



Meeting: **AUDIT AND GOVERNANCE COMMITTEE**
Date: **WEDNESDAY 17 JUNE 2015**
Time: **5.00PM**
Venue: **COMMITTEE ROOM**
To: **Councillors M Jordan (Chair), I Reynolds (Vice Chair), K Arthur, D Buckle, Mrs J Chilvers, A Thurlow, P Welch.**

Agenda

1. Apologies for absence

2. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

3. Minutes

To confirm as a correct record the minutes of the Audit Committee held on 15 April 2015 (pages 1 to 3 attached).

4. Chair's Address to the Audit Committee

5. To agree the start time of meetings

6. Audit Committee Work Programme

To receive and approve the Work Programme (pages 4 to 7 attached).

7. A/15/1 – Annual Internal Audit Report 2014/15

To receive the report of Executive Director (S151), (pages 8 to 28 attached).

8. A/15/2 – Amendments to the Constitution

To receive the report of the Solicitor to the Council (pages 29 to 45 attached), which sets out proposed changes to the Constitution that are required to comply with recent legislative changes and in the interests of the efficient administration of business. The Executive have also asked that the Site Visit Section of the Code of Practice for dealing with planning matters be reviewed. The Audit and Governance Committee are asked to provide comments for consideration by full Council.

9. Private Session

In accordance with Section 100(A)(4) of the Local Government Act 1972, in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following items as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 3 of Part 1 of Schedule 12(A) of the Act.

10. A/15/3 – Risk Management Annual Report 2014/15

To receive the report of the Executive Director (S151) (pages 46 to 48 attached).

11. A/15/4 – Review of the Corporate Risk Register

To receive the report of the Executive Director (S151) (pages 49 to 68 attached).

12. A/15/5 – Review of the Access Selby Risk Register

To receive the report of the Executive Director (S151) (pages 69 to 90 attached).

**Jonathan Lund
Deputy Chief Executive**

Date of Next Meetings
29 September 2015
13 January 2016

Enquiries relating to this agenda, please contact Daniel Maguire on:
Tel: 01757 292247 Email: dmaguire@selby.gov.uk

Recording at Council Meetings

Recording is allowed at Council, Committee and Sub-Committee meetings which are open to the public, subject to:- (i) the recording being conducted with the full knowledge of the Chairman of the meeting; and (ii) compliance with the Council's protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact the Democratic Services Officer on the above details prior to the start of the meeting. Any recording must be conducted openly and not in secret.

Minutes

Audit Committee

Venue: Committee Room

Date: 15 April 2015

Present: Councillor C Pearson (Chair), Councillor Mrs C Mackman (Vice Chair), Councillor J Cattanach, Councillor J Crawford, Councillor M Dyson and Councillor I Nutt

Apologies for Absence: Councillor S Duckett

Officers Present: Phil Jeffrey, Veritau; Cameron Waddell and Rochelle Tribe, Mazars; Karen Iveson, Executive Director (S151) and Richard Besley, Democratic Services

45. DECLARATIONS OF INTEREST

There were no declarations of interest.

46. MINUTES

RESOLVED:

To receive and approve the minutes of the Audit Committee held on 14 January 2015 and they are signed by the Chair.

47. CHAIR'S ADDRESS

The Chair welcomed the Committee and thanked the outgoing Councillors.

48. A/14/25 – Mazars Audit Strategy Memorandum 2014/15 and Audit Progress Report

On behalf of Mazars, Cameron Waddell presented the Strategy Memorandum and outlined how they conduct External Audits for the

Audit Commission. Mr Waddell referred to the timetable for submission of Local Authority accounts and their auditing and confirmed everything was on track for the receipt of the Council's Statement of Accounts in June.

The paper outlined the scope of the audit, their approach and timeline. It identified what significant risks were involved and key judgment areas. Mazars would be required to reach a conclusion on arrangements to secure economy, efficiency and effectiveness on the use of our resources.

Mr Waddell was pleased to report that audit fees were stable.

Mr Waddell identified the significant risks for the Committee and confirmed what they consider when looking at Value for Money conclusions.

RESOLVED:

To receive and note the Strategy Memorandum and Progress Report

49 A/14/26 – Annual Governance Statement – Action Plan Review

The report was presented by the Executive Director (s151) and highlighted the progress made in areas and confirmed that it would be completed by the close down of accounts.

Information Governance will be completed in next few months.

RESOLVED:

To note the report

50. A/14/27 – Internal Audit Progress Report 2014/15

Phil Jeffrey for Veritau presented the report and highlighted the action status on the audits.

RESOLVED:

The report was approved

51. A/14/28 – Internal Audit Charter

Presented by Phil Jeffrey, Veritau, the Charter outlines how Internal Audits are conducted and replaces the old Terms of Reference.

RESOLVED:

The report was approved

52. A/14/29 – Internal Audit Plan 2015/16

Presented by Phil Jeffrey for Veritau the Plan sets out Veritau's work programme on internal audit, counter fraud and risk management for 2015/16.

RESOLVED:

The internal audit plan was approved

53. A/14/30 – Audit Committee Annual Report 2014/15

The Chair presented the Committee's Annual Report for 2014/15.

The Democratic Services officer was asked to amend the name of the independent Councillor on the Committee from M McCartney to J McCartney

RESOLVED:

The Annual Report was noted

54. A/14/31 – Audit Committee Work Programme 2014/15

The Work Programme for 2015/16 was presented to the Committee.

The Executive Director (s151) informed the Committee that having spoken with Veritau it is recommended that Committee approve the moving of the Counter Fraud Annual Report from January to September this is a return to its usual month and helps reduce a lengthy agenda for January 2016.

RESOLVED:

The Work Programme (as amended) was approved

The meeting closed at 5:45pm

Audit Committee Work Programme 2015/16

Date of Meeting	Topic	Action Required
17 June 2015	<u>Committee Requested Item</u> Time of meetings	To agree the start time of Audit Committee meetings for 2014/15
	<u>Committee Requested Item</u> Internal Audit Annual Report 2014/15	To consider the Internal Audit Annual Report for 2014/15
	<u>Committee Requested Item</u> Risk Management Annual Report	To consider the Risk Management Annual Report for 2014/15
	<u>Committee Requested Item</u> Review of the Corporate Risk Register	To review the latest Corporate Risk Register
	<u>Committee Requested Item</u> Review of the Access Selby Risk Register	To review the latest Access Selby Risk Register
29 September (Tuesday) 2015	<u>Committee Requested Item</u> Information Governance Report	To receive an update on progress on implementing the IG Action Plan
	<u>Committee Requested Item</u> Annual Governance Statement	To approve the Annual Governance Statement

	<u>Committee Requested Item</u> Statement of Accounts (post audit)	To approve the Statement of Accounts
	<u>Committee Requested Item</u> Mazars Audit Completion Report and Opinion on the Financial Statements	To receive the Mazars Audit Completion Report and opinion on Financial Statements
	<u>Committee Requested Item</u> Counter Fraud Annual Report	To review the Counter Fraud Annual Report
	<u>Committee Requested Item</u> Internal Audit Quarter 1+Report 2015/16	To review progress against the Internal Audit Plan

13 January 2016	<u>Committee Requested Item</u> Information Governance Report	To approve the Information Governance Annual Report
	<u>Committee Requested Item</u> Annual Governance Statement – Action Plan Review	To review progress against the AGS Action Plan
	<u>Committee Requested Item</u> Internal Audit Quarter 2+ Report 2015/16	To review progress against the Internal Audit Plan
	<u>Committee Requested Item</u> Annual Audit Letter	To receive the Mazars report on the 2014/15 Audit and Value for Money conclusion

	<u>Committee Requested Item</u> Audit of Grant Claims & Returns 2013/14	To receive the Mazars Audit report
	<u>Committee Requested Item</u> Review of Risk Management Strategy	To review the Risk Management Strategy
	<u>Committee Requested Item</u> Review of the Corporate Risk Register	To review the latest Corporate Risk Register
	<u>Committee Requested Item</u> Review of the Access Selby Risk Register	To review the latest Access Selby Risk Register
	<u>Committee Requested Item</u> External Audit Progress Report – Mazars	To review the progress by Mazars in meeting its responsibilities as the Council’s External Auditor.

