

# Public Document Pack

Mid Devon District Council

## Scrutiny Committee

Monday, 16 February 2015 at 2.15 pm  
Exe Room, Phoenix House

Next ordinary meeting  
Monday, 16 March 2015 at 2.15 pm

Those attending are advised that this meeting will be recorded

## Membership

Cllr Mrs J Roach  
Cllr E J Berry  
Cllr Mrs J Rendle  
Cllr T W Snow  
Cllr Mrs M E Turner  
Cllr N A Way  
Cllr A V G Griffiths  
Cllr Mrs S Griggs  
Cllr T G Hughes  
Cllr M R Lee

## A G E N D A

*Members are reminded of the need to make declarations of interest prior to any discussion which may take place*

- 1 **APOLOGIES AND SUBSTITUTE MEMBERS**  
To receive any apologies for absence and notices of appointment of substitute Members (if any).

- 2 **PUBLIC QUESTION TIME**  
To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.

- 3 **MINUTES OF THE PREVIOUS MEETING** (*Pages 5 - 12*)  
To approve as a correct record the Minutes of the last meeting (attached).

The Committee is reminded that only those members of the Committee present at the previous meeting should vote and, in doing so, should be influenced only by seeking to ensure that the minutes are an accurate

record.

4 **DECISIONS OF THE CABINET**

To consider any decisions made by the Cabinet at its meeting on 5 February 2015 that have been called-in.

5 **MEMBER FORUM**

An opportunity for non-Cabinet Members to raise issues.

6 **CHAIRMAN'S ANNOUNCEMENTS**

To receive any announcements that the Chairman of Scrutiny Committee may wish to make.

7 **CALL IN PROCEDURE** (*Pages 13 - 20*)

The Chairman has requested that the Committee discuss the 'Call in' procedure.

8 **CABINET MEMBER FOR HOUSING** (*Pages 21 - 36*)

The Cabinet Member for Housing will update the Committee regarding areas covered by this remit.

9 **COMMUNICATION WORKING GROUP UPDATE** (*Pages 37 - 38*)

The Chairman has requested that the Committee revisit the report of the Communications Working Group.

10 **PROCEEDINGS AGAINST COUNCILLOR WILSON - RESPONSE TO QUESTIONS RAISED BY COUNCILLOR PUGSLEY** (*Pages 39 - 80*)

The Committee to receive a report which was requested at the Scrutiny Committee meeting on 19 January 2015, to answer a series of questions raised by Members on the successful prosecution of Councillor Wilson in February 2014.

11 **COUNCILLOR D F PUGSLEY HAS REQUESTED THAT THE COMMITTEE DISCUSS THE FOLLOWING:**

"Progress report on the steps taken to ensure that the Council actually has a powerful and effective system for holding decision-makers to public account (Minute 98)."

12 **UPDATES AND ITEMS TO NOTE REGARDING OUTSTANDING ITEMS**

- Planning Committee Procedures: – Members are asked to note that there has been a delay in the issue of this report which will be considered by the Planning Committee. Following this, the report will be further considered by the Scrutiny Committee at the next available meeting.
- Safeguarding: -The Devon Safeguarding Childrens Board (DSCB) is currently completing its annual Section 11 audit.

Section 11 of the Childrens Act provides that:

Each person and body to whom this section applies must make arrangements for ensuring that—

(a) their functions are discharged having regard to the need to safeguard and promote the welfare of children; and

(b) any services provided by another person pursuant to arrangements made by the person or body in the discharge of their functions are provided having regard to that need.

As part of the section 11 audit we are required to complete a survey and return this to the DSCB. This has been completed.

Over the last few weeks articles to raise awareness of safeguarding have gone out in the weekly staff newsletter

The Head of Communities and Governance will be attending the Districts Safeguarding meeting on the 9<sup>th</sup> February 2015 where she will receive an update from the DSCB and also the Chairman of the Devon Safeguarding Adults Board (DSAB) will be attending. The Head of Communities and Governance will provide an update from this meeting at the next Scrutiny Committee on the 16<sup>th</sup> March.

13 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

Note: - this item is limited to 10 minutes. There should be no discussion on items raised.

**Kevin Finan**  
Chief Executive  
Friday, 6 February 2015

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the Council Chamber on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Julia Stuckey on:

Tel: 01884 234209

Fax:

E-Mail: [jstuckey@middevon.gov.uk](mailto:jstuckey@middevon.gov.uk)

Public Wi-Fi is available in all meeting rooms.

## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **SCRUTINY COMMITTEE** held on 19 January 2015  
at 2.15 pm

### **Present**

#### **Councillors**

Mrs J Roach (Chairman)  
E J Berry, Mrs J Rendle, T W Snow,  
Mrs M E Turner, A V G Griffiths,  
Mrs S Griggs, T G Hughes, M R Lee and  
P F Williams

### **Apology**

#### **Councillor**

N A Way

### **Also Present**

#### **Councillors**

R M Deed, Mrs L J Holloway, Mrs B M Hull, R L Stanley,  
K D Wilson and Mrs N Woollatt

### **Also Present**

#### **Officers:**

Kevin Finan (Chief Executive), Jonathan Guscott (Head of Planning and Regeneration), Andrew Jarrett (Head of Finance), Amy Tregellas (Head of Communities and Governance and Monitoring Officer), Christina Cross (Head of BIS), Liz Reeves (Head of Customer Services) and Julia Stuckey (Member Services Officer)

## 114 **APOLOGIES AND SUBSTITUTE MEMBERS**

Councillor P F Williams was in attendance as a substitute for Councillor N A Way.

## 115 **PUBLIC QUESTION TIME**

Referring to item 12 on the agenda Mr Dennis told the Committee that he recalled the Scrutiny function was introduced into Local Government as a safeguard, in effect to allow it to monitor and question as necessary the various Local Authority decisions. In particular to ensure that such decisions made were in the best interests of both the Council/associated agencies and the local community. Does that remain the case today?

The question related to the cost of the Councillor Wilson v MDDC court case. Not the reasons for it, not the outcome, purely the basic cost details of the court case to MDDC.

Figures seem to vary with no firm amount. The current figure which I understand is some £13K seems at odds with a figure which emerged during a Full Council meeting which took place around the end of 2013 when as I recall the CE stated, I think in answer to a question from the floor, a figure which again from memory, was significantly greater than the said £13K.

So what is the actual figure please?

Mr Dennis said that he appreciated the figures might not be to hand so a written detailed and meaningful clarification of the costs to this Council, and in effect, to the local community would be appreciated.

The Chairman replied that she felt that the Scrutiny function at Mid Devon was not working as well as it should but that it was improving.

The Head of Finance confirmed the figure of £13K, which had been quoted.

#### 116 **MEMBER FORUM**

No issues were raised.

#### 117 **MINUTES OF THE PREVIOUS MEETING**

Following the addition of the word 'strong' to minute 106, referring to the letter to be sent by the Chairman, the minutes were agreed as a true record and signed.

#### 118 **DECISIONS OF THE CABINET**

The Chairman explained that she had tried to call in a decision of the Cabinet, made at their meeting held on 8<sup>th</sup> January 2015 but that her request had been refused by the Monitoring Officer.

The Chairman explained that the Cabinet had referred the recommendations of a Working Group back to the Head of Housing for further review. She had been informed that because the only decision made had been to not make a decision, there was no need for this to go on the decision list and because it had not been on the decision list it could not be called in.

The Chairman informed the Committee that she intended to take this matter further.

#### 119 **CHAIRMAN'S ANNOUNCEMENTS (00:12:55)**

The Chairman informed the Committee that Devon County Care Homes was on the agenda for noting but it was AGREED that this matter be discussed at agenda item 13.

The Chairman introduced Geraldine Daly from Grant Thornton and explained that she was there to observe the meeting.

#### 120 **HARLEQUIN VALET**

The Head of Planning and Regeneration outlined the report which had been requested by Scrutiny following their consideration of the Independent Review Report on 10 November 2014. The Scrutiny Committee had requested this report address the time-line and any gaps within it, and also wished to see recommendations developed from the section entitled 'summary and points for consideration'.

The Officer confirmed that there were no additions to make to the time line in the original report. The last formal written communication from the Council's Building Control department prior in respect of the dangerous structure was in December 2011 when the owner was requested to take action to secure the safety of the render and cob at first floor level. Action was taken by the owner boarding the wall at that time and it was considered the minimum works necessary had been carried out to remove the danger at that time. Contact between the owners agents and the Planning Department were maintained during the processing of the various planning applications between the time of the fire and the wall collapse and reference was made to the involvement of Building Control Officers in those considerations. This history was fully set out in the earlier report.

Discussion took place regarding:

- The number of dangerous buildings reported;
- The need for a Structural Engineer to inspect dangerous buildings;
- Financial implications to the Council;
- The Council having the power to deal with dangerous structures but no obligation to do so;
- Responsibility to make the building safe lies with the owner and the need to make the public aware of this;
- A further dangerous building had been identified in Cullompton at the weekend;
- This building was being monitored to ensure public safety;
- The need to keep the public informed at all times, by press releases, News Centre and the website;
- The need to keep Ward Members and Town and Parish Councils informed at all times.

The Head of Planning and Regeneration tabled a list of recommendations, which had been amended slightly from the report.

**RECOMMENDED** to Cabinet that:

- Following the initial assessment and any remedial action to make a dangerous structure safe, the structures shall (unless fully demolished or fully repaired) if instructed by the Council, be monitored every two months (employing a structural Engineer where necessary) to ensure any further decay is identified as early as possible. A detailed record of those inspections and any actions requested to be kept.
- Ward Members, the Media, the website and Town and Parish Councils to be notified following inspections of the findings and any proposed action, ensuring maximum publicity.
- A leaflet to be published on the Council's website identifying the powers the Council has with regard to dangerous structures and the actions the Council may pursue where public safety is being put at risk where no action is taken by the owner. The proposed policies are set out below.

- Information should also be displayed on the Council's website, of the risks that poorly maintained cob structures can create and owner responsibility regarding dangerous structures.
- Delegated authority be given to Building Control officers to take action under Section 77 and 78 of the Building Act, as deemed necessary, and that expenditure incurred in those cases be agreed by the Cabinet Member for Planning and the Head of Finance as an expenditure outside of set budgets on a case by case basis. (The Council will always seek to recover its costs in such circumstances but recovery cannot be guaranteed).
- When proposals for enforcement action are taken to Planning Committee regarding dangerous structures the report to include a risk assessment on the building.
- The Council will set out the following policies (subject to Cabinet and Council approval) on its website for dealing with dangerous structures as follows:-
  - a. In an **EMERGENCY** situation the Council shall, if reasonably practical to do so give notice to the owner of their intention to take action. The Council will employ a contractor to do the minimum amount of work necessary to remove the danger. The owner, if not previously informed, will later be notified of the action and the fact that he/she is liable for the Council's full costs.
  - b. Where a dangerous structure is identified **BUT IS NOT AN EMERGENCY**, the Council will attempt to obtain a verbal commitment from the owner to remove the danger immediately. If not achieved, formal notice will be sought and served on the owner via the Magistrates Court under section 77 of the Building Act, requiring that the danger is removed. If the owner fails to comply, the Council will employ a contractor to do the minimum amount of work necessary to remove the danger.

(Proposed by Cllr T W Snow and seconded by Cllr P F Williams)

**Note:** - Report previously circulated and attached to minutes.

## 121 REORGANISATION AND REDUNDANCIES WITHIN THE COUNCIL (00:58:15)

The Chairman informed the Committee that she had placed this item on the agenda as she had wanted to ensure that correct procedure had been followed.

The Chief Executive reminded the Committee that there were continued cuts to budgets and that there was a need to work with less money. The budget for 2015/16 needed to be balanced and that he had worked with Heads of Service and Managers to find ways to save money and increase income. He had identified some redundancies and had consulted with the Leader, as per the Constitution, and had consulted with Human resources and the Union.

Those redundancies had taken place and the costs would be met within one year. The Chief Executive confirmed that there had been 4 redundancies and that these had been carried out in accordance with the Council's policy on the matter.



Redundancies were used as a last resort to balance the budget and were not estimated for each year.

The Head of Finance explained that the funds to pay for the redundancies had been taken from the reserves in the first instance. The organisation had been transparent and the savings were shown on the last budget statement. The effect of this could clearly be seen on the budget and if the redundancies had not been made the budget gap would be considerably higher.

One of the posts made redundant had strong connections to the Local Plan and the Chief Executive explained that it may be necessary for this Officer to return to the Authority at a later date as a consultant. However, the Local Government Pension Scheme would only allow Officers to earn in total no greater amount than they had been earning when in post. The Officer would be in post until 31 March 2015.

The Chairman reiterated that she was not happy that funds had been taken from the reserves without approval other than from the Chief Executive, Leader and Head of Finance. She stated her view that this was a budget issue which should have to be approved by Members. The decision was not in the Forward Plan nor shown as an Officer decision.

The Head of Finance confirmed that the Constitution allowed for the Chief Executive to make decisions such as this in consultation with the Leader. He had put in place a higher level of General Fund to allow for situations like this or a local disaster. There had been no intention to hide anything from Members, staffing levels were identified in the budget report on this agenda and Financial Monitoring went to all Policy Development Groups. Financial Regulations were approved by the Audit Committee.

Discussion took place regarding:

- The need to circulate a structure chart;
- Flexible Retirement;
- The need to make savings.

It was **RECOMMENDED** to the Cabinet Committee that:

The Chairman of the Scrutiny Committee be consulted, along with the Leader, when the Chief Executive uses reserves to make payments for redundancies.

(Proposed by Cllr T W Snow and seconded by Mrs M E Turner)

## 122 **DRAFT BUDGET REVIEW FOR 2015-16 (01:52:50)**

The Committee had before it a Budget Report 2015/16 from the Head of Finance for consideration, prior to its final recommendation by the Cabinet.

