning given in Article 10;
1.6 "Circulation Date"	in relation to a written resolution, has the meaning given to it in the Companies Acts;
1.7 "Clear Days"	in relation to the period of a notice, that period excluding the day when the notice is given or deemed to be given and the day for which it is given or on which it is to take effect;
1.8 "community"	is to be construed in accordance with accordance with Section 35(5) of the Company's (Audit) Investigations and Community Enterprise) Act 2004;
1.9 "Companies Acts"	means the Companies Acts (as defined in Section 2 of the Companies Act 2006), in so far as they apply to the Company;
1.10 "Company"	Who Cares (NE) Community Interest Company
1.11 "Conflict of Interest"	any direct or indirect interest of a Director (whether personal, by virtue of a duty of loyalty to another organisation or otherwise) that conflicts, or might conflict with the interests of the Company;

1.12	"Director"	a director of the Company, and includes any person occupying the position of director, by whatever name called;
1.13	"Document"	includes, unless otherwise indicated, any document sent or supplied in Electronic Form;
1.14	"Electronic Form" and "Electronic Means"	have the meanings respectively given to them in Section 1168 of the Companies Act 2006;
1.15	"Hard Copy Form"	has the meaning given to it in the Companies Act 2006;
1.16	"Memorandum"	the Company's memorandum of association;
1.17	"participate"	in relation to a Directors' meeting, has the meaning given in Article 14;
1.18	"Permitted Industrial and Provident Society"	an industrial and provident society which has a restriction on the use of its assets in accordance with Regulation 4 of the Community Benefit Societies (Restriction on Use of Assets) Regulations 2006 or Regulation 4 of the Community Benefit Societies (Restriction on Use of Assets) Regulations (Northern Ireland) 2006;
1.19	"the Regulator"	means the Regulator of Community Interest Companies;
1.20	"Secretary"	the secretary of the Company (if any);
1.21	"specified"	means specified in the memorandum or articles of association of the Company for the purposes of this paragraph;
1.22	"subsidiary"	has the meaning given in section 1159 of the Companies Act 2006;
1.23	"transfer"	includes every description of disposition, payment, release or distribution, and the creation or extinction of an estate or interest in, or right over, any property; and
1.24	"Writing"	the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in Electronic Form or otherwise.

2. **Subject to clause 3** of this Schedule, any reference in the Articles to an enactment includes a reference to that enactment as re-enacted or amended from time to time and to any subordinate legislation made under it.
3. Unless the context otherwise requires, other words or expressions contained in these Articles bear the same meaning as in the Companies Acts as in force on the date when these Articles become binding on the Company.

¹ On articles of association generally, see [Part 5] of the Regulator's information and guidance notes. If you are an existing company wishing to become a community interest company, there is no need to adopt completely new articles, but you must comply with the requirements of the Community Interest Company Regulations 2005 (as amended) ("the Regulations") by including the provisions set out in Schedule 1 to the Regulations in the articles of your company.

² See [Part 6] of the Regulator's information and guidance notes. Inclusion of the provisions contained in article 3.1 to 3.3 is mandatory, reflecting sub-paragraphs (1) to (3) of paragraph 1 of Schedule 1 to the Regulations

³ On the specification of the company's objects, see [Part 5] of the Regulator's information and guidance notes

⁴ On limited liability, see [Part 3] of the Regulator's information and guidance notes. On guarantees generally see [Chapter 3.2] of the Regulator's information and guidance notes.

⁵ Note that although this model constitution assumes that all Directors are Members and all Members are Directors, and the Directors are given wide powers, under the Articles (and company law more generally) there are still some decisions which Members must make as Members (either in general meeting under the Companies Act 2006 (article 28.2), or by written resolution in accordance with article 29). [See in general the Companies House guidance booklet, "Resolutions" (available online at <http://www.companieshouse.gov.uk/about/gbhtml/gba7.shtml>).]

⁶ Article 11 permits the Directors to delegate any of their functions. Delegation may take the form of, for instance, the Directors giving a managing director general authority to run the company's day to day business, or responsibility for specific matters being delegated to particular directors (e.g. financial matters to a finance director); or it may be equally appropriate to delegate matters to persons other than Directors. In all cases, it is important to remember that delegation does not absolve Directors of their general duties towards the company and their overall responsibility for its management. This means that, amongst other things, Directors must be satisfied that those to whom responsibilities are delegated are competent to carry them out.

⁷ Article 12 states that the Directors must make decisions by majority at a meeting in accordance with article 14; or unanimously if taken in accordance with article 18.

⁸ Article 14.2 is designed to facilitate the taking of decisions by the directors communicating via telephone or video conference calls. Note the requirement to keep a written record of meetings and decisions (article 32).

⁹ The quorum may be fixed in absolute terms (e.g. "two Directors") or as a proportion of the total number of Directors (e.g. "one third of the total number of Directors"). You may even wish to stipulate that particular named Directors, or Directors representing particular stakeholder interests, must be present to constitute a quorum.

¹⁰ Article 17 reflects paragraph 4 of Schedule 1 to the Regulations, which is required to be included in the articles of all community interest companies.

¹¹ You may wish to include a provision which gives the chair of the board a casting vote. This will enable the directors to resolve any deadlock at board level.

¹² Article 18 is designed to facilitate the taking of decisions by directors following discussions in the form of, for example, email exchanges copied to all the directors. Note the requirements as to recording the decision in articles 18.2 and 32.

¹³ The provisions in articles 19 and 20 reflect the position under the Companies Act 2006. However, it is recommended that, as a matter of good practice, all actual and potential conflicts of interest are disclosed in writing or at a meeting, as the case may be.

¹⁴ Private companies are obliged to have only one director. Provisions can be inserted into the articles providing for a minimum number of directors. Where the company has just one director, that director must be a natural person. Article 12 notes that, where there is only one director, a majority decision is reached when that director makes a decision. In the case of a single director, the quorum provisions (article 15) will need to be amended accordingly.

¹⁵ The board of directors cannot remove a director other than in accordance with the provisions in article 23 and the Companies Act 2006.

¹⁶ See the guidance on directors' remuneration in [Part 9] of the Regulator's information and guidance notes.

¹⁷ See section 112 of the Companies Act 2006. A company's members are (i) the subscribers to its memorandum; and (ii) every other person who agrees to become a member of the company and whose name is entered in its register of members.

¹⁸ There is no need for all those who wish to become Members to subscribe to the Memorandum on incorporation; they can become Members and be entered in the register of Members after the company has been formed. However, since this model constitution assumes that all Members are also Directors, all Members will also have to be validly appointed as Directors under article 22.

¹⁹ Inclusion of the provisions in article 26 (other than 26.3) is mandatory and reflects paragraphs 2(1)-(4) of Schedule 1 to the Regulations. [Directors should ensure that the information to be included on an application

form includes all the information which will be required to fill in Companies House Form [288a] on the appointment of the new Member as a Director (see: <http://www.companieshouse.gov.uk/forms/generalForms/288A.pdf>)] Article 26 3 provides that the Directors are also members of the company.

²⁰ Inclusion of the provisions of article 27.1 and 27.2.1 – 27.2.2 (reflecting sub-paragraphs (5) and (6) of paragraph 2 of Schedule 1 to the Regulations), is mandatory.

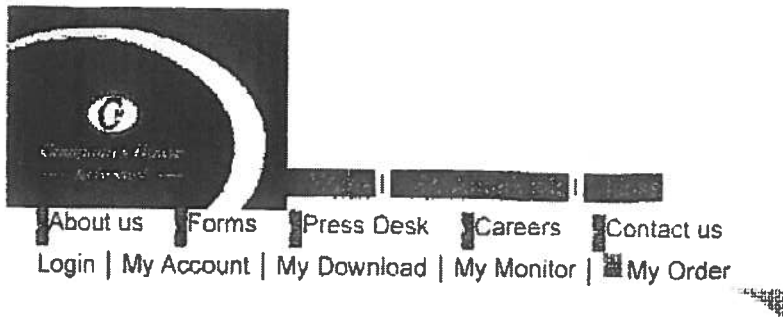
²¹ The Companies Act 2006 has removed the need for private companies to hold annual general meetings and therefore these Articles follow suit; however, if you wish, you can insert an additional provision which obliges the company to hold annual general meetings.

²² Article 28.2 provides that general meetings must be held in accordance with the provisions of the Companies Act 2006. You may insert additional provisions that specify how many Members are required to be present to hold a valid general meeting. The quorum may be fixed in absolute terms (e.g. “four Members”) or as a proportion of the total number of Members (e.g. “three quarters of the Members from time to time”). You may even wish to stipulate that particular named Members, or Members representing particular stakeholder interests, must be present to constitute a quorum. In any event, it is recommended that the quorum should never be less than half of the total number of Members.

²³ Inclusion of the provisions of article 28 3 (reflecting paragraph 3(1) of Schedule 1 to the Regulations) is mandatory.

²⁴ See the Companies House guidance booklet, “Accounts and Accounting Reference Dates” (available online at <http://www.companies-house.gov.uk/about/gbhtml/gba3.shtml>).] On the annual community interest company report, see [Part 8] of the Regulator’s information and guidance notes.

²⁵ Section 1(1) of the Charities Act 2006 defines “charity” as an institution which “is established for charitable purposes only, and falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.”.



Company Details

HELP

PRINT PAGE

Name & Registered Office:

WHO CARES (NE) COMMUNITY INTEREST COMPANY
MANOR RESIDENTS ASSOCIATION COMMUNITY RESOURCE CENTRE
KILMARNOCK ROAD
HARTLEPOOL
CLEVELAND
TS25 3NU
Company No. 07188871

Status: Active

Date of Incorporation: 15/03/2010

Country of Origin: United Kingdom

Company Type: Community Interest Company

Nature of Business (SIC(03)):

8514 - Other human health activities

Accounting Reference Date: 31/03

Last Accounts Made Up To: (NO ACCOUNTS
FILED)

Next Accounts Due: 15/12/2011

Last Return Made Up To: 15/03/2011

Next Return Due: 12/04/2012



Order information on this

company



Monitor this company

SEARCH FOR ANOTHER COMPANY

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Have you got a question?

Previous Names:

No previous name information has been recorded
over the last 20 years.

UK Establishment Details

There are no UK Establishments associated with
this company.

Overseas Company Info

There are no Overseas Details associated with this
company.

System Requirements

Return to search page

OVERVIEW AND SCRUTINY ENQUIRY ACTION PLAN

5.1 Appendix 5

NAME OF FORUM: Health Scrutiny Forum

NAME OF SCRUTINY ENQUIRY: Connected Care

DECISION MAKING DATE OF FINAL REPORT: June 2011

RECOMMENDATION	EXECUTIVE RESPONSE / PROPOSED ACTION	FINANCIAL IMPLICATIONS	LEAD OFFICER	DELIVERY TIMESCALE	
(a)	That a strategy is devised to identify those communities within Hartlepool who may benefit from the delivery of the connected care model	The external evaluation for the delivery and impact of connected care has been very positive. Ongoing funding is in place via both the council and the PCT for the development of care navigation services (which were originally for the Owton Ward). It is proposed to use this funding for a further two years to enable services to be developed in other communities using the connected care model of community audits and bringing together existing community groups to deliver seamless services.	£100Kp.a. for two years - £50K from HBC and £50K from PCT	J Harrison G Martin	March 2013
	As part of the reablement plan delivery the PCT and LA have agreed that a range of low level health and social care services can be provided as part of the	£240Kp.a. reablement funding agreed by NHS, for two years.	J Harrison P Hornsby	August 2011 – July 2013	

OVERVIEW AND SCRUTINY ENQUIRY ACTION PLAN

5.1 Appendix 5

NAME OF FORUM: Health Scrutiny Forum

NAME OF SCRUTINY ENQUIRY: Connected Care

DECISION MAKING DATE OF FINAL REPORT: June 2011

RECOMMENDATION		EXECUTIVE RESPONSE / PROPOSED ACTION	FINANCIAL IMPLICATIONS	LEAD OFFICER	DELIVERY TIMESCALE
		connected care model of service delivery. It was therefore agreed to commission services across the town that provide low level support and prevention to maintain people within their own communities (including welfare notices, luncheon clubs, handy person service, fuel poverty advice and a home visiting service) for two years from August 2011. It is envisaged that this in the first instance this may involve the Local authority in delivery but will involve all local organisations in coordinating these type of services in the medium term.			
(b)	That once recommendation (a) is completed, connected care is rolled-out to other communities in Hartlepool:-	Discussions to be undertaken with local areas to ascertain if developing the connected care model in their areas would be a positive development. If this is the	As above	J Harrison G Martin	March 2013

OVERVIEW AND SCRUTINY ENQUIRY ACTION PLAN

5.1 Appendix 5

NAME OF FORUM: Health Scrutiny Forum

NAME OF SCRUTINY ENQUIRY: Connected Care

DECISION MAKING DATE OF FINAL REPORT: June 2011

RECOMMENDATION	EXECUTIVE RESPONSE / PROPOSED ACTION	FINANCIAL IMPLICATIONS	LEAD OFFICER	DELIVERY TIMESCALE
(i) Ensuring that the necessary governance structure is in place;	case then agreement on how this will be facilitated in each area and who will be involved is required. This may be different in different areas of the town as per the model of connected care development. It is hoped that the CIC Who Cares (NE) may facilitate this dialogue with residents and community groups in the different areas	Cost neutral	G Martin	September 2011
		Cost neutral	G Martin	September 2012
	In each area a robust governance structure will be developed that has a local project group to steer and drive the developments and to ensure a truly local focus is developed. Also representatives from the central and north area projects will be part of the development of a town wide Who	Emphasis on rationalising resources to avoid duplication and maximise financial	G Martin	Commenced and ongoing to March 2013

OVERVIEW AND SCRUTINY ENQUIRY ACTION PLAN

5.1 Appendix 5

NAME OF FORUM: Health Scrutiny Forum

NAME OF SCRUTINY ENQUIRY: Connected Care

DECISION MAKING DATE OF FINAL REPORT: June 2011

RECOMMENDATION	EXECUTIVE RESPONSE / PROPOSED ACTION	FINANCIAL IMPLICATIONS	LEAD OFFICER	DELIVERY TIMESCALE
(ii) Identifying the needs of the individual community from residents and ensuring the delivery of a bespoke service that covers any gaps in existing provision;	Cares (NE) Partnership Group to ensure the CIC develops as a true town wide entity. Each local area will develop and complete its own audit to identify how a connected care approach will inform the development of models that meet local needs. Who Cares (NE) can facilitate audits in other areas if required. At the request of local people in Burbank Who Cares (NE) has already began to work with local residents and organisations to complete a community audit in Burbank.	efficiencies Cost neutral	J Harrison G Martin	March 2013
(iii) Ensuring that partnership arrangements are in place for current service providers and	The success of the connected care model is based on bringing together existing services and			

OVERVIEW AND SCRUTINY ENQUIRY ACTION PLAN

5.1 Appendix 5

NAME OF FORUM: Health Scrutiny Forum

NAME OF SCRUTINY ENQUIRY: Connected Care

DECISION MAKING DATE OF FINAL REPORT: June 2011

RECOMMENDATION	EXECUTIVE RESPONSE / PROPOSED ACTION	FINANCIAL IMPLICATIONS	LEAD OFFICER	DELIVERY TIMESCALE
<p>that duplication of work does not occur for those providers already delivering relevant services in that community; and</p> <p>(iv) That a feasibility study is carried out into support for the connected care roll-out through the transfer of staff and / or resources.</p>	<p>community organisations within local communities to reduce duplication and encourage partnership approaches. Who Cares (NE) can facilitate this development in other areas to ensure that there is local ownership and that bespoke services are developed tailored to local needs. It would be a requirement within any contract linked to connected care that this approach to partnership is followed.</p> <p>Monitoring the development of the model across Hartlepool will determine whether the outcomes justify the transfer of resources in the future.</p>			
(c) That following the completion of the work being undertaken				

OVERVIEW AND SCRUTINY ENQUIRY ACTION PLAN

5.1 Appendix 5

NAME OF FORUM: Health Scrutiny Forum

NAME OF SCRUTINY ENQUIRY: Connected Care

DECISION MAKING DATE OF FINAL REPORT: June 2011

RECOMMENDATION	EXECUTIVE RESPONSE / PROPOSED ACTION	FINANCIAL IMPLICATIONS	LEAD OFFICER	DELIVERY TIMESCALE
by the LSE:- (i) That the findings are shared with the Health Scrutiny Forum; and (ii) That where evidence demonstrates the financial benefits of Connected Care, those organizations benefitting from early intervention by Connected Care, are invited to support or further support the Connected Care programme through resource allocation.	Research findings from LSE will be presented to Health Scrutiny Forum. Positive outcomes highlighted in the LSE research will be used to encourage all agencies that benefit from the preventative / early intervention approach to contribute to the ongoing delivery of services via a connected care model.	Cost neutral Potential for cost savings by increasing the number of agencies contributing to the funding of the model.	G Martin G Martin	August 2012 September 2012
(d) That in order to ensure the safety of Connected Care Navigators and as part of a multi-disciplinary approach to meeting the needs of individuals, that a feasibility	Work has already commenced to explore how staff delivering prevention and early intervention services can have access to the Care First system and the Employee Protection Register	Unclear at this time but some cost may be necessary for any additional lines /	T Smith	December 2012

OVERVIEW AND SCRUTINY ENQUIRY ACTION PLAN

5.1 Appendix 5

NAME OF FORUM: Health Scrutiny Forum

NAME OF SCRUTINY ENQUIRY: Connected Care

DECISION MAKING DATE OF FINAL REPORT: June 2011

RECOMMENDATION		EXECUTIVE RESPONSE / PROPOSED ACTION	FINANCIAL IMPLICATIONS	LEAD OFFICER	DELIVERY TIMESCALE
	study be undertaken into Navigators accessing Care First, Rio, Employee Protection Register and other related systems.	(EPR).	equipment.		

CABINET

MINUTES AND DECISION RECORD

30 August 2011

The meeting commenced at 9.15 am in the Civic Centre, Hartlepool

Present:

The Mayor, Stuart Drummond - In the Chair

Councillors: Jonathan Brash, Performance Portfolio Holder
Robbie Payne, Deputy Mayor, Finance and Procurement Portfolio Holder
Pamela Hargreaves, Regeneration and Economic Development Portfolio Holder
Gerard Hall, Adult and Public Health Services Portfolio Holder
Hilary Thompson, Culture, Leisure and Tourism Portfolio Holder

Also Present Councillors:

Marjorie James, Chair of Scrutiny Co-ordinating Committee
Chris Simmons, Vice Chair of Scrutiny Co-ordinating Committee
Stephen Akers-Belcher, Chair of Health Scrutiny Forum
Christopher Akers-Belcher, Peter Ingham, Patricia Lawton, Ann Marshall, Carl Richardson, Ray Wells and Angie Wilcox

Officers: Chris Little, Chief Finance Officer
Alyson Carman, Legal Services Manager
Nicola Bailey, Director of Child and Adult Services
Dave Stubbs, Director of Regeneration and Neighbourhoods
Chris Wenlock, Parks and Countryside Manager
Dale Clark, Estates and Asset Manager
Jill Harrison, Assistant Director, Adult Social Care
Phil Homsby, Head of Service, Adult Social Care
James Walsh, Scrutiny Support Officer
Steve Hilton, Public Relations Officer
Angela Armstrong, Denise Wimpenny and Jo Stubbs, Democratic Services Team

74. Apologies for Absence

Apologies for absence were received from Councillors Cath Hill, Children's Services Portfolio Holder and Peter Jackson, Cabinet Member without Portfolio.

75. Declarations of interest by Members

None.

76. Minutes of the meeting held on 15 August 2011

Received.

77. Progress to date on the Development of Connected Care Services in Hartlepool *(Director of Child and Adult Services)*

Type of decision

Key Decision – Tests (i) and (ii) apply.

Purpose of report

To update Cabinet on the progress to date with the development of connected care services in Hartlepool.