13 April 2016	<u>Committee Requested Item</u> Audit Strategy Memorandum and External Audit Progress Report – Mazars	To review the Audit Strategy and progress of the External Audit with Mazars
	<u>Committee Requested Item</u> Annual Governance Statement – Action Plan Review	To review progress against the AGS Action Plan
	<u>Committee Requested Item</u> Internal Audit Progress Report 2015/16	To review progress against the Internal Audit Plan for 2015/16

	<p><u>Committee Requested Item</u></p> <p>Internal Audit Charter</p>	<p>To approve the Internal Audit Charter</p>
	<p><u>Committee Requested Item</u></p> <p>Internal Audit Plan 2016/17</p>	<p>To approve the Internal Audit Plan 2016/17</p>
	<p><u>Committee Requested Item</u></p> <p>Audit Committee Annual Report 2015/16 and Work Programme 2016/17</p>	<p>To approve the 2015/16 Annual Report and the 2016/17 Work Programme for the committee</p>

Public Session

Report Reference Number: A/15/1

Agenda Item No: 7

To: Audit Committee
Date: 17 June 2015
Author: Phil Jeffrey; Audit Manager; Veritau
Lead Officer: Karen Iveson; Executive Director (s151 Officer)

Title: Annual Internal Audit Report 2014/15

Summary:

The purpose of the report is to present the Internal Audit Annual Report for 2014/15. That report is prepared by Veritau and is based on internal audit work carried out during the period April 2014 to April 2015.

Recommendations:

It is recommended that the attached report for 2014/15 be approved.

Reasons for recommendation

It is recommended that the report is considered by the Audit Committee as it summarises the internal audit work undertaken during the year. The report also includes the overall internal audit opinion on the Council's governance, risk management and control framework which helps inform the Annual Governance Statement.

1. Introduction and background

1.1 The work of internal audit is governed by the Accounts and Audit Regulations 2011 and the Public Sector Internal Audit Standards. In accordance with these standards, the Head of Internal Audit is required to provide an annual report setting out the work done by internal audit. The report should also include an audit opinion based on an objective assessment of the framework of governance, risk management and control operating within the Council.

2. The Report

- 2.1 The purpose of the report is to provide a statement of assurance regarding the adequacy and effectiveness of the control environment; and a summary of the internal audit work carried out during 2014-15. The Statement of Assurance will support the Annual Governance Statement (AGS) which forms part of the Council's Financial Statements.
- 2.2 Within the report there is also a summary of the audit opinions for the individual audits completed in the year, to support the overall opinion. It also includes a synopsis of the performance of Veritau in delivering internal audit services to the Council.
- 2.3 A number of the internal audit reports are still at draft report stage and have not yet been finalised. However, we do not expect the findings or opinion contained in these reports to significantly change.
- 2.4 There is no direct linkage to any of the Council's Priorities, as internal audit is a support service, which provides assurance to Directors on the operation of their services, and specifically to the S151 Officer on Council's financial systems.

3. Legal/Financial Controls and other Policy matters

- 3.1. Legal Issues
 - (a.) None.
- 3.2. Financial Issues
 - (a.) None.

4. Conclusion

- 4.1 The overall opinion of the Head of Internal Audit on the governance, risk management and control framework operated by the Council is that it provides **Substantial Assurance**. There are no qualifications to that opinion. In addition, no reliance was placed on the work of other assurance bodies in reaching this opinion.
- 4.2 Although a substantial assurance opinion can be given, we are aware of some weaknesses in the control environment which have been identified around Taxi Licensing, Partnerships, IT access controls and the compliance with the Payment Card Industry Data Security Standard (PCI DSS). We have recommended that the PCI DSS issues are considered for inclusion in the Annual Governance Statement.

5. Background Documents

Contact Officer:

Phil Jeffrey
Audit Manager
Veritau
Phil.jeffrey@veritau.co.uk

Appendices: - Annual Internal Audit Report 2014/15



Selby District Council

Internal Audit Annual Report 2014-15

Audit Manager: Phil Jeffrey
Deputy Head of Internal Audit: Richard Smith
Head of Internal Audit: Max Thomas
Date: 17th June 2015

Background

- 1 The work of internal audit is governed by the Accounts and Audit Regulations 2011 and the Public Sector Internal Audit Standards (PSIAS). The Head of Internal Audit is required to regularly report progress in the delivery of the internal audit plan to the Audit Committee and to identify any emerging issues which need to be brought to the attention of the Committee.
- 2 Members approved the Annual Internal Audit Plan for 2014/15 at their meeting on the 16 April 2014. The total number of planned audit days for 2014/15 was 355. The performance target for Veritau is to deliver 93% of the agreed Audit Plan by the end of the year. This report summarises the delivery of the agreed plan.

Internal Audit Work Carried Out 2014/15

- 3 A summary of the audit work completed in the year to date is attached at **Appendix A**.
- 4 Veritau officers are involved in a number of other areas relevant to corporate matters:
 - **Support to the Audit Committee;** this is mainly ongoing through our support and advice to Members. We assist by facilitating the attendance at Committee of managers to respond directly to Members' questions and concerns arising from audit reports and the actions that managers are taking to implement agreed actions.
 - **Contractor Assessment;** this work involves supporting the assurance process by using financial reports obtained from Dunn & Bradstreet (Credit Rating Agency) in order to confirm the financial suitability of potential contractors.
 - **Risk Management;** Veritau facilitate the Council's risk management process and advise Access Selby on their processes.
 - **Systems Development;** Veritau attend development group meetings in order to ensure that where there are proposed changes to processes or new ways of delivering services, that the control implications are properly considered.
 - **Investigations;** Special investigations into specific sensitive issues.
- 5 As with previous audit reports an overall opinion will be given for each of the specific systems under review. In addition to the standard reports below, non-standard reports are also issued with 'no opinion given' – these may be where the work is limited in scope or is more consultancy in nature.
- 6 The opinions used by Veritau are provided below:

High Assurance

Overall, very good management of risk. An effective control environment appears to be in operation.

- Substantial Assurance** Overall, good management of risk with few weaknesses identified. An effective control environment is in operation but there is scope for further improvement in the areas identified.
- Reasonable Assurance** Overall, satisfactory management of risk with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made.
- Limited Assurance** Overall, poor management of risk with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation.
- No Assurance** Overall, there is a fundamental failure in control and risks are not being effectively managed. A number of key areas require substantial improvement to protect the system from error and abuse.

7 The following priorities are applied to individual actions agreed with management:

Priority 1 (P1) – A fundamental system weakness, which represents unacceptable risk to the system objectives and requires urgent attention by management.

Priority 2 (P2) – A significant system weakness, whose impact or frequency presents risk to the system objectives, which needs to be addressed by management.

Priority 3 (P3) – The system objectives are not exposed to significant risk, but the issue merits attention by management.