Discussion took place regarding:

- Pension Back Funding – this was an amount that was being paid in order to reduce the pension deficit over a number of years;
- Pool Cars – these were 18 months old and were being leased over a 4 year period. They were used by staff for journeys as an alternative to paying an

amount per mile for driving their own vehicles. This was considerably cheaper and the cars were well utilised;

- The Fraud Team would be transferred to the Department for Works and Pensions in May;
- Numbers of staff employed was identified within the report;
- The Citizens Panel might be undertaken electronically in the future therefore making savings on postage and printing;
- Consideration was being given to charging for parking in Amenity Car Parks;
- Some investment had been made to the Multi-Storey Car Park to improve resurfacing and sealing. There had been a proposal for development on the car park which was being investigated;
- Improvements to the Pannier Market may be part of a larger investment in the town centre;
- Future investment in Sheltered Housing projects;
- Housing rent increases;
- Housing stock being lost due to the Right to Buy Scheme.

The Committee expressed their thanks to the Head of Finance and his team for producing this budget report.

It was **RECOMMENDED** to Cabinet:

That the draft budget for 2015/16 be approved.

(Proposed by P F Williams and seconded by T G Hughes)

- Notes: -
- i) Report previously circulated and attached to minutes.
  - ii) Mrs J Rendle and Cllrs P F Williams declared Personal Interests as they are involved with Sheltered Housing.

## 123 **PROCUREMENT WORKING GROUP (02:27:26)**

The Committee had before it and **NOTED\*** a report from the Procurement Working group.

The Head of Finance explained that at a meeting of the Scrutiny Committee on 14<sup>th</sup> April 2014 it had been agreed to form a small Member Working Group to assess the Councils financial arrangements in relation to securing value for money, in particular in relation to Procurement and Accounts Payable service areas.

The Officer explained that the Group had met with the Procurement Manager, a Procurement Officer from Devon County Council and the Head of Business Information Systems.

The Group considered that they had seen an overall picture of procurement in Devon and were satisfied that the service was well run. There was concern regarding the amount of money spent on IT but the Group were satisfied that work was ongoing to reduce the cost of licences by joint working with other authorities.

Councillor Snow asked that his name be removed from the Working Group as he had not seen a 'paper trail' of evidence to show that the work was being done. The Head

of Finance explained that, unless the company being dealt with was unable to do so, all transactions were completed electronically.

Note: - Report previously circulated and attached to minutes.

**124 CABINET MEMBER FOR WORKING ENVIRONMENT AND SUPPORT SERVICES (02:38:36)**

At the request of the Chairman the Cabinet Member for the Working Environment and Support Services had submitted a report updating the Committee on the work of the IT Service.

Discussion took place regarding:

The new Payment Kiosk – the Head of Customer First explained that it had been well received so far and that if anyone was anxious about using it there would be a member of staff available to assist them. The public could still pay by cash but could avoid waiting to be dealt with by a cashier.

Electronic payslips had been introduced for staff and Members expenses would be changed to electronic claims in the near future.

The Head of Business Information Services explained procedures that were in place for disaster recovery. She informed the Committee that there was a contract in place which would allow for relocation and for systems to be set up. The backup location would be in Bristol but staff would be able to work remotely.

An Emergency Planning and Business Continuity plan was in place.

Note: - Report previously circulated and attached to minutes.

**125 COUNCILLOR D F PUGSLEY HAD REQUESTED THAT THE FOLLOWING BE DISCUSSED BY THE COMMITTEE; (02:50:20)**

Proceedings against Councillor Wilson. (We can all remember the very unpleasant atmosphere in the Council after the Court decision in February.) It is time now to have a calm post mortem to see what lessons can be learnt for the future.

Councillor Pugsley requested confirmation of the costs incurred. He stated that a recent Magistrates case had resulted in costs of £13K and he considered it unlikely that a similar case being heard at the Crown Court would incur the same costs. He also asked if the Committee considered spending £13K on costs but only recovering £240.00 was the best way to do things. Councillor Pugsley queried whether this sort of matter would best be left to the Police to deal with.

The Chief Executive suggested that it would be more appropriate for the Committee to discuss this matter, having been provided with all of the available information.

It was **AGREED** to defer this matter to the next meeting of the Scrutiny Committee, for which the Chief Executive would prepare a report.

**126 UPDATES AND ITEMS TO NOTE REGARDING OUTSTANDING ITEMS (03:07:33)**

The Chairman informed the Committee that she had received a letter from Councillor Barker of Devon County Council in which he stated that he would not be attending a meeting of this Committee. Councillor Barker had previously said that he was willing to attend but had since changed his mind.

With regard to a letter that had been sent to the local MP's, Councillor Barker and the local Clinical Commissioning Group regarding working together to prevent bed blocking the Chairman informed the Committee that she had received two responses:

- Councillor Barker had responded to say that he did not consider there to be a problem;
- The CCG responded to say that they had been looking into this matter and they offered to attend the next meeting of this Committee to discuss recent issues and bed blocking;
- Neither of the local MP's had responded.

It was **AGREED** to leave this matter.

#### 127 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

Cabinet Member for Housing  
Market Update  
The Cost of the Prosecution of Cllr Wilson  
Clinical Commissioning Group

(The meeting ended at 5.34 pm)

**CHAIRMAN**

## SCRUTINY COMMITTEE 16 FEBRUARY 2015:

### Call-in procedure

**Responsible Officer**      Head of Communities & Governance and Monitoring  
Officer

**Reason for Report:** To provide members of the Scrutiny Committee with details of the call-in procedure

- 1.1 Call-in by Scrutiny Committee should only be used in exceptional circumstances.
- 1.2 These are where members of the Scrutiny Committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 12 (Decision Making).
- 1.3 A decision cannot be called in because Members do not like it.
- 1.4 The following items are attached as appendices:
  - Appendix A - Article 12 – decision making
  - Appendix B - Scrutiny Committee, Audit Committee and Policy Development Group Procedure Rules section 18 – call in
  - Appendix C – flow diagram of the call-in process
- 1.5 If Members require any further information about the call-in process please contact the Monitoring Officer.

## Article 12 - Decision Making

### 12.01 Responsibility for Decision Making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### 12.02 Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must not be oppressive or excessive, having regard to the issue being considered and the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption on favour of openness; and
- (e) clarity of aims and desired outcomes;
- (f) compliance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 by explaining in relation to key decisions what options were considered and the reasons for the decision;
- (g) in reaching decisions, Councillors shall have regard to the general principles of conduct contained in the members' Code of Conduct.

### 12.03 Types of decision

- (a) Decisions reserved to full Council.

Decisions relating to the functions listed in Article 4.01 will be made by the full Council and not delegated.

- (b) a key decision means an Cabinet decision which is likely:
  - (i) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates, or
  - (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.
    - NB the District Council's Financial Rules set £50,000
    - NB The Local Authorities (Cabinet Arrangements) (Meetings and Access to Information) (England) Regulations 2012 para 8.
- (c) A decision taker may only make a key decision in accordance with the requirements of the **Cabinet Procedure Rules (CPR)** set out in part 4 of this constitution.

#### **12.04 Decision making by the full Council**

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.05 Decision making by the Cabinet**

Subject to Article 13.08, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.06 Decision making by Scrutiny Committee, Policy Development Groups and Audit Committee**

Scrutiny Committee, Audit Committee and Policy Development Groups will follow the Scrutiny Committee, Audit Committee and Policy Development Group Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.07 Decision making by other bodies established by the Council**

Subject to Article 13.08, other bodies will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution apply to them.

#### **12.08 Decision making by Council bodies acting as Tribunals**

The Council, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations of the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

#### **12.09 Decision making by Officers**

Officers may have delegated powers by the full Council or by the Cabinet to take managerial and operational decisions – see Part 3, Responsibilities for Functions.

#### **12.10 Key decisions – the two tests**

Whether or not a decision is key depends upon the statutory test as set out above in Article 13.03

##### **(1) Significant expenditure or savings**

To result in a local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates.

NB The District Council's Financial Rules set £50,000

##### **(2) Significant effect on communities**

*The following guidance should be taken into account:*

- (a) Decisions should be treated as key where they are likely to have a significant impact on communities in two or more wards. For example, a council should regard as key a decision to amend the system for collecting recyclable waste

or providing a new leisure facility in a neighbourhood, notwithstanding the thresholds of financial significance.

- (b) Where a decision is only likely to have a significant impact on a very small number of people the decision maker should ensure that those people are nevertheless informed of the forthcoming decision and sufficient time for them to exercise their rights to see the relevant papers and make an input into the decision making process.
- (c) In considering whether a decision is likely to be significant, the decision maker will need to consider the strategic nature of the decision and whether or not the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected. Regard should be given to the underlying principles of accountable decision making to ensure that there is a presumption toward openness. Local authorities should seek, through consultation with other local authorities of the same type and size, to ensure there are not large variations in the level of openness between authorities in the future.



**Scrutiny Committee, Audit Committee and Policy Development Group  
Procedure Rules**

**18 Call-in**

Call-in by Scrutiny Committee should only be used in exceptional circumstances. These are where members of Scrutiny Committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 12 (Decision Making).

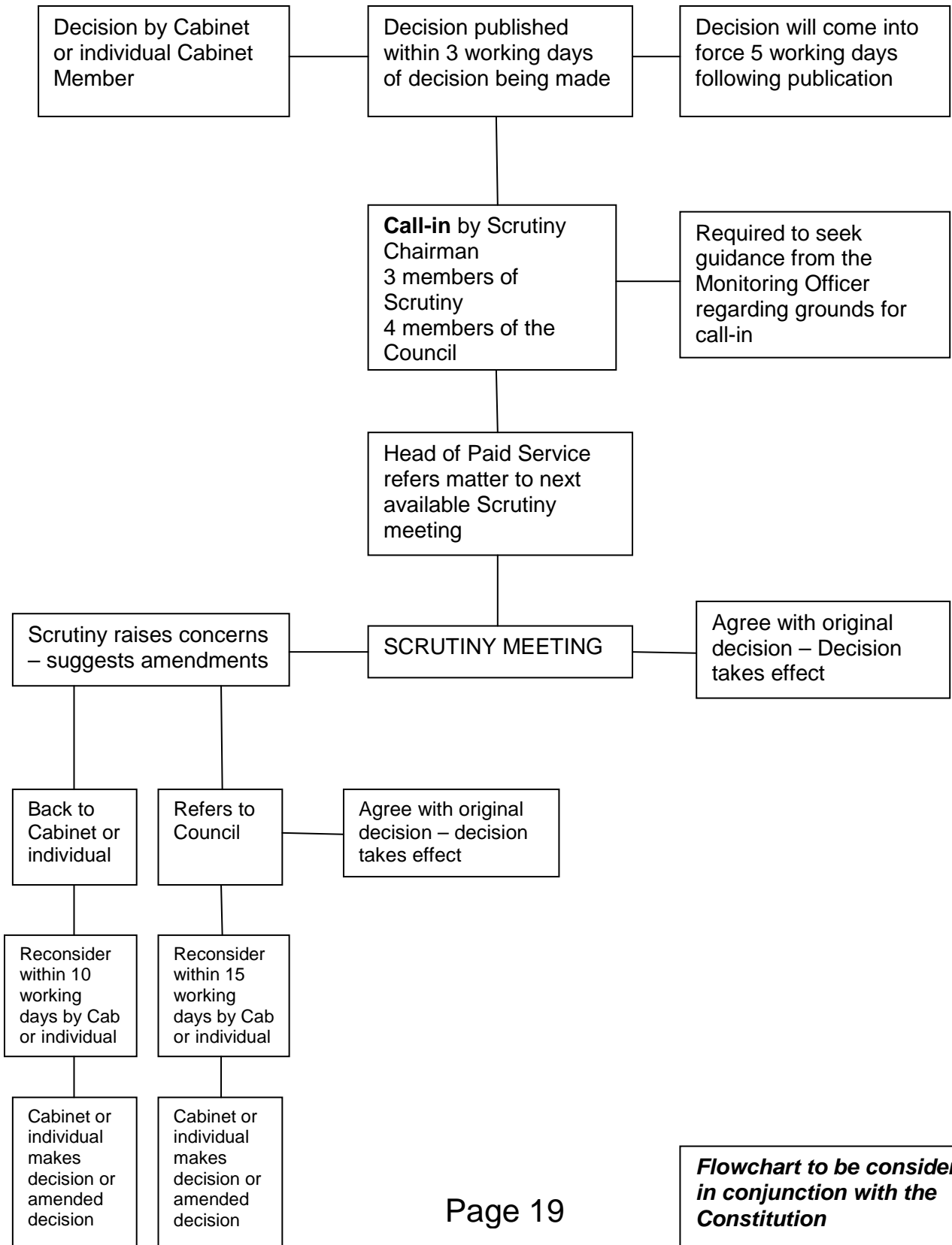
- (a) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.
- (b) The process begins with the distribution of the Cabinet agenda which will give all councillors the opportunity to examine items for discussion and clarify issues before meetings
- (c) When a decision is made by the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within three working days of being made. Decisions will be sent to all councillors within the same timescale.
- (d) The decisions will indicate the date on which decisions will come into effect unless:
  - (i) called-in;
  - (ii) they are adjudged to be not in accordance with the Council policy or budget framework (see Budget and Policy Framework Procedure Rules – paragraphs 2 and 3) and the decision falls to be referred to Council or is urgent and otherwise satisfies paragraph 4 of the Policy and Budget Framework Procedure Rules or where paragraph 7 of those Rules has been triggered.
- (e) A decision will normally come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless Scrutiny Committee objects to it and calls it in (except in cases of urgency and special urgency as defined in the Access to Information Procedure Rules).
- (f) During that period, the Head of Paid Service shall call-in a decision for scrutiny by Scrutiny Committee if so requested by the Chairman or any three members of Scrutiny Committee or four other councillors of the Council, and shall then notify the decision-taker of the call-in. Members who wish to call-in a decision are required to seek guidance from the Monitoring Officer on the veracity of their stated grounds for the call-in and demonstrate that they have been mindful of the advice they have received when deciding whether or

not to proceed. The Head of Paid Service shall refer the matter to the next available meeting of the Scrutiny Committee.