To agree an Action Plan (Appendix 5) in response to the findings and subsequent recommendations of the Health Scrutiny Forum's investigation into 'connected care'.

To give an overview and update on progress regarding the contracts agreed relating to connected care services at Adult and Public Health Services Portfolio meeting on 28 March 2011.

To seek Cabinet approval to implement the chosen option 1, 2 or 3 as described and to enter into the required contracts. For options 1 or 2 this would be until 31 March 2012, for option 3 it would be a contract for up to 2 years with an option to extend for a further 12 month period (subject to satisfactory performance and continued funding. Irrespective of chosen option this would require an exception from the Council's Contract Procedure Rules.

Issue(s) for consideration by Cabinet

Cabinet considered the report at its meeting on 15 August 2010 (minute 63 refers) and the report was deferred to this meeting for further discussion. The Portfolio Holder for Adult and Public Health Services Portfolio presented the report which provided information on the proposed contracts, the financial impact of the provision of the services and also background information regarding the development of Who Cares (NE) as a Community

Interest Company. The report detailed the justification for making an exception to the Council's Contract Procedure Rules to award the contracts. It was highlighted that a number of concerns had been raised previously by elected members and that these concerns had been addressed within the action plan.

The Portfolio Holder reaffirmed the decision taken on 28 March 2011 and indicated his support for Option 3. This is to award the full contract covering connected care navigation services, handyperson service and SAILS reablement service to Who Cares (NE) for a period of up to two years to 2013 with an option to extend for a further twelve months subject to performance and continued reablement funding being available. It was noted that option 2 and 3 contained a risk mitigation strategy for the council to ensure due diligence procedures were fully complied with which included the submission of appropriate trading accounts to be independently audited and a payment schedule that provided payments monthly in arrears. The Portfolio Holder commented that choosing option 3 sent out a clear message to the residents of the town that Cabinet had been extremely responsible in showing probity and accountability in dealing with external organisations as well as ensuring any issues of concern were addressed. In addition to this, the Portfolio Holder believed that the services provided by the connected care model were unique, professionally driven and community led and an essential lifeline for people in the town.

Whilst recognising the tremendous success of the connected care service within the Owton ward, it was acknowledged that this was mainly due to the involvement of people who knew the area and its needs. Concerns had been raised that the expertise and knowledge of organisations within the areas where the connected care service was to be rolled out should be involved in its planning and roll out to ensure the service was able to meet the unique needs of those particular areas. Although option 3 was supported, it was suggested that the action plan be agreed with the addition of the following; the commitment of Who Cares (NE) to work in this way be reflected within the action plan and that the Board of Who Cares (NE) should be increased to include four members from the central and four members from the north areas of the town. In addition, once the contract was established, how services are delivered and commissioned should be reviewed and a report be submitted to Cabinet by March 2013 detailing the progress and achievements of the service. It was noted that the contract should be restricted to the service areas outlined in option three.

There was some concern expressed by a Member at the length of time taken since the original decision in March 2011 to the implementation of that decision. However, the roll out of the connected service to other parts of the town was welcomed.

All Members supported option 3 including the additional recommendations as noted above as being integral to achieving the goals of the roll out of the connected care service. Members were satisfied that their questions raised in relation to the procurement process had been answered satisfactorily and

the advice from counsel had confirmed that the local authority had undertaken the most appropriate way forward with this issue. It was reiterated that where public funds were concerned, local authorities had to be absolutely transparent and ensure that every penny was accounted for and the questioning of this whole process had ensured that this process was followed. Although it was acknowledged that it may have taken longer to implement the decision than originally planned, the delay had been necessary to ensure that the decisions taken were the correct decisions for the residents of the town. Cabinet Members were satisfied that all their concerns had been addressed and all Members of Council were asked to fully support the people who would roll out the delivery of connected care services across the town.

In relation to rolling out the connected care service across the town, it was noted that the additional recommendation to include four representatives from the central and north area respectively to the Who Cares (NE) Board would ensure that local people were involved in the decision making affecting their own areas and this was welcomed.

A Member questioned whether any flexibility could be included within the contract in relation to the processing of payments in arrears to Who Cares (NE) as payments in arrears may cause operational difficulties in relation to cash flow for Who Cares (NE). Members were informed that discussions were ongoing between the Chief Finance Officer and Who Cares (NE) with a view to forming a payment schedule that was not detrimental to the operation of the organisation but still able to satisfy the Council's requirements for the distribution of funds.

It was agreed that the additional members for the Who Cares (NE) Board from the north and central areas of town (four representatives from each area) would be identified, proposed and elected (if necessary) by local residents and organisations in that area, with final nominations reported back to Cabinet for information.

Decision

(1) Option 3 as detailed in the report was approved as follows subject to the conditions noted below: To reaffirm the decision of Adult and Public Health Services Portfolio at his meeting on 28 March 2011 to award the full contract covering connected care navigation services, handyperson service and SAILS reablement service to Who Cares (NE) as per the Portfolio Holder's decision for a period of up to two years to 2013 with an option to extend for a further twelve months subject to performance and funding being available.

- (i) This option was dependent upon submission of the appropriate trading accounts up to the end of March 2011 which the Council would have independently audited to ensure probity.
- (ii) A flexible payments schedule to be agreed, with the Chief Finance

- Officer, in order to support the organisations development and to mitigate financial risk to the Council.
- (iii) Should Who Cares (NE) be unable to provide assurances via its independently audited accounts to the Council's satisfaction, it was proposed that a market testing exercise would be undertaken followed by a subsequent procurement exercise to tender and commission with reablement funding, a connected care model of service delivery and low level social care and health care support services.
 - (iv) That four representatives from each of the central and north areas respectively be appointed to the Board of Who Cares (NE).
 - (v) That once the contract is established, the commissioning for the delivery of services be reviewed . This would be via a report updating Members on progress of the connected care service across the town by March 2013.
- (2) The action plan relating to connected care prepared in response to the Health Scrutiny Committee's inquiry into connected care be approved, subject to the inclusion of the above recommendations.

78. Purchase of Premises in the Central Regeneration Area and Sale of Land at Tanfield Road Adjoining Stranton Cemetery *(Director of Regeneration and Neighbourhoods)*

Type of decision

Key Decision – Test (i) applies.

Purpose of report

To enable Cabinet to consider the proposed purchase of the long leasehold interest in premises in the Central Regeneration Area and the sale of land at Tanfield Road adjoining Stranton Cemetery and enable Cabinet to seek Council approval to amend the approved 2011/12 Budget to enable the premises in the Central Regeneration area to be purchased.

Issue(s) for consideration by Cabinet

The report outlined the opportunity to acquire premises that would contribute to the long term regeneration of the central areas together with an associated opportunity to achieve a substantial capital receipt to assist the Council's financial position. A business case for the proposals was highlighted within the report.

During the discussions that followed it was questioned whether obtaining planning permission for the site at Tanfield Road would increase the value

resulting in a higher capital receipt for the local authority. Members were informed that as an outline planning application was very similar to a detailed planning application, it would be difficult to predict the requirements of any potential developers of the site. This may result in developers having to submit their own planning application to their specific requirements. It was considered that an approved planning application for the site would not add sufficient value to pursue and confirmed that the best value for the disposal of the site would be sought. The Director of Regeneration and Neighbourhoods confirmed that the site at Tanfield Road was included within the Local Development Framework as a site for residential development.

A lengthy discussion was undertaken in relation to the lease arrangements of the Focus Building in Lynn Street. The Director of Regeneration and Neighbourhoods confirmed that this building was ideally situated to enable the co-location of the services provided by the Regeneration and Neighbourhoods Department, was ideal from an operational viewpoint and would provide for a more efficient and effective service. Members were reminded that the whole area around Lynn Street formed part of the Innovation and Skills Quarter and would be developed as such in the long term.

The Chief Finance Officer added that the capital receipts from the sale of the land at Tanfield Road would be utilised to support some of the shortfall in the Housing Market Renewal funding.

It was suggested that the terms of any sale of the Tanfield Road site should be submitted to Cabinet for approval rather than the Portfolio Holder.

It was noted that there were a number of questions that required the meeting to move into closed session, although the questions would not impact on the decision. This would be facilitated at the end of the meeting.

Decision

- (i) The proposed acquisition and disposals package to purchase the Focus Unit using uncommitted capital receipts and the sale of Tanfield Road site on the business case and terms outlined within the report be approved as the proposed expenditure was outside the Council's Budget and Policy Framework for 2011/12.
- (ii) That approval was given for the marketing and sale of the Tanfield Road site with the terms of any sale to be submitted to Cabinet for approval.
- (iii) As a result of recommendation (ii), the capital receipts would increase and Members need to develop a strategy for using these resources as part of the 2012/13 budget process to address capital risks, such as Housing Market Renewal issues.
- (iv) The comments of the Scrutiny Co-ordinating Committee were considered.

Cabinet – 4th February 2013

7.2

4.2

<p style="text-align: center;">CABINET REPORT</p> <p style="text-align: center;">4th February 2013</p>



Report of: Director of Child and Adult Services

Subject: LOW LEVEL SUPPORT SERVICES PROVIDED BY WHO CARES (NE): UPDATE AND NEXT STEPS

1. TYPE OF DECISION/APPLICABLE CATEGORY

No decision required – update for information only.

2. PURPOSE OF REPORT

- 2.1 There was agreement in a Cabinet meeting on 30 August 2011 that a report updating Members on progress of the connected care service across the town would be provided by March 2013.
- 2.2 This report provides Cabinet with an update on services commissioned from Who Cares (NE) from October 2011 – November 2012.

3. BACKGROUND

- 3.1 On 30 August 2011, Cabinet reaffirmed the decision made at the Adult and Public Health Services Portfolio meeting on 28 March 2011 to award a contract covering Connected Care Navigation Services, the Handyperson Service and Supported Access to Independent Living Services (SAILS) to Who Cares (NE) for a period of up to 2 years to March 2013, with an option to extend a further twelve months subject to satisfactory performance and funding being available.
- 3.2 The contract was awarded from 1 November 2011 by which point Cabinet's requirements regarding extended Board membership, agreement of a payment schedule and the provision of audited accounts had been met.
- 3.3 In May 2012, a six monthly monitoring review of the contract was completed. The review was facilitated through inspection of the organisation, its policies and working practices, statistics of volume and success of the services provided to people and customer feedback received by the organisation.

- 3.4 The services commissioned from Who Cares (NE) are relevant to Cabinet as they form part of the low level support and reablement model that is being delivered across health and social care, affecting all wards within the town.
- 3.5 The recent regional evaluation of reablement services demonstrated that Hartlepool is delivering a robust reablement pathway and that the low level services are an important and integral part of that pathway.

4. CURRENT POSITION

- 4.1 Who Cares (NE) is a Community Interest Company (CIC) with Board membership involving representation from the North, Central and South areas of the borough. The Board meets bi-monthly and is supported by an Advisory Group which also meets bi-monthly with membership drawn from a range of organisations including Hartlepool Borough Council, Housing Hartlepool, HVDA, Hartlepool Carers, MIND and the PCT.

The current Board membership includes 2 people from the North, 3 people from the South and 4 people from the Central area of the town. 7 people have resigned since the inception of the Board in October 2011; 3 people citing work commitments, 3 people citing family circumstances and 1 person ill-health. Who Cares (NE) are currently seeking to replace those Board members who have moved on.

- 4.2 The current contract with Who Cares (NE) was awarded on 1 November 2011 and ends on 31 March 2013. The contract has a total value of £340k per annum (part year effect in 2011/12) and covers three elements of service:
- Navigators across the borough: £100k (£50k from PCT base budget and £50k from HBC base budget);
 - Continuation of the town-wide Handyperson Service and delivery of a town wide Supported Access to Independent Living Service (SAILS) including advice, information, sign-posting, luncheon clubs, welfare notices, social activities: £240k (£120k from PCT funding for social care and £120k from PCT reablement funding).
- 4.3 Funding is used to provide:
- A navigator service available in North, Central and South Hartlepool. The navigators support people to access other services and providers and may also directly provide a service where appropriate;
 - Benefit and Welfare Advice Service available in North, Central and South Hartlepool;
 - Handyperson Service across the borough, providing low-level adaptations to support people to live independently at home;
 - Luncheon Clubs predominantly still in the South but now being set up in North and Central Hartlepool as well;
 - Welfare notice system in place across the borough. Welfare notices enable people to self-refer or be referred into the SAILS service and

receive that 'little bit of help' which may prevent the escalation of their difficulties and access them to more costly secondary services.

4.4 Staffing comprises:

- 1 Manager;
- 1 Navigator / SAILS Co-ordinator;
- 1 Navigator / Housing Intervention;
- 2 Navigators;
- 3 SAILS Development Workers;
- 1 Handyperson Co-ordinator;
- 2 Handypersons;
- 1 Monitoring / Performance Data Analyst / Administration;
- 2 Modern Apprentices;
- 1 Benefits Advice Worker (Commissioned through WVARC).

- 4.5 Who Cares (NE) promote their services within North, Central and South Hartlepool with leaflets and posters available in public buildings such as libraries and community centres. HBC have shared information with social care staff and delivered a recent programme of training on the SAILS and reablement pathway. This training has also been delivered to GPs, Clinical Commissioning Group, Fire Brigade, Police, Housing Hartlepool, museums and libraries. Information regarding SAILS and welfare notices has been shared with the Adult and Community Services Scrutiny Forum through their investigation into Reablement and Early Intervention and with the Shadow Health and Wellbeing Board. Both forums acknowledged the value of low-level support services and the 'good neighbour' approach in supporting people to live independently in the community.

5. CONTRACT REVIEW PERFORMANCE REPORT

- 5.1 The six month monitoring review stated that "the Provider contributes to improving people's lives, promoting their independence, safety and wellbeing, preventing social isolation and exclusion, supporting people to live as independently as possible within their own homes and contributing towards timely, safe hospital discharges. The Provider has a thorough, effective interview process and a team of well-developed, skilled staff to ensure that customers fully engage with the service without feeling pressured and with knowledge of their rights to refuse specific help or support. Service delivery is designed to be as flexible as possible to cater for the needs, wishes and comfort of each individual".
- 5.2 The monitoring review confirmed that Who Cares (NE) continues to work with community partners and the private, voluntary and statutory sector providers to raise awareness of their services.
- 5.3 The monitoring review evidenced that Who Cares (NE) operates "an effective system of quality assurance based on the outcomes agreed with the customer. Through the efficient use of both the electronic database and

Red Amber Green (RAG) system, the provider is able to monitor the services and support provided to customers and the progress that is being made to meet individual outcomes”.

- 5.4 An annual contract review will be completed by the end of January 2013 based on the activity information that follows in section 6 and follow up of any outstanding actions identified following the six monthly contract review.

6. ACTIVITY INFORMATION: 1 NOVEMBER 2011 – 31 OCTOBER 2012

- 6.1 Who Cares (NE) received a total of 2,337 referrals between 1 November 2011 and 31 October 2012. The majority of referrals were made by customers but the data demonstrates a number of other agencies referring into the service including Housing Hartlepool, Cleveland Police, Fire Brigade, Homeless Team, GP and District Nurses, the Reablement Team and Drug and Alcohol Team.
- 6.2 During this period, 85 customers accessed the meals delivery service with a total of 6,000 meals being delivered. The South area provided the most meals with an average of 90 meals being provided to each person. The Central and North areas had an average of 52 meals provided to each person. Each two course meal was sold for £2 which would have generated an estimated annual income of £25k. Unfortunately this service had to be ceased in autumn 2012 due to a lack of volunteers. SAILS now signpost people to luncheon clubs and/or to frozen meals providers in the borough.
- 6.3 Six luncheon clubs are based in the South of the town. There are currently three clubs in place in the Central area and one club in the north at Hartfields. The luncheon clubs are based at Laurel Gardens, Manor Residents, Hartfields, The Schooner, Mill House, ORCEL, Belle Vue and the Salaam Centre. When Who Cares (NE) took over the Luncheon Clubs there was a total average attendance of 85 people. The current total average attendance has now risen to 141 people, representing a 65% increase. Work is ongoing with West View Advice & Resource Centre, Headland Futures and St. John Vianney Catholic Church to ascertain further demand in the North area of the town and work together to set up additional luncheon clubs where there is a demand for it. The new St John Vianney luncheon club opened in January 2013.
- 6.4 The majority of customers who accessed the Handyperson Service during this period were based in the North and South areas. The Central area was significantly lower:
- North: 357 customers and 483 jobs completed;
 - Central: 153 customers and 226 jobs completed;
 - South: 433 customers and 478 jobs completed.

The numbers in the Central area may reflect this area having the greatest number of private rented properties as certain jobs will not be carried out by the Handyperson Service if they fall within the responsibility of the landlord.

- 6.5 Navigator referrals during this period totaled 700 and came from a variety of sources including self-referral, HBC Duty Team, Housing Hartlepool, Reablement Team, Victim Support, Cleveland Police, Fire Brigade, GP, Rapid Response Nursing and Stoke Team. It should be noted that the low referral rate from GPs reflects their continued response of choice being to refer through the Duty Team. SAILS continue to promote the service through Practice Managers and the Life Channel.

The Navigator Service worked with 176 people in the North, 122 people in the Central area and 402 people in the South. This reflects the service being initially placed in the South area but demonstrates it is now being rolled out across the town. From 700 customers who accessed this service, a total number of 239 referrals were made on behalf of customers to other services/organisations, demonstrating effective partnership working with other agencies on behalf of customers. Navigators also made 321 initial home visits. It is noted that only 4% of the total numbers of referrals received into the Navigation Service were subsequently referred back into the HBC Duty Team. Of the 700 customers who accessed the Navigation Service within the 12 month period, they were supported to resolve 921 issues which entailed a total of 1,868 appointments. The issues dealt with included:

Issue	No. of People	No. of Appointments
Benefits	37	138
Housing	61	188
Intervention work	10	208
Isolation	21	46
Welfare issues	16	27
Homelessness	19	61
Health issues	31	70
Eviction	2	20
Family issues	10	29
Court / Advocacy	40	107
Bereavement	3	17
Anti-social behaviour	5	9
Alcohol issues	8	18
Debt	18	26
Independent living	66	87
Other	32	45

- 6.6 A total number of 694 customers accessed the Benefits and Welfare Advice Service during this 12 month period. This resulted in benefit claims being made on behalf of 202 customers with an overall total annual benefit increase of £392,399.28. The majority of customers receiving this service were based in the South area:

Area	No. of Customers	No. of Benefit Claims
North	122	45
Central	103	29
South	469	128

This again demonstrates the ongoing development of services across the town.

- 6.7 The majority of the 1,486 welfare notices received during this 12 month period were made by customers themselves (771) with the remainder coming from a good spread of other agencies across the town. The majority of referrals came from the North and South areas:

Area	No. of Customers	No. of Services Provided
North	320	778
Central	236	380
South	900	1628

Further work will be done to raise the profile of Who Cares (NE) in the Central area and encourage take up of its services. The 1,456 customers who referred into the service received at least one service. An overall total of 2,786 services were provided to the 1,456 customers which demonstrates the effectiveness of the Welfare Notice System as part of the early intervention / prevention pathway.

The average duration from receipt of a Welfare Notice to case closure is reported as an average of 31 days. This is deemed an efficient duration for service delivery.

- 6.8 A total of 2,461 cases were closed within the first 12 months of the contract. Of these, 2,140 cases had outcomes achieved by services and support provided by the Navigation and SAILS services:

- 2,140 cases closed with outcomes achieved (89.2% of referrals);
- 239 cases closed and signposted;
- 75 cases closed (no further action);
- 7 cases closed (deceased).

Of the 2,140 closed cases with outcomes achieved, the main goals for customers related to 'independent living' which equated to 51.3% of achieved outcomes. 'Financial matters' was the second largest issue and covered 30% of the closed cases.

There were no formal complaints received in respect of the services provided by Who Cares (NE). Operational issues have been resolved in a timely way by utilising monthly interface meetings between Who Cares (NE) and the Reablement Service and chaired by the Head of Service.