8 It is important that agreed actions are formally followed-up to ensure that they have been implemented. Agreed actions are recorded within Covalent and therefore assurance should be gained through the performance management framework. Further testing is carried out as appropriate.

9 A total of 28 agreed actions from 2013/14 audits have been followed up with the responsible officers. 26 had been satisfactorily implemented. In a further 2 cases, the actions had not been implemented by the target date but a revised date was agreed. This is done where the delay in addressing an issue will not lead to unacceptable exposure to risk and where the delays are unavoidable. These actions will be followed up after the revised target date. The remaining 4 actions have not yet been followed up either because the target dates have not yet passed or because follow up work is still in progress. A summary is include below:

Action status	Total No.	Action Priority		
		1	2	3
Actions now implemented	26	1	15	10
Revised date agreed	2	0	2	0
Follow up in progress	2	0	1	1
Not yet followed up	2	0	2	0
Total agreed actions	32	1	20	11

- 10 A total of 14 agreed actions from 2014/15 audits have been followed up with the responsible officers. All 14 had been satisfactorily implemented. The remaining 12 actions agreed in 2014/15 audits have not yet been followed up either because target dates have not yet passed or because follow up work is still in progress. A summary is included below:

Action status	Total No.	Action Priority		
		1	2	3
Actions now implemented	14	0	3	11
Revised date agreed	0	0	0	0
Follow up in progress	7	0	3	4
Not yet followed up	5	0	1	4
Total agreed actions	26	0	7	19

- 11 Currently, nine 2014/15 audits are at draft report stage. Six reports have been finalised since the last report to this committee. A total of 97.6% reports were completed to draft report stage by the end of April 2015 (the cut off point for 2014/15 audits), exceeding the target of 93%.

Compliance with Standards

- 12 Internal audit work during the year has been undertaken in accordance with the PSIAS.
- 13 The internal audit Quality Assurance and Improvement Programme includes ongoing monitoring of the performance of the internal audit activity. Ongoing monitoring is an integral part of the day-to-day supervision, review and measurement of the internal audit activity. All audit work is reviewed by managers and a sample of work is also subject to internal peer review. Post audit customer satisfaction surveys are issued after all assignments. In addition, senior management are asked to complete an annual survey on the overall quality of the service.
- 14 External assessments must be conducted at least once every five years by a qualified, independent assessor or assessment team from outside the organisation. An external assessment was carried out in April 2014 by the South West Audit Partnership (SWAP). The outcome from the review demonstrated that the service provided by Veritau conformed to the International Standards for the Professional Practice of Internal Auditing. Further details about the 2015 Quality Assurance and Improvement Programme are shown in **appendix B**.

Audit Opinion and Assurance Statement

- 15 The overall opinion of the Head of Internal Audit on the risk management, governance and control framework operated by the Council is that it provides Substantial Assurance. There are no qualifications to that opinion. In addition, no reliance was placed on the work of other assurance bodies in reaching this opinion.
- 16 Although a substantial assurance opinion can be given, we are aware of some weaknesses in the control environment which have been identified around Tax Licensing, Partnerships, IT access controls and the compliance with the Payment

Card Industry Data Security Standard (PCI DSS). We have recommended that the PCI DSS issues are considered for inclusion in the Annual Governance Statement.



Max Thomas
Director and Head of Internal Audit
Veritau Ltd

17 June 2015

Table of 2014/15 audit assignments status

Audit	Status	Audit Committee
Corporate Risk Register/Access Selby RR		
Savings Delivery	Draft report issued	
Partnerships	Draft report issued	
Performance Management and Data Quality	Draft report issued	
Government Legislation	High Assurance	January 2015
Financial Systems		
Housing Rents	Substantial Assurance	January 2015
Council Tax/NNDR	Draft report issued	
Sundry Debtors	High Assurance	April 2015
Benefits	Draft report issued	
Council House Repairs	Substantial Assurance	June 2015
Creditors	Substantial Assurance	April 2015
Income/Receipting Systems	Draft report issued	
Payroll	High Assurance	April 2015
General Ledger (budgetary control & reconciliations)	Draft report issued	
Capital Asset Management	High Assurance	June 2015
Regularity / Operational Audits		
Civil Contingencies Act/Business Continuity	Substantial Assurance	January 2015
Safeguarding Children	Substantial Assurance	April 2015
Taxi Licensing	Reasonable Assurance	January 2015
Technical / Project Audits		
ICT – Network / COA access	Draft report issued	
ICT – PCI DSS compliance	Draft report issued	
Programme for Growth	To join Project Board in 2015/16	
Contract Audit/Procurement	High Assurance	June 2015

Audit	Status	Audit Committee
Housing Trust	Ongoing support provided - no report issued	
Business Transformation - Open Data/Transparency - Document Management	No opinion given No opinion given	June 2015 June 2015
Better Together – Customer and Community Workstream Information Governance Support	No opinion given Support provided - no report issued	June 2015
Contingency - Car Park Income	No opinion given	April 2015
Follow Ups:	Updates provided to Audit Committee	

Summary of Key Issues from audits completed to 4 June 2015; previously not reported

Audit	Opinion	Area Reviewed	Date Issued	Comments	Number of Agreed Actions	
					Total	Priority 1
Capital Asset Management	High Assurance	This audit examined the key risks in relation to Asset Management.	21 May 2015	<p>Strengths It was found that the council has appropriate high level strategies and that there are monitoring and management activities in place in relation to the council's capital assets.</p> <p>Weaknesses No significant control weaknesses identified.</p>	1	0
Contract Audit	High Assurance	This audit looked at the management of the contracts with Wigan Leisure and Culture Trust (WLCT) to provide leisure services and one with Amey PLC for street based services.	22 May 2015	<p>Strengths The mechanisms to pay and monitor the contracts were appropriate. A commuted sum payment was made to the contractor to settle a capital investment payment made by WLCT to improve the facilities at the old leisure centre. A review of this</p>	0	0

Audit	Opinion	Area Reviewed	Date Issued	Comments	Number of Agreed Actions	
					Total	Priority 1
				<p>commuted sum payment confirmed it was appropriate and accurately calculated.</p> <p>Weaknesses No significant control weaknesses identified.</p>		
Council House Repairs	Substantial Assurance	This audit looked at the procedures for recording and allocating work; recovering the cost of repairs; and relevant procurement processes.	13 May 2015	<p>Strengths There are agreements and contracts in place for specific works. The council uses a number of suppliers and the spend with each supplier can be traced back to specific jobs.</p> <p>Weaknesses The audit found instances where the priority of jobs had been changed. However, it was not possible to quantify the number of occasions this had occurred as audit information is not captured</p>	2	0

Audit	Opinion	Area Reviewed	Date Issued	Comments	Number of Agreed Actions	
					Total	Priority 1
				from this part of the system.		
Better Together - Customer and Community workstream	No opinion given	<p>The 2014-15 audit plan included an allocation of time to support the Better Together project. It was agreed with officers to review the Customer and Communities workstream in order to ensure that:</p> <ul style="list-style-type: none"> • there are monitoring procedures to ensure the project is delivered on time, within budget and to the required standard. • Elected Members and the council's management team are provided with regular updates on 	21 May 2015	<p>Strengths Monitoring arrangements are in place; however they are in the early stages of development.</p> <p>Weaknesses Whilst not a weakness at this stage, a decision will need to be taken as to what information will be published to update key stakeholders as to the latest position regarding the project.</p>	n/a ¹	n/a