- (g) Those councillors calling-in will need to specify the reasons for the call-in.
- (h) When the relevant Cabinet minutes are put before the Scrutiny Committee, together with the advice from the Monitoring Officer on the grounds for the call-in, the councillors who called in the decision shall have the right to attend and speak. The Leader of the Council and/or relevant Cabinet members shall be invited to attend to explain the basis for the decision but may then be asked to leave. They may choose also to make submissions in writing. Relevant officers shall also be invited to attend.
- (i) If, having considered the decision, Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the next full Council meeting or, if urgent to a Special Council meeting. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
- (j) If following an objection to the decision, Scrutiny Committee meets but does not refer the matter back to the decision making person or body or refer it to full Council, the decision shall take effect on the date of the Scrutiny Committee meeting, whichever is the earlier.
- (k) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, a meeting will be convened to reconsider within 15 working days of the Council request.
- (l) If Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.
- (m) The call-in procedure set out above shall not apply where the decision being taken is urgent as defined in the Access to Information Procedure Rules. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

**Call in**

Call in by Scrutiny Committee should only be used in exceptional circumstances. These are where members of the Scrutiny Committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 12 (Decision Making).



***Flowchart to be considered in conjunction with the Constitution***

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## February 2015

### Position Statement from the Cabinet Member for Housing

#### 1 PERFORMANCE REPORT REGARDING REPAIRS

See appendix A.  
To discuss

#### 2 2008 AUDIT REPORT

This report indicated the proportions of repairs.

Local Authorities are expected to achieve:

Emergency repairs	10%
Urgent i.e. within 7 days	20%
Routine	70%

However bearing in mind that most MDDC stock is quite old the above targets are unlikely to be achieved.

However

See appendix B

At time of the Audit report in 2008 there were 14000 call outs. For 2014/15 9000 are anticipated.

Reduction of some 5000 visits per annum.

#### 3 AFFORDABLE HOMES

MDDC annual target is 80 units pa

2011/12	28	units
2012/13	63	units
2013/14	68	units
2014/15	58	
2015/1	65	

However 2015/16 may increase dependent upon Private Sector activity.

Possible additions from the programmed MDDC future development.

Palmerston Park	26	2016/17
Eastern Urban Extension	75	2016/18
Farleigh Meadows	55	2015/17 + £600K financial contribution from developer

Crediton Wells Park	60	2015/17
Barratts Cullompton	95	2016/18

Further other possible opportunities are being pursued.

#### 4 FINANCE

A. Empty Homes budget currently	£100K available
B. Wessex Bank (£110 already allocated with) Discuss	£190K available
C. Total income from solar PV to end of March 2015 (income from solar PV still available £340K) All solar income subject to RPI	£550K
D. Grant from Gov Green issues 15/16 onwards i.e. renewable heating initiative over 7 years	£200-300K
E. HRA Council reserve including 30 year planned fund	£5100K
F. MRR (Major repairs reserve)	£570K
G. Decent Home Funding (HCA)	£1400K
H. HCA funding towards programme development	£400K
TOTAL	£5900K

#### 5 IDENTIFIED EXPENDITURE 14/16

Fir Close	£650K
Wells Park	£2700K
Beeches Lane/Bircham Lane	£600K
St Andrew Street	£1500K
Palmerston Park	£3-3500K
Renewable energy projects i.e. external walling insulation	£200K
Communal heat pumps	-
Solar Panel energy Storage	Free
Burlescombe (6)	£700K
	£9350K

#### 6 RENT ARREARS

Budget target 2014/15 less than 1%

In year 2013/14 achieved % 100.5%

Rent arrear schedule – see appendix C

## 7 VOIDS

Target 2014/15 17 days

Current year to Dec 19.5 days

See appendix D

Remember 6 years ago void period was 55 days.

## 8 GARAGES

See Appendix E

Current budget includes £30K pa for repairs and maintenance.

No increase to garage rents envisaged for 2015/16 but ground rent increased to £200 per site per annum.

## 9 FLEXIBLE TENANCIES

All new tenants placed on flexible tenancy of 5 years duration.

## 10 HOUSE VISITS

Random calling upon tenants in place

See appendix F

## 11 RIGHT TO BUY

Since changes in discounts implemented by the Government numbers have increased from 8 per year to currently 19 to December 2014.

## 12 DECENT HOMES

MDDC received an overall grant from the HCA of £1.4M over 18 months on the basis that all housing stock will achieve 'Decent Home Standards' by the end of March 2015.

MDDC placed a specific contract with Ian Williams to carry out work; they are on programme to achieve that target.

But be aware that from April 2015 it is likely that standards will again be revised and the process continues.

Currently 95.4% of stock meets this standard.

### 13 HOUSING LIST

Currently 2067 on the list of which 1137 are placed in band E.

### 14 SHELTERED HOUSING

DCC's funding ceases in March 2015 i.e. £264K per annum will disappear. The Housing Service recognises the moral obligation to help those in most need. Accordingly 2 staff (carers) will be directly employed to provide a limited service.

It is also intended to promote the alarm system, including the private sector, which will attract the same weekly charge.

### 15 CARETAKER SERVICE

This has been a success, the service will continue.

### 16 IMPROVEMENT BOARD

A monthly meeting including tenant representatives to review performance, (VFM) planned maintenance and contractors performance.

### 17 RENT PLUS

To discuss

### 18 DARS

Loans given to those who need initial deposits in the private sector housing market. Money recovered progressively

See appendix G

### 19 MAIN SPEND ON HOUSING

Capital budget 2014/15	£4.4m
HRA	£1.3m
DFG (HRA) part funded by RTTB	0.3m

The above is over and above house building of the house building indicated earlier.

### 20 EVICTION PANEL

To discuss



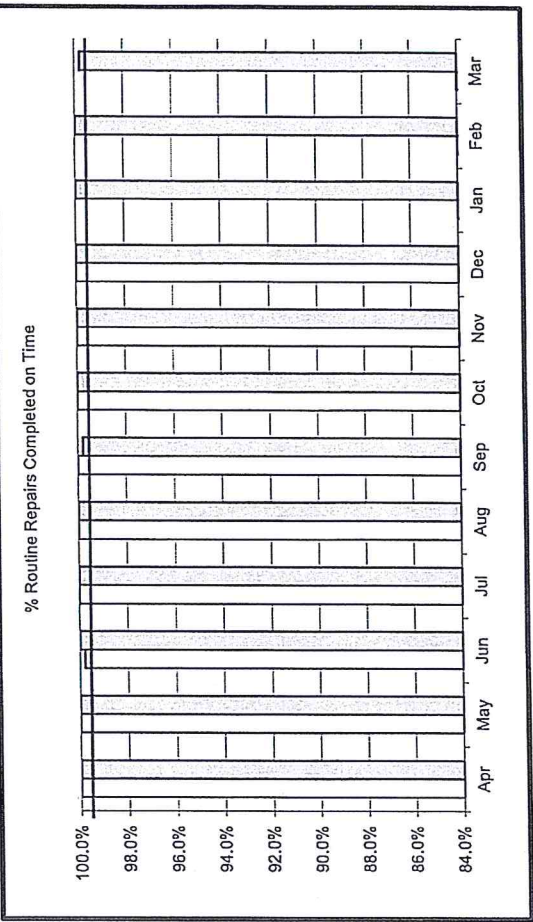
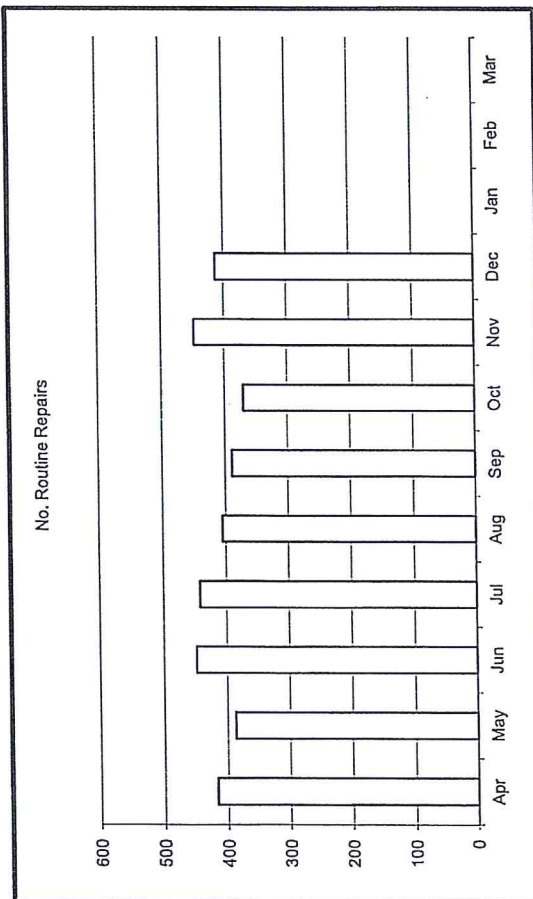
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### Housing Maintenance

Routine Repairs Completed on Time

Responsible Manager  
Repairs Manager

Year	Target	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	YTD	Movement on Previous Month	YTD Performance
2013-14	>99.5%	100.0%	100.0%	100.0%	100.0%	100.0%	99.8%	100.0%	100.0%	100.0%	100.0%	100.0%	99.8%	100.0%	↔	☺
	>100%	100.0%	100.0%	99.8%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	↔	☺
2014-15	N/A	417	387	448	442	405	389	370	447	413				3718		
	N/A	417	387	447	442	405	389	370	447	413				3717		



Comments - Buildings Manager

Comment not necessary as target for last month reached.

Housing Service Performance Report - Housing Maintenance

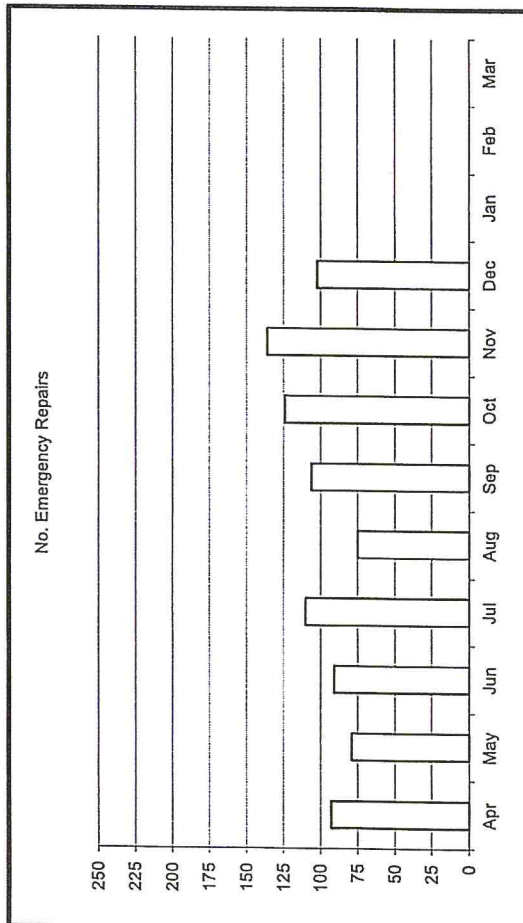
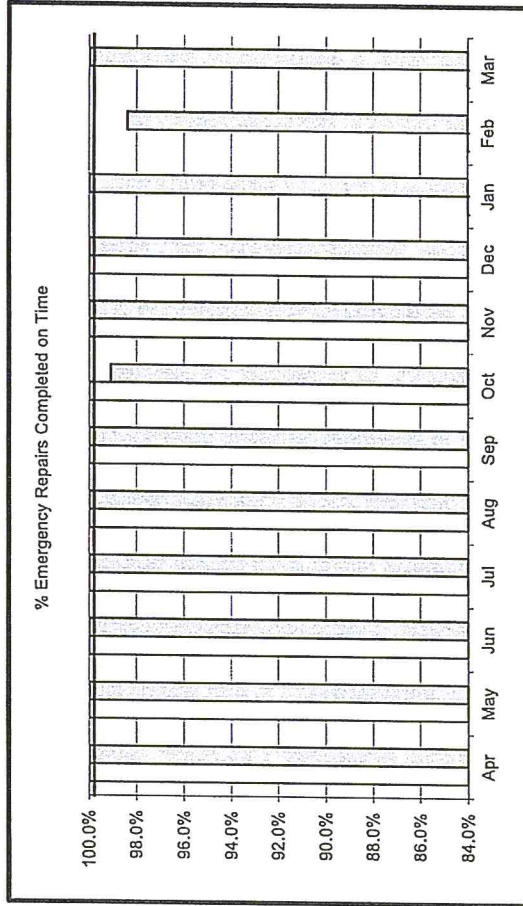
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**Housing Maintenance**

Emergency Repairs Completed on Time

Responsible Manager  
Repairs Manager

Year	Target	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	YTD	Movement on Previous Month	YTD Performance
2013-14	>99.7%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	99.1%	100.0%	100.0%	100.0%	100.0%	99.7%	↑	😊
	>100%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	↔	😊
2014-15	N/A	93	79	91	110	75	106	124	136	102				916		
	N/A	93	79	91	110	75	106	124	136	102				916		



Comments - Buildings Manager

Comment not necessary as target for last month reached.