Who Cares (NE) have received 99 thank you cards from customers and they have recorded positive feedback from 216 customers during the 12 month period. Examples of the comments received are:

- *“There are people like me who can’t do without people and services like yours, keep up the good work and thank you from the bottom of my heart”;*
- *“My mother has asked me to contact you to express her thanks for the excellent service that she has received from your handyman service. I am her only child and live 270 miles away so it is reassuring that she can call on this type of help”;*
- *Just a few words to say thank you for all the things that you sorted out for me and my husband, it took a whole lot of pressure off both of us and was greatly appreciated, so once again thank you.”*

7. PARTNERSHIP WORKING

- 7.1 Who Cares (NE) commission West View Advice and Resource Centre to provide benefits and welfare advice on their behalf in the Central area.
- 7.2 Who Cares (NE) works with the Hartlepool Strengthening Families Project and has developed mutual referral procedures.
- 7.3 Who Cares (NE) has also built up effective links with Housing Hartlepool, West View Advice and Resource Centre, Wharton Trust, Credit Union, Headland Futures, Manor Residents Association, Accent Foundation, HBC Housing Options Team and the Drug and Alcohol Service.
- 7.4 Who Cares (NE) continues to develop services in partnership with other providers, volunteers and citizens across the borough. The Who Cares (NE) Board is currently involved in several bids for additional funding including the “Reaching Communities” lottery bid which is a joint bid submitted with several third sector partners and a consortium bid for “Coastal Communities” with Belle Vue leading the bid process.
- 7.5 £10k came into Who Cares (NE) from the PCT as additional “winter pressure monies” and £19k was received from Housing Hartlepool to fund a Housing Interventions Co-ordinator.
- 7.6 Work continues with the London School of Economics (LSE) to develop robust quantitative data that can evidence the value of low level / preventative services in keeping people living independently in their local communities and out of formal health and social care systems as long as possible. This work has taken considerably longer than anticipated due to the sickness of a key individual involved in the project.
- 7.7 Who Cares (NE) has continued to assist other organizations to prepare funding applications that focus on the delivery of community based services. These organizations have included West View Advice and Resource Centre, consortia including Housing Hartlepool, Manor Residents Association and the NYPD youth project.

8. BUDGET INFORMATION

- 8.1 The Navigator element of the contract is carrying an overspend and the SAILS element an under spend although the overall budget is on target and expected to balance at year end.
- 8.2 The Board will continue to work to identify additional sources of funding and opportunities to generate income in line with its aims as a Community Interest Company.
- 8.3 The welfare reforms to the benefits system are already impacting adversely on the health and wellbeing of a significant number of vulnerable people in Hartlepool. There is a rise in the numbers of people accessing low level services and the Voluntary and Community Sector (VCS) for advice, support and basic provision such as meals and food parcels. The numbers of people adversely affected by the welfare reforms are predicted to increase after April 2013 with the introduction of the Local Housing Allowance ("bedroom tax"). It is not unreasonable to expect a significant pressure on low level intervention services in the months and years ahead. At the same time it is becoming more difficult to recruit volunteers who are a resource on which the VCS depend for delivering services.

9. SUMMARY

- 9.1 The contract review and the information collected over the last 12 months indicate that Who Cares (NE) is delivering the outcomes as set out in the service specification of the contract. Work continues to further develop services in partnership with other providers, volunteers and citizens across the North and Central areas of the town.
- 9.2 It is clear from the data collected that there is a continuous trend in customers accessing services in greater quantities from the South area but this must be balanced against the fact that services were based in the South prior to the award of this contract. There is demonstrable evidence to show the levels of services across these areas should adjust and become more equitable over time.

10. RECOMMENDATION

- 10.1 It is recommended that Cabinet note progress in relation to services delivered by Who Cares (NE).

11. CONTACT OFFICER

Geraldine Martin, Head of Service, Adult Social Care.
Telephone: (01429) 523880.
E-mail: geraldine.martin@hartlepool.gov.uk.

Hartlepool's schools.

Issue(s) for consideration by Cabinet

The Head of Planning and Development presented the report which provided background information to the Secretary of State's announcement of the schools to be taken forward into the PSBP namely Manor College of Technology, Barnard Grove Primary School and Holy Trinity Church of England Primary School.

A representative from the Education Funding Agency had met with Local Authority officers, Head Teachers and Governors from the three Hartlepool schools to provide a briefing and overview of the programme and there were a number of steps to follow as the programme progressed, details of which were set out in the report.

The report outlined the various roles and responsibilities in relation to the partners involved in the programme, details of programme preparations, private finance initiative proposals as well as the financial considerations.

Cabinet raised concerns regarding the current condition of schools and the impact on learning as a result. Discussion ensued regarding the issues surrounding PFI funded public sector schemes, particularly the long-term financial implications of such arrangements and the need to consider alternative options to address the funding concerns were highlighted.

Decision

That the progress made to date be noted and further update reports be awaited.

171. Low Level Support Services Provided by Who Cares (NE): Update and Next Steps *(Directors of Child and Adult Services)*

Type of decision

For information

Purpose of report

To provide Cabinet with an update on services commissioned from Who Cares (NE) from October 2011 to November 2012

Issue(s) for consideration by Cabinet

The Assistant Director, Adult Social Care reported that on 30 August 2011 Cabinet reaffirmed a decision made at the Adult and Public Health Services Portfolio Meeting to award a contract covering Connected Care Navigation Services, the Handyperson Service and Supported Access to Independent Living Services to Who Cares (NE) for a period of up to 2 years to March 2013 with the option to extend for a further twelve months subject to satisfactory performance and funding being available. In May 2012 a six monthly monitoring review of the contract had been completed.

The recent regional evaluation of reablement services demonstrated that Hartlepool was delivering a robust reablement pathway and that the low level services were an important and integral part of that pathway.

The report included detailed background information on the contract provider, details of the value of the contract, the purpose of funding as well as the outcome of the contract review performance process. Members were referred to the activity information for the period 1 November 2011 to 31 October 2012 in terms of the number and type of referrals, as set out in the report. A total of 2,461 cases were closed within the first 12 months of the contract. Of these, 2,140 cases had outcomes achieved by services and support provided by the Navigation and SAILS services. Of the 2,140 closed cases with outcomes achieved, the main goals for customers related to 'Independent Living' which equated to 51.3% of achieved outcomes and 'Financial matters' was the second largest issue and covered 30% of the closed cases. There were no formal complaints received in respect of the services provided by Who Cares (NE).

In terms of partnership working, work continued with the London School of Economics to develop robust quantitative data that could evidence the value of low level preventative services in keeping people living independently for as long as possible. In summary the contract review and the information collected over the last 12 months indicated that Who Cares (NE) was delivering the outcomes as set out in the service specification of the contract.

Whilst the report was welcomed the Mayor expressed concerns regarding the governance and Board membership arrangements and was keen that a further tender process be undertaken to address the emphasis upon extending membership and ensuring robust governance arrangements were in place. These concerns were reiterated by Cabinet Members. The Assistant Director commented that the vast majority of the funding was provided by the NHS and was only confirmed as being available until 31 March 2014 and highlighted the disadvantages of entering into a tendering process for such a short timescale. Officers went on to respond to a number of further queries raised by Cabinet in relation to the feasibility of the Mayor's suggestion.

Decision

- (i) That progress in relation to the services delivered by Who Cares (NE) and the concerns of Members, be noted.
- (ii) Given the concerns of Members, as outlined above, a tendering process in relation to this contract be undertaken, with the current contract extended until such time as the tendering process can reasonably be completed.

172. Local Government (Access to Information) (Variation) Order 2006

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involved the likely disclosure of exempt information as defined in the paragraphs below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

Minute 173 Future of the Indoor Bowling Club – *Director of Regeneration and Neighbourhoods* This item contained exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006, namely information relating to the financial or business affairs of any particular person (including the authority holding that information) (para 3)

173. Future of the Indoor Bowling Club (*Director of Regeneration and Neighbourhoods and Assistant Director of Community Services*)

This item contained exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to the financial or business affairs of any particular person (including the authority holding that information) (para 3)

Type of decision

Non-key

Purpose of report

The purpose of the report is to outline the business plans of the Indoor Bowling Club in connection with a request from the Club to extend their lease.

Cabinet are asked to consider options in relation to the lease, rental payments and works required to the building.

Issue(s) for consideration by Cabinet

The Assistant Director, Resources outlined proposals submitted to the Council by the Indoor Bowling Club. Details of Cabinet's consideration of

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Our Ref: CEX

Contact Officer/Email: chris.little@hartlepool.gov.uk

21 December 2016

Jonathan Cooper
Investigator
Investigation, Monitoring and Enforcement
Charity Commission
PO BOX 1227
LIVERPOOL
L69 3UG

Dear Jonathan,

I am writing to advise you that Angela Wilcox, ex-manager of Manor Residents Association in Hartlepool, has now been convicted of a number of offences including theft and false accounting.

As Ms Wilcox was a former Councillor the matter was recently discussed at a meeting of Hartlepool Borough Council. Members of the Council instructed me to write to ensure that as regulator you are aware of the Court decision on 2 December 2016 and that appropriate action is taken in respect of Ms Wilcox, both now and in the future with regard to any charity involvement.

Yours sincerely

A handwritten signature in black ink, appearing to read "Chris Little".

CHRIS LITTLE
CHIEF FINANCE OFFICER

AUDIT AND GOVERNANCE COMMITTEE

16 March 2017



Report of: Head of Audit and Governance

Subject: INTERNAL AUDIT PLAN 2016/17 UPDATE

1. PURPOSE OF REPORT

- 1.1 To inform Members of the progress made to date completing the internal audit plan for 2016/17.

2. BACKGROUND

- 2.1 In order to ensure that the Audit and Governance Committee meets its remit, it is important that it is kept up to date with the ongoing progress of the Internal Audit section in completing its plan. Regular updates allow the Committee to form an opinion on the controls in operation within the Council. This in turn allows the Committee to fully review the Annual Governance Statement, which will be presented to a future meeting of the Committee, and after review, will form part of the statement of accounts of the Council.

3. PROPOSALS

- 3.1 That Members consider the issues within the report in relation to their role in respect of the Councils governance arrangements. Table 1 of the report detailed below, sets out the school audits that have been completed and the recommendations made.

Table 1

Audit	Objectives	Recommendations	Agreed
Greatham Primary	Ensure school finance and governance arrangements are in line with best practice.	- Effective clerking arrangements should be in place for the governing body and finance committee. Part 4 of the Statutory Guidance on the School Governance (Procedures) (England) Regulations 2013 identifies best practice relating to Committees of Governing Bodies and states that the GB must appoint a clerk to each committee.	Y

Audit	Objectives	Recommendations	Agreed
		<p>Whilst the Headteacher cannot be a clerk, a governor can be appointed although it is considered best practice to appoint a qualified clerk (or who is receiving training). The school should ensure that Finance & General Purposes Committee meeting minutes should contain more detail and be able to demonstrate effective participation and discussion that have taken place on matters such as budgets and awarding of contracts.</p> <p>- Orders should be used for all goods and services with a few limited exceptions. These orders should be committed onto the School's financial system prior to receipt to prevent overspending.</p> <p>- Outstanding debt is forwarded to the Local Authority to commence recovery action for the balance outstanding.</p>	<p>Y</p> <p>Y</p>
St Aidan's Primary	Ensure school finance and governance arrangements are in line with best practice.	<p>- A review is undertaken to ensure that the school's budget is sufficient to support the current staffing structure and presented to Governors for formal review and ratification.</p> <p>- The Governing Body should formally adopt a scale of charges for the Breakfast Club which should be reviewed on an annual basis.</p> <p>- Orders should be used for all goods and services with a few limited exceptions. These orders should be committed onto the School's financial system prior to receipt to prevent overspending.</p>	<p>Y</p> <p>Y</p> <p>Y</p>

3.2 In terms of reporting internally at HBC, Internal Audit produces a draft report which includes a list of risks currently faced by the client in the area audited. It is the responsibility of the client to complete an action plan that details the actions proposed to mitigate those risks identified. Once the action plan has been provided to Internal Audit, it is the responsibility of the client to provide Internal Audit with evidence that any action has been implemented by an agreed date. The level of outstanding risk in each area audited is then reported to the Audit and Governance Committee.

3.3 The benefits of this reporting arrangement are that ownership of both the internal audit report and any resulting actions lie with the client. This reflects the fact that it is the responsibility of management to ensure adequate procedures are in place to manage risk within their areas of operation, making managers more risk aware in the performance of their duties. Greater assurance is gained that actions necessary to mitigate risk are implemented and less time is spent by both Internal Audit and management in ensuring audit reports are agreed. A greater breadth of assurance is given to management with the same Internal Audit resource and the approach to

risk assessment mirrors the corporate approach to risk classification as recorded in covalent. Internal Audit can also demonstrate the benefit of the work it carries out in terms of the reduction of the risk faced by the Council.

- 3.4 Table 2 below summarises the assurance placed on those audits completed with more detail regarding each audit and the risks identified and action plans agreed provided in Appendix A.

Table 2

Audit	Assurance Level
Benefits	Satisfactory
Local Council Tax Support Scheme	Satisfactory
Troubled Families Grant	Satisfactory
Council Tax	Satisfactory
Non Domestic Rates	Satisfactory
Community Infrastructure Levy/S106	Satisfactory
Recruitment	Satisfactory
Emergency Planning	Satisfactory

For Members information, Table 3 below defines what the levels of assurance Internal Audit places on the audits they complete and what they mean in practice:

Table 3

Assurance Level	Meaning
Satisfactory Assurance	Controls are operating satisfactorily and risk is adequately mitigated.
Limited Assurance	A number of key controls are not operating as intended and need immediate action.
No Assurance	A complete breakdown in control has occurred needing immediate action.

- 3.5 As well as completing the audits previously mentioned, Internal Audit staff have been involved with the following working groups:

- Information Governance Group.
- Performance and Risk Management Group.

- 3.6 Table 4 below details the audits that were ongoing at the time of compiling the report.

Table 4

Audit	Objectives
Manor Residents Association/Who Cares North East	To give an opinion on the adequacy of the arrangements in place to manage and expend funding received from HBC.
Creditors	Ensure ordering, receiving and paying for goods/services are properly authorised and comply with the Authority's Financial Procedure Rules.

ITU Fuel Management	Ensure adequate controls are in place regarding the ordering, storage, usage and recording of fuel consumption.
Public Health; 0-5 Year Olds	Public Health Services for children and young people are provided and paid for in accordance with the contract terms and conditions resulting in the outcomes identified being achieved; payments made from public health budgets are in line with contractual agreements and are for items permitted for spend from the Public Health Grant.
Social Fund/Section 17 Payments	Ensure controls are in place to manage the following areas; policy, assessment, expenditure, procurement, security of goods & cash, budget monitoring and information security.
Direct Payments	The audit focused on the Direct Payments processes following assessment as well as the arrangements for monitoring use of funds so that the Authority is satisfied that the needs for which it is giving service users Direct Payments are being met.
ITU Child and Adult Provision	Ensure transport services meet service user needs.
Catering	Ensure adequate control is present in the delivery of the service.
Contracts	Ensure adequate arrangements are in place to manage the three stages of contracts.
Barnard Grove Primary	Ensure school finance and governance arrangements are in line with best practice.
Main Accounting Systems	Ensure identified risks are managed at an acceptable level with regard to legislative and regulatory requirements and financial accounts are accurate and complete.
Adult Education	To establish that funding conditions and requirements are in place and arrangements have been established to ensure that these are adhered to.
Industrial Estate Lettings	To evaluate the procedures in place relating to income received by the Authority relating to Industrial Estate lettings and rentals.
Highways	Ensure accounting principles are adhered to in the recording of highway assets.
Disaster Recovery	Ensure adequate procedures are in place in case of unexpected events occurring.
Computer Audit Network Controls	A network strategy exists and standards and policies are in place to support its delivery.
Attendance Management	Ensure that adequate policies and procedures are in place in relation to reporting, recording and monitoring of sickness absence across departments.
Day Centres	Ensure adequate arrangements are in place for the day to day management of the centres.

- 3.7 The work completed and currently ongoing is in line with expectations at this time of year, and audit coverage to date has allowed Mazars to place reliance on the scope and quality of work completed when meeting their requirements under the Audit Code of Practice.

4. RISK IMPLICATIONS

- 4.1 There is a risk that if Members of the Audit and Governance Committee do not receive the information needed to enable a full and comprehensive review of governance arrangements at the Council, this would lead to the Committee being unable to fulfil its remit.

5. FINANCIAL CONSIDERATIONS

- 5.1 There are no financial considerations.

6. LEGAL CONSIDERATIONS

6.1 There are no legal considerations.

7. CHILD AND FAMILY POVERTY CONSIDERATIONS

7.1 There are no child and family poverty considerations.

8. EQUALITY AND DIVERSITY CONSIDERATIONS

8.1 There are no equality and diversity considerations.

9. STAFF CONSIDERATIONS

9.1 There are no staff considerations.

10. ASSET MANAGEMENT CONSIDERATIONS

10.1 There are no asset management considerations.

11. RECOMMENDATIONS

11.1 It is recommended that Members note the contents of the report.

12. REASON FOR RECOMMENDATIONS

12.1 To ensure that the Audit and Governance Committee meets its remit, it is important that it is kept up to date with the ongoing progress of the Internal Audit section in completing its plan.

13. BACKGROUND PAPERS

13.1 Internal Audit Reports.

14. CONTACT OFFICER

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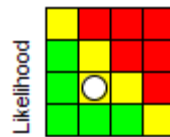
Appendix A

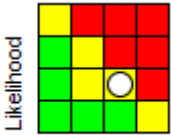
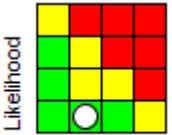
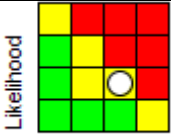
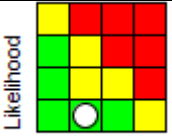
Audit	Objective			Assurance Level
Benefits	Ensure adequate controls exist in the administration of the service, claims processing, arrangements for processing changes in claimants' circumstances, payments and the prevention/detection of fraud.			Satisfactory
Risk Identified		Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
No unmitigated risk identified.				

Audit	Objective			Assurance Level
Local Council Tax Support Scheme	Ensure the scheme complies with legislation and that effective arrangements are in place for processing claims.			Satisfactory
Risk Identified		Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
No unmitigated risk identified.				

Audit	Objective			Assurance Level
Troubled Families Grant	Ensure grant claims are in line with grant terms and conditions.			Satisfactory
Risk Identified		Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
No unmitigated risk identified.				

Audit	Objective			Assurance Level
Council Tax	Ensure controls are working appropriately in respect of administration, adult Social Care Flexibility, valuation, liability, billing, collection & refunds; and recovery, enforcement & write offs.			Satisfactory
Risk Identified		Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
No unmitigated risk identified.				