¹ Two recommendations were agreed and will be followed-up as part of the 2015/16 Better Together work

Audit	Opinion	Area Reviewed	Date Issued	Comments	Number of Agreed Actions	
					Total	Priority 1
		progress.				
Business Transformation – Open Data / Transparency	No Opinion given	<p>A project team was established at the council to coordinate the publication of data under the Government Transparency Code 2014.</p> <p>This work was to give assurance to management that they had complied with the Code and to confirm that appropriate processes were in place for updating and maintaining the transparency of data in the future</p>	27 April 2015	<p>Strengths Overall, there was compliance with the information that should be published under the Code.</p> <p>A group will be established with clear terms of reference and responsibility. Each of the lead officers with responsibility for an information item will be included within the group as well as the Head of Operations.</p> <p>Weaknesses No significant control weaknesses identified.</p>	n/a ²	n/a

² One recommendation was agreed and will be followed-up as part of the 2015/16 Business Transformation work

Audit	Opinion	Area Reviewed	Date Issued	Comments	Number of Agreed Actions	
					Total	Priority 1
Business Transformation – Document Management	No Opinion given	This review was intended to provide assurance on the processes for receiving electronic mail; the volume of customer mail held in individual accounts; as well as a snapshot of the trail of an item of physical mail received by the council.	30 April 2015	<p>Strengths Physical documents received into the council by the business support team are dealt with efficiently and effectively.</p> <p>Weaknesses The ability to retrieve all electronic information relating to a specific issue is highly dependant upon how soon after the event the information is requested. Only 44% of those who responded to an audit questionnaire would be able to provide all information requested within 3 days.</p>	n/a	n/a

VERITAU

INTERNAL AUDIT QUALITY ASSURANCE AND IMPROVEMENT PROGRAMME

1.0 Background

Ongoing quality assurance arrangements

Veritau maintains appropriate ongoing quality assurance arrangements designed to ensure that internal audit work is undertaken in accordance with relevant professional standards (specifically the Public Sector Internal Audit Standards). These arrangements include:

- the maintenance of a detailed audit procedures manual
- detailed job descriptions and competency profiles for each internal audit post
- regular performance appraisals
- regular 1:2:1 meetings to monitor progress with audit engagements
- training plans and associated training activities
- the maintenance of training records and training evaluation procedures
- agreement of the objectives, scope and expected timescales for each audit engagement with the client before detailed work commences (audit specification)
- the results of all audit testing work documented using the company's automated working paper system (Galileo)
- file review by an audit manager and sign-off of each stage of the audit process
- post audit questionnaires (customer satisfaction surveys) issued following each audit engagement
- performance against agreed quality targets reported to each client on a regular basis.

On an ongoing basis, a sample of completed audit files is also subject to internal peer review by a senior audit manager to confirm quality standards are being maintained. The results of this peer review are documented and any key learning points shared with the internal auditors (and the relevant audit manager) concerned.

The Head of Internal Audit will also be informed of any general areas requiring improvement. Appropriate mitigating action will be taken (for example, increased supervision of individual internal auditors or further training).

Annual self-assessment

On an annual basis, the Head of Internal Audit will seek feedback from each client on the quality of the overall internal audit service. The Head of Internal Audit will also

update the PSIAS self assessment checklist and obtain evidence to demonstrate conformance with the standards. As part of the annual appraisal process, each internal auditor is also required to assess their current skills and knowledge against the competency profile relevant for their role. Where necessary, further training or support will be provided to address any development needs.

The results of the annual client survey and PSIAS self-assessment are used to identify any areas requiring further development and/or improvement. Any specific changes or improvements are included in the annual Improvement Action Plan. Specific actions may also be included in the Veritau business plan and/or individual personal development action plans.

The outcomes from this exercise, including details of the Improvement Action Plan are also reported to each client. The results will also be used to evaluate overall conformance with the PSIAS, the results of which are reported to senior management and the board¹ as part of the annual report of the Head of Internal Audit.

External assessment

At least once every five years, arrangements must be made to subject internal audit working practices to external assessment to ensure the continued application of professional standards. The assessment should be conducted by an independent and suitably qualified person or organisation and the results reported to the Head of Internal Audit. The outcome of the external assessment also forms part of the overall reporting process to each client (as set out above). Any specific areas identified as requiring further development and/or improvement will be included in the annual Improvement Action Plan for that year.

2.0 Customer Satisfaction Survey – 2015

Feedback on the overall quality of the internal audit service provided to each client was obtained in March 2015. Where relevant, the survey also asked questions about the counter fraud and information governance services provided by Veritau. A total of 103 surveys were issued to senior managers in client organisations. 33 surveys were returned representing a response rate of 32% (2014 - 22%). Respondents were asked to rate the different elements of the audit process, as follows:

- Excellent (1)
- Good (2)
- Satisfactory (3)
- Poor (4)

Respondents were also asked to provide an overall rating for the service.

¹ As defined by the relevant audit charter.

The results of the survey are set out in the table below:

	1	2	3	4	N/A
1 The quality of planning and the overall coverage of the audit plan	8	20	3		2
2 The provision of advice and guidance	10	20	3		
3 The conduct and professionalism of audit staff	17	15	1		
4 The ability of audit staff to provide unbiased and objective opinions	11	18	3		1
5 The ability of audit staff to establish a positive rapport with customers	14	16	3		
6 The auditors' overall knowledge of the system / service being audited	5	19	7		2
7 The auditors' ability to focus on the areas of greatest risk	5	16	9		3
8 Agreeing the scope and objectives of the audit	10	16	5		2
9 The auditors' ability to minimise disruption to the service being audited	10	17	3		3
10 The communication of issues found by the auditors during their work	6	23	2		2
11 The quality of feedback at the end of the audit	6	19	4		4
12 The accuracy, format, length and style of audit reports	11	15	3		4
13 The time taken to issue audit reports	7	17	5		4
14 The relevance of audit opinions and conclusions	8	16	5		4
15 The extent to which agreed actions are constructive and practical	8	18	4		3
Overall rating for the Internal Audit services provided by Veritau	8	19	3		3

The overall ratings in 2014 were:

Excellent - 2

Good - 17

Satisfactory - 1

Poor - 0

The feedback is therefore broadly in line with the previous year and suggests that the service continues to be well regarded by clients.

3.0 Self Assessment Checklist – 2015

The checklist prepared by CIPFA to enable conformance with the PSIAS and the Local Government Application Note to be assessed was originally completed in March 2014. Documentary evidence was provided where current working practices were considered to fully or partially conform to the standards.

In most areas the current working practices were considered to be at standard. However, a few areas of non-conformance were identified. None of the issues identified were however considered to be significant. In addition, in some cases, the existing arrangements were considered appropriate for the circumstances and hence required no further action.