Housing Service Performance Report - Housing Maintenance

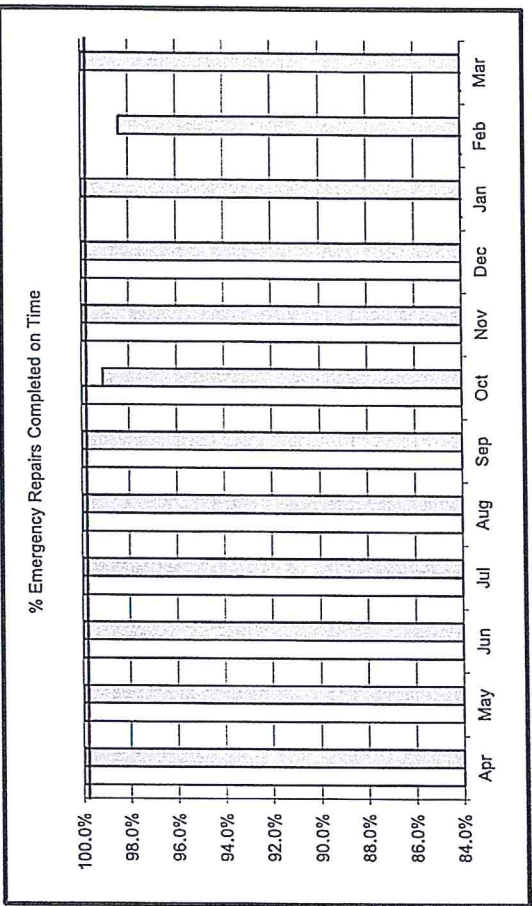
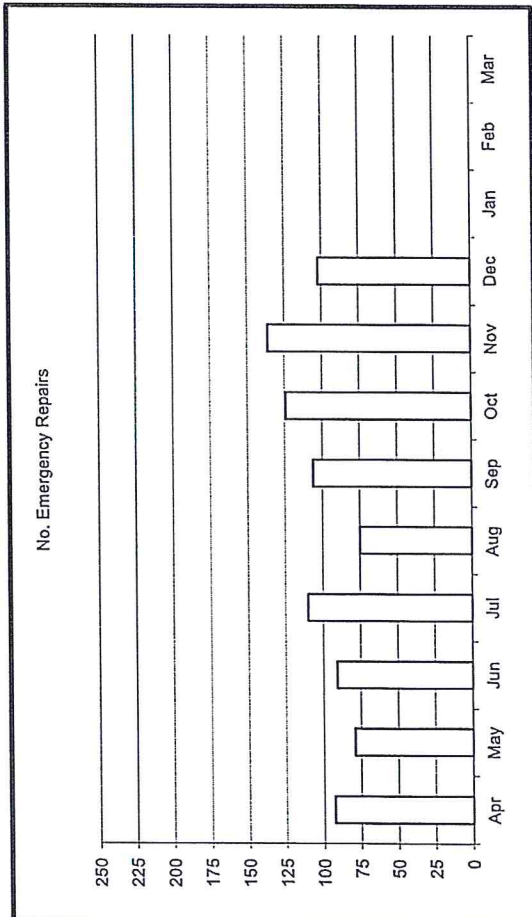
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**Housing Maintenance**

Emergency Repairs Completed on Time

Responsible Manager  
Repairs Manager

Year	Target	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	YTD	Movement on Previous Month	YTD Performance
2013-14	>99.7%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	99.1%	100.0%	100.0%	100.0%	98.4%	100.0%	99.7%	↑	😊
	>100%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	↔	😊
2014-15	N/A	93	79	91	110	75	106	124	136	102				916		
	N/A	93	79	91	110	75	106	124	136	102				916		



Comments - Buildings Manager

Comment not necessary as target for last month reached.

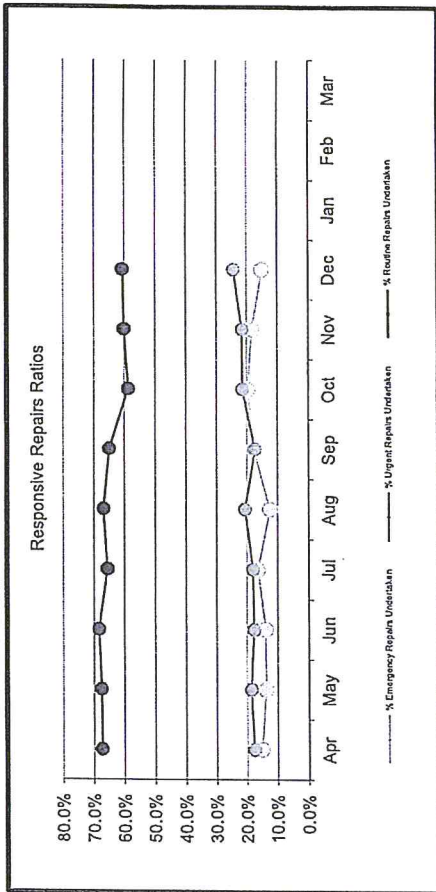
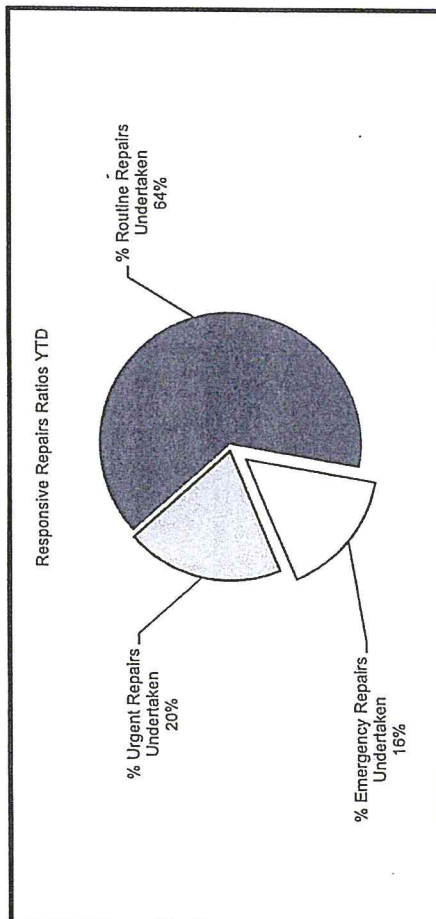
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# Housing Maintenance

## Responsive Repairs Ratios

Responsible Manager  
Repairs Manager

	Year	Target	Month												YTD	Movement on Previous Month	YTD Performance
			Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec			
% Emergency Repairs Undertaken	2013-14	<10%	13.7%	14.3%	13.8%	16.5%	13.9%	14.1%	16.0%	17.1%	15.3%	13.2%	16.8%	13.0%	14.8%	↓	☹
	2014-15	<10%	15.0%	13.8%	13.9%	16.3%	12.4%	17.7%	19.7%	18.3%	15.0%				15.9%	↓	☹
% Urgent Repairs Undertaken	2013-14	<20%	18.5%	21.4%	22.2%	18.5%	19.9%	19.7%	16.5%	15.6%	15.6%	20.1%	22.7%	16.8%	18.9%	↓	☺
	2014-15	<20%	17.6%	18.7%	17.7%	18.1%	20.7%	17.4%	21.5%	21.5%	24.3%				19.8%	↑	☺
% Routine Repairs Undertaken	2013-14	>70%	67.8%	64.3%	64.0%	65.0%	66.2%	66.2%	67.5%	67.3%	69.1%	66.7%	60.5%	70.2%	66.2%	↑	☺
	2014-15	>70%	67.4%	67.5%	68.4%	65.6%	66.9%	64.9%	58.8%	60.2%	60.7%				64.4%	↑	☹



Comments - Buildings Manager

We have seen a slight improvement in the figures over December with the number of emergency repairs dropping and an increase in urgent repairs. This has been part due to the mild weather and part due to reinforcement of the category criteria.

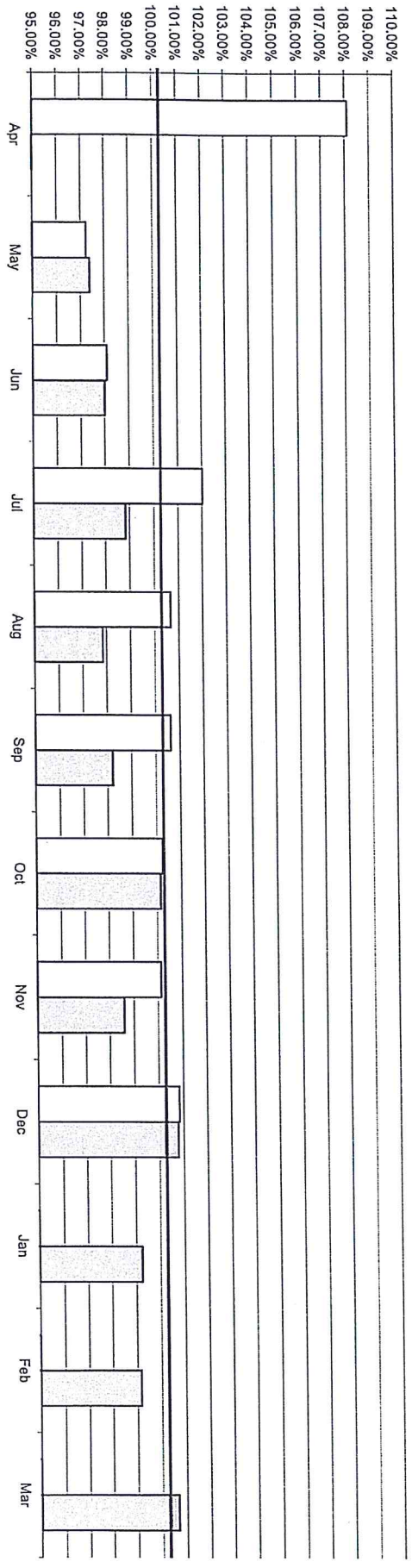
# Income Collection

Dwelling Rent Collected as a % of Dwelling Rent Owed

Responsible Manager  
Housing Services Manager

	Q2 13-14	Q3 13-14	Q4 13-14	Q1 14-15	Q2 14-15
Upper Quartile	>0%	>0%	>99.9%	>100.22%	>100.29%
Second Quartile	>0%	>0%	>99.41%	>98.54%	>98.88%
Third Quartile	<0%	<0%	<99.41%	<98.54%	<98.88%
Lower Quartile	<0%	<0%	<98.93%	<96.88%	<97.72%
MDDC	0%	0%	100.78%	98.09%	100.74%

	Target	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Movement on Previous Month	YTD Performance
% Rent Collected	>98.85%	94.98%	97.40%	98.01%	98.83%	97.85%	98.22%	100.15%	98.60%	100.78%	99.25%	99.16%	100.66%	↑	☺
	>100.5%	108.10%	97.24%	98.09%	102.02%	100.66%	100.62%	100.22%	100.13%	100.83%				↑	☺
Rent Due to Date	N/A	£1,044,225	£2,080,792	£3,120,674	£4,434,761	£5,745,426	£6,799,167	£8,114,023	£9,160,409	£9,994,792					
Total Rent Collected	N/A	£1,128,807	£2,023,438	£3,061,022	£4,524,176	£5,793,596	£6,941,655	£8,131,651	£9,172,364	£10,017,251					



Comments - Housing Services Manager

Comment not necessary as target for last month reached.

INVESTIX

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YEAR ON YEAR COMPARISON OF RENT ARREARS

CURRENT TENANCIES					
Week	2010/11	2011/12	2012/13	2013/14	2014/15
1	157,796.79	137,719.70	115,636.25	121,875.56	100,644.91
2	171,310.46	138,651.10	135,249.25	131,662.86	118,111.62
3	182,826.45	176,296.78	154,694.50	142,231.18	130,633.64
4	179,463.90	171,368.82	154,947.61	141,108.77	117,885.91
5	182,312.71	178,996.81	144,702.24	131,052.34	128,362.69
6	187,556.95	174,480.67	152,111.31	137,099.19	135,775.38
7	190,847.89	174,761.13	167,222.48	144,036.31	135,232.21
8	188,866.27	165,590.12	166,636.62	145,354.29	138,860.29
9	183,182.71	160,154.10	156,110.29	147,860.74	129,545.81
10	181,376.09	162,944.04	162,841.68	146,870.69	128,381.46
11	191,656.65	171,915.98	165,780.11	147,022.07	137,289.84
12	194,034.58	178,787.67	180,020.51	153,669.79	140,359.00
13	187,695.38	163,323.05	170,702.75	146,090.40	129,073.07
14	192,302.87	164,272.08	162,844.15	143,608.16	133,292.65
15	196,110.04	170,958.71	170,281.82	147,659.56	133,779.47
16	196,988.02	178,520.60	180,930.35	155,703.77	134,353.20
17	195,925.79	173,922.00	184,012.26	150,310.82	122,832.49
18	186,317.27	165,306.56	167,940.15	144,538.67	124,980.94
19	189,591.43	164,466.55	177,008.67	150,707.70	131,497.82
20	203,335.01	170,740.81	186,297.21	160,849.60	147,588.77
21	202,690.19	175,043.34	185,938.17	169,229.41	144,854.02
22	187,347.37	170,108.39	189,456.13	166,020.95	133,455.47
23	188,673.21	166,269.13	183,381.98	164,524.08	139,706.71
24	198,355.50	176,885.21	192,186.20	172,207.68	149,457.77
25	206,084.30	177,158.53	205,299.68	176,378.14	147,345.33
26	191,236.13	171,196.22	182,764.53	173,410.30	127,436.77
27	189,217.68	156,327.03	180,572.07	162,456.50	134,109.40
28	193,694.37	160,621.39	189,819.35	166,441.35	144,148.75
29	194,530.91	171,393.96	203,631.61	172,248.86	150,698.47
30	191,422.41	171,994.80	191,295.67	169,658.00	143,894.23
31	177,929.47	160,728.07	184,154.08	150,505.26	138,534.85
32	188,024.11	159,623.59	183,266.80	152,970.95	147,808.03
33	199,755.98	165,889.49	191,662.89	162,017.02	151,673.24
34	199,763.51	166,285.23	191,849.77	171,495.51	143,136.34
35	192,087.86	148,060.04	186,906.16	159,963.17	134,840.48
36	193,542.01	148,636.19	181,701.83	158,329.79	136,388.85
37	198,674.89	155,367.26	187,823.93	164,788.12	144,519.90
38	185,875.81	145,083.34	174,204.91	155,128.34	150,690.17
39	182,203.05	142,049.25	155,869.57	128,343.64	133,463.30
40	154,747.10	115,073.70	135,931.49	113,237.27	105,970.68
41	167,828.24	134,969.84	152,211.39	130,900.16	117,692.79
42	179,881.82	146,038.86	164,448.08	144,293.16	135,248.88
43	185,187.45	144,515.55	166,906.20	158,598.95	132,500.11
44	174,169.68	137,366.66	161,007.83	152,944.09	
45	175,995.03	145,625.63	164,174.89	155,386.87	
46	179,376.17	151,154.41	176,570.98	164,308.81	
47	178,311.43	156,708.42	175,315.05	167,398.51	
48	163,717.58	135,195.73	153,936.26	153,951.66	
49	166,193.48	138,980.14	149,654.67	150,587.00	
50	169,430.47	155,743.46	147,790.09	150,866.28	
51	144,906.47	115,634.15	129,243.26	118,989.60	
52	120,322.30	95,141.69	102,829.09	100,661.79	
53				87,034.24	