Audit	Objective			Assurance Level
Non Domestic Rates	Ensure controls are in place to manage the following areas and that those controls are working appropriately; legislation, liability, billing, collection & refunds, recovery & write offs, NNDR1 & NNDR3 returns and performance management.			Satisfactory
Risk Identified		Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented
Payments may be allocated to the incorrect accounts and account adjustments may be incorrectly made.		 <p>Likelihood</p> <p>Impact</p>	Credit balance reports will be produced on a monthly basis which will be passed to the Business Rates staff for investigation.	 <p>Likelihood</p> <p>Impact</p>

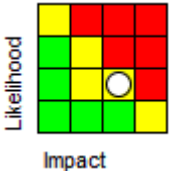
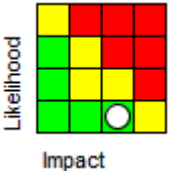
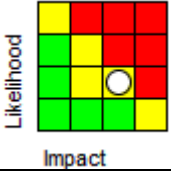
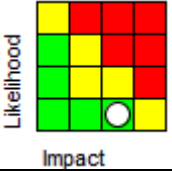
Audit	Objective	Assurance Level		
Community Infrastructure Levy	Ensure adequate arrangements are in place to manage ongoing planning obligations.	Satisfactory		
Risk Identified	Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented	
Without a clear approach to evaluating planning applications and identifying planning obligations there may be inconsistencies between schemes.		Planning Officers are currently in the process of creating a single Excel spreadsheet which will be updated primarily by the Planning Monitoring Officer but also with contributions from the Senior Planning Policy Officer on an ongoing basis. The spreadsheet will be able to record (i) pot pooling, (ii) when payment dates are due, (iii) recording details of where the obligations are going and be able to calculate the ongoing spend/surplus etc. (iv) recovering payments due and recording action taken, (v) reconciliations to Integra and ultimately (vi) a “live” running total of levels of spend available or due in each area. The Assistant Director Economic Growth & Regeneration has had a meeting with the Group Accountant who has come up with a spreadsheet which he updates (based on what has historically sent him; which illustrates the needless duplication of work that currently takes place). Bearing this in mind Corporate Finance and Planning are currently working together to design a spreadsheet that is fit for purpose for everyone concerned.		
Without a clear approach to evaluating planning applications and identifying planning obligations there may be inconsistencies between schemes.		Once Planning have completed the S106 spreadsheet this will then subsequently be made publically available via a link on the Council's website. This will fulfil our obligation with regard to Planning Guidance and also negate the need to provide constant update reports to the various Committees and the information will be easily available for all concerned. This “live” spreadsheet will identify 100% of all current S106 Planning Obligations and will give a snapshot at any time as to the progress made on discharging/modifications etc. This approach is		

		<p>consistent with good practice observed at other Local Authorities.</p> <p>Whilst the S106 spreadsheet identifies all the current S106 Planning Obligations, the actual S106 legal document is often not displayed as a public document; this is a historical quirk and we are seeking to remedy that going forward. Planning are now in the process of identifying every current S106 Legal Agreement monitored with obligations outstanding. Often these documents are only in paper format so the first task will be scan them electronically and then subsequently save them on to the system to form part of the Planning Register. These then need updating and need to be displayed as part of the document library/download for each application and this work is currently being done but will take time as the back catalogue is extensive.</p> <p>Through discussions it was suggested that Planning then need to put on the Register/Portal when triggers are met and monies spent; this could be done via a proforma document for each application which is updated as and when. However Planning have reached the conclusion that they don't need to do this as when triggers are met and/or monies are spent as this will be publicised through the S106 Spreadsheet which will itself be publically available.</p>	
Viability testing may not be undertaken effectively.	<p>Likelihood</p> <p>Impact</p>	<p>It is the responsibility of the Planning Policy Officer to undertake the Economic Viability Assessment (EVA) when required on a planning application. Each EVA will involve a series of negotiations with the officer and the applicant/developer which are recorded on Excel spreadsheets and stored on the Council's network. These spreadsheets are confidential in nature (i.e. business plans that applicants/developers do not want to share with competitors) so they are not included on the Planning Register and are not public documents; unlike the final S106 Legal Agreement itself. It is correct to assume that the Planning Officers do have authority to negotiate but there are checks and balances in place to ensure that a sound decision on viability has been</p>	<p>Likelihood</p> <p>Impact</p>

4.3

		<p>made; as set out below:</p> <p>As these negotiations take place the officer will come to an opinion on a suite of Planning Obligations that the development can deliver bearing in mind economic viability. The opinion is included in specific section of the Planning Officer's report which is presented to Planning Committee; where all negotiated contributions are set out and a rationale/explanation as to the economic viability of the development. This report is a public document and is included on the Planning Register. Based on the robust evidence set out in the report the decision to refuse or grant (bearing in mind the negotiated EVA and subsequent Planning Obligations) is made by the Elected Members of the Planning Committee and the negotiating officer and/or the applicant/developer can be questioned by the Members if required.</p>	
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Audit	Objective			Assurance Level
Recruitment	Ensure all legislative requirements are adhered to and operate in practice.			Satisfactory
Risk Identified	Risk Level prior to action implemented	Action Agreed		Risk Level after action implemented
No unmitigated risk identified.				

Audit	Objective	Assurance Level		
Emergency Planning	To ensure effective arrangements are in place for keeping up to date with legislation / best practice and a Local Resilience Forum is established and operates according to the requirements of the CCA and associated regulations.	Satisfactory		
Risk Identified	Risk Level prior to action implemented	Action Agreed	Risk Level after action implemented	
The LRF may not be able to fulfil its obligations under the Civil Contingencies Act if strategic risks to its effective operation are not identified and appropriately managed		A strategic risk register, be developed by the Strategic Board, following an analysis of the strategic risks faced by the Body, which details risks to the effective operation of the LRF and its planning and preparedness functions be developed and approved by the Strategic Board. The register should be readily accessible to appropriate members of the LRF and subject to regular review.		
The service may not comply with the Information Commissioners requirements under the Freedom of Information Act.		The revised model publication scheme published by the Information Commissioner should be adopted.		

AUDIT AND GOVERNANCE COMMITTEE

16 March 2017



Report of: Head of Audit and Governance

Subject: INTERNAL AUDIT PLAN 2017/18

1. PURPOSE OF REPORT

- 1.1 To inform Members of the direction of internal audit activity, and to seek approval of the annual operational Internal Audit Plan for 2017/2018 (Appendix A).

2. BACKGROUND

- 2.1 Under the Accounts and Audit Regulations 2015, the Council must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance. At Hartlepool, the authority for ensuring this responsibility is met has been delegated to the Chief Finance Officer.
- 2.2 To accord with the new Public Sector Internal Audit Standards (PSIAS) and to assist in ensuring the objectives of Internal Audit are achieved, audit activity must be effectively planned to establish audit priorities and ensure the effective use of audit resources.
- 2.3 Given available audit resources, all aspects of the Council's systems and arrangements cannot be audited in one year. In recognition of this a Strategic Audit Plan has been prepared using a risk model based on the model accredited by the Chartered Institute of Public Finance and Accountancy, which factors include:
- System Factors
 - Managerial and Control environment
 - Value of transactions
 - Volume of transactions
 - Opinion critical
 - May incur legal penalties

- 2.4 The Strategic Audit Plan is produced in a way that ensures all relevant risk areas are covered. This allows the most relevant and comprehensive annual opinion on the Councils control environment to be given to the Audit and Governance Committee. Additionally, the audit plan has been tailored to add value to the Council following a process of discussion and consideration by Corporate Management Team, of their current operational issues.

3. INTERNAL AUDIT RESOURCES 2017/2018

- 3.1 Hartlepool Borough Council Internal Audit establishment consists of a Head of Audit and Governance and 5 FTE audit staff. When taking into account operational costs of providing the service and income generated, the net budget for the provision of Internal Audit is £230,000, which equates to approximately £225 per audit day provided.
- 3.2 A total of 83 planned areas of audit coverage will form the basis of the mainstream Internal Audit work for 2017/18. The plan includes fundamental systems such as salaries, debtors, creditors, risk management etc., which are identified, for the purpose of the plan, as single audits. However, these will include system and probity audits in each or some of the departments, in support of the main system reviews.
- 3.3 In addition to the planned audit work, advice and support will be provided on an ad hoc basis throughout the financial year together with unplanned reactive work wherever necessary and appropriate.
- 3.4 For 2017/18, we are contracted to provide 100 days of audit work to the Cleveland Fire Authority.
- 3.5 Further details are provided in Appendix A of the focus of coverage across the council. In order to support members in the process of reviewing proposed audit coverage, the Better Governance Forum guidance on approving Internal Audit plans is also attached for information. This takes the form of a number of questions members may want to consider when reviewing the plan.

4. DELIVERING THE AUDIT

- 4.1 Regular liaison is an essential feature of an effective and responsive audit function. In this context, Internal Audit will:
 - Have frequent meetings with departments to discuss the short term audit program, any current departmental issues which may benefit from an audit review and provide the

opportunity to raise any concerns with the audit services provided;

- Following audit reviews agree action plans, identifying responsibilities and timescales for action;
- Carry out follow up work to monitor the effectiveness of management in implementing action plans;
- Ensure action plans are focused on improving controls and delivering benefits to the Council;
- Provide feedback to the Chief Finance Officer and Members on progress on the audit plan and the outcomes of audit work.

5. INTEGRATION

- 5.1 Although Internal Audit and Mazars carry out their work with different objectives, it is good professional practice that both parties should work closely together, which is a principle that the Council has always been committed to.
- 5.2 The arrangements for ensuring effective joint working are formalised into a Joint Protocol Agreement, which ensured that the overall audit resources are most effectively focused and duplication is minimised.

6. FINANCIAL CONSIDERATIONS

- 6.1 There are no financial considerations.

7. LEGAL CONSIDERATIONS

- 7.1 There are no legal considerations.

8. CHILD AND FAMILY POVERTY CONSIDERATIONS

- 8.1 There are no child and family poverty considerations.

9. EQUALITY AND DIVERSITY CONSIDERATIONS

- 9.1 There are no equality and diversity considerations.

10. STAFF CONSIDERATIONS

10.1 There are no staff considerations.

11. ASSET MANAGEMENT CONSIDERATIONS

11.1 There are no asset management considerations.

12. RECOMMENDATION

12.1 It is recommended that Members review and approve the 2017/18 Internal Audit Plan and note the Internal Audit budget for 2017/18 of £230,000.

13. REASON FOR RECOMMENDATIONS

13.1 To ensure that the Audit and Governance Committee meets its remit, it is important that it satisfies itself that Internal Audit coverage is adequate and effective.

14. BACKGROUND PAPERS

14.1 - Accounts and Audit Regulations 2015
- UK Public Sector Internal Audit Standards (PSIAS).

15. CONTACT OFFICER

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Hartlepool
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Email: noel.adamson@hartlepool.gov.uk

Appendix A

Department Name		A/D, Director	2017/18
Chief Executives	Attendance Management	Claire McLaren	5
Chief Executives	Benefits - Housing	John Morton	25
Chief Executives	Budgetary Control	Chris Little	20
Chief Executives	Cash/Bank	Chris Little	10
Chief Executives	Communication - Mobile Phones	Claire McLaren	5
Chief Executives	Computer Audit	Claire McLaren	50
Chief Executives	Contact Centre	John Morton	5
Chief Executives	Contract Audit	Chris Little	10
Chief Executives	Council Tax	John Morton	25
Chief Executives	Creditors	John Morton	20
Chief Executives	Data Quality - DPA	Claire McLaren	5
Chief Executives	Debtors	John Morton	20
Chief Executives	Ethics	Peter Devlin	5
Chief Executives	Fraud Awareness	Chris Little	25
Chief Executives	Information/Data Management Security	Claire McLaren	30
Chief Executives	Loans & Investments	Chris Little	5
Chief Executives	Local Council Tax Support Scheme	John Morton	15
Chief Executives	Main Accounting	Chris Little	20
Chief Executives	Members Allowances/Subsistence	John Morton	5
Chief Executives	Middleton Grange Shopping Centre	Chris Little	5
Chief Executives	NFI	Chris Little	10
Chief Executives	NNDR	John Morton	20
Chief Executives	Northgate Community Fund	Chris Little	5
Chief Executives	Officers Expenses	John Morton	5
Chief Executives	Procurement	Chris Little	10
Chief Executives	Risk Management	Claire McLaren	5
Chief Executives	Registrars	Claire McLaren	5
Chief Executives	Salaries and Wages	John Morton	20
Chief Executives	Tees Valley Combined Authority	Chris Little	5
Chief Executives	Transparency Code of Practice	Claire McLaren	5
Chief Executives	V.A.T.	Chris Little	5
Child and Adult Services	Better Care Fund	Jill Harrison	5
Child and Adult Services	Eldon Grove Primary Academy	Mark Patton	10
Child and Adult Services	Elwick Hall C Of E Primary School	Mark Patton	3
Child and Adult Services	Eskdale Academy	Mark Patton	5
Child and Adult Services	Golden Flatts Primary School	Mark Patton	5
Child and Adult Services	Hart Primary School	Mark Patton	3
Child and Adult Services	Home Care	Jill Harrison	5
Child and Adult Services	Jesmond Gardens Primary Academy	Mark Patton	5
Child and Adult Services	Kingsley Primary School	Mark Patton	5
Child and Adult Services	Lynnfield Primary School	Mark Patton	5
Child and Adult Services	Migrant Grant	Jill Harrison	5
Child and Adult Services	Rift House Primary School	Mark Patton	5
Child and Adult Services	Rossmere Primary School	Mark Patton	5
Child and Adult Services	Social Care - Contracts and Commissioning	Jill Harrison	5
Child and Adult Services	Social Care - Direct Payments	Jill Harrison	5
Child and Adult Services	Social Care - Nursing and Residential	Jill Harrison	5

	Care		
Child and Adult Services	St. Cuthberts Primary School	Mark Patton	5
Child and Adult Services	St. Helens Primary School	Mark Patton	5
Child and Adult Services	St. Hilds Secondary School	Mark Patton	10
Child and Adult Services	St. John Vianney Primary School	Mark Patton	5
Child and Adult Services	St. Josephs Primary School	Mark Patton	5
Child and Adult Services	St. Teresa's Primary School	Mark Patton	5
Child and Adult Services	Stranton Primary School Academy	Mark Patton	5
Child and Adult Services	Troubled Families Grant	Jill Harrison	20
Public Health	Dental Public Health Services	Paul Edmondson-Jones	5
Public Health	Hubs/New Responsibilities	Paul Edmondson-Jones	5
Public Health	Increasing Levels of Physical Activity	Paul Edmondson-Jones	5
Public Health	Obesity Management Services	Paul Edmondson-Jones	5
Public Health	Sexual Health Services	Paul Edmondson-Jones	5
Public Health	Smoking Cessation Services	Paul Edmondson-Jones	5
Regeneration and Neighbourhoods	Adult Education	Andrew Carter	5
Regeneration and Neighbourhoods	Car Parking - Income	Tony Hanson	5
Regeneration and Neighbourhoods	Catering	Denise Ogden	5
Regeneration and Neighbourhoods	Church Street Scheme	Andrew Carter	5
Regeneration and Neighbourhoods	Community Safety	Denise Ogden	10
Regeneration and Neighbourhoods	Economic Development	Andrew Carter	5
Regeneration and Neighbourhoods	Empty Homes Scheme	Andrew Carter	5
Regeneration and Neighbourhoods	Highways - Confirm System	Tony Hanson	5
Regeneration and Neighbourhoods	Housing Management	Andrew Carter	5
Regeneration and Neighbourhoods	Housing Market Renewal	Andrew Carter	5
Regeneration and Neighbourhoods	Inspiration Nursery	Tony Hanson	5
Regeneration and Neighbourhoods	Jacksons Landing Development/Waterfront	Andrew Carter	5
Regeneration and Neighbourhoods	New Homes Bonus	Andrew Carter	5
Regeneration and Neighbourhoods	Pest Control, Licences, Public Health Income	Tony Hanson	5
Regeneration and Neighbourhoods	Recycling/Landfill	Tony Hanson	5
Regeneration and Neighbourhoods	Seaton Carew Masterplan	Andrew Carter	5
Regeneration and Neighbourhoods	Staff Lottery	Denise Ogden	5
Regeneration and Neighbourhoods	Stores	Tony Hanson	5
Regeneration and Neighbourhoods	Trade Refuse/Special Collections	Tony Hanson	5
Regeneration and Neighbourhoods	Transport Concessionary Travel	Tony Hanson	5
Regeneration and Neighbourhoods	Transport Workshops	Tony Hanson	5
Regeneration and Neighbourhoods	Youth Employment Initiative Grant	Andrew Carter	20
	ADMINISTRATION		
Corporate	Training/Development		50
Corporate	Administration		70
Corporate	Contingency/Advice/Support/Special Investigations		90
	CFA		100
	TOTAL		1016
	Holidays		155
	Contingency		25
	Bank Holidays		40

Reviewing the Audit Plan

At least once a year, but possibly more frequently, both your internal and external audit teams will ask you to review their audit plans and approve them. If you aren't familiar with audit plans, you may well be asking yourself how to do this and how you can add value. In this article, I will discuss:

- Why draw up an audit plan?
- Who is involved?
- How is the audit plan produced?
- What does the audit plan cover?
- When is the audit plan written?
- Your role in relation to the audit plan

I will finish with a "dashboard" of key questions for you to ask to satisfy yourself that the plan has been drawn up appropriately and will deliver the assurance that you need as an audit committee member. While I concentrate on your role in relation to internal audit, many of these points also relate to external audit.

Why draw up an audit plan?

An audit plan is needed to ensure that your auditors address all the main areas of risk within your organisation and can provide assurance to support your Annual Governance Statement or Statement on Internal Control. At the end of each year the head of internal audit provides an opinion on the effectiveness of the control environment so it is vital that the plan is sufficient to support that opinion. It is also needed to ensure auditors use their limited resources (budget, time, people and expertise) to best effect. Almost inevitably audit needs outstrip audit resources and the plan will help your audit team set its priorities, in discussion with you.

Who is involved?

The audit plan is normally drawn up by the head of internal audit, in consultation with directors and members of the audit team. As the internal audit plans and external audit plans should be aligned, each should consult the other as part of this process.

How is the audit plan produced?

The audit plan is 'risk-based' to address the financial and non-financial risks faced by your organisation and your key priorities. Your organisation's risk register and the effectiveness of risk management will be reviewed to help develop the plan. The plan may also include work to be undertaken on behalf of your external auditor. The identified audits will be balanced against the resources available and the plan drawn up accordingly.

What does the audit plan cover?

The audit plan should show how your internal audit strategy is going to be achieved in accordance with the section's terms of reference. Plans include a combination of planned work and allowances for reactive work. They are always flexible so that they can reflect the changing risks and priorities within your organisation. Plans will also include allowances for "non-chargeable" time.

Planned audit work consists of a series of reviews of different aspects of your organisation's operations. The plan will include some high risk areas, for example areas of significant financial risk or high profile projects or programmes. Or they could be areas where there are concerns about poor performance, fraud or emerging risks. Some higher risk audits may feature annually in audit plans. Other areas, particularly financial systems, may be audited regularly even if they are well controlled because of their significance to the financial statements. The

frequency will usually be agreed with the external auditor. Other parts of the plan will reflect the risks and priorities of the organisation and the judgement of the head of internal audit.

Reactive audit work may include investigations, giving advice, supporting working groups and other such matters. Non-chargeable time includes annual leave, training, administration, team meetings etc. A working year is approximately 260 days. A typical auditor (not a trainee or a manager) will carry out about 200 audit days/year.

When is the audit plan written?

Detailed audit plans normally cover the organisation's financial year, although this is not mandatory. The audit plan is, therefore, generally written a few months before the start of the audit year for approval by the audit committee at the meeting before the start of that year. As the plan has to be flexible, you should be kept informed of minor changes and receive a revised plan for approval if there are any significant changes during the year.

There may also be a strategic plan that outlines the main direction for the audit team over a longer period than a year (perhaps three years). This is particularly useful to understand the wider coverage of risks and controls.

The audit committee's role

The audit committee should be both challenging of the plan and supportive in its delivery. You need to be sure that the organisation's risks and priorities are considered, that the plan is aligned with the audit strategy and terms of reference, that internal and external audit have liaised in drawing up their plans and that your auditors have exercised their independence and have not been unduly influenced by others in deciding what they will or (even more importantly) will not examine. You could review the audit strategy and terms of reference at the same time to ensure that they are still relevant and appropriate.

You also need to consider how the plan relates to other sources of assurance to support the Annual Governance Statement or Statement on Internal Control, for example assurance from the risk management process or management assurances. Taken as a whole, will you get the assurance you need?

Once the plan has been approved, your role is then to monitor activity and outcomes against that plan. Is it being delivered? Is the audit work delivering the expected outcome? You may also need to support your auditors, if they are struggling to get auditee engagement or experience a shortfall in resources. Above all, you are there to get action as a result of audit work.