The checklist has been reviewed and updated in 2015. The following areas of non-conformance remain unchanged:

<u>Conformance with Standard</u>	<u>Current Position</u>
Does the chief executive or equivalent undertake, countersign, contribute feedback to or review the performance appraisal of the Head of Internal Audit?	The Head of Internal Audit's performance appraisal is the responsibility of the board of directors. The results of the annual customer satisfaction survey exercise are however used to inform the appraisal.
Is feedback sought from the chair of the audit committee for the Head of Internal Audit's performance appraisal?	See above
Where there have been significant additional consulting services agreed during the year that were not already included in the audit plan, was approval sought from the audit committee before the engagement was accepted?	Consultancy services are usually commissioned by the relevant client officer (generally the s151 officer). The scope (and charging arrangements) for any specific engagement will be agreed by the Head of Internal Audit and the

<u>Conformance with Standard</u>	<u>Current Position</u>
	relevant client officer. Engagements will not be accepted if there is any actual or perceived conflict of interest, or which might otherwise be detrimental to the reputation of Veritau.
Does the risk-based plan set out the - (b) respective priorities of those pieces of audit work?	Audit plans detail the work to be carried out and the estimated time requirement. The relative priority of each assignment will be considered before any subsequent changes are made to plans. Any significant changes to the plan will need to be discussed and agreed with the respective client officers (and reported to the audit committee).
Are consulting engagements that have been accepted included in the risk-based plan?	Consulting engagements are commissioned and agreed separately.
Does the risk-based plan include the approach to using other sources of assurance and any work that may be required to place reliance upon those sources?	Whilst reliance may be placed on other sources of assurances there is no formal process to identify and assess such sources. However, assurance mapping will be used where appropriate and audit plans will highlight where other sources of assurance are being relied upon.

4.0 External Assessment

As noted above, the PSIAS require the Head of Internal Audit to arrange for an external assessment to be conducted at least once every five years to ensure the continued application of professional standards. The assessment is intended to provide an independent and objective opinion on the quality of internal audit practices.

Whilst the new Standards were only adopted in April 2013, the decision was taken to request an assessment at the earliest opportunity in order to provide assurance to our clients. The assessment was conducted by Gerry Cox and Ian Baker from the South West Audit Partnership (SWAP) in April 2014. Both Gerry and Ian are experienced internal audit professionals. The Partnership is a similar local authority controlled company providing internal audit services to over 12 local authorities (including county, unitary and district councils across Somerset, Wiltshire and Dorset). The Partnership was established in 2005 and currently employs over 60 members of staff.

The assessment consisted of a review of documentary evidence, including the self-assessment, and face to face interviews with a number of senior client officers and Veritau auditors. The assessors also interviewed an audit committee chair.

The conclusion from the external assessment was that working practices conform to the required professional standards. Copies of the detailed assessment report were provided to client organisations and, where appropriate, reported to the relevant audit committee.

5.0 Improvement Action Plan

The quality assurance process has identified the need to make the following changes and improvements to working practices:

Change / improvement	Target completion date
The standard specification template will be updated to ensure that the expectations on Veritau and the relevant client organisation in terms of access to records and the distribution of reports (including the extent of any duty of care provided to third parties) are fully understood. Where appropriate, information sharing agreements will also be established with client organisations.	30 June 2015
Checklists will be provided to assist auditors ensure all stages of the audit process are fully completed on Galileo.	30 September 2015
Templates for 'non-standard' reports (for example – consultancy, fraud and special assignments) will be developed.	31 December 2015



Public Session

Report Reference Number A/15/2

Agenda Item No: 8

To: Audit and Governance Committee

Date: 17 June 2015

Author: Gillian Marshall Solicitor to the Council

Lead Officer: Jonathan Lund Deputy Chief Executive/Monitoring Officer

Title: Amendments to the Constitution

Summary:

The Constitution was reviewed in 2014 in preparation for the reduction in the number of Councillors after the election from 41 to 31. Notwithstanding that review, further changes now need to be made to comply with amended legislation and others are recommended in the interests of the efficient administration of business.

As part of the 2014 review, Council gave Audit and Governance Committee a role in future reviews of the Constitution. The Executive considered the proposals on 4 June 2015 and referred them with one addition to Audit and Governance Committee who are asked to provide their comments for consideration by full Council.

Recommendations:

- i. To consider the proposed changes and provide comments for consideration by full Council**

Reasons for recommendation

To comply with changes in legislation and in the interests of the efficient administration of Council business.

1. Introduction and background

- 1.1** The Constitution was reviewed in 2014 in preparation for the reduction in the number of Councillors from 41 to 31. Notwithstanding that review, further changes now need to be made or are recommended.

- 1.2 In the case of the changes to disciplinary procedure for statutory officers, the amendments are required as a matter of law and the Council has no option. In the other cases the proposals are aimed at the efficient administration of business by speeding up decision making whilst maintaining the transparency and accountability required in good decision making through the Forward Plan and recording of delegated decisions.

2 The Report

- 2.1 The proposed changes to be considered are as follows

2.1.1 Changes are required to disciplinary processes for statutory officers – the previous requirement for a Designated Independent Person has been removed and replaced with the need for a vote in favour at full Council who will be advised by the Independent Person appointed under the Standards arrangements adopted by the Council. This change is required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and must be made at the first ordinary meeting of Council after 11 May 2015. A detailed note of the draft changes recommended will be tabled at or before the meeting.

2.1.2 Amendments are proposed to the Financial Procedure Rules as part of a general refresh of that document. A revised draft will be circulated will be tabled at or before the meeting. The main changes to be considered are -

- a) to increase the level of in year virement that can be approved under delegated powers. The proposal is that the level should be £50 000 rather than the current £20 000 which would be consistent with the level of authority granted under Contract rules and the definition of a significant officer decision which should be recorded and publicised. The authority should be limited as now to the s151 Officer.
- b) To increase the delegation limits on approving the sale of land to £50 000 consistent with the other financial limits. This would be delegated to Directors in consultation with the s151 Officer.

2.1.2 It is proposed that the role of monitoring the Council's use of the Regulation of Investigatory Powers Act for surveillance be added to the Terms of Reference of Audit and Governance Committee. The Home Office Code of Practice indicates that Member level review on an annual basis (at a minimum) should take place and this is one of the recommendations arising from a recent visit by the Office of the Surveillance Commissioner.

2.1.3 Changes are also proposed to reflect the new procedures for giving effect to the recommendations of the CEFs via delegated powers and to introduce a Revised Code of Conduct for CEFs including CEF Chairs and Partnership Board Chairs in recognition that such Chairs could be non- councillors and therefore not subject to the Councillor Code of Conduct. Revised drafts of Article 10 (Community Engagement forums, Article 13 (decision making –

CEFs), Part 3.6 Delegation of Functions to CEFs), Community Engagement Procedure Rules and Code of Conduct for members of the CEFs will be tabled at or before the meeting.

- 2.2 The Executive also resolved to ask Audit and Governance Committee to look again at the Site Visit Section of the Code of Practice for dealing with Planning matters as concerns have been expressed about the ability of ward Councillors to represent their constituents in such matters. The Current Planning Code of Conduct is attached at Appendix A.
- 2.3 In addition to the legislation changes at paragraph 2.1.1 a) above the previous Government issued a consultation paper on 29 January 2015 on proposed changes to the Local Authorities Functions and Responsibilities Regulations. These regulations identify the split in decision making responsibility between Council (and committees of Council) and the Executive. They were first introduced in 2000 and regularly amended until 2013. This proposal is to replace the existing set and all the amendments with a new 2015 version. The consultation closed on 6 March 2015. It is likely that the new Government will proceed with some or all of these changes in the new Parliament. As with the changes at 2.1.1 a) above the Council will have no option but to reflect these legal changes in the Constitution. Council may wish to consider granting general delegated powers to the Monitoring Officer to amend the Constitution where required to do so as a matter of law and the views of Audit and Governance Committee on this proposal are sought.

3 Legal/Financial Controls and other Policy matters

3.1 Legal Issues

An up to date Constitution reduces the risk of legal challenges to the decisions of the Council.

3.2 Financial Issues

Controls will remain in place to ensure financial probity.

3.3 Impact Assessment

No other impacts have been identified

4. Conclusion

- 4.1 That Audit and Governance Committee should consider the proposals and provide comments and recommendations for full Council.