FORMER TENANCIES					
Week	2010/11	2011/12	2012/13	2013/14	2014/15
1	23,979.87	34,800.88	44,889.90	49,691.47	73,405.54
2	24,388.07	32,916.41	44,697.41	52,148.29	73,331.01
3	24,719.49	37,031.06	44,678.08	58,271.86	72,266.16
4	26,811.68	37,634.27	44,691.68	57,923.41	73,418.31
5	28,331.27	39,033.92	47,049.04	57,454.20	73,834.55
6	28,065.79	38,474.94	47,533.06	58,667.30	73,465.05
7	29,565.01	38,902.34	47,955.15	62,269.78	62,192.55
8	29,489.01	43,886.31	49,902.56	61,712.33	63,379.16
9	29,965.29	43,799.69	50,340.06	60,701.30	64,133.69
10	30,228.76	44,511.09	51,112.77	60,003.98	66,169.56
11	30,570.31	44,024.53	52,126.99	62,890.29	62,652.81
12	30,594.00	45,082.19	52,300.51	63,959.50	63,388.11
13	30,485.24	46,183.03	51,609.57	63,484.68	63,127.24
14	22,705.26	46,330.78	50,897.28	62,412.93	62,972.99
15	23,338.28	47,284.96	50,902.92	64,802.42	64,412.28
16	26,241.13	48,101.51	51,543.16	64,783.06	63,740.88
17	26,480.75	49,271.73	50,497.58	55,816.24	63,251.22
18	26,043.67	49,636.19	50,524.91	57,701.42	62,956.76
19	27,163.86	50,529.64	50,671.63	59,096.48	62,346.81
20	27,379.73	53,072.22	51,071.83	60,486.85	62,910.89
21	27,333.54	50,629.23	51,625.66	60,277.03	62,849.88
22	27,564.03	50,535.18	47,322.52	60,771.39	62,841.28
23	29,037.81	49,964.96	47,293.22	61,655.17	63,312.14
24	29,111.27	50,803.22	47,283.11	62,377.20	62,254.76
25	28,819.36	54,322.56	46,802.11	64,055.06	63,989.71
26	32,295.68	49,712.64	44,611.77	58,570.79	64,810.87
27	30,430.80	43,918.34	45,166.34	58,656.31	64,116.06
28	31,207.80	44,278.12	45,769.56	58,737.11	63,515.18
29	28,514.10	44,727.55	46,555.36	62,323.47	64,659.94
30	28,396.60	44,623.25	40,041.31	63,742.38	65,147.55
31	32,262.44	46,433.27	42,588.89	57,812.16	66,032.11
32	32,241.96	42,502.98	40,963.10	57,444.31	66,416.54
33	32,390.03	43,368.38	41,178.87	58,239.72	69,327.28
34	32,118.21	43,792.16	43,481.69	57,386.16	67,896.37
35	34,680.61	46,672.25	42,105.47	58,233.93	69,914.13
36	29,064.92	49,379.79	43,122.01	58,470.50	69,644.12
37	28,932.81	48,923.83	44,361.35	61,882.44	70,987.17
38	28,522.28	47,753.19	45,620.17	59,603.66	65,503.46
39	28,522.28	47,750.69	45,730.91	61,640.82	65,401.50
40	29,941.69	48,322.19	45,443.61	61,124.33	66,547.05
41	31,110.11	46,491.28	48,821.74	63,548.96	66,601.20
42	32,241.48	47,037.29	49,061.02	63,597.21	66,138.63
43	32,260.11	46,748.89	48,907.56	63,765.19	65,590.47
44	33,161.48	46,672.02	47,305.37	60,939.71	
45	32,796.81	47,741.79	47,222.84	60,115.61	
46	32,785.95	50,176.75	47,953.35	61,029.75	
47	33,791.07	42,499.30	51,943.69	64,257.37	
48	33,993.16	43,125.20	53,829.83	67,619.86	
49	35,093.54	44,568.28	54,774.23	68,106.47	
50	34,480.49	44,900.27	55,455.52	72,799.38	
51	35,694.93	46,113.95	55,361.07	73,983.02	
52	34,609.94	45,423.77	49,007.29	75,960.68	
53				76,826.87	

Acc B



VOIDS

MONTHLY PERFORMANCE



2013/2014	NUMBER OF ALLOCATIONS	NUMBER OF DAYS WITH H. NEEDS	NUMBER OF DAYS WITH MAINTENANCE	Total		Cumulative to Date
APRIL	24	4.25	16.31	20.56	21	21
MAY	19	2	16.9	18.9	19	20
JUNE	17	3	18	21	21	20
JULY	19	2	18.46	20.46	20	20.25
AUGUST	17	3.17	17.25	20.42	20	20.2
SEPTEMBER	19	2.9	14.8	17.7	18	19.83
OCTOBER	16	2.87	12	14.87	15	19.14
NOVEMBER	12	2	12	14	14	18.5
DECEMBER	16	4.91	13.75	18.66	19	18.56
JANUARY	17	2	27	29	29	19.6
FEBRUARY	13	2.87	17.25	20.12	20	19.6
MARCH	20	3.5	14.5	18	18	19.5

<b>Total</b>	<b>209</b>	<b>35.47</b>	<b>198.22</b>	<b>233.69</b>	<b>234</b>	<b>19.47</b>
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2014/2015	TOTAL NUMBER OF ALLOCATIONS (STD)	STD NUMBER OF DAYS WITH H. NEEDS	STD NUMBER OF DAYS WITH MAINTENANCE	STD Total		STD Cumulative to Date
APRIL	23 (17)	8.76	15.94	24.7	25	24.71
MAY	17 (10)	4.9	17.5	22.4	22	23.85
JUNE	22 (17)	6.94	14.06	21	21	22.75
JULY	23 (11)	3.27	12.64	15.91	16	21.38
AUGUST	13 (8)	2.88	13.75	16.63	17	20.78
SEPTEMBER	14 (9)	10.67	11.89	22.56	23	21
OCTOBER	11 (6)	2	15.5	17.5	18	20.73
NOVEMBER	12 (9)	2	12	14	14	20.03
DECEMBER	14 (11)	2.09	13.18	15.27	15	19.5
JANUARY				0	0	
FEBRUARY				0	0	
MARCH				0	0	

<b>Total</b>	<b>149 (98)</b>	<b>43.51</b>	<b>126.46</b>	<b>169.97</b>		<b>20.03</b>
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139

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MONTHLY PERFORMANCE



2013/2014	NUMBER OF ALLOCATIONS	NUMBER OF DAYS WITH H. NEEDS	NUMBER OF DAYS WITH MAINTENANCE	Total		Cumulative to Date
APRIL	24	4.25	16.31	20.56	21	21
MAY	19	2	16.9	18.9	19	20
JUNE	17	3	18	21	21	20
JULY	19	2	18.46	20.46	20	20.25
AUGUST	17	3.17	17.25	20.42	20	20.2
SEPTEMBER	19	2.9	14.8	17.7	18	19.83
OCTOBER	16	2.87	12	14.87	15	19.14
NOVEMBER	12	2	12	14	14	18.5
DECEMBER	16	4.91	13.75	18.66	19	18.56
JANUARY	17	2	27	29	29	19.6
FEBRUARY	13	2.87	17.25	20.12	20	19.6
MARCH	20	3.5	14.5	18	18	19.5
<b>Total</b>	<b>209</b>	<b>35.47</b>	<b>198.22</b>	<b>233.69</b>	<b>234</b>	<b>19.47</b>

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NOVEMBER	12 (9)	2	12	14	14	20.03
DECEMBER	14 (11)	2.09	13.18	15.27	15	19.5
JANUARY				0	0	
FEBRUARY				0	0	
MARCH				0	0	
<b>Total</b>	<b>149 (98)</b>	<b>43.51</b>	<b>126.46</b>	<b>169.97</b>		<b>20.03</b>

159



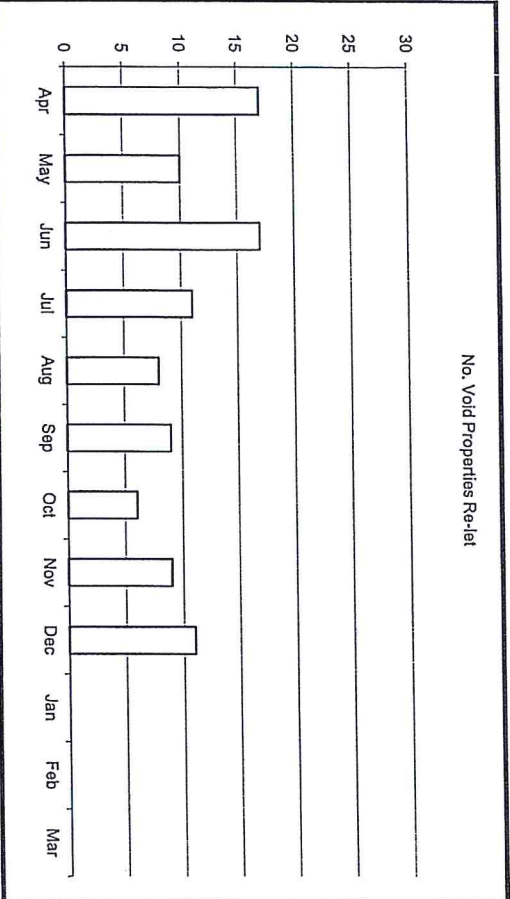
# Providing Quality Housing

Re-let Times Excluding Major Voids

Responsible Manager  
Allocations Team Leader/Repairs Manager

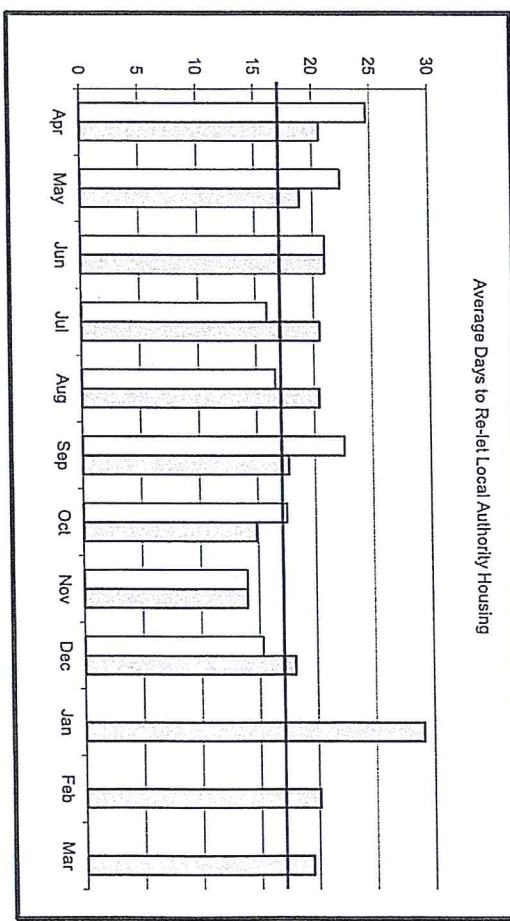
	Q2 13-14	Q3 13-14	Q4 13-14	YTD	Q1 14-15	Q2 14-15
Upper Quartile	<20	<20.27	<20.85	20	<19.83	<20.03
Second Quartile	<25	<25.9	<26.77	20	<26.58	<25.43
Third Quartile	>25	>25.9	>26.77	20	>26.58	>25.43
Lower Quartile	>34.07	>33.37	>34.31	14.15	>34.31	>34.71
MDDC	20.00	19.00	19.94	98	22.75	20.42

Average Days to Re-let Local Authority Housing	Year	Target	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	YTD	Movement on Previous Month	YTD Performance
	2013-14	<17	21	19	21	21	16	20	18	15	14	18	29	20	20	20	↑
2014-15	<17	25	22	21	21	16	17	23	18	14	15			5.35		☹	
Time with Housing Needs		N/A	8.76	4.90	6.94	3.27	2.88	10.67	2.00	2.00	2.09			14.15			
Time with Repairs		N/A	15.94	17.50	14.06	12.64	13.75	11.89	15.50	12.00	13.18			14.15			
No. Void Properties Re-let	2014-15	N/A	17	10	17	11	8	9	6	9	11			98			



Comments - Housing Options Manager

Comment not necessary as target for last month reached.



Comments - Buildings Manager

Comment not necessary as target for last month reached.