Key questions to ask:

- 1. Who did the head of internal audit liaise with in drawing up this plan? Did this include external audit?**
- 2. How does this audit plan link to our risk register and our strategic plans?**
- 3. What audits have you left off this plan and why? When do you plan to carry out this work?**
- 4. How does the audit plan fit with other assurance work? Are there any gaps or is there duplication?**

Elizabeth Humphrey

Senior Associate, CIPFA Better Governance Forum

AUDIT AND GOVERNANCE COMMITTEE

16 March 2017



Report of: Chief Solicitor and Head of Audit and Governance

Subject: ORGANISED CRIME AND PROCUREMENT PILOT
REPORT

1. PURPOSE OF REPORT

- 1.1 To bring to the Committee's attention the conclusions and recommendations from a pilot programme to explore the threat from serious and organised crime to publically procured services in Local Government, following correspondence to Local Authority Council Leaders on the 6th December 2016. This correspondence, as a joint initiative between the Home Office and the Department for Communities and Local Government follows concerns about the vulnerability of public procurement to organised crime as outlined in the Government's Serious and Organised Crime Strategy (October 2013).

2. BACKGROUND

- 2.1 In 2013, the Home Office Serious and Organised Crime Strategy, estimated that £2.1 bn of fraud was perpetrated against Local Government of which £876 m related to procurement and fraud (National Fraud Authority (2013) Annual Fraud Indicator). It is the belief of the National Crime Agency that Local Authorities through their procurement are at particular risk of infiltration from serious and organised crime groups through securing the benefit from public sector contracts. In order to obtain a better understanding of the nature and scale of the threat in England, a joint pilot was undertaken through Local Authorities and Police forces in 7 pilot areas to examine the threat and strengthen protective measures. Ten possible links between public procured services and organised crime were identified by the pilot areas (see further below) with the most serious areas of risks being waste contracts, taxi/transport services and low level spend. In their final report, the Home Office and the Department for Communities and Local Government have recommended some "*resource – light interventions*" which they believe might help to reduce the vulnerabilities identified in the pilot, namely;

- A Serious and Organised Crime Checklist (see **Appendix A** to this report)
- A Serious and Organised Crime Audit (see **Appendix B** to this report)
- Non Involvement with Serious and Organised Crime Statement.

2.2 Raising Awareness

2.2.1 It is recommended that the report and its key findings should be shared within the Senior Management Team of a Local Authority and those responsible for procurement, finance, fraud and investigation, internal audit and licensing. Accordingly, mention of this matter has been made before the Council's Corporate Management Team and a further officer discussion encompassing the above disciplines, has also taken place. Having regard to its remit, this is a report which necessarily should come before this Committee and also potentially, for information purposes, before the Council's Finance and Policy Committee. In any event, the main recommendation is that a "Serious and Organised Crime Audit" should take place through the Council's Internal Audit team as part of their work programme for 2017/18.

2.2.2 The format of the 'Serious and Organised Crime Audit' is appended to this report and is a developed methodology which allows the Council's Internal Audit team to form a picture of any serious and organised crime risks that might be evident. There is also a recommendation of using the statement of non involvement in serious and organised crime when the council procure contracts, and that is covered in more detail below.

2.2.3 One of the main recommendations is that Local Authorities and Police should start a dialogue about serious and organised crime and the risks of infiltration of organised crime groups within their own areas. This should centre around not only good and effective collaborative working, but also through establishing a Local Authority Serious and Organised Crime Single Point of Contact (SPOC) for the Police with a specific link to a local authority officer in order to more easily identify possible links between serious and organised crime in local authority services. Again, this can be pursued through local authority participation in serious and organised crime local multi agency partnership groups and given that the Council Leader is Chair of the Hartlepool Safer Partnership, this is a very persuasive reason why this report should also be received by the Council's Finance and Policy Committee, which is chaired by the Leader but also has representation from the other policy chairs.

2.3 High Risk Sectors

2.3.1 The pilot study encompassed a "data washing" exercise to seek to identify those suppliers where there might be links to organised and serious crime. From this, a methodology covering the check list, audit and a statement of 'Non Involvement with Serious and Organised Crime', has been developed. It was noted, that where links were identified they were predominately relating to waste firms, taxis and low level one off spends. However, the results from

the pilot areas indicated that likely results were perhaps “under representing” any possible links to organised crime groups. From a study by Police Scotland, the ten top business sectors at risk of exploitation by organised crime groups were as follows;

- **Vehicles / transport** – e.g. taxis, private hire vehicles, garages, car washes;
- **Property** – e.g. construction, property maintenance, management and development;
- **Licensed Premises** – e.g. pubs and bars;
- **Catering / food** – e.g. restaurants, takeaways, catering suppliers, food storage;
- **Service / retail** – e.g. shops, social care, cleaning;
- **Health and beauty** – e.g. hairdressers, nail bars;
- **Security** – e.g. event and site security;
- **Professional** – e.g. financial, immigration advisors, estate agents;
- **Environmental** – e.g. scrap yard, recycling, waste disposal, skip hire;
- **Recreational** – e.g. entertainment, children’s recreational activities, sport and leisure.

2.3.2 The above were highlighted as being vulnerable to exploitation as they were predominately cash based businesses including high value cash transactions which illustrated some market domination within a certain geographical area with potential to launder cash by acting as a fraudulent company. It should be noted that, through recent legislation and since April, 2016, all those individuals with a “significant control of a company” (i.e. a 25% or greater holding of shares/voting rights or otherwise have the right to exercise significant influence or control over a company) are required to declare themselves in the register of people with such significant control with Companies House.

2.4 Serious and Organised Crime Checklist

2.4.1 The Serious and Organised Crime Checklist is appended to this report and should allow Local Authorities to quickly assess their serious and organised crime risks within their own organisation. It should also allow the organisation’s Head of Paid Service and Heads of Department to take a high level but balanced assessment of any exposure to such risks and in a response to developing a plan of managing the risk as well as capturing areas of good practice which they are then able to replicate more widely.

2.5 Serious and Organised Crime Audit

2.5.1 This is a more developed methodology that allows internal audit to scrutinise business operations to establish where there might be vulnerabilities to serious and organised crime. The audit is attached and is a key recommendation within the Home Office / Department for Local Government’s own recommendations and provides a framework suggesting priority business areas to audit.

2.6 Non Involvement with Serious and Organised Crime Statement

- 2.6.1 Although through the European Single Procurement document there is within the standard questionnaire a comparable statement it is considered meritorious for Local Government Authority Procurement teams to consider the inclusion of a statement outlined below, where procurement requires advertisement through the Official Journal of European Union (OJEU) and any invitation to tender (ITT) in areas considered to be at risk from serious and organised crime in the authorities area. The following terminology in such notifications is provided below;

OJEU Notice text (to be inserted at paragraph VI.3 of the OJEU Notice)

“The contracting authority has identified that the scope of this procurement falls within a business sector which may be attractive to infiltration by organised crime groups. The contracting authority therefore reserves the right to include enhanced appropriate checks / requirements at both the selection and award stages of the procurement.”

ITT Text

“The contracting authority has identified that the scope of this procurement falls within a business sector which may be attractive to infiltration by organised crime groups. The contracting authority therefore reserves the right to include enhanced appropriate checks / requirements at both the selection and award stages of the procurement. This may include, but not be limited to, clarification that a supplier, or any person with powers of representation, decision or control therein, has not infringed the mandatory grounds for exclusion set out in Regulation 57 (1) of the Public Contract Regulations 2015.”

- 2.6.2 A contracting authority will carry out the evaluation of tenders in the usual manner but through such a process a procurement officer could verify that any prospective winning supplier has made truthful responses in the light of the above. Again, close cooperation with Internal Audit and local Police could also become a factor in such due diligence.

3. RECOMMENDATIONS

- 3.1 That the Committee note, consider and make comment on this report and whether it should be received by the Council's Finance and Policy Committee.
- 3.2 That the Serious and Organised Crime Checklist (**Appendix A**) and that the Serious and Organised Crime Audit (**Appendix B**) from part of the work programme for the Council's Internal Audit team for 2017/18 and that the

outcome of their findings be brought back for consideration before the Audit and Governance Committee.

- 3.3 That the Committee consider whether the Council should utilise the 'Non Involvement Serious and Organised Crime Statement' official journal notices and invitations to tender, as outlined within this report.
- 3.4 The Committee considers what feedback to be given back to the Home Office on this particular initiative.

4. REASONS FOR RECOMMENDATIONS

- 4.1 The final report of the Organised Crime Procurement Pilots through the Home Office has lead to a joint initiative with the Department for Communities and Local Government as documented in correspondence to Local Authority Council Leaders. There is a strong recommendation that the findings of the report be shared within Local Authorities. Indeed, these Government Departments welcome any feedback on how the recommendations and interventions as suggested, can best be put into practice against the threat posed by organised crime groups. Both the final report and feedback can be sent to ProtectPublicSector@homeoffice.x.gsi.gov.uk

5. BACKGROUND PAPERS

- 5.1 Home Office – Organised Crime Procurement Pilots - Final Report (December 2016)

6. CONTACT OFFICER

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ANNEX A TO THE ORGANISED CRIME PROCUREMENT PILOTS – FINAL REPORT

OFFICIAL

LOCAL AUTHORITY SERIOUS AND ORGANISED CRIME CHECKLIST**The Threat**

Local Authority (LA) procurement is at risk of infiltration from serious and organised crime and organised crime groups could be benefitting from public sector contracts. In 2013 it was estimated that £2.1 billion of fraud was perpetrated against local government (National Fraud Authority Annual Fraud Indicator 2013).

Serious and organised crime is a threat to our national security and the Government's Serious and Organised Crime Strategy published in 2013 reported that it costs the UK more than £24 billion a year. Organised crime includes drug trafficking, human trafficking, child sexual exploitation, high value fraud and cyber-crime. Organised crime groups may seek to benefit from public services in different ways, including to raise money through fraudulent activity and to use businesses / services used by LAs to launder criminal proceeds. In this way public money can be lost to LAs and can ultimately fund other illegal activity.

Responding to the Threat

Assessing the risk from serious and organised crime and corruption is essential in allowing you to identify areas of concern within your business, potential vulnerabilities and to take action to strengthen processes and structures that safeguard public money.

How to use this Serious and Organised Crime Checklist

The checklist is intended to be used as an internal, self-assessment tool by the Chief Executive and the senior management team to provide a high level overview of the serious and organised crime risks that relate to your business. It can be carried out quickly with relevant heads of departments to make a high level, but balanced assessment of your exposure to the risks and in response develop an improvement plan for managing that risk, as well as capturing areas of good practice to replicate more widely across the LA and with neighbouring LAs.

ANNEX A TO THE ORGANISED CRIME PROCUREMENT PILOTS – FINAL REPORT

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Serious and Organised Crime Checklist

GOVERNANCE AND STRATEGY					
1. Awareness, Strategy, Guidance and Training					
	Question	Response / Action taken	Assessment of current arrangements		
a.	How aware are the senior management team and Elected Members of the Government's 2013 <u>Serious and Organised Crime Strategy</u> , the LGA's guide <u>Tackling Serious and Organised Crime – A Local Response</u> and DCLG's, <u>Fighting Fraud and Corruption Locally Strategy</u> ?		Good	Acceptable	Needs improvement
b.	Do you have a dedicated serious and organised crime Single Point of Contact in place and are they able to liaise to good effect with local police?		Good	Acceptable	Needs improvement
c.	Do you have an Anti-Fraud and Corruption Strategy and how effective is it?		Good	Acceptable	Needs improvement
d.	Is your Code of Conduct compliant with the <u>seven Nolan principles</u> and how robust are arrangements to investigate all allegations of breaches?		Good	Acceptable	Needs improvement
e.	How effectively do you maintain your public register of Members pecuniary interests?		Good	Acceptable	Needs improvement
f.	How well do you raise awareness of the threat that serious and organised crime poses to LAs and its services		Good	Acceptable	Needs improvement
2. Risk Management					
a.	How far have the risks posed by serious and organised crime and corruption been reflected within relevant risk registers?		Good	Acceptable	Needs improvement
b.	How effectively do you mitigate and manage the serious and organised crime risks identified?		Good	Acceptable	Needs improvement
c.	How confident are you that you could deal with / recover from a scenario involving loss or		Good	Acceptable	Needs improvement

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	reputational harm as a result of serious and organised crime?				
d.	How aware are your staff of the risks of cybercrime and that they know how to respond effectively to those risks.		Good	Acceptable	Needs improvement
3. Communication and Information / Intelligence Sharing					
a.	How effective are your arrangements for both internal and external data sharing?		Good	Acceptable	Needs improvement
b.	Do you and / or your serious and organised crime Single Point of Contact have regular meetings with the local police to discuss the sharing of information / intelligence? How constructive are these meetings?		Good	Acceptable	Needs improvement
c.	How effective are your arrangements for sharing information and intelligence with your local police force?		Good	Acceptable	Needs improvement
d.	How active a participant are you in the local serious and organised crime multi-agency partnership and do you attend / contribute regularly?		Good	Acceptable	Needs improvement
4. Whistleblowing					
a.	How effective are your whistle-blowing arrangements?		Good	Acceptable	Needs improvement
b.	Is guidance on reporting easily accessible for staff and is it straight-forward to follow?		Good	Acceptable	Needs improvement
5. Assurance					
a.	How confident are you that you are able to provide assurance to your Elected Members that you and your management team are aware of, and are managing, the risks posed by serious and organised crime?		Good	Acceptable	Needs improvement
b.	Do your Internal and External Audit teams play an		Good	Acceptable	Needs improvement

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	appropriate and useful role in this assurance process?				
Operational Controls					
1. Licensing (alcohol, taxi and other)					
a.	How confident are you that your LA has not granted a licence to an individual or organisation linked to serious and organised crime in the last 12 months? On what basis have you reached this conclusion?		Good	Acceptable	Needs improvement
2. Planning / Development management					
a.	How confident are you that no planning or development management decision made by your LA over the last 12 months has been exploited by organisations with links to organised criminals? On what basis have you reached this conclusion?		Good	Acceptable	Needs improvement
3. Social Housing					
a.	How confident are you that no property used for social housing is being used by, or sub-let to, an individual or organisation with links to serious and organised crime (e.g. drugs, prostitution, sub-letting, people trafficking, counterfeiting)?		Good	Acceptable	Needs improvement
b.	How confident are you able to be that those providing maintenance and repair services for social housing have no links to serious and organised crime?		Good	Acceptable	Needs improvement
4. Procurement					
a.	Are all your procurement, contract management and due diligence procedures robust and fully implemented? Are they regularly reviewed?		Good	Acceptable	Needs improvement
b.	Are effective policies or protocols in place to ensure that supplier checks are carried out in higher risk supplier sectors during procurement?		Good	Acceptable	Needs improvement
c.	How confident are you that your LA is not at risk of purchasing goods or services from organisations with links to serious and organised crime? How		Good	Acceptable	Needs improvement

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	have you reached this conclusion?				
d.	Are your records of supplier details reliably maintained and are they checked and verified sufficiently?		Good	Acceptable	Needs improvement
e.	Are you confident that your staff with purchasing responsibilities are aware of the risks of transacting with an organisation linked to serious and organised crime?		Good	Acceptable	Needs improvement
f.	Are you confident that staff with purchasing responsibilities know how to raise any potential concerns about organisations with which your LA transacts?		Good	Acceptable	Needs improvement
Insider Threat					
a.	How far do you think your LA could be at risk from employees who have links to serious and organised crime?		Good	Acceptable	Needs improvement
b.	How confident are you that you have effective and fully publicised processes in place for the following mechanisms aimed at minimising the 'Insider threat'? <ul style="list-style-type: none"> - Officer / Member vetting (on recruitment and at intervals thereafter) - Officer / Member external interests register - Gifts and hospitality register 		Good	Acceptable	Needs improvement
c.	Is there clear and effective accountability for the correct operation of these processes?		Good	Acceptable	Needs improvement
d.	How easily can a member of your staff, or another LA stakeholder (e.g. member of the public, supplier, etc.) report suspected or alleged malpractice to you? Are reporting processes clearly set out and publically available?		Good	Acceptable	Needs improvement

ANNEX B TO THE ORGANISED CRIME PROCUREMENT PILOTS – FINAL REPORT 4.5

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LOCAL AUTHORITY SERIOUS ORGANISED CRIME INTERNAL AUDIT**A framework for Internal Audit and Finance Managers****THE THREAT**

Local Authority (LA) procurement is at risk of infiltration from serious and organised crime and organised crime groups could be benefitting from public sector contracts. In 2013 it was estimated that £2.1 billion of fraud was perpetrated against local government (National Fraud Authority Annual Fraud Indicator 2013).

Serious and organised crime is a threat to our national security and the Government's Serious and Organised Crime Strategy published in 2013 reported that it **costs the UK more than £24 billion a year**. Organised crime includes drug trafficking, human trafficking, child sexual exploitation, high value fraud and cyber-crime.

RESPONDING TO THE THREAT

Conducting a Serious and Organised Crime Audit into areas most vulnerable / attractive to serious and organised crime can help to identify where LAs are most at risk and to assess where changes and improvements can be implemented to shut down opportunities for serious and organised crime involvement and reduce financial losses.

HOW TO USE THIS AUDIT AND AUDIT SCOPE

The Serious and Organised Crime Audit is a methodology that allows LA Internal Audit teams to scrutinise business operations to establish where there may be vulnerabilities to serious and organised crime.

We recommend initially working with police to identify areas most vulnerable within your LA and then for Internal Audit to carry out an audit based on the process set out below. 'Potential Areas for Serious and Organised Crime Audit' (Annex 1) lists typical LA work areas and those highlighted in bold are areas potentially at greater risk (based on Police Scotland's business exploitation list and Home Office Organised Crime Procurement Pilots) though these may vary from LA to LA.

Suggested questions that could form the basis of an audit are captured in the section entitled 'Audit Questions' found later in this document and you may also want to develop your own. However, the overarching questions you will want to consider are:-

- Is there a lack of awareness of serious and organised crime risks that can lead to actual or potential harm to the LA or the community which it serves? How can awareness be improved?
- Are there appropriate links with law enforcement bodies, other relevant partners and internally to ensure opportunities are not missed to act upon intelligence and to take robust steps early on to address actual or potential serious and organised crime risks? Can multi-agency partnerships be used more or to better effect?

ANNEX B TO THE ORGANISED CRIME PROCUREMENT PILOTS – FINAL REPORT

- Are serious and organised crime risks considered in key, high risk dealings and transactions, including procurement, to safeguard against financial or reputational loss? Are appropriate money laundering mechanisms in place? Are licencing procedures robust, clear and consistently followed?
- Are serious and organised crime risks considered as part of the recruitment and employment process, to avoid the potential for insider threat or corruption?

AUDIT PROCESS

STEP 1 – Agree scope

The auditor to meet with local police (and/or multi-agency partnership members) to map vulnerable areas within LA business. The auditor should also meet with the Chief Executive and heads of Finance, Procurement, Fraud, HR etc. to assess and agree audit areas, processes and strategies to be audited (see Annex 2 for suggested policies and processes).

STEP 2 – Audit questions

In the next section there are suggested audit questions to guide examination of business areas you are likely to want to audit (though each LA will have different priorities and you may have your own questions). The auditor should discuss the questions with the relevant leads for each work area being audited, in order to develop a picture of risks and weaknesses in current processes.

STEP 3 – Deep dives

Carrying out deep dive (or dip sampling) investigations into key current processes to check that they are fit for purpose and being followed. Having a process in place is not enough if it is not regularly reviewed and not routinely followed.) Annex 2 sets out key plans, policies and procedures that should be in place in most LAs.

STEP 3 – Take action

Use the responses to the questions and the outcomes of any deep dive investigations to reassess the risks and weaknesses in each area. Consider how the audit report can be used to recommend improvements and whether partners (police and other) should be involved to support strengthening of LA measures, for example, information sharing and targeted checks.