5. Background Documents

None

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Appendices:

Appendix A –Planning Code of Practice

CODE OF PRACTICE FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS

This Code of Practice supplements the Council's Code of Conduct for Councillors and where appropriate Councillors should refer to the Code of Conduct which is set out in the Council's Constitution. The Council's Monitoring Officer's advice may be sought on the interpretation of the Code of Conduct or this Code.

1. INTRODUCTION

- 1.1 Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of Councillors of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the community.
- 1.2 The planning system can only function effectively if there is trust among those involved. There must be trust between Councillors and Officers and between the public and the Council. The Third report of the Committee on Standards in Public Life (the Nolan Committee) (1997) recommended that each local authority's practices and procedures were set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system.
- 1.3 The general principles that underlie the Council's Code of Conduct for Councillors and apply to this Code of Practice are:
 - 1.3.1 Councillors should serve the public interest and should never improperly confer an advantage or disadvantage on any person.
 - 1.3.2 Councillors should not place themselves in situations where their honesty or integrity may be questioned.
 - 1.3.3 Councillors should make decisions on merit.
 - 1.3.4 Councillors should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
 - 1.3.5 Councillors may take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
 - 1.3.6 Councillors should respect the impartiality and integrity of Officers.
- 1.4 The Council is committed to open, fair and transparent decision-making. Planning decisions should be made impartially, with sound judgement and for justifiable reasons.
- 1.5 This Code of Practice sets out practices and procedures that Councillors and Officers of the Council shall follow when involved in planning matters. Planning matters include the consideration of planning applications, the preparation of development plans and other planning policy and the enforcement of planning control.
- 1.6 Failure to follow this Code without good reason could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual elected Councillors and officers. Breaches of this Code may

also amount to breaches of the Council's Code of Conduct for Councillors. If in doubt about what course of action to take, a Councillor or officer should seek the advice of the Council's Monitoring Officer.

- 1.7 This Code of Practice sets out principles to guide Councillors and officers in determining planning applications and making other decisions within the terms of reference of Planning Committee. Although of particular relevance to members of Planning Committee it applies to all members of the Council who may become involved in planning and development matters.

2. THE ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

- 2.1 Councillors and Officers have different, but complementary roles. Both serve the public but Councillors are responsible to the electorate, while Officers are responsible to the Council as a whole.
- 2.2 The role of a member of the Planning Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.
- 2.3 Whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. This is particularly pertinent to Councillors involved in making a planning decision. A key role of the planning system is the consideration of development proposals against the wider public interest.
- 2.4 Councillors' decisions shall not discriminate in favour of any individuals or groups and, although they may be influenced by the opinions of others, they alone have the responsibility to decide what view to take. Councillors must, therefore, consider all of the material issues in the light of Development Plan policies, Government advice and their own individual judgement and make a decision in the interests of the area as a whole.
- 2.5 Whilst Councillors should take account of all views expressed, they shall not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.
- 2.6 Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI) Code of Professional Conduct. Breaches of that code may be subject to disciplinary action by the Institute.
- 2.7 Officers in their role of advising Councillors shall provide:
 - 2.7.1 Impartial and professional advice;
 - 2.7.2 Complete written reports covering all necessary information for a decision to be made.
- 2.8 The Council endorses the statement in the RTPI code that, 'RTPI members shall not make or subscribe to any statements or reports which are contrary to their own professional opinions', and extends it to apply to all officers in the authority advising on planning matters.
- 2.9 That the Council may not always follow the advice of their professional planning officers is perfectly proper. The professional officer too, may have a change of opinion, but this must be on the basis of professional judgement, and not because an authority, its Councillors or other Officers, have prevailed upon the Officer to put forward his or her professional view as something other than it really is.

- 2.10 If the Planning Committee is minded to refuse or grant an application contrary to Officer recommendation, it should consider whether to defer the application to the next available committee, before making the final decision. This will allow Councillors to obtain further legal advice on the proposed reasons for acting contrary to the recommendation based on material planning considerations. If such a decision is made it must be clearly minuted, expressed clearly and be based upon sound planning reasons supported by evidence.
- 2.11 Officers shall follow the guidance on their standards of conduct as set out in the Code of Conduct for Employees in the Council's Constitution and any National Code of Conduct for Local Government Officers issued by the Secretary of State under Section 82 Local Government Act 2000.
- 2.12 Councillors shall follow the advice in the Councillor's Code of Conduct about accepting gifts and hospitality. Councillors should treat with extreme caution any offer which is made to them personally; the normal presumption should be that such offers must be courteously declined. Similarly, officers shall politely decline offers of hospitality from people with an interest in a planning proposal. If receipt of hospitality is unavoidable, Officers shall ensure it is of a minimal level and declare it in the hospitality register as soon as possible.

3. **COUNCILLORS INTERESTS AND ALLEGATION OF BIAS**

- 3.1 Where Councillors have interests which may be thought likely to influence their decision, the fact should be declared at the meeting.
- 3.2 Where the interest is such that members of the public may feel that the Councillor will not be able to approach matters with an open mind and consider the application on its planning merits, Councillors should consider withdrawing from the Committee.
- 3.3 These principles apply equally to Councillors who are not members of Planning Committee Councillors who have such interests should consider whether it is appropriate for them to participate in the planning process, and in any event, should declare such interest at any meeting which they may attend or in any letter which they may write.
- 3.4 The Code of Conduct for Councillors provides guidance as to disclosable interests which may (depending on their nature) affect a Councillor's ability to take part in the decision-making process. However, Councillors may have other interests which may influence their decision which will not amount to disclosable interests for the purposes of the Code. In order to maintain the integrity of the planning system, Councillors should be careful to ensure that such interests do not unduly influence their decisions or give rise to a perception of bias in decision making. Examples of such interests are:-
- 3.4.1 from being closely aligned with ward campaigns or issues;
 - 3.4.2 from membership of other Committees of the Council;
 - 3.4.3 from membership of other public or community bodies;
 - 3.4.4 from membership of voluntary associations and trusts (including where appointed by the Council);
 - 3.4.5 from a connection with a particular policy initiative of the Council;
 - 3.4.6 from membership of clubs, societies and groups; and

3.4.7 from hobbies and other leisure interests.

Such interests may mean that a Councillor is involved with a planning application before the matter comes before the Planning Committee. Such involvement need not on its own debar a Councillor from participating in making the planning decision when the matter is considered by Planning Committee providing that the Councillor has not already decided how they will vote on the matter before the Committee. Councillors should, however, always consider carefully whether in any particular case they could reasonably be seen to approach the planning merits of the application with an open mind. If the Councillor considers that this is not possible, the Councillor should withdraw from consideration of that item.

3.5 As a minimum, the integrity of the planning system requires openness on the part of Councillors; it must operate fairly and be seen to operate fairly.

4. **DEVELOPMENT PROPOSED BY THE COUNCIL OR A COUNCIL OWNED COMPANY**

4.1 Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. Council owned companies also submit proposals that are decided by the Council.

4.2 Proposals submitted by the Council or a Council owned company shall be considered in the same way as those by private developers.

4.3 Members of the Planning Committee who sit on the board of a Council owned company which has submitted a planning proposal shall declare an interest and take no part in the discussion and determination of that proposal, except where they are the local Councillor when they may speak on matters of local concern but shall not vote.

4.4 Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

5. **STATUTORY DUTIES**

The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to the use of development land. Examples of these duties include:

5.1 **Equality Act 2010**

Section 149 provides that:

5.1.1 A council must, in the exercise of its functions, have due regard to the need to:-

- (a) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a protected characteristic and persons who do not share it.