APP E

**BLOCK GARAGE STATISTICS**

	2012/13	2013/14	2014/15	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Totals
Opening Voids	328	341	341	342	345	345	346	335	335	335	326	328	325	335	345	176
Terminated Tenancies	29	12	7	15	9	14	6	8	18	12	15	7	23	25	24	165
New Tenancies	16	12	15	12	9	13	17	8	18	21	13	10	13	15	16	
Closing Voids	341	341	333	345	345	346	335	335	335	326	328	325	335	345	353	
<b>2012/13</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Totals</b>			
Opening Voids	353	359	360	360	353	352	357	354	357	354	357	351				125
Terminated Tenancies	16	10	21	11	14	21	12	14	21	12	14	6				127
New Tenancies	10	9	21	18	15	16	15	15	16	15	11	12				
Closing Voids	359	360	360	353	352	357	354	357	357	354	357	351				
<b>Breakdown Lettable Voids</b>																
Awaiting Inspection	81	79	79	60	63	70	61	64	61	64	61	61				61
Items Inside	31	29	32	29	28	28	28	26	26	26	26	26				26
Garage Requires Repairs	72	75	73	76	78	78	82	82	78	82	82	78				78
Lock Change	11	11	11	11	11	11	12	12	12	12	12	12				12
Long Term Void	5	5	5	5	5	5	6	6	5	6	6	6				6
Ready to Let	80	76	79	94	89	83	84	87	87	84	87	87				87
Terminated	15	21	17	13	13	17	16	15	16	16	15	16				16
<b>Total</b>	<b>295</b>	<b>296</b>	<b>296</b>	<b>288</b>	<b>287</b>	<b>292</b>	<b>289</b>	<b>292</b>	<b>286</b>	<b>289</b>	<b>292</b>	<b>286</b>				
Unlettable Voids	64	64	64	65	65	65	65	65	65	65	65	65				65
	359	360	360	353	352	357	354	357	351	354	357	351				

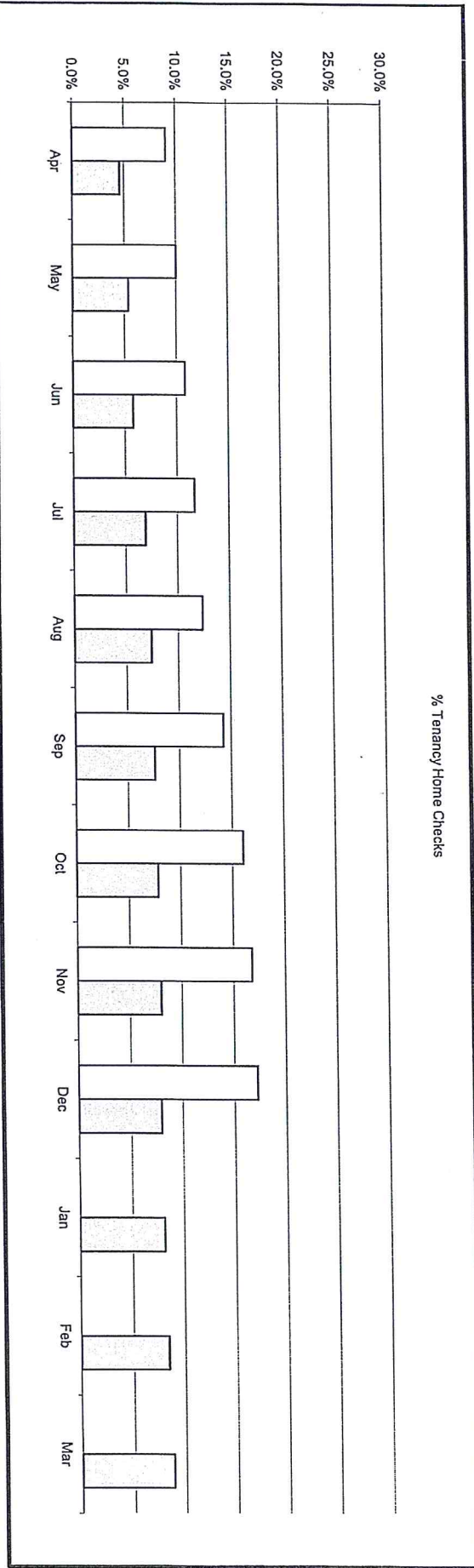
# Customer Care

Tenancy Home Checks

Responsible Manager  
Housing Services Manager

Ann. 2

	Year	Target	2014-15												YTD	Movement on Previous Month	YTD Performance
			Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar			
% Cumulative Tenancy Home Checks Completed	2013-14	>50%	4.6%	5.4%	5.8%	6.9%	7.4%	7.6%	7.8%	8.0%	7.9%	8.1%	8.4%	8.8%	8.8%	↑	☹
		>20%	9.1%	10.0%	10.8%	11.7%	12.4%	14.3%	16.1%	16.8%	17.2%				17.2%	↓	☹
No. Properties		N/A	2928	2932	2935	2940	2936	2932	2939	2938	2939				2939		
No. Tenancy Home Checks Completed	2014-15	N/A	285	294	317	343	363	418	472	493	506				506		



Comments - Housing Services Manager

Officers are aware of the need to complete these checks. December was a short month due to the Christmas holiday which impacted upon the ability to undertake this area of work.

APPENDIX 9  
A11 F

*memo to write*

**HG320 (DARS) Aged Debt and Provision as at 31 December 2014**

Aged Debt - HG320

TOTAL NET DEBTS RAISED UP TO 31 DEC 2014	(565,237.39)	
TOTAL RECEIPTS AGAINST DEBTS RAISED	221,842.02	39.25%
DEBTS WRITTEN OFF	<u>51,815.16</u>	9.17%
	273,657.18	
OUTSTANDING HG320 DEBT	<u>(291,580.21)</u>	

HG320 (DARS) Provision - DR451

OPENING BALANCE 2014/15	(278,253.62)
PROVISION FOR 95% OF HG320 AGED DEBT	(277,001.20)
IN YEAR MOVEMENT TO PROVISION	<u>1,252.42</u>

Aging of HG320 Debt

TOTAL DEBT	CURRENT	0 - 30 DAYS	31 - 60 DAYS	61 - 90 DAYS	90 DAYS +
-291,580.21	-2,095.25	-2,447.94	-9,147.31	-7,617.15	-270,272.56

**HG320 (DARS) Breakdown of 2013/2014 receipts**

Aged Debt - HG320

	Repaid in 2013/2014	As a %	Opening balance 2013/2014	Closing Balance 2013/2014	Repayment as a % of Opening Balance
2009/2010 & older	9,084.21	16.21%	110,417.27	101,333.06	8.23%
2010/2011	4,197.58	7.49%	36,336.93	32,139.35	11.55%
2011/2012	13,818.60	24.65%	53,764.12	39,945.52	25.70%
2012/2013	16,680.79	29.76%	60,916.39	44,235.60	27.38%
2013/2014	12,275.57	21.90%		69,407.89	
	<u>56,056.75</u>		<u>261,434.71</u>	<u>287,061.42</u>	
			4,385.44	BDWO	
			<u>38,783.07</u>	BDWO	
			<u>43,168.51</u>		

Above assumes BDWO has been against 2009/2010 balances

**HG320 (DARS) Breakdown of 2014/2015 receipts as at 31 December 2014**

Aged Debt - HG320

	Repaid in 2014/2015	As a %	Opening balance 2014/2015	YTD balance 2014/2015	Repayment as a % of Opening Balance
2009/2010 & older	4,783.89	12.09%	101,333.06	87,902.52	4.72%
2010/2011	2,436.06	6.16%	32,139.35	29,703.29	7.58%
2011/2012	4,784.12	12.09%	39,945.52	34,931.40	11.98%
2012/2013	8,586.25	21.71%	44,235.60	35,879.35	19.41%
2013/2014	16,225.59	41.02%	69,407.89	53,182.30	23.38%
2014/2015	2,739.00	6.92%	-	49,981.35	
	<u>39,554.91</u>		<u>287,061.42</u>	<u>291,580.21</u>	
			4,385.44	BDWO	
			<u>47,429.72</u>	BDWO	
			<u>51,815.16</u>		

Above assumes BDWO has been against 2009/2010 balances

*38 percent → 44,902 next to ye,*

### Report of the Working Group on Communication issues within the Council

The working group was formed to look specifically at 'communication' within the Council and consider some issues raised by Members. The Group gave Members the opportunity to take part in the process either by attending meetings or communicating their point of view verbally or by email. We would like to place on record our thanks to all the Members and officers who contributed or participated in the review. We would also like to place on record our thanks to Sarah Lees for her very effective support and comprehensive minute taking.

The membership of the group was as follows: Cllrs, Alan Griffiths, Linda Holloway, Michael Lee, Jenny Roach, Kevin Wilson and Nikki Woollatt.

In presenting the report we would like to emphasise that the report obviously focusses on areas of concern, there are many areas where communication is effective.

The working group would like to make the following **RECOMMENDATIONS** to the Cabinet:

#### 1. Access to information

Clarification is urgently needed in relation to the information that Councillors can have access to. When this has been obtained then there is a need to ensure that everyone within the organisation is familiar with the Councillors right to know.

#### 2. Communication, internal

- a) All Members should receive notification of planned council house estate visits at the beginning of the calendar year. The Housing department to check with the Member Services meetings diary before doing this.
- b) Training to be provided to all Members who would like it on the effective use of Outlook to aid meeting management and email correspondence.
- c) Members to receive a response to an email query within 5 working days, if this is not achievable then an acknowledgement to be sent indicating how long it will take to provide a response.
- d) Investigations to be made into the possibility of acquiring the 'Doodle' system to help in setting up Member meetings.
- e) Management team to provide an update on a six monthly basis as to who is responsible for what in each service area.
- f) Group Leaders to be reminded that they need to feed back to their Group Members.
- g) Consideration to be given to replacing Group Leaders meetings with more regular meetings with the Chief Executive to include all Members.
- h) Cabinet Members must ensure that Ward Members are informed of significant events/meetings in their wards.

### **3. Communication, external**

- a) More publicity is needed when meetings are held in other areas (e.g. the Cabinet meetings in Crediton and Cullompton).
- b) Members attending Outside Body meetings must provide feedback to the wider membership (e.g. the minutes of the meeting will suffice if necessary) even if those Outside Bodies are not meeting.
- c) Outside Body attendance figures to be reported before the allocation of seats at each Annual Meeting in May.
- d) Constitution Working Group to consider amending the Constitution to state that Public Questions should be answered during Public Question Time so that if the public want to ask a supplementary question they can.
- e) Members themselves should give consideration to the Council's reputation through their own behaviour and actions, particularly at meetings where the public are present e.g. Planning Committee.
- f) The Council must ensure that all public notices display up to date and accurate information.

### **4. General Issues**

- a) There should be something on the front of an agenda to say when confidential information is attached.
- b) Confidential reports should be marked more clearly (consider water marking each page).
- c) The Constitution Working Group be asked to look at the problems associated with verbal reports and consider whether (except in extreme circumstances) all reports to committees and working groups should be in writing and issued with the agenda, in order to give Members time to consider the reports prior to any discussion.
- d) There should be a policy whereby incorrect statements in the press are always corrected.
- e) Queries from the press should be responded to in a timely fashion.
- f) Good news stories should be more proactively promoted.
- g) Consideration should be given to setting up a review of the how the Council interacts with the press.

Cllr Jenny Roach  
Chairman of the Scrutiny Committee  
January 2014

**SCRUTINY COMMITTEE**  
**16 FEBRUARY 2015**

## **Proceedings against Councillor Wilson – response to questions raised from Councillor Pugsley**

**Responsible officer:** Kevin Finan, Chief Executive

**Reason for Report:** The report was requested by the Scrutiny Committee meeting on 19 January 2015 to answer a series of questions raised by Members on the successful prosecution of Councillor Wilson in February 2014.

**RECOMMENDATION: That the Scrutiny Committee:**

- 1. Note the answers to their questions raised at the earlier meeting**
- 2. Note and endorse the current Anti-Fraud and Corruption Policy; Housing and Council Tax Benefit Fraud Policy; and Fraud Policy & Procedure Manual (attached)**
- 3. Support the promotion of propriety in public office**

**Relationship to Corporate Plan:** Delivery of the Corporate Plan requires the Council maintaining public confidence and support. When exercising a community leadership role it is vital that the holders of public office act in a way that promotes propriety in their corporate culture.

**Financial Implications:** None arising directly from this report. The £3,800 benefit fraudulently claimed is being repaid by instalment. The costs of prosecution are explained within the report.

**Legal Implications:** None arising directly from this report. The Council's powers and duties are covered in the appendices to the report.

**Risk Assessment:** The prevention and detection of fraud and corruption are managed through the maintenance of the Anti-Fraud and Corruption Policy and the Housing and Council Tax Benefit Fraud Policy. Failure to have and maintain such policies would leave the Council more vulnerable to fraudulent and corrupt activity.

### **1.0 Introduction**

- 1.1** At the last meeting of this Committee, Councillor Pugsley raised a number of questions which the Chief Executive undertook to answer by way of a report to the next Committee meeting.
- 1.2** Reference was made to a more recent prosecution case in the Exeter Magistrates Court costing £13k. This prosecution was brought by the Department for Work and Pensions and, as such, is not dealt with in this report.
- 1.3** The Council maintains a number of policies and procedural processes to guide prosecution decisions when dealing with fraud and corruption. These are attached.

- Anti-Fraud and Corruption Policy – Appendix 1
- Housing and Council Tax Benefit Fraud Policy – Appendix 2
- Fraud Policy and Procedures Manual – Appendix 3

## **2.0 Questions asked by Cllr Pugsley and Scrutiny Committee members**

2.1 A transcript of the last meeting giving details of the questions raised is attached at Appendix 4.

## **2.2 Costs of the prosecution of Councillor Wilson for dishonesty.**

2.2.1 The estimated costs of the prosecution have been put at £13,000. This covers the Council's staff time in addition to the £10,000 cost of a barrister to represent the Council in the Crown Court.