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AUDIT QUESTIONS

1. Strategic and Corporate teams

Raising awareness of serious and organised crime

- Are staff and senior managers within the LA aware of the Government's Serious and Organised Crime Strategy published in 2013, the Local Government Association's Tackling Serious and Organised Crime – A Local Response and the Fighting Fraud and Corruption Locally Strategy – the new counter fraud and corruption strategy for local government published in March 2016?
- What changes, if any, have been made within the LA in response to these strategies? Is response to the risks of serious and organised crime included in corporate and strategic plans and policies (including the whistleblowing policy)?
- Have these plans been recently reviewed? Are they being followed? Is a deep dive needed to check?
- Are staff aware of the seven 'Nolan' principles of standards in public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership and are arrangements in place for investigating allegations that these are not being complied with?

Risk Management

- Do you have a fraud risk register? How often is it reviewed by the LA audit and risk committee?
- Does the fraud risk or wider risk register include serious and organised crime considerations? Are mitigating actions being carried out and is the impact of these actions being managed and monitored?
- Have you assessed the risk to the LA from cybercrime and taken measures to protect LA systems from it?

Involvement with local multi-agency partnerships

- Are you part of a multi-agency partnership or other local partnership aimed at working with police and other agencies to tackle the threat of serious and organised crime? If not, are there reasons that one does not exist locally?
- Does the LA send an appropriate representative to the local partnership meetings and how often are these held / does the LA representative attend?
- Is output shared appropriately within the LA and are actions owned / acted upon?

ANNEX B TO THE ORGANISED CRIME PROCUREMENT PILOTS – FINAL REPORT

Sharing information and intelligence with the police, other law enforcement and neighbouring Local Authorities

- How do you share information with the local police and other enforcement agencies? Are formal processes in place and is there an Information Sharing Protocol? If so has this been reviewed? Is it being regularly used?
- What information do you share with the police and what information do the police share with you? Is there more information the police hold that might be useful and vice versa?
- Do you routinely share information with neighbouring LAs? How do you do this? What information do you share?
- What processes are in place to ensure key information is shared internally (for instance between the licensing Authority and Children's Services)? Are these processes followed?

2. Procurement

(Especially for potentially 'at risk' sectors such as taxis, waste, housing, construction and security)

- When did you last review your procurement processes? Are processes being properly followed? Would a deep dive of a recent procurement help provide assurance?
- What information are those tendering for LA contracts required to submit? (e.g. details of convictions / company owners etc.) In what stage of the tender is this information requested?
- How is the accuracy of information provided in tender documentation confirmed? Is there a process for this? Is it routinely followed?
- Are checks on suppliers (and subcontractors) carried out at the procurement stage and during the life of larger contracts?
- Do contracts allow for supplier audits including unannounced visits?
- Is there any information sharing with local police prior to awarding contracts (i.e. at the tender evaluation stage)?
- How does the procurement process protect procurement staff from getting undue pressure applied to them? Is there adequate segregation of duties?

ANNEX B TO THE ORGANISED CRIME PROCUREMENT PILOTS – FINAL REPORT

- Do you have any additional measures in place for procurements of services for vulnerable adults / children – vetting checks for instance for social housing providers or home to school taxi contracts?

3. HR

(see CPNI advice for more information on insider threat)

Vetting Checks

- What key checks are undertaken on the suitability and appropriateness of applicants prior to their appointment (e.g. identity, qualification, reference checks)?
- Who is responsible for undertaking these vetting checks? Are they always carried out?
- What evidence is obtained to confirm the performance of these checks and where is this evidence retained?
- Are there any differences in relation to the vetting approach adopted for Senior Officers, new starters and internal transfers etc.?
- Are the key vetting requirements clearly set out in the Recruitment and Selection Policy?
- Are any posts (for example those in areas with potential exposure to serious and organised crime activity) subject to a higher level of vetting?

Disclosure and Barring Service Checks

- Is a policy in place detailing any LA posts requiring a DBS check? If so, what process was followed to identify the posts which should be included and excluded from the checks? Are these posts kept under review?
- How often must DBS checks be undertaken by staff? Is there a system to monitor when a check is due? Does this work?

Secondary Employment and Declarations of Interest

- What arrangements are in place for monitoring and authorising secondary employment?
- Are registers maintained detailing staff and Members with secondary employment and how often are these updated?
- Is there a declaration of interests register for councillors and senior managers and are these periodically reviewed? (See para 4.50 of the UK Anti-Corruption

ANNEX B TO THE ORGANISED CRIME PROCUREMENT PILOTS – FINAL REPORT

Plan which outlines the rules requiring Councillors to register and declare certain pecuniary interests – failure to comply can lead to a criminal conviction, a fine up to £5,000 and a prohibition on holding the role of Councillor for up to five years).

Gifts and Hospitality

- Are all staff fully aware of the gifts and hospitality rules and the need to complete the register? How has this information been communicated?
- How often is your gifts and hospitality register updated?
- How is the register checked and monitored for accuracy?

Whistleblowing

(See Government whistleblowing advice for more information)

- Do you have a Whistleblowing / Confidential Reporting Policy in place and has it been adequately disseminated to all staff, Members and the public?
- Who is responsible for investigating all concerns raised and what reporting arrangements are in place?
- How often has the Whistleblowing / Confidential Reporting Policy been invoked over the last 2 years?
- Have you recently reviewed the Whistleblowing arrangements to ensure they are fit for purpose and effective?

Training

- Is a training programme in place to advise staff and Members of the indicators that they should look for to facilitate identification of officers working under duress or potential corruption?

4. Finance

Anti-money laundering

- What arrangements are in place to identify / monitor unusual or suspicious activity? For example:
 - Are reports prepared from available sources detailing the frequency with which each client makes cash payments and the value of such payments?
 - What parameters / limits are in place for these reports?

ANNEX B TO THE ORGANISED CRIME PROCUREMENT PILOTS – FINAL REPORT

- What action is taken to investigate high values or unusual patterns within the reports?
- What types of (and frequency of) reports are provided internally to Senior Managers?
- Do you have serious and organised crime reporting arrangements in place and if so are they being followed? Who is responsible for compiling and authorising Suspicious Activity Reports, and how many have been prepared and submitted?
- Have all relevant staff been provided with clear instruction and training on the process to be followed when large amounts of cash are received from a Client? Are these processes being followed.

5. Legislative and regulatory functions (Licensing)

General

- When were your licensing processes last updated?
- Have licensing staff responsible for reviewing licensing applications been subject to DBS or other checks?
- What processes are in place to protect licensing staff from getting pressure applied to them?

Licensing, including Taxi and Private Hire Car Operator and Driver Licences

(See LGA taxi licensing guidance for members for more information)

- How many licensing staff are involved in the application evaluation process? Is there adequate segregation of duties?
- How long is each type of licence valid for?
- What information must applicants provide on the application from (e.g. names of all company directors, conviction details etc)? Is all this information verified?
- What vetting checks are undertaken on the application? (e.g. identity checks, convictions check with police and DBS, vehicle / premises checks) Are these always carried out? Do you have adequate information sharing arrangements with police to ensure you have all relevant information on individuals and companies before granting a licence?
- How is the relevance/significance of a conviction determined? Do you have an agreed policy in place? Is this always followed?

ANNEX B TO THE ORGANISED CRIME PROCUREMENT PILOTS – FINAL REPORT

- What applications can be approved by licensing staff (using their Delegated Authorities) and which applications are required to go to Committee for approval? Is this appropriate?
- What arrangements are in place to monitor compliance with the terms and conditions of the licences after they have been awarded and what enforcement powers does the LA have? In what circumstances would a licence be revoked? How often does that happen?
- What steps are followed when a licence is renewed? Is it automatic or does the applicant reapply – are convictions etc. rechecked with the police?
- Do you have processes in place to capture and keep all complaints made against a licenced driver or operator? Are all reports acted upon? Are the records monitored for patterns or frequency and used to inform future licencing decisions?

6. Housing

- Do you carry out vetting checks (including checking against other internal data sets) on those contracted by the LA to provide shelter / social housing to ensure there are no serious and organised crime (or other criminal) links as part of the procurement process? What information are property owners required to submit?
- How do you know who all the owners are – is there an ownership check? Is this reviewed periodically to ensure the same owners are in place and the property hasn't changed hands?
- Are properties visited and checked on a regular basis? Are checks made that the registered tenants are those living in the property?
- What system is in place for concerns to be raised about the property and to investigate and report on such concerns?
- How are right to buy applications monitored to ensure there is no serious and organised crime / criminal involvement?

ANNEX B TO THE ORGANISED CRIME PROCUREMENT PILOTS – FINAL REPORT

Annex 1

POTENTIAL AREAS FOR SERIOUS AND ORGANISED CRIME AUDIT

Below is an overview of some of the services generally offered by Local Authorities in England and Wales. Those services in bold are areas which may be more at risk than others (based on the Scottish Business Exploitation Risk list and outcomes of Home Office OC procurement pilots) The areas each LA chooses to audit will of course vary from LA to LA and depend on local knowledge and discussions with local police.

COMMUNITY SERVICES	CORPORATE AND NEIGHBOURHOOD SERVICES	DEVELOPMENT SERVICES	EDUCATION SERVICES	FINANCE SERVICES	SOCIAL WORK SERVICES
Asset Management	Building Maintenance	Building Design	Pre-five Education and Care	Accountancy	Criminal Justice
Business Support	Catering / School meals	Building Standards	Primary Education	Internal Audit	Family Support
Cemeteries	Cleaning	Consumer Protection	Secondary Education	Payroll Pensions	Home Care
Community Education	Communications	Development Planning	Home to School transport	Revenues	Housing with Care
Cultural Services	Corporate Policy	Environmental Protection		Treasury and Investment	Residential care
Parks and Recreation	Estates Management	Workplace food / safety			Vulnerable Adults
Sport and Leisure	Facilities Management	Licensing			Vulnerable Children
	Fleet Services	Risk Management			Welfare Benefits
	Grounds Maintenance	Roads Design			
	Housing Homelessness /	Roads Maintenance			
	HR	Transport Planning			
	ICT	Waste Strategy			
	Procurement				
	Refuse Collection				
	Street Cleaning				
	Waste Disposal				

**KEY PLANS, POLICIES AND PROCEDURES TO CONSIDER IN RELATION TO
SERIOUS AND ORGANISED CRIME**

(there are likely to be other plans and strategies not captured here)

Asset Disposal Procedures	Business Planning
Code of Conduct	Contract Management procedures
Corporate Plan	Data Protection Guidelines & Policy
Declarations of Interests register	E-mail & Internet Usage Policy
Financial Planning	Gift and hospitality register
Individual Service Plans	Information Sharing Protocols
IT Security Policy	Licensing Guidelines
Lone Working Policy	Money Laundering Procedures
Procurement Policy (including letting of Home to school transport contracts)	Recruitment Policy (including vetting)
Risk Management	Secondary Employment Guidance
Strategic Planning	Whistleblowing procedures

AUDIT AND GOVERNANCE COMMITTEE

16 March 2017



Report of: Chief Solicitor & Monitoring Officer

Subject: BUSINESS REPORT - STANDARDS

1. PURPOSE OF REPORT

- 1.1 As the Committee will be aware there is a duty for the Council 'to promote and maintain high standards of conduct' amongst its Members under Section 27 of the Localism Act, 2011. This is underpinned in the Code of Conduct which the Council is obliged to operate and which must be consistent with the seven 'Principles of Public Life' set out under the Act. This report, for information purposes, covers issues pertinent to the maintenance of strong, ethical standards within a public body.

2. BACKGROUND

- 2.1 Previously, relevant authorities had received guidance from the Standards Board for England, which had been established under Section 57 of the Local Government Act, 2000, but through legislative changes, was abolished on 31 March, 2012. Although there has been some subsequent guidance issued through Government, notably that relating to the Relevant Authorities (Disclosable Pecuniary Interests) Regulation, 2012, there has otherwise been scant information available on how authorities are meant to comply with the above duty and what is best practice in this area. This report therefore seeks to identify those matters of current and emerging topical interest which hopefully sufficiently appraises Members in meeting this statutory duty.

3. COMMITTEE ON STANDARDS IN PUBLIC LIFE – ANNUAL REPORT 2015/16

- 3.1 The Committee on Standards in Public Life monitors, reports and makes recommendations on all issues relating to standards in public life. On the 25th October, 1994, the then Prime Minister, the Rt Hon John Major MP, set up the Committee with the following terms of reference;

'to examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present

arrangements which might be required to ensure the highest standards of propriety in public life.

For these purposes, public office should include:

*Ministers, Civil Servants and Advisors;
Members of Parliament and UK Members of the European Parliament;
Members and Senior Officers of all non departmental public bodies and of National Health Service Bodies;
Non Ministerial office holders;
Members and other Senior Officers of other bodies discharging publicly funded functions;
and Elected Members and Senior Officers of Local Authorities’.*

3.2 From the earlier recommendations of the Committee, the ‘Seven Principles of Public Life’ as mentioned above, were formulated and which cover; selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. The Committee is independent of Government and has as its primary purpose to help promote and maintain ethical standards in public life and thereby protecting public interest through;

- Monitoring Standards, issues and risks across the United Kingdom;
- Conducting enquiries and reviews and making practical and proportional recommendations that are generally implemented;
- Researching public perceptions on standards issues relating to specific areas of concern, and also over time.

3.3. In their Annual Report 2015/16, the Committee as part of their Business Plan undertook a review of “ethics of regulators”. This entailed, a “health check” of the way in which regulators manage ethical issues within their own organisations. This included a report on police accountability, monitoring ethical standards relating to the Police and Crime Commissioner elections (May 2016) and a follow up to their earlier report “Strengthening Transparency around Lobbying” (initially published in November 2013). The Committee have also been a consultee in the Law Commission’s consultation “Reforming Misconduct in Public Office” (see further below). With specific reference to local government standards, the Committee had earlier indicated that they would maintain a “watching brief” on the implantation and overall progress behind the Localism Act and had made comment on;

- The need for a mandatory Code of Conduct;
- Strong leadership;
- Effective Independent Persons; and
- Concern at the lack of sanctions.

3.4 Of particular note within that particular Annual Report (paragraph 79 refers) it is mentioned *“there is some evidence to suggest that the role of the independent person is generally well received and that vexatious complaints are falling. However, the effectiveness of the sanctions regime is still a concern.”* Members will recall from a previous report, the Department for

Communities and Local Government are to publish a consultation document following on from the implementation of the localism provisions to enquire whether or not the existing “action based” system needs reform or not. That consultation exercise is still awaited. In their Forward Plan 2016/17, the Committee indicate that they “*intend to undertake a review to clarify the topics of substantive concern*” to Local Government with further research to identify the best practise in well governed authorities. It is envisaged, that this particular part of their work programme will encompass 2016/17 and 2017/18. The current Annual Report can be found through the following link:
<https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life>

4. LAW COMMISSION – ‘REFORMING MISCONDUCT IN PUBLIC OFFICE’

- 4.1 On the 5th September, 2016, the Law Commission issued a consultation paper entitled “Reforming Misconduct in Public Office” which requested submissions by the 3rd January, 2017 but with a later extension to this date for submission of comments. Their ‘Terms of Reference’ are “to decide whether the existing offence of misconduct in public office should be abolished, retained, restated or amended”. The offence itself was initially stated in the judgement of Bembridge (1783). However, it is noted that the offence has largely fallen into disuse and the Court of Appeal had mentioned in the case of Chapman [2015] EWCA Crim 539;

“This is without doubt a difficult area of the criminal law. An ancient common law offence is being used in circumstances where it has rarely before been applied”.

However, in the case of Attorney General’s Reference (Nos 3 of 2003) the Court of Appeal has stated the elements of the offence of Misconduct in Public Office are;

- A Public Officer acting as such;
 - Wilfully neglects to perform his/her duty and /or;
 - Wilfully misconducts himself/herself;
 - To such a degree as to an amount to the abuse of the public’s trust in the office holder; and
 - Without reasonable excuse or justification.
- 4.2 The Law Commission had identified that the lack of the clear definition surrounding the term “Public Office” lent some ambiguity in interpretation in therefore applying the offence. Further, the duties that may qualify someone to be a Public Office holder can be uncertain. The Commission also felt that “*an abuse of the public’s trust*” was a crucial element in the determination of an offence. However, in practice, this could be difficult to apply. The “false element” i.e. without reasonable excuse or justification can also be difficult in its application. The Commission therefore concluded that there are two main types of wrong which deserved consideration for the purpose of any reformed offence (s). These being;

- 1) Breach of Duty leading to a risk of serious harm
- 2) Corrupt behaviour.

4.3 The Commission therefore presented the following options;

4.3.1 Option 1 – Breach of Duty Model

Ostensibly a breach of duty leading to the risk of serious harm. This would entail the creation of a new offence of Breach of Duty of the Public Office holder with the particular duty concerned with the prevention of harm. This would include those occupying positions carrying powers of physical coercion, including arrest, detention, imprisonment and those occupying positions (including functions) with the purpose of protecting vulnerable individuals from harm (those with a protective duty). It is also felt that harm should be restricted to;

- Death
- Serious physical or psychiatric injury
- False imprisonment
- Serious harm to public order and safety; and
- Serious harm to administration and justice.

The false element of such a new offence would be the knowledge or awareness of the circumstances that would mean that the defendant held a public office and the circumstances relevant to the content of any particular duties of that office concerned with the prevention of harm. This would also be coupled with a “subjective recklessness” as to the risk that the defendants conduct might cause one of the types of harm mentioned above.

4.3.2 Option 2 – Corruption Based Model

This would again be the creation of a new offence with leanings towards an existing offence of ‘police corruption’ under Section 26 of the Criminal Justice and Courts Act, 2015. However, it would apply to all Public Office holders. The offence would be committed where a public office holder abuses his / her position, power or authority. That would entail where he / she exercises that power, position or authority to the purpose of achieving;

- i) A benefit for him /herself; or
- ii) A benefit or a detriment for another person; and
- iii) The exercise of that position, power or authority for that purpose was seriously improper.

Relevant factors to consider would include the seriousness of the consequences of the misconduct, the seniority of the defendant’s position and the culpability of that defendant.

4.3.3 Option 3 – Abolition without replacement

This option was included by the Commission “*in order to obtain a full range of responses*”. However, it was recognised that this would leave a gap in the

law particularly where there were types of conduct falling within the existing offence which ought to be criminal, but which;

- Would not be covered by any other offence if the existing offence were abolished;
- Would be so covered but that other offence would not do justice to the wrongfulness of that conduct in terms of labelling or seriousness.

5. THE HONITON TOWN COUNCIL CASE

5.1 This was a judicial review taken by the claimant, John Taylor, against Honiton Town Council with East Devon District Council being an interested party. The claimant sought an order to quash a decision of Honiton Town Council to impose sanctions on him, following on from a standards investigation. The claimant had been a Town Councillor since 2007. He had become concerned over the funding aspect of a large building project and indeed there were shortfalls in funding through the contractor raising claims for additional costs at a late stage in the development. The Auditor had recommended decisive action because of the additional costs occasioned and the low level of reserves available to meet them, through Parish Council resources. It was recognised that this matter was a case of legitimate public interest but which led to allegations being made by the claimant against the Town Clerk wherein it was alleged that he had failed to treat that individual with courtesy and respect and breached obligations of the Town Council's Code of Conduct. Indeed, his correspondence to the Town Clerk indicated, amongst other matters, *"an offence (of) conspiracy to use money from a public works loan board (PWLb) for an improper purpose"* and *"scams on the rate payers of Honiton"*. Under the Honiton's Code of Conduct it was alleged that he had contravened the "general obligations" of that Code as follows.

- You must treat others with courtesy and respect
- You must not disclose information, given to you in confidence by anyone, or information acquired by you which you believe, or reasonably to be aware, is of a confidential nature [subject to exceptions].