5.1.2 The above powers relate to the following protected characteristics:-

- (a) Ages;
- (b) Disability;
- (c) Gender reassignment;
- (d) Marriage and civil partnership;
- (e) Pregnancy and maternity;
- (f) Race (including colour, nationality and ethnic or national origins);
- (g) Religion or belief;
- (h) Sex; or
- (i) Sexual orientation.

5.2 **Human Rights**

Section 6(1) of the Human Rights Act 1998 provides that:

“It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right.”

5.3 **Best Value**

Section 3(1) of the Local Government Act 1999 provides that:

“A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.”

5.4 **Crime and Disorder**

Section 17(1) of the Crime and Disorder Act 1998 provides that:

“Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.”

6. **LOBBYING OF AND BY COUNCILLORS**

- 6.1 Lobbying is a normal and proper part of the political process. The applicant, supporters or those who may be affected by a proposal will often seek to influence the decision by an approach to their local Councillor or members of the Planning Committee. However, reacting to lobbying can lead to the impartiality of a Councillor being called into question and require that Councillor to declare an interest.
- 6.2 The information provided by lobbyists is likely to represent an incomplete picture of the relevant considerations in respect of a planning matter. The views of consultees, neighbours and the assessment of the case by the planning officer all need to be

considered before a Councillor is in a position to make a balanced judgement on the merits of the case. Councillors should provide officers with copies of any lobbying material they may have received, whether in favour or against a proposal.

- 6.3 The time for individual members of the Planning Committee to make a decision on a proposal is at the committee meeting when all available information is to hand and has been duly considered.
- 6.4 A Planning Committee member shall be free to listen to a point of view about a planning proposal and to provide procedural advice (in particular referring the person to officers). Even though they may agree with a particular view, Planning Committee Councillors should take care about expressing an opinion indicating they have made up their mind before the decision-making meeting. To do so, without all the relevant information and views, would be unfair and prejudicial. A decision is at risk of being challenged if Councillors do not retain open minds and are not genuinely susceptible to persuasion at the decision-making meeting. Councillors who are lobbied should:
- 6.4.1 make clear that they reserve their final decision on a proposal until the committee meeting;
 - 6.4.2 only give procedural advice;
 - 6.4.3 consider referring those lobbying to the relevant Officer who can provide further advice; and
 - 6.4.4 not seek to meet an applicant or potential applicant alone.
- 6.5 Members of the Planning Committee shall not, in general, organise support or opposition for a proposal, or lobby other Councillors (other than when addressing the Planning Committee). Councillors shall not put improper pressure on officers for a particular recommendation.
- 6.6 The local Councillor who is not a member of the Planning Committee will be allowed to attend and speak at the decision-making meeting (representing the views of their ward) but not vote. The Councillor for an adjacent ward substantially affected by the proposal shall, at the discretion of the chair of the Planning Committee, also be allowed to attend and speak but not vote. A local Councillor who has an interest in an application, within the meaning of the Code of Conduct should seek prior advice from the Monitoring Officer about his or her position.
- 6.7 If a member of the Planning Committee identifies himself or herself with group or individual campaigning for or against an application, he or she shall declare an interest and not vote or decide on the matter. However, that Councillor shall be given the opportunity to address the Committee and must leave the meeting as soon as they have spoken and not return until a decision has been made by Committee.
- 6.8 Councillors of a Planning Committee must be free to vote as they consider appropriate on planning matters. A Councillor cannot be instructed how to exercise their vote on a planning matter.
- 6.9 Councillors should inform the Monitoring Officer where they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

7. PRE- AND POST- APPLICATION DISCUSSIONS AND NEGOTIATIONS

- 7.1 Discussions between an applicant and a planning authority, prior to the submission of an application can be of considerable benefit to both parties and is encouraged. Continued discussions and negotiations between these parties, after the submission of proposals, is a common and important facet of the planning process. However, they should take place within clear guidelines, as follows.
- 7.2 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are those of the Officer only, and are provisional.
- 7.3 Advice should be consistent and based upon the Development Plan and material considerations. There should be no significant difference of interpretation of planning policies by individual planning officers.
- 7.4 A written note should be made of all potentially contentious meetings. Two or more officers should attend potentially contentious meetings. A note should also be taken of potentially contentious telephone discussions.
- 7.5 Councillors need to preserve their role as impartial decision makers and members of Planning Committee should not take part in pre- or post- submission discussions and negotiations with applicants regarding development proposals. Should there be occasions when other Councillors are involved, it should be part of a structured arrangement with Officers. Councillors must avoid indicating the likely decision on an application or otherwise committing the authority during contact with applicants.
- 7.6 Councillors may receive information from applicants and give information to applicants and members of the public but, to safeguard their impartiality, they should maintain a clear distinction between receiving information and negotiating. Any information received by Councillors should be provided to the officers dealing with the application. Councillors who are approached for planning, procedural or technical advice should refer the applicant to the relevant officer.

8. OFFICER REPORTS TO COMMITTEE

- 8.1 The Lead Officer - Planning will submit written reports to the appropriate Planning Committee on planning applications to be determined by the Council. The reports will give the background to the application including any relevant planning history of the site, a description of the proposals and their likely effects, and the relevant Development Plan and Government policy considerations, together with any other material considerations. Where a planning application requires an environmental impact assessment the Lead Officer - Planning shall include in his/her report a summary of the environmental statement, comments by bodies consulted and representations from members of the public together with his/her own comments. The reports will include a summary of representations made about the application. The Lead Officer - Planning in his/her report will give a reasoned assessment of the proposals and a justified recommendation.
- 8.2 Oral reports (except to present and update a report) should be extremely rare and fully minuted when they do occur.
- 8.3 The Lead Officer - Planning will have available for inspection by Councillors the full planning application, environmental statement (where required) and representations from bodies consulted and members of the public.

9. **PLANNING CONSIDERATIONS**

- 9.1 Planning decisions should be made on material planning considerations and should not be based on immaterial considerations.
- 9.2 Members of Planning Committee should attend training sessions which may be organised from time to time. All other Councillors are encouraged to attend.
- 9.3 Planning legislation, as expanded by Government Guidance and decided cases, defines which matters are material considerations for the determination of planning decisions. There is much case law on what are material planning considerations. The consideration must relate to the use and development of land.
- 9.4 Briefly, at the date of the preparation of this Protocol, material planning considerations include:-
- 9.4.1 the Development Plan;
 - 9.4.2 Government Guidance;
 - 9.4.3 Supplementary Planning Documents adopted by the Council;
 - 9.4.4 non-statutory planning policies adopted by the Council;
 - 9.4.5 the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas;
 - 9.4.6 the statutory duty to pay special attention to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses;
 - 9.4.7 representations made by statutory consultees and other persons making representations in response to the publicity given to applications, to the extent that they relate to planning matters;
 - 9.4.8 planning obligations (given unilaterally or by way of agreement) under section 106 of the Town and Country Planning Act 1990.
- 9.5 it should, however, be noted that the risk of costs being awarded against the Council on appeal is not itself a material planning consideration.
- 9.6 It is the responsibility of officers in preparing reports and recommendations to Councillors to identify the material planning considerations and warn Councillors about those matters which are immaterial planning decisions.
- 9.7 Personal considerations and purely financial considerations are not on their own material; they can only be material in exceptional situations and only in so far as they relate to the use and development of land – such as, the need to raise income to preserve a listed building which cannot otherwise be achieved.
- 9.8 The planning system does not exist to protect private interests of one person against the activities of another or the commercial interests of one business against the activities of another. The basic question is not whether owners and occupiers of neighbouring properties or trade competitors would experience financial or other loss from a particular

development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.