2.2.2 Of the £3,000 estimated that the Council incurred, less than £1,000 was incurred in bringing the matter to the Exeter Magistrates Court.

2.2.3 The Council's Solicitor for the case recorded 62.2 hours in total on the case, at a salary cost of £23 per hour, equalling £1,430. If we were charging out his time, it would be at a rate of £125 per hour.

2.2.4 The matter was taken to the Crown Court because Councillor Wilson pleaded not guilty at the Magistrates Court and elected to be tried at the Crown Court. As the Council employs only solicitors and not barristers, then our staff have no right of audience in the Crown Court. The necessity of employing a barrister to represent the Council was therefore entirely a consequence of Councillor Wilson's refusal to plead guilty at an early stage in the proceedings.

## **2.3 The employment of an expensive barrister.**

2.3.1 The choice of which barrister to employ was made by the Chief Executive in consultation with the Council's Solicitor, Monitoring Officer and Head of Finance. Given a choice of local barristers it was decided to appoint the most experienced local counsel due to the difficulties anticipated in bringing a case for dishonesty. Councillor Wilson maintained throughout, until he changed his plea during the trial, that he did not act dishonestly, an essential element of the fraud offences he was charged with. With a prosecution for a fraud (offence) it is necessary to prove not only the act, but also dishonesty. Although Councillor Wilson did not admit the dishonesty, his account of what happened was implausible and it was felt a senior barrister would be able to show the dishonesty through effective cross-examination. The barrister appointed also had previous experience in prosecutions of this nature.

2.3.2 At an early stage of the proceedings Councillor Wilson raised that he would also pursue a defence that the prosecution was an abuse of process, in effect that the prosecution was politically/personally motivated. This increased the already sensitive nature of the prosecution.



2.3.3 The fee negotiated at the outset with the barrister's clerk was £10,000. This included representation at the three-day trial and advice leading up to the trial. It should be borne in mind that the Council's solicitors are not criminal solicitors who are used to being in the criminal courts day-in and day-out and had not previously been involved with a benefits prosecution. Several conferences were needed with the barrister leading up to the trial. It should also be borne in mind that if the prosecution had been put out to outside solicitors, the cost would have increased considerably.

2.3.4 During the investigation of the benefit fraud, Councillor Wilson had shown a propensity to deceive and mislead on a number of occasions. These included:

- Stating an annual pension received was actually the proceeds from the sale of a car
- Opening a new and undeclared bank account to receive undeclared income
- Failure to declare income from work undertaken for the Liberal Democrat Party. Councillor Wilson lied repeatedly and said the income was merely reimbursement of expenses incurred by him
- Failure to declare a pension income
- Claiming to have been made redundant rather than having been sacked for gross misconduct.
- Claiming to have lost the cheque he received from the sale of the car.
- Maintaining, in relation to income he should have disclosed in his benefit claim forms, that he thought he did not have disclose it because it was used towards his daughter's school fees.

2.3.6 In the light of the range and number of dishonest representations received from Councillor Wilson, the refusal to plead guilty and the onus of proof required from the Council, it was seen as important that an experienced barrister be used to address the brazen denials we faced and ensure a successful prosecution. A senior barrister was also needed because of the sensitive nature of the prosecution heightened by the allegation from Councillor Wilson that the prosecution was an abuse of process.

## **2.4 Collection of evidence prior to prosecution.**

2.4.1 The Council's Housing Benefit Fraud team and Legal Services collected a range of evidence prior to prosecution. This included past benefit claim forms where income was not declared, bank statements from accounts not previously declared, annual pension payments and other income sources not previously declared, together with the results of interviews carried out under caution. This evidence was considered sufficient for the Magistrates Court hearing and when Councillor Wilson insisted on a Crown Court hearing, the evidence was passed to the Council's appointed barrister who advised that the evidence obtained by the Council was sufficient for the prosecution.

2.4.2 It is important to note the relevance of the Mercedes car in relation to the prosecution. On 19 March 2012, Councillor Wilson handed in a benefit claim form, together with 5 nationwide accounts in his sole or in joint names with his former wife. On one statement of account the Housing Benefit Manager noted that Councillor Wilson had received £1,943.48. This sum was

income and should have been disclosed in the benefit claim form. Councillor Wilson said, when challenged about the sum of £1,943.48 coming into his bank account, that it represented the sale proceeds of his car.

2.4.3 When subsequently interviewed under caution it was pointed out to Councillor Wilson that checks had established the £1,943.48 was income and should have been disclosed. Councillor Wilson maintained he had made an honest mistake and thought when he spoke to the Housing Benefit Manager that the sum was the sale proceeds of the car. Officers checked this and in a further interview under caution it was pointed out to Councillor Wilson that no cheque for any similar sum, being the proceeds of the sale of a car, was paid into any of Councillor Wilson's accounts. Councillor Wilson then claimed he lost the cheque. Councillor Wilson's account of why he told the Housing Benefit Manager that the amount of £1943.48 was sale proceeds of the car seemed implausible and pointed again towards Councillor Wilson's dishonesty. The issue of whether Councillor Wilson had in fact sold the car was not considered at that time by the investigators.

2.4.4 It was only much later nearing the trial date that the barrister had a hunch about the Mercedes car. Given Councillor Wilson's propensity to lie, the barrister considered he might not have sold the car at all. The barrister mentioned that he had Mercedes E-class and they were exceptionally well made and Councillor Wilson may have been loathed to part with it.

2.4.5 It was during the course of the three-day trial that the Council's barrister made enquiries that revealed the car had not been sold. This completely undermined the testimony being given by Councillor Wilson. This evidence was passed to the barrister representing Councillor Wilson as the evidence showed that Councillor Wilson was actually perjuring himself in the testimony he was making. After an hour adjournment, Councillor Wilson was persuaded to stop his testimony and change his plea to guilty rather than have evidence presented to show his perjury.

2.4.6 The evidence collected during the course of the trial was not believed relevant prior to the trial but became of relevance as a consequence of Councillor Wilson's evidence under oath.

## **2.5 Waste of money in employing an experienced barrister and not receiving anything useful.**

2.5.1 While it is true that the Council's barrister did not get to cross-examine Councillor Wilson, he had set out the Council's case, identified the further deceitful evidence being provided by Councillor Wilson and requested the conclusive proof necessary to prove that the evidence being given actually amounted to perjury.

2.5.2 The evidence of numerous previous dishonest representations from Councillor Wilson suggests that had the evidence gathered during the trial been collected and presented prior to the trial, then a different deceitful testimony would have been made. The fact that our experienced barrister was able to discern the deceit and the evidence necessary to prove it clearly

demonstrates that the appointment was both necessary and represented value for money.

## **2.6 Use of the Police and others to investigate and bring a prosecution.**

2.6.1 The Council regularly works with the Department for Work and Pensions (DWP) to bring a prosecution. This is most appropriate where the fraud results in an overpayment of housing or council tax benefit, as well as a state benefit administered by the DWP. This was not an appropriate approach in the case of Councillor Wilson as he received no other state benefit. His status as a councillor, together with receipt of an allowance, is taken as evidence of being unavailable for work. In these circumstances, only housing benefit and council tax relief were being fraudulently claimed, leaving the Council to deal with the prosecution without the usual support from DWP investigators and legal team.

2.6.1 Housing and council tax benefits are Social Security benefits which the Council administers on behalf of the DWP. The powers that we use to investigate are governed by the Social Security Administration Act 1992 and the Social Security Fraud Act 2001. These powers are often more powerful than those given to the police.

2.6.2 The same sanctions that can be imposed are also stipulated in the above Acts. We can administer a formal caution (not the same as a police caution), administration penalties (fines) and prosecutions. The police have never been used to investigate and/or prosecute benefit fraud because it is a specialised investigation and is regulated by specific legislation.

2.6.3 The police would only be interested in the case if there were other forms of fraud also involved, ie systematic organised fraud, drugs, money laundering, etc. They would otherwise push it back to the Council because we are a prosecuting authority.

## **2.7 The threshold for bringing prosecutions currently in use.**

2.7.1 The Fraud Policy and Procedures Manual (at Appendix 3), shows that the current threshold guide is set at £2,000 for consideration of a prosecution. In the case of Councillor Wilson, the fraud resulted in benefit of £3,800 being paid, to which he was not entitled. Clearly this is above the threshold value and meets the criteria in Appendix 5 of the Fraud Policy and Procedures Manual; "Members are involved in the commission of the offence then the Authority would consider prosecuting the offender".

2.7.2 It is important also to see the Fraud Policy and Procedure Manual in the context of the version of the Council's Anti-Fraud and Corruption Policy (at appendix 1) which was in place at the time of this prosecution and which sets out the overriding context for the handling of corrupt or fraudulent activity. Specifically, regard should be had to:

*1.1.4 However, this policy is designed to promote propriety in public office and so the following, more general definition of fraud is also appropriate: 'deliberate deception, trickery or cheating with the intention to gain an advantage'.*

- 2.1 *The Council's Anti-Fraud and Corruption Policy demonstrates a firm, clear and unambiguous commitment to preventing fraud and corruption. This policy, along with others such as the Code of Conduct for both Officers and Members, is designed to prevent fraud and corruption. However, if fraud or corruption is discovered, the Council will deal swiftly with the perpetrators in accordance with this policy.*
- 3.1 *The Council must maintain a culture which does not tolerate fraud and corruption, and which is based on openness, fairness, trust and value.*
- 3.3 *The Council will deal firmly with those who seek to defraud the authority, or who are found to be corrupt, in accordance with this policy (and operates a zero tolerance approach).*
- 3.4.2 *Honesty and Integrity – Holders of public office should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.*
- 3.4.10 *Leadership – Holders of the public office should promote and support these principles by leadership, and by example, and should act in a way that preserves public confidence.*
- 3.5 *We expect all our officers and Members to follow these principles and all legal rules, procedures and practices, and to protect our legitimate interests at all times. Any Member or officer, and any person or organisation who falls short of these standards can be sure that we will take all necessary action to deal with the matter.*
- 6.8 *In the case of benefit fraud, the Council has a dedicated unit established to investigate potential irregularities. Working practices in this regard are set out in the Housing Benefit/Council Tax Benefit Fraud Procedures Manual. These policies will be followed in the case of suspected benefit fraud.*
- 2.7.3 Having regard to the financial threshold and the cultural context of the Council's approach to fraud and corruption, it will be seen as entirely appropriate for officers to bring a prosecution against Councillor Wilson in the circumstances.

## **2.8 Police action and the use of a police caution as a way forward.**

- 2.8.1 While it may be the case that referral to the Police and the use of a police caution may be a cheaper option for the Council, this may be seen as a 'soft' option and undermine the strong anti-fraud and corruption culture the Council seeks to establish.
- 2.8.2 It is clear from the Anti-Fraud and Corruption Policy that any staff found to be fraudulent or corrupt will be dealt with through both the disciplinary process, as well as a likely prosecution. If the public found the Council maintaining the member of staff in employment and allowing a caution to cover the matter, our

integrity in other matters would be open to question and severely diminished. The same must be true for Members found to be dishonest and hence the firm stance taken in paragraph 3.5 of the Anti-Fraud and Corruption Policy, as stated above.

### **3.0 Conclusion**

- 3.1 The contents of this report seek to address the questions raised by Councillor Pugsley and the Scrutiny Committee in order to allow the 'post mortem' that was requested.
- 3.2 Councillor Pugsley preceded his questions and request for a post mortem with reference to "the very unpleasant atmosphere in the Council after the Court decision in February".
- 3.3 Much of the frustration and anger expressed at that Council meeting results from; a) the inability of the Council to take meaningful direct action against a fellow Councillor since the abolition of the former standards regime; and b) the limitations imposed on judges when sentencing in cases such as this being limited to the financial loss with little regard to the dishonesty and abuse of public office.
- 3.4 It is important for the Council's future integrity, however, not to merely brush aside the reaction, anger and questions of the public in relation to this prosecution as simply a 'very unpleasant atmosphere'. The policies referred to in this report rightly recognise the high expectations of the public when it comes to the behaviour of those in public office.
- 3.5 Having regard to the policy framework within which officers are required to operate, the actions taken with regard to Councillor Wilson's dishonesty were both appropriate and proportionate.

**Contact for more Information:** Kevin Finan, 01884 234234  
[kfinan@middevon.gov.uk](mailto:kfinan@middevon.gov.uk))

**Circulation of the Report:** Management Team, Legal Services, Housing Benefit Services

**List of Background Papers:** none

# Anti-Fraud & Corruption Policy



## 1.0 WHAT IS FRAUD AND CORRUPTION?

### 1.1 What is Fraud?

#### 1.1.1 The Audit Commission Fraud Manual defines **Fraud** as:

*'The intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain'*

#### 1.1.2 Most actual and attempted fraud against local authorities is committed by people who do not work for the authority, usually by claiming grants and benefits to which they are not entitled.

#### 1.1.3 For their purposes fraud does not include petty theft or misappropriation without the distortion of financial statements or other records.

#### 1.1.4 However, this policy is designed to promote propriety in public office and so the following, more general, definition of fraud is also appropriate: *'deliberate deception, trickery or cheating with the intention to gain an advantage'*.

### 1.2 What is Corruption?

#### 1.2.1 The Audit Commission Fraud Manual defines **Corruption** as:

*'the offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person'*

#### 1.2.2 Unlike fraud, corruption usually needs a council employee or Councillor to take part.

#### 1.2.3 In addition, the legislation relating to corrupt practices in public bodies also describes forbearing to do anything for reward as corrupt.