5.2 The matter was investigated by the Monitoring Officer of East Devon District Council (which is consistent with the arrangements to investigate complaints through the Monitoring Officer on behalf Parish Councils) and it was recommended that the complainant be censured, that the findings of the Committee should be published on the Council's website and further, that the Town Council through the Monitoring Officer arrange for training on the Code of Conduct for the Claimant. In its determination, the Town Council applied the "sanctions" recommended by the District Council but also added the following measures;

- A restriction preventing the Claimant from speaking at any meeting including the Council meeting.
- The removal of the Claimant from the five Committees and work groups on which he served.

- Restrictions preventing the Claimant from attending any meeting as a member of the public, together with a restriction on speaking as a member of the public at any meeting.
- A restriction preventing the Claimant from attending the council offices unless accompanied by the Mayor of the Council.

5.3 In addition to allegations made by the Claimant that the procedures were “*procedurally unfair*” his challenge surrounded matters of illegality surrounding the sanctions imposed on the ‘finding of fault’. The Court considered that the application of the Localism Act, 2011 and noted that arrangements need to be in place, including that relating to that appointment of Independent Persons for the investigation of allegations. The Court also recognised that such arrangements placed a further duty to investigate upon the District Council as a principal authority under the legislation. Further, the arrangements for decision making must involve the Independent Persons otherwise it would frustrate an important safeguard to the decisions taken. The Court concluded that it would be “a nonsense” for a parish council to depart from the arrangements that are laid down in statute. The Court also referred to the case of *Heesom – v - Public Service Ombudsman for Wales (Welsh Minister Intervening)* [2014] EWHC 1504 (Admin) that sanctions were limited to, for example, a formal finding that there had been a breach the code, formal censure, press or other publicity, and removal by the Authority from executive and committee roles (and then subject to statutory and constitutional requirements). The Court determined “*that Parliament clearly contemplates that the relevant authority must take “action” following the finding of non compliance with a Code, and does not seek to define or limit what action that may be*”.

5.4 It was noted, that the abolition of the old standards regime also carried with it the abolition of the power to disqualify and suspend but otherwise the powers appeared to be “*undefined*”. The Court further concluded “*it also means that suspension and disqualification are not available as sanctions for non compliance of any action taken in respect of a failure to comply with a Code of Conduct.*” The Court did recognise that provided a sanction was “lawful” namely respecting the right of freedom of expression and the right of the interests of effective local democracy, a sanction may be imposed where it requires a member of a local authority to do something. But it must be proportionate to the breach. In the Honiton case, the Court found (see **Appendix A**) that the claimant had incurred “*a very serious error of judgment*” and that training as required through a recommendation was considered to be proportionate. It was also felt that if the Member refused to comply with such a recommendation “*the only sanction is publicity*”. It was also stated the role of the “*ballot box*” and the public’s own judgement as to the conduct of a local councillor. The Court therefore concluded that it should quash the decision of the Honiton Town Council and that the “additional sanctions” they wished to impose over and above those recommended by the East Devon District Councils, Monitoring Officer, would be unlawful.

6. Organised Crime Procurement Pilot Report

- 6.1 On the 6th December, 2016 Local Authority Council leaders received the final report of the Home Office pilots on the threats that serious and organised crime poses to publically procured services in local authorities and how to respond to that threat. This matter will be subject to a separate report and it was indicated that Authorities should conduct a check list to assess their serious and organised crime risks within their own organisations, this would allow a developed methodology for internal audit teams to scrutinise business operations to establish where any vulnerabilities might lie.
- 6.2 In the “checklist” there are two matters which have a standards connotation namely;
- Is your Code of conduct compliant with the seven Nolan Principles and how robust are arrangements to investigate all allegations of breaches”
 - How effectively do you maintain your public register of Members Pecuniary Interests?
- 6.3 The Council’s Code of Conduct fully complies with the seven ‘Nolan Principles’ and indeed encompasses the later expanded “Ten General Principles of Conduct in Public Life”. Arrangements are in place through the Monitoring Officer with the assistance of the Independent Persons, to fully investigate any allegations of breaches of the Code. Members’ interests are properly maintained, both in manual format and upon the Council’s website. Further, Members periodically receive communication from the Monitoring Officer as to their obligations to keep updated their own Register of Interests.

7. RECOMMENDATIONS

- 7.1 That Members note the contents of this report.

9. BACKGROUND PAPERS

- 9.1 Committee on Standards in Public Life Annual Report 2015-16.
Law Commission ‘Reforming Misconduct in Public Office’ (Sept 2016).

10. CONTACT OFFICER

- 10.1 Peter Devlin
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Neutral Citation Number: [2016] EWHC 3307 (Admin)

Case No: CO/1091/2016

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 21/12/2016

Before :

MR JUSTICE EDIS

Between :

JOHN TAYLOR
- and -
HONITON TOWN COUNCIL
-and-
EAST DEVON DISTRICT COUNCIL

Claimant

Defendant
Interested Party

Wayne Beglan (instructed by **Pardoes Solicitors LLP**) for the **Claimant**
Jonathan Wragg (instructed by **Foot Anstey LLP**) for the **Defendant**
Jeremy Phillips (instructed by **Henry Gordon Lennox, Strategic Lead (Legal and Licensing and Democratic Services) and Monitoring Officer**) for the **Interested Party**

Hearing date: 9th November 2016

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....
MR JUSTICE EDIS

Mr. Justice Edis :

1. By this claim for judicial review, the claimant seeks an order quashing a decision (the Decision) by Honiton Town Council (Honiton) dated 14th December 2015 to impose sanctions on the claimant and for declaratory relief in relation to that decision. East Devon District Council (East Devon) is an interested party because of its important role in the procedure which led to the Decision.
2. The issue in the case turns the exercise of functions regulated by ss.27-28 in Chapter 7 of the Localism Act 2011 which is headed “Standards”. The relevant provisions are set out at paragraph 29 below. Honiton is for these purposes a Parish Council and East Devon is its principal authority. They work in tandem under the statutory scheme to fulfil the functions of a local authority under those provisions in ways which will require some analysis below. Essentially, East Devon is a substantially larger and better resourced local authority than Honiton and is therefore given certain functions on behalf of Honiton which a larger authority would perform for itself. Between them they seek to comply with the duty under s.27(1) which is as follows:-

(1) A relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority.

Factual Summary

3. The claimant has been a town councillor of Honiton since 2007. He played a significant role in the running of Honiton, sitting on a number of committees and working groups, including in particular, the finance committee. The present issue arose because he became concerned about the funding of a large building project in the town of Honiton called the “Beehive Community Centre”. It will not be necessary for the purposes of this judgment to analyse those concerns in depth or to make findings about that project. It is enough for present purposes to say that it was an enormous project by the standards of Honiton and that significant difficulties arose over the budget and how shortfalls could be funded. The shortfalls were created by the contractor raising claims for additional costs at a late stage. Honiton had entered into a standard form JCT building contract, the terms of which provide for the making of payments against certificates and the making of claims and so on. The Auditor had reported in June 2014 that the Council was at risk because of these additional costs and the very low level of reserves available to meet them, and other costs. The Auditor recommended speedy and decisive action and suggested that the obvious option was to extend the borrowing from the Public Loan Works Board. The conduct of this exercise was certainly a matter of legitimate public interest and was a matter in which a member of the Town Council was likely to take a particular interest.
4. The Decision was communicated to the claimant by letter of 18th December 2015 from Honiton. It imposed sanctions upon him because of a finding that he had committed a breach of Honiton’s Code of Conduct for its members by failing to treat the Town Clerk with courtesy and respect. In essence the allegation related to a letter dated the 27th January 2015. Because some argument turned on the nature of that letter, I will set it out. I have highlighted phrases which are of particular significance in the light of counsel’s submissions, and the emphasis below is mine. I have otherwise sought to set it out exactly as it was written.

“I am a Town Councillor for Honiton St Michael’s Ward. A meeting of the Council was held last night 26 January 2015 most of which was held in ‘private’. I am **publishing** one event that asked me to conspire to break the law and I hope that I am allowed in law to issue **this leaflet** under the defence of Public Interest. I may be accused of breaking the rules of the Council and stopped from attending? I might even be arrested and prosecuted but if that happens you will know that I am being punished for telling of an **offence, a conspiracy to use money from the Public Works Loan Board (PWLB) for an improper purpose**. The Town Clerk of Honiton stated that she has applied a loan of £98000 (value published) to cover ‘poaching’ of monies from the accounts (quote from published internal audit); in fact needed to replace ‘poached reserves’ used to pay £75000 worth of bills that should have been disputed. This intent etc is already in the public domain. However the Town Clerk stated that she would not need all of the money. That statement would be covered by the ‘Part B privacy rules’. She stated that she intended to put the surplus into a high interest account and to use that as a reserve to pay down the loan. That also is covered by the Part B privacy rules. However, to apply for money knowing that there it is not needed for a purpose allowed under the PWLB rules is illegal because it is a way of replacing reserves that are required to be kept by all Councils but in the case of Honiton Town have been ‘poached’. The Mayor suggested we use the fancy word ‘virement’. I will not stay silent on this. There were other things in the meeting that were **scams on the ratepayers of Honiton** but I have yet to find out my rights of disclosure within section 100a of the Local Govt Act publish because of ‘privacy’ rules. I can say that six Counsellors have signed a request for a motion that asks for the finances of the Town Council and the Beehive to be investigated by the Devon and Cornwall Constabulary. The Mayor and the Town Clerk got the request yesterday.

“I think the loan must be approved by EDDC and must be consistent with the rules of PWLB. Will EDDC let the application go through? What is stated on the application as justification? – I have not seen it. The PWLB pays out from loans raised by the Government, i.e. ‘the public borrowing requirement’ of which all political parties are shouting should be controlled and lots of people’s incomes are under pressure because of this. Not Honiton Town Council (Beehive).

“Issued by John Taylor Town Councillor for St Michaels. You may see me in handcuffs? Or gagged? I doubt I can be sued for whistleblowing on this.”

5. This caused the Town Clerk to make a complaint against the claimant by letter of 28th January 2015 to East Devon saying that the letter had been published in the Express and Echo. She complained that she had been slandered and that her professional reputation was affected. She said that she had only ever acted on the instructions of the Town Council following advice from both the internal auditor and the Audit Commission. She said “I have always ensured that work has been carried out in a professional and legal manner to say this is not the case is not acceptable.”
6. After the Monitoring Officer of East Devon had attempted to resolve the complaint informally by suggesting that the claimant should make an unreserved apology, which the claimant refused to do, he appointed Tim Darsley to investigate the complaint on 2nd June 2015. Mr. Darsley decided that the following paragraphs of Honiton’s Code of Conduct were engaged by his remit:-

“General Obligations

4(a) You must treat others with courtesy and respect

4(f) You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to aware, is of a confidential nature [subject to exceptions].”

The Investigation Report

7. Mr. Darsley considered various documents and conducted face to face interviews with the claimant and the Town Clerk and spoke to a journalist from Pulman’s Weekly News. He made findings of fact which were set out with care in paragraph 5 of his Report which was dated 31st July 2015. When he was appointed there had been discussion about whether it was necessary to resolve the question of the contractor’s entitlement to payment for additional costs in order to deal with the complaint. If so, this might tend to justify what the claimant had said in his letter because the existence of unbudgeted but valid claims would support allegations of at least incompetence against Honiton. He said this:-

“5.6 I am quite clear, however, that establishing the validity or otherwise of the additional building costs which made the loan necessary, is outside of my remit. This is a matter for the Town Council and the contractor to pursue. Any disputed costs should be resolved by negotiation or through dispute resolution under the contract. The outcome of this process is not required in order to reach a finding on this complaint.”

8. Mr. Darsley explained that the total costs of the Beehive project exceeded the funds available by £98,073 on what Honiton was told was a “worst case” basis and that it had applied for a loan from the PWLB of £98,000 on 23rd January 2015 and that at its meeting of 26th January 2015 Honiton had agreed to sign and seal a 10 year lease of the Beehive to Honiton Community Complex at a nominal rent. It was this meeting which caused the claimant to write his letter, which Mr. Darsley refers to as a “statement”. It found its way quickly to the local media who asked Honiton for a comment on it on 27th January 2016, before the Town Clerk had seen it. An article

appeared on 28th January 2016 in the Express and Echo which refers to the statement and to its allegation of impropriety coupled with a request for a police investigation. The weekly press ran a similar article on 3rd February. Mr. Darsley found that it was not altogether clear how the statement had been issued. The claimant told him that he gave out no more than ten copies to some constituents and one or two councillors. Mr. Darsley accepted this and also the account of the journalist that a scanned copy of it had been distributed to the press by a councillor and constituent of the claimant called Jill McNally.

9. Mr. Darsley considered the accuracy of the statement so far as what the Town Clerk had said at the meeting. This was the subject of a dispute in that the Town Clerk said that she had not used the word “poaching”. Mr. Darsley found that she had not, because the claimant accepted that this was probably the case. He also found that the statement was misleading because the Town Clerk had not said definitively that the whole of the loan would not be needed. She had said that the final amount required was not yet resolved and the £98,000 was a “worst case” estimate. She did not then know whether there would be a surplus and could not have said, as the claimant had alleged, that the surplus would be put into a high interest account and used as a reserve to pay down the loan. He concluded overall, that the statement was inaccurate, selective and out of context and as a result gave a misleading account of what the Town Clerk had said. He also found:-
 - i) That Honiton had been advised by its Internal Auditor to extend the PWLB borrowing.
 - ii) That the Town Clerk had obtained the relevant guidance and taken advice from the PWLB and the County Secretary for the Devon Association of Local Councils.
 - iii) That the process for applying for the loan was in line with the provisions of the Local Government Act 2003 and followed relevant guidance.
 - iv) The key decisions regarding the application for the loan and the amount of funding were taken by Honiton and not the Town Clerk who implemented the decisions in accordance with the resolutions of Honiton.
 - v) There was therefore no evidence to suggest that the loan application was in any way illegal, and was used for an improper purpose.
 - vi) The statement did not disclose confidential information because it contained information which was properly in the public domain and the claimant’s own contentions about it. No specific confidential information was revealed.
10. As a result of these factual conclusions, Mr. Darsley found that the claimant publicly made claims of illegality and impropriety associated with the Town Clerk and that, in the absence of any reasonable justification for his claims, this constituted a failure to treat her with respect. He felt that criticism of officers by councillors should be made in a proper forum and that personal criticism made in public is unlikely to be acceptable. He found therefore that there was a breach of paragraph 4(a) of the Code, but he found no breach of paragraph 4(f).

11. There is no attack on the procedure by which these findings were made. Mr. Darsley is an officer of East Devon and East Devon is not a defendant to this claim. It became an Interested Party in the way I shall describe below.

The October Sanctions Policy

12. On 12th October 2015 at a full meeting of Honiton the Council resolved to approve a report of the Policy Committee called "Code of Conduct Sanctions Report". This provided for the automatic imposition of sanctions when a Monitoring Officer had ruled that a member had been in breach of the Code of Conduct and specified actions to be undertaken. Until those actions had been complied with in full the following will automatically apply

- i) A member will be unable to speak at any meeting including the Council Meeting. They would retain their right to vote.
- ii) A member will be removed as a member of any committee or working group.
- iii) A member attending any meeting as a member of the public will not be able to speak.
- iv) A member "can also be prevented" from coming into the council office unless accompanied by arrangement. They can be required to make an appointment so that staff are not left alone with them.

13. The origin of this policy is a little unclear. On the 28th September 2015 the Policy Committee of Honiton was advised as follows:-

"The Deputy Town Clerk advised that both Officers of the Town Council are of the view that local government legislation only permits a local council to act where it has a specific power to do so and that no power exists to remove a Councillor's right to speak at a Council meeting. The advice from the County Secretary of the Devon Association of Local Council's was read out. The advice supported the view of the Town Council's Officers."

14. It appears that the Policy Committee decided not to follow that advice and in the Report for the Council says that the power to disqualify or suspend councillors had been removed but that the powers in relation to alleged [sic] breaches were "for local determination" and that the Act "is silent on [breaches not involving disclosable pecuniary interests] leaving it to the discretion of local authorities to decide their own sanctions".

15. The October Policy also included a Training Policy and Training Plan.

The November meeting of East Devon

16. East Devon considered Mr. Darsley's report at a meeting on 30th November 2015 of its Standards Hearings Sub-Committee. There was a pre-hearing report which explained that the conclusion that the statement had constituted a breach of the Code was reached by the Investigator, by two Monitoring Officers and by the Independent

Person. The Pre-Hearing Report explained that this conclusion applies regardless of the accuracy of what the claimant was actually saying. This is a rather different emphasis from that of Mr. Darsley who did consider the question of accuracy and is an approach which is criticised by Mr. Beglan, counsel for the claimant. The Pre-Hearing Report explained that it would be for the committee to determine the facts and whether there had been a breach of the Code and, if so, whether to recommend to Honiton that a sanction should be imposed and, if so what that should be.

17. The Decision Notice of East Devon acknowledged the claimant's genuinely held concerns regarding the financial governance of Honiton but, in line with the Pre-Hearing Note, said that this was outside the remit of the Standards Sub-Committee. The Sub-Committee found that the claimant had forwarded the statement to Jill McNally knowing that it was likely to be more widely circulated by her. It was not marked confidential and he did not withdraw its contents when they appeared in the media. The Sub-Committee did not, as it might have done, infer from the terms of the statement, highlighted above, that it was clearly a document intended for dissemination and not a letter addressed to an individual. It describes itself as a "leaflet". It says that it was intended to make matters public which revealed criminal conduct. There is no reason not to conclude that the claimant created it for these purposes and intended that it would reach the media. On the main issue the Sub-Committee found that there was a breach of paragraph 4(a) because the claimant had not treated the Town Clerk with respect. They said this

"In conclusion the findings of the Sub-Committee were that Councillor Taylor had issued a statement, written as a Honiton Town Councillor, which was sent by a recipient to the media. The statement made a number of claims about the legality and propriety of a loan obtained by the Town Council. In the statement, Councillor Taylor referred to the Town Clerk three times, which after deliberation the Sub-Committee concluded that this implied a direct criticism of the clerk's integrity in dealing with the finances of the Beehive."

18. On advice from its officers, East Devon's standards sub-committee recommended these sanctions
 - i) That Honiton Town Council censure Councillor John Taylor for his breach of the Code of Conduct;
 - ii) That Honiton Town Council publish the findings of the Hearing Sub-Committee. (EDDC will anyway publish the findings on its own website as a matter of procedure).
 - iii) That Honiton Town Council instruct EDDC's Monitoring Officer to arrange training for Councillor Taylor in respect of the Code of Conduct and Councillor conduct – such training by the end of the current financial year ("the training requirement").
19. The claimant was represented at the hearing and Mr. Kinder, his solicitor, emailed to the Sub-Committee on 1st December 2015 with a series of complaints and requests for further documentation. The email said that counsel was to be instructed "in relation

to a judicial review of the decision yesterday” but no such proceedings have ever been issued against East Devon.

20. The claimant was therefore found by East Devon to have breached paragraph 4(a) of the Code. He had failed to treat the Town Clerk with respect in that he had publicly accused her of criminal behaviour, namely conspiracy to obtain a loan by deception in that its true purpose was misstated on the application. That finding was the foundation for the Decision.

The decision of Honiton

21. In the Decision Honiton imposed the sanctions recommended by East Devon as above and applied its October Policy by adding the following measures which were to remain in place until the claimant had complied with the training requirement:-
- i) A restriction preventing the claimant from speaking at any meeting including the Council meeting.
 - ii) The removal of the claimant from the 5 committees and working groups on which he served.
 - iii) A restriction preventing the claimant from attending any meeting as a member of the public together with a restriction from speaking as a member of the public at any meeting.
 - iv) A restriction preventing the claimant from attending at the Council offices unless accompanied by the Mayor of the Council.