- 9.9 Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated.
- 9.10 It will be inevitable that all the considerations will not point solely to either grant or refusal. Having identified all the material planning considerations and put to one side all the immaterial considerations, Councillors must come to a carefully balanced decision which can be substantiated, if challenged on appeal.

10. THE DECISION MAKING PROCESS

- 10.1 Councillors shall recognise that the law requires that where the Development Plan is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.
- 10.2 Where an environmental impact assessment is required, the Planning Committee shall take the information provided in the report into consideration when determining the application.
- 10.3 If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations which justify this must be clearly stated.
- 10.4 Where the Planning Committee decide to adopt the recommendation of the Lead Officer - Planning, the reasons contained in his/her report will be minuted, together with any additional reasons determined by the Committee.
- 10.5 Where the Planning Committee is minded to approve or to refuse a planning application, contrary to the recommendation of the Lead Officer - Planning, or the Development Plan, if agreement can be reached at the meeting rather than deferring the item, the planning reasons for that decision shall be fully minuted.
- 10.6 The reasons for Committee's decision to defer any proposal should also be recorded.

11. SITE VISITS BY THE COMMITTEE

- 11.1 A site visit may be held if the Lead Officer - Planning in consultation with Chair of the relevant committee considers it will assist Councillors in reaching their decision or where a site visit has been requested or an application deferred for such a visit. Site visits should only be undertaken where there is a reason to do so. This would be, for example, where the impact of the proposed development is difficult to visualise from plans and supporting material.
- 11.2 When a site visit is held prior to the meeting of the Planning Committee it is desirable that all Councillors attending the Planning Committee should also attend the site visit. Councillors voting on a planning application without having attended the visit to the particular site may give the impression that they have not taken the opportunity to be fully informed about the application. Information gained from the site visit should be reported back to committee so that all Councillors have the same information.
- 11.3 Site visits should be conducted in a formal manner in compliance with the Human Rights Act 1998 and any subsequent legislative criteria.

- 11.4 The organisation of the site visit will fall to the planning officer, who will inform Democratic Services of the need to send out site visit invites to the following:
- All Members of the Planning Committee including nominated substitutes
 - Relevant Ward Members
 - Relevant Parish Councillors
- 11.5 The Applicant/Agent will be informed that a site visit will take place in order to ensure that site access can be arranged. This is arranged by the planning officer due to their ongoing contact with relevant applicants/agents.
- 11.6 Objectors/supporters of the applicant will be invited to attend the site visit at the discretion of the Chair of the Planning Committee.
- 11.7 No opportunity for speaking, debate or giving opinions will be afforded to the Agent/Applicant or other parties e.g. Parish Councillors, Ward Councillors, neighbours or objectors who attend the site. The only exception to this is if the Chair of the Planning Committee permits a response to questions of fact asked by the members of the Committee.
- 11.8 The site visit will be attended by the relevant planning officer(s) who will answer any questions raised. The planning officer(s) will describe the development and point out the relevant issue(s) that the Committee has come to view.
- 11.9 On assembling at the site, at the time specified, the Chair will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The planning officer will explain the application as it relates to the site and relevant viewpoints. Following any questions to the planning officer, or clarification sought on matters which are relevant to the site inspection, the Chair will bring the site visit to a close.
- 11.10 Members of the Committee should address any request for clarification through the Chair of the Planning Committee. Questions should not be directed to the applicant/agent, parish councillors, local Ward Councillors or other third parties present. Should the Chair deem it appropriate, those present may be requested to respond to questions of fact only.
- 11.11 Councillors should not engage in open discussion either individually or in groups with the applicant or any other people present. Any request for Councillors to express a view or accept an offer of hospitality should be politely declined.
- 11.12 Unofficial site visits are not encouraged as they do not have the appropriate procedural safeguards. Any Councillor attending an unofficial site visits must ensure that they avoid giving the impression that he/she represents the views of the Planning Committee or the Council. If a Councillor feels compelled to give a personal view, he/she should emphasise that the final decision is one for the Planning Committee.

12. PUBLIC SPEAKING AT PLANNING COMMITTEE

- 12.1 Wherever possible, objections or representations to planning applications should be made in writing. Written representations received will be made available for public inspection and objections summarised and reported to the Planning Committee

Councillors have the opportunity to inspect all letters received before the decision on the application is made.

12.2 The council operates a scheme of public speaking at planning committee meetings. Normally the following people can speak at Planning Committee in relation to any specific application.

- One speaker representing the applicant – usually the applicant themselves or their agent.
- One speaker representing the objectors.
- The relevant Parish Council representative.
- A Ward Member.

In exceptional circumstances the Chair has discretion to allow any other person to speak if it is considered necessary to do so.

Order of Speakers

1. The objector has five minutes to put their case.
2. A representative of the relevant parish council then has five minutes to put their case.
3. A ward member who wishes to speak on the application will be allocated five minutes to put their case
4. At the appropriate time, any other person allowed to speak at the discretion of the Chairman will be allowed five minutes to put their case.
5. Finally the applicant, or their representative, will be allowed five minutes to put their case.

12.3 The speaker representing the applicant must have the permission of the applicant to represent him/her.

12.4 The speaker representing the objector(s) can be a neighbour, an interested individual or a representative of a residents group.

12.5 The first objector to register to speak will normally be appointed as the spokesperson. Where there is more than one person wishing to speak, objectors are encouraged to agree on a spokesperson who is prepared to cover all the points of concern, so as to make best use of the time available.

12.6 Persons wishing to speak on an application, which is to be considered at a Planning Committee and who have previously made representations on the application should contact the Public Speaking Officer on 01757 292037 before 3.00pm on the Monday prior to the Committee meeting.

No late notification will be accepted and speakers cannot “turn up” to speak at Committee without the due notice being given.

12.7 The purpose of the scheme is to enable speakers to put forward any points they wish to make directly to the Committee. There will be no need to read any submission already

made in writing, as this will already be summarised in the report Councillors have before them.

- 12.8 Speakers should confine their comments to matters relevant to planning applications.
- 12.9 People wishing to speak at Planning Committee cannot hand out documentation to members of the Committee. Photographs may be handed out provided that a minimum of 20 copies have been delivered to the Council by 12.00 noon on the last working day prior to the meeting.
- 12.10 The Chair of the Committee retains the right to decline to hear someone if they behave improperly, offensively or if they, in the Chair's view, intentionally obstruct the business in hand.
- 12.11 Officers may comment on the representations and the merits of the application in the light of those representations
- 12.12 The Committee will proceed to debate the application and make a decision.

13 REVIEW OF DECISIONS

- 13.1 The Audit Commission's Report, 'Building in Quality', recommended that elected Councillors should visit a sample of implemented planning permissions to assess the quality of decisions. This can improve the quality and consistency of decision-making and help with reviews of planning policy.
- 13.2 Visits to application sites previously considered by the Council shall be organised in tandem with visits to current application sites, as appropriate. Briefing notes shall be prepared in each case.
- 13.3 Attendance at the review site visits shall be restricted to members of the committee and the local Councillor(s).

14. TRAINING

- 14.1 Councillors should not participate in decision-making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.
- 14.2 Councillors should endeavour to attend any other specialised training sessions provided since these will be designed to extend Councillors' knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist them in carrying out your role properly and effectively.