The challenge

22. The claimant raises 3 issues by his claim for judicial review which was issued on 1st March 2016:-
- i) Illegality for these reasons
 - a) The Council has no power to make the Decision;
 - b) The Decision was based on a rigid application of policy;
 - c) The Decision was imposed for an improper purpose;
 - d) The Decision is inadequately reasoned;
 - e) The Decision is perverse.
 - ii) The Sanctions were not imposed on a proper basis in the light of East Devon’s conclusions on the investigation.
 - iii) The hearing before the standards sub-committee was procedurally unfair.
23. Long before the proceedings were issued, and by letter of 19th January 2016 Honiton said that it was modifying the sanctions because of “further information” and that the

claimant would be able to participate in full meetings of the Council. By letter of 16th February they said that they were seeking advice from specialist counsel and said

“In light of the fact that your client seeks to challenge the decision of the District Council dated 30th November 2015 we hereby withdraw all sanctions currently imposed on your client. The Council will, however, consider the issue of sanctions again after (i) any fresh decision made by the District Council and/or (ii) the outcome of any judicial review proceedings against the District Council.”

24. As appears above, despite the threat of proceedings against the District Council, East Devon, they were in the result issued against the Town Council, Honiton. By letter of 19th March 2016 Honiton expressed the hope that the claim would be withdrawn because it said:-
- i) The Town Council agrees that the decision dated the 14th December 2015 should be treated as never having been made.
 - ii) The Town Council agrees that it will not seek to re-impose all of the sanctions that were imposed on the 14th December 2015. However, the Town Council will consider in due course what actions it might wish to take in light of the decision of East Devon District Council - which decision has not been challenged by your client. It is likely that any such decision of the Town Council may well involve the imposition of some of the sanctions (but not the additional sanctions/measures) previously imposed on your client on the 18th December. Any such decision will take into account (i) the issues raised by your client in his claim against the Town Council (ii) the Town Council's response to your third question below and (iii) further legal advice taken by the Town Council;
 - iii) The Town Council is aware that your client seeks a measure of comfort. However, the Town Council has found it difficult to determine what is meant by your third question. The vagueness of the terms you have used makes a meaningful response impossible. The Town Council is content to confine any future sanctions/measures to those set out in the case law you have referred to. Consequently, your reference to “sanctions and/or measures intended to ensure sanctions are adhered to” will not arise.
 - iv) The Council will pay your client's costs on the standard basis to be assessed if not agreed.
25. Honiton accepted in its Acknowledgement of Service dated 23rd March 2016, before the grant of permission on 24th May 2016, that it had no power to impose a training requirement and does not intend to do so. It is an unusual aspect of the case that the only interest East Devon has in these proceedings is in establishing that such a requirement is lawful.
26. The approach taken throughout the proceedings by Honiton and East Devon is that the decision on whether there had been a breach of the Code of Conduct was taken by East Devon and that Honiton had no power or duty to substitute its own decision on

that question. On the issue of sanctions it is said that East Devon made a recommendation but Honiton made the decision. That is how the decisions were in fact taken, as the documents I have quoted above make clear. If that is right, then these proceedings are not a proper forum for a challenge to the decision on breach because East Devon is not a defendant and its decision is not attacked.

The Issues

27. Because it seemed to me that these proceedings may raise only academic issues in view of the stance taken by Honiton, I decided that it would be helpful to start the hearing by asking each party what order they were asking the court to make. Their responses were as follows
- i) The claimant, through Mr. Beglan, said that he sought a quashing order in relation to the Decision, which it was accepted he should have. He sought a declaration as to the October policy and a “steer” in relation to any determination Honiton may make as to sanctions. Can Honiton rely on the November decision of East Devon including on disputed matters of fact, and given the terms of s.28(11) of the Localism Act what are the respective roles of Honiton and East Devon in dealing with allegations of breaches of the Code of Conduct.
 - ii) Mr. Wragg on behalf of Honiton said that his clients accept everything which is said under Ground 1 and that it had tried to concede everything and get out of these proceedings, but it was unable to accept the claimant’s contention that East Devon merely makes recommendations as to whether a breach should be found and that Honiton must make up its own mind on that issue. He said that such an approach would render the task of Parish Councils impossible because they often have no professionally qualified officers and the point of the 2011 Act is to remove decisions on breach from them for that reason.
 - iii) Mr. Phillips on behalf of East Devon said that his clients were not the subject of any challenge, but that rulings on two questions may be helpful to them and other local authorities. These were
 - a) What is the status of a decision of an authority exercising its function as principal authority under s.28 of the Localism Act 2011? Is the Parish Council bound to accept its findings of fact and on the issue of breach of the Code. On that issue East Devon’s position is the same as Honiton.
 - b) Is there a power to require a Councillor to undergo training as to the Code of Conduct as a sanction consequent upon a finding of breach? On this issue East Devon and Honiton take different positions.
28. I have considered with some care whether I should make any order at all in this case and whether I should decide the questions raised by the parties since they are academic because the Decision has been withdrawn, several times. The parties have expended costs on these proceedings, and permission has been granted which has encouraged them, no doubt, to continue in the hope of securing a decision. East Devon was joined as an Interested Party at the request of Honiton for this purpose.

Further, the parties will have further dealings and it may be helpful if I make some findings. For these reasons, I have decided that I will address two questions.

- i) I will decide whether Honiton was bound by the findings of East Devon as to the facts and as to whether there was a breach of the Code. This is because the Decision actually involves two stages: breach and sanction. Honiton has certainly withdrawn the second, but says that it is still bound by the first. The point is not academic to the Decision and to the order which should be made. Whatever the outcome of this issue, I will quash the Decision. This does not mean that the route to that result is irrelevant. If the claimant is right I will quash the finding that there was a breach of the Code because no such finding was made by Honiton which wrongly simply adopted East Devon's decision. If Honiton and East Devon are right I will quash the Decision because Honiton has conceded that it wrongly included sanctions which are beyond its powers.
- ii) I will also consider whether there is a power to impose a training requirement. This is not entirely academic because the application of unlawful sanctions is one basis of the quashing order and the extent to which the sanctions were unlawful is therefore involved in the decision.

The statutory scheme under the 2011 Act

29. The 2011 Act is not entirely clear in the provisions which govern the answers to the questions which are raised. So far as relevant, ss.27 and 28 provide as follows:-

“27. Duty to promote and maintain high standards of conduct

(1) A relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority.

(2) In discharging its duty under subsection (1), a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.

(3) A relevant authority that is a parish council—

(a) may comply with subsection (2) by adopting the code adopted under that subsection by its principal authority, where relevant on the basis that references in that code to its principal authority's register are to its register, and

(b) may for that purpose assume that its principal authority has complied with section 28(1) and (2).

.....

(6) In this Chapter “*relevant authority*” means—

(a) a county council in England,

- (b) a district council,
- (c) a London borough council,
- (d) a parish council [Honiton is a parish council for this purpose].

.....

28. Codes of conduct

(1) A relevant authority must secure that a code adopted by it under section 27(2) (a “code of conduct”) is, when viewed as a whole, consistent with the following principles—

- (a) selflessness;
- (b) integrity;
- (c) objectivity;
- (d) accountability;
- (e) openness;
- (f) honesty;
- (g) leadership.

(2) A relevant authority must secure that its code of conduct includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure, of—

- (a) pecuniary interests, and
- (b) interests other than pecuniary interests.

(3) Sections 29 to 34 do not limit what may be included in a relevant authority's code of conduct, but nothing in a relevant authority's code of conduct prejudices the operation of those sections.

(4) A failure to comply with a relevant authority's code of conduct is not to be dealt with otherwise than in accordance with arrangements made under subsection (6); in particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure to comply with the code.

.....

(6) A relevant authority other than a parish council must have in place—

(a) arrangements under which allegations can be investigated, and

(b) arrangements under which decisions on allegations can be made.

(7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—

(a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and

(b) whose views may be sought—

(i) by the authority in relation to an allegation in circumstances not within paragraph (a),

(ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and

(iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.

(8) [This sub-section provides detailed apparatus for the selection of independent persons for the purposes of subsection (7). It is unnecessary to set the terms of the provision out in full, but it is to be inferred from them that Parliament considered that the role of the independent person was of real importance].

(9) In subsections (6) and (7) "*allegation*", in relation to a relevant authority, means a written allegation—

(a) that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or

(b) that a member or co-opted member of a parish council for which the authority is the principal authority has failed to comply with the parish council's code of conduct.

(11) If a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation under arrangements put in place under subsection (6)) it may have regard to the failure in deciding—

(a) whether to take action in relation to the member or co-opted member, and

(b) what action to take.

.....”

Discussion and decisions

Issue 1: the status of East Devon’s decision

30. This is a matter of statutory interpretation of the somewhat difficult provisions of ss.27 and 28 of the 2011 Act set out above. It is a question which could easily have been answered by simple and clear words in the Act but was not. It must therefore be answered by interpreting the words used in their proper context to identify the intention of Parliament.
31. The starting point is subsection (6) which exempts Honiton, as a parish council, from the obligation to have in place arrangements for investigating allegations and making decisions on them. It follows from this that Honiton is also exempt from the duty to appoint at least one independent person and to involve that person or those persons in decisions imposed by subsection (7). Any decision taken by Honiton will therefore not involve this independence which Parliament, as I observe at paragraph 29 above, plainly regarded as being of importance.
32. Subsection (9)(b) defines an allegation in relation to a relevant authority as meaning a written allegation that a member of a parish council for which the authority is the principal authority has failed to comply with the parish council’s code of conduct. It follows from this that East Devon was required by subsection (6) to have arrangements in place, including independent persons, for the investigation of allegations against members of Honiton and for making decisions on those allegations. East Devon did have such arrangements in place as I have set out above, and did investigate the allegation against the claimant and did decide that he had acted in breach of Honiton’s code. It did not decide to recommend to Honiton that it should find the breach, but did so itself. It did so in a way which has not been challenged in these proceedings.
33. In my judgment the effect of subsection (6)(b) taken together with subsection (9)(b) is to place the duty of investigation and decision of allegations against members of Honiton on East Devon as principal authority. The arrangements for decision making must involve independent persons and it would frustrate that important safeguard to hold that a parish council had a duty to reconsider the principal authority’s decision and substitute its own if it chose to do so.

34. Subsection (11) is a rather puzzling provision. I shall have a little more to say about it below, but in this context I observe that it appears to suggest that the same authority which makes the finding of failure to comply with the code must decide what, if any, action to take about it. Although it refers to arrangements for investigation under subsection (6) it does not in terms deal with the possibility that a decision may have been taken under subsection 6(b) by the principal authority and identify which of the two authorities involved may have regard to the failure and decide what, if any, action to take about it. Both of them are “relevant authorities” as defined in s.27(6) and this creates a difficulty in allocating responsibility for different parts of the process to each of them when subsection (11) appears to contemplate that only one will be involved.
35. In this case East Devon decided the issue of breach but made recommendations to Honiton about what action it should take consequent on that finding. Honiton took the decision on sanctions. The challenge in these proceedings is based on the proposition that East Devon’s role was limited to that of investigator and adviser on both questions and contends that Honiton was the ultimate decision maker on both issues. This appears to me to be clearly wrong for the reasons set out above. A natural reading of the Act gives decision making power to the principal authority and requires it to have arrangements for the exercise of that power in place. It would make a nonsense of that scheme if the parish council were able to take its own decision without having any of those arrangements in place. The whole point of the scheme is to remove decision making powers and duties from very small authorities which do not have the resources to manage them effectively and who may be so small that any real independence is unattainable. I therefore reject the challenge.
36. In doing so, I decline to decide that the Act requires the splitting of the decisions as between breach and sanction between the two relevant authorities in the way in which this happened in this case. No-one contended before me that East Devon had responsibility for both decisions under subsection (6)(b) and that Honiton had no responsibility for any part of the decision making process. That being so it is not necessary, or desirable, for me to decide whether that contention, if advanced, would be sound. The language of s.28(11) may point one way, but s.27(1) and (2) to which I return at paragraph 41 below may point the other.

Issue 2: the training requirement

37. The decision of Hickinbottom J in *Heesom v Public Services Ombudsman for Wales (Welsh Ministers intervening)* [2014] EWHC 1504 (Admin), [2015] P.T.S.R. 222 featured in the claimant’s representations to East Devon when it took the Decision and also in the submissions before me. It is a decision on different provisions because the Localism Act 2011 does not apply in Wales. However, the judge did include some discussion about the 2011 Act as part of his narrative of the origin of the Welsh provisions. He said this:-

“The legal framework in England

25 Until 2012, Wales and England shared the scheme as set out above, the role of the Ombudsman in Wales being performed in England by, first, the Standards Board and, later, ethical standards officers of Standards for England.

26 However, for England, that regime was abolished by the Localism Act 2011 from 1 April 2012. This abolished the model code of conduct for local authorities in England, in favour of a new regime that requires local authorities to formulate and adopt a code of conduct locally which must be based on seven identified principles: sections 26 and 27(1)(2). The requirement for local authorities in England to have standards committees was also abolished, in favour of “independent persons” who have a consultative role as part of their local standards arrangement: section 28(7).

27 Ethical standards officers in England (the equivalent of the Ombudsman in Wales) were abolished, and their functions were not retained. Instead, from 1 July 2012, section 34(1) makes it a summary criminal offence deliberately to withhold or misrepresent a disclosable pecuniary interest which, on conviction, may attract a maximum fine of £5,000 and an order disqualifying the person from being a member of the relevant authority for up to five years. Thus, in England, a councillor cannot be disqualified unless he is (i) in the paid employment of the authority (section 80(1)(a) of the 1972 Act: see para 12 above); (ii) convicted of any offence and sentenced to imprisonment for at least three months (section 80(1)(b) of the 1972 Act: again, see para 12 above); or (iii) convicted of an offence under section 34(1) of the 2011 Act and thereafter made the subject of a disqualification order by the magistrates. The power of local authorities to suspend members was also revoked from 7 June 2012.

28 It was uncontentious before me that, there being no common law right for an authority to impose sanctions that interfere with local democracy, on the abolition of these sanctions and outside the categories I have described above, a councillor in England can no longer be disqualified or suspended, sanctions being limited to (for example) a formal finding that he has breached the code, formal censure, press or other appropriate publicity, and removal by the authority from executive and committee roles (and then subject to statutory and constitutional requirements).

29 The rationale for this change was set out in a number of statements issued by the Department for Communities and Local Government. There appear to have been two themes. First, the United Kingdom Government considered that the earlier regime, consisting of a centrally prescribed model code of conduct, standards committees with the power to suspend a local authority member and regulated by a central quango, was inconsistent with the principles of localism. There was, in addition, concern that the regime was a vehicle for vexatious or politically motivated complaints which discouraged freedom of

speech and which could be used to silence or discourage councillors from (eg) whistle-blowing on misconduct.

30 The Welsh Ministers have not adopted the same approach as England; and, for Wales, have maintained the pre- Localism Act scheme. In their written submissions as interveners in this appeal, they say (at paras 21–23): (1) The Localism Act 2011 has been largely rejected by the Welsh Ministers as being inappropriate to the social policy agenda in Wales. (2) The Welsh Ministers were confident that the Ombudsman, adopting a robust approach, could sift out any minor, vexatious and politically-motivated complaints made in Wales. (3) Thus, the Welsh Ministers were not persuaded that the ethical standards system in Wales was in need of reform. That was confirmed in the Welsh Government White Paper, *Promoting Local Democracy* (May 2012). (4) That remains their view. They refer to paras 16–19 of the Committee for Standards in Public Life annual report 2011–12, which expressed concerns about what the committee regarded as inadequate sanctions in the new English scheme, which were restricted in essence to “criminal law or ... the ballot box”. The Welsh Ministers remain of the view that the scheme in Wales complies with article 10 of the Convention.”

38. The passage underlined in paragraph 28 above has been relied upon as indicating that sanctions in this case were limited to the finding of breach, censure and publicity. Since he did not include a training requirement, there cannot be any power to impose one. This is a misreading of the paragraph which contains the words “for example” indicating that what follows is not an exhaustive list, and of the purpose of this section of the judgment. Hickinbottom J was summarising the agreed effect of provisions which did not apply in his case and which were only tangentially relevant. He was plainly not deciding anything. In my judgment this valuable and penetrating judgment should not be regarded as the origin of a definitive list of sanctions available following a finding of breach of a Code of Conduct.
39. Section 28(11), which I have described above as “puzzling”, permits a relevant authority to “have regard to” a breach of the code when deciding whether to take action and if so what action to take. At first sight, this would appear to include a discretion to ignore the breach when deciding whether to take action and what action to take in relation to it. It may also have regard to a breach whether the finding follows an investigation under subsection (6), which appears to sit uneasily alongside subsection (4). I do not have to decide any issue about the scope of this rather odd provision and my interpretation of it is limited to one observation relevant to Issue 2: Parliament clearly contemplates that a relevant authority may take “action” following a finding of non-compliance with a code, and does not seek to define or limit what action that may be. The abolition of the old regime carries with it, as Hickinbottom J observed, the abolition of the power to disqualify and suspend but otherwise the powers appear to be undefined, at least where the breach does not involve any impropriety in relation to pecuniary interests. It also means that suspension and disqualification are not available as sanctions for non-compliance with any action

taken in respect of a failure to comply with a code of conduct. This means that any action which required a councillor to do anything could not be enforced by suspension as a means of securing compliance. As the Welsh Government observed the only sanction where the criminal law was not involved in England was the ballot box.

40. That said, the fact that a requirement cannot be enforced by suspension does not mean that it should not be imposed. Provided that it is lawful, which in this context includes fully respecting the important right to freedom of expression enjoyed by members of local authorities in the interests of effective local democracy, a sanction may be imposed which requires a member of a local authority to do something. It must be proportionate to the breach. In *Bank Mellat v HM Treasury (No 2)* [2014] AC 700, the test of proportionality was stated as follows by Lord Sumption JSC at 770, para 20, I as follows:

“the question depends on an exacting analysis of the factual case advanced in defence of the measure, in order to determine (i) whether its objective is sufficiently important to justify the limitation of a fundamental right; (ii) whether it is rationally connected to the objective; (iii) whether a less intrusive measure could have been used; and (iv) whether, having regard to these matters and to the severity of the consequences, a fair balance has been struck between the rights of the individual and the interests of the community. These four requirements are logically separate, but in practice they inevitably overlap because the same facts are likely to be relevant to more than one of them.”

41. It must be remembered that Honiton is under the statutory duty to maintain high standards of conduct under s.27(1) of the 2011 Act set out at paragraph 2 of this judgment in relation to its members. Section 27(2) requires it to have a code of its own or to adopt that of East Devon. The existence of a code of conduct is regarded by Parliament as an important aspect of the maintenance of standards. It appears to me to be proportionate to a significant breach of it for a relevant authority to require the person in breach to be trained in its meaning and application. There is no point in having a code of conduct if members of the authority are not aware of its meaning and effect and where a member has demonstrated by his conduct that this is the case, a reasonable amount of training appears to be a sensible measure. A local authority should be able to require its members to undertake training which is designed to enable them to fulfil their public functions safely and effectively.
42. It was reasonably open to the decision maker to conclude that this was a serious breach of the Code. There is no finding as to the claimant's motives and it may be that he acted in good faith, believing that his statement about the Town Clerk was justified. However, it was not. He accused her of criminal conduct when there was not the slightest justification for doing so. This was a very serious error of judgement. Therefore, a requirement of training was proportionate.
43. If such a requirement is made but the member refuses to comply, the only sanction is publicity. Such conduct may reduce the confidence of the electorate in the member so that he or she is not re-elected. Equally, it may not. That is a matter for the electorate to decide which it can do only if it has the relevant information. For these reasons I

consider that it is open to a relevant authority exercising its power as contemplated by s.28(11) to take action following a failure to comply with a code of conduct to require the member to undertake training. That decision will usually be published and it will be open to the authority to publish what happens as a result of the requirement.

Conclusion

44. I therefore quash the Decision on the ground that, in so far as it applied the October Policy and added additional sanctions over and above those recommended by East Devon, Honiton acted unlawfully. The decision of East Devon both as to breach and the sanctions it recommended was lawful.