## 2.0 MID DEVON DISTRICT COUNCIL'S APPROACH TO COMBAT FRAUD AND CORRUPTION

### 2.1 The Council's Anti-Fraud and Corruption Policy demonstrates a firm, clear and unambiguous commitment to preventing fraud and corruption. This policy, along with others such as the Code of Conduct for both Officers and Members, is designed to prevent fraud and corruption. However, if fraud or corruption is discovered, the Council will deal swiftly with the perpetrators in accordance with this policy.

# Anti-Fraud & Corruption Policy



- 2.2 This Policy document embodies a series of measures designed to frustrate any attempted fraudulent or corrupt act, and the steps to be taken if such an act occurs.

## 3.0 CULTURE

- 3.1 The Council must maintain a culture which does not tolerate fraud and corruption, and which is based on openness, fairness, trust and value.
- 3.2 Managing the risk of fraud and corruption is the responsibility of management. However, each member and officer of the Council must be aware of the risk of fraud, and has a duty to report any reasonable suspicions. All members and officers are encouraged to raise concerns about fraud and corruption, immaterial of rank, seniority or status, in the knowledge that such concerns will be properly investigated. The Council has a Whistle-blowing Policy to give confidence to anyone who wishes to raise concerns about behaviour and practice.
- 3.3 The Council will deal firmly with those who seek to defraud the authority, or who are found to be corrupt, in accordance with this policy (and operates a zero tolerance approach).
- 3.4 We believe the best defence against fraud and corruption is to create a strong anti-fraud culture within the organisation. We promote the ten general principles governing conduct, which are:

### 1. Selflessness

Holders of public office should serve the public interest and should never improperly confer an advantage or disadvantage on any person.

### 2. Honesty and Integrity

Holders of public office should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### 3. Objectivity

Decisions should be made on merit, including when making appointments, awarding contracts, or recommending individuals for rewards and benefits.

### 4. Accountability

Holders of public office should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully with any scrutiny to their particular office.

# Anti-Fraud & Corruption Policy



## 5. Openness

Holders of public office should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for their actions.

## 6. Personal Judgement

Holders of public office 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.

## 7. Respect for Others

Holders of public office should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of officers and members of the Council.

## 8. Duty to uphold the Law

Holders of the public office should uphold the law and, on all occasions, act in accordance with the trust placed in them.

## 9. Stewardship

Holders of the public office should ensure that resources are used in a prudent manner and in accordance with the law.

## 10. Leadership

Holders of the public office should promote and support these principles by leadership, and by example, and should act in a way that preserves public confidence.

3.5 We expect all our officers and members to follow these principles and all legal rules, procedures and practices, and to protect our legitimate interests at all times. Any member or officer, and any person or organisation who falls short of these standards can be sure that we will take all necessary action to deal with the matter.

3.6 We also expect that people and organisations we deal with will act with honesty towards us.

## **4.0 PREVENTION**

4.1 The Council's Chief Officers – Chief Executive, Heads of Service and Service Managers – are responsible for establishing sound systems of internal control



## Anti-Fraud & Corruption Policy



in all of their service's operations. 'Internal control' means the systems of control devised by management to ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources. Such systems must safeguard the authority's assets and interests from fraud.

- 4.2 Internal Audit independently monitors the existence, appropriateness and effectiveness of internal controls, as a service to management.
- 4.3 Where fraud or corruption has occurred because of a breakdown in the authority's systems or procedures, management will ensure that appropriate improvements in systems of control are implemented to prevent a reoccurrence.
- 4.4 The Council's Chief Officers are responsible for ensuring that all staff are aware of the existence and content of the Financial and Contract Procedure Rules and other regulatory documents.
- 4.5 Chief Officers must ensure that staff are properly trained to discharge the responsibilities allocated. Once training has been provided, performance must be managed and use of proper practices enforced.
- 4.6 The Council recognises that a key preventative measure in dealing with fraud and corruption is for managers to take effective steps during the recruitment process to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts. The Council's recruitment policy should be adhered to during this process, and adequate employment references/employment checks performed.
- 4.7 When a new member of staff commences employment with the Council they will receive an Induction session, which will include a presentation from the Audit Team Leader on the Anti-Fraud & Corruption and Whistle-blowing Policies and be made aware that the Policies are available on the Internal Audit pages of the Council's Intranet site (Sharepoint).
- 4.8 All staff must comply with the Officers Code of Conduct. Members must comply with the Member's Code of Conduct. These policies state how the Council expects all officers and members to conduct themselves, and specifically requires offers of gifts, hospitality and potential conflicts of interest to be declared. The Head of Communities & Governance (in her role as Monitoring Officer) maintains these registers and they are subject to independent review by Internal Audit on an annual basis.

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- 4.9 Employees are required to report to their line manager, supervisor or other responsible senior officer any illegality, impropriety, breach of procedure or serious deficiency. The Council has a Whistle-blowing Policy to give confidence to anyone who wishes to raise concerns about behaviour and practice.
- 4.10 Arrangements are in place, and will continue to be developed, which encourage the secure exchange of information/data between the Council and other Government agencies on national and local fraud and corruption activity. All such arrangements will adhere to Data Protection legislation.

## 5.0 DETERRENCE

- 5.1 Where fraud or financial irregularity is confirmed, the Audit Team Leader and/or the Head of Communities & Governance will refer this to the police for investigation and, where appropriate, prosecution.
- 5.2 Fraud and Corruption are serious offences against the Council. The Council's disciplinary process will be invoked in respect of any employee who is found to have acted fraudulently or corruptly. Disciplinary action may also be taken in addition to, or instead of, criminal proceedings, subject to the advice of the Human Resources Section.
- 5.3 The Council's Communications Team will liaise with the press to publicise any anti-fraud and corruption initiatives undertaken by the Council.

## 6.0 DETECTION AND INVESTIGATION

- 6.1 Employees are required to report to their Head of Service or Service Manager any concerns about illegality, financial impropriety, or breach of procedure. The Council's Whistle-blowing Policy provides a framework for reporting, investigating and following up such concerns.
- 6.2 Where it appears that a potential fraud or financial impropriety has occurred this must be reported to the Audit Team Leader. An audit investigation will then commence.
- 6.3 Internal Audit will ensure that potential fraud or irregularity is responded to promptly and discreetly;
- All evidence is recorded;
  - Evidence is sound and adequately reported;
  - All evidence is held securely;
  - The Council's insurance section is notified where appropriate;

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- Findings are reported promptly to management; and
  - Further action is taken, where appropriate
  
- 6.4 In the case of fraud or financial irregularity, where sufficient evidence exists to suggest that a criminal offence may have been committed, the Audit Team Leader and/or the Head of Communities & Governance will refer this to the police. The police, in consultation with the Crown Prosecution Service, will determine whether any prosecution will take place.
  
- 6.5 The Audit Team Leader will ensure that fraud or financial irregularity necessitating police involvement is reported to the Chief Executive, the Council's Monitoring Officer, the Section 151 Officer, and where this is employee related, the Head of Human Resources and Development.
  
- 6.6 If during the course of any investigation, it transpires that any corrupt action has occurred, the Audit Team Leader will notify the Council's Monitoring Officer.
  
- 6.7 Where the outcome of an Internal Audit investigation indicates improper behaviour by an employee, chief officers must instigate the authority's disciplinary procedure. Disciplinary action may be taken in addition to, or instead of, criminal proceedings, subject to the advice of the Human Resources Section.
  
- 6.8 In the case of benefit fraud, the Council has a dedicated unit established to investigate potential irregularities. Working practices in this regard are set out in the Housing Benefit/Council Tax Benefit Fraud Procedures Manual. These policies will be followed in the case of suspected benefit fraud.
  
- 6.9 The procedures outlined above for the detection and investigation of fraud, corruption and financial irregularity are illustrated by means of a flowchart are Annex 1.
  
- 7.0 RESPONSIBILITY FOR THIS STRATEGY**
  
- 7.1 The Audit Team Leader has overall responsibility for the maintenance and operation of this Policy. The Policy will be reviewed and updated on a three yearly basis to ensure that it is both up to date and working as intended.
  
- 7.2 A confidential record of disclosure and its outcomes will be kept for a period of 5 years from the date all action was concluded on the matter. Reports will be made to the Audit Committee on a half yearly basis to inform them of the number, and type of, instances of fraud and corruption. However, no

# Anti-Fraud & Corruption Policy



personal details will be listed to ensure that confidentiality will not be jeopardised.

## HOUSING AND COUNCIL TAX BENEFIT FRAUD POLICY

### 1 INTRODUCTION

- 1.1 Mid Devon District Council has a duty to administer a housing benefit service on behalf of the Department for Works and Pensions (DWP). This includes the provision on an active fraud investigation team to ensure that benefits are paid correctly and to those entitled to them.
- 1.2 Countering fraud is the responsibility of everyone working in or having management responsibility for housing benefit administration. It is essential that everyone is aware of the risk of fraud and what to do if fraud is suspected.
- 1.3 Good practice in benefit administration procedures will help to prevent fraud entering the system, however there is always a risk of fraud and we must ensure that measures are in place to detect, investigate and take action against fraud.

### 2 PURPOSE

- 2.1 The work of the fraud team is as much a part of benefits work as the assessment of claims. To this end both areas of benefit administration must work together to achieve the overall vision and objectives for the service. The purpose of this document is to ensure that fraud prevention is made an integral part of housing benefit administration.

### 3 SCOPE

- 3.1 It is essential that there is close liaison between the assessment and fraud team, coupled with agreed procedures to aid the successful prevention and detection of fraud in benefit administration.
- 3.2 This can be achieved by:
  - The prevention of fraud occurring at the outset of the claim by the identification and remedy of weaknesses in systems, continual review of systems and training of staff to establish a fraud aware benefits team.
  - Detection and investigation of fraud in claims that are already in payment.
  - Amending or canceling claims where fraud or error are identified.
  - Calculating overpayments of benefit and assisting with recovery and/or prosecution
  - Maximising subsidy by investigating fraudulent claims and deciding on appropriate action to take, such as prosecution, sanction or penalty.

## **4 FRAUD PREVENTION**

- 4.1 The government has introduced a range of measures designed to identify and reduce benefit fraud. Mid Devon District Council has a designated team within the housing benefit division whose primary function is the detection and investigation of fraud or error.
- 4.2 To assist with this Mid Devon District Council has adopted and undertakes the following activities;
- The verification framework (fully compliant since 1999)
  - The National Fraud Initiative (annually working with District Audit)
  - Housing Benefit Data Matching schemes (quarterly working with the DWP).
  - Royal mail service to return re-directed mail.
  - A fraud service level agreement with the Benefits Agency
  - A policy for prosecution and sanctions
  - Has a dedicated 24hour a day fraud hotline for reporting fraud
  - Fraud awareness training
  - Joint fraud initiatives with the Benefits Agency
  - Regular use of the Benefits Agency Remote Access Terminal (RAT)
  - Agreed local standard to visit all new claims within 7 working days.

## **5 STAFF TRAINING AND FRAUD AWARENESS**

- 5.1 The effectiveness of an anti-fraud policy for benefits will depend on the training and feedback given to all benefits staff. Fraud awareness training must be included in each member of staff's individual training and development plan.
- 5.2 Staff need to be aware of the potential for fraud within the benefit system. Fraud awareness training is an integral part of the induction of any new staff.
- 5.3 Departmental policies within the benefit section encourage the referral to fraud any claims where a fraud or irregularity is suspected.
- 5.4 The senior fraud investigation officer must receive PINS training from the Benefits Agency.

## **6 PROSECUTION**

- 6.1 An essential element of any fraud activity is to take action to recover the debt raised and consider prosecution of the perpetrator of the fraud. When deciding what sanction to apply, consideration must be given to the relevant legislation, such as the Theft Act 1968, the Social Security Act 1992 or the Human rights Act 1998.
- 6.2 For a case to be considered for prosecution there must be sufficient evidence that the claimant or any other person has acted fraudulently. In all cases a senior officer will make the decision on action to be taken in relation to the fraud investigation.
- 6.3 The local authority has a choice in the action to take once fraud has been identified.
- Administrative Penalty, a fine of 30% of the recoverable overpayment,

- Formal Caution
  - Summons and prosecution.
- 6.4 Agreement has been made with the Benefits Agency that all cases where fraud has been established and an overpayment accrued in excess of £1,500 will be considered for prosecution. The Benefits Agency Solicitors will take cases to court on behalf of the local authority if appropriate.
- 6.5 An Administrative Penalty or a Formal Caution may be considered as an alternative to criminal proceedings.
- 6.6 In all cases even where prosecution or other sanction is not considered appropriate action will be taken to recover any overpayment raised.

## **7 DETERRENT**

- 7.1 High priority must be given to stopping fraud from entering the benefit system, the continued compliance with the Verification Framework and partnership working with others such as the Benefits Agency, Inland Revenue and local police will ensure that good practice is continued.
- 7.2 Publicity relating to the anti-fraud activities of the council both internally and externally will positively promote the successes of the team, and our commitment to protecting the public purse.
- 7.3 Adoption of a prosecution policy for housing benefits will ensure that investigations are progressed to prosecution or penalty.

## **8 ASSOCIATED DOCUMENTS**

- 8.1 MDDC RIPA POLICY Any investigation work needing surveillance will be carried out in line with RIPA, and according to corporate procedures.
- 8.2 MDDC Corporate Anti-Fraud and Corruption Strategy.
- 8.3 Housing Benefit Prosecution Policy (March 04).

**FRAUD POLICY & PROCEDURES MANUAL****1. Introduction**

The aims and objectives of the Fraud Investigations Department is

*"To investigate fraud and abuse of external claims made against the authority from members of the public or their agents".*

The main area of work relates to fraud surrounding claims to Housing Benefit and other Social Security benefit. This code of conduct is intended to be a guide to the investigator when conducting these investigations.

**2. Background**

There are numerous types of fraud and irregularities, which are investigated by the department. Staff should be familiar with the legislation surrounding the payment of Housing Benefit, such as the Housing Benefit (General) Regulations 1987, and the Social Security Act 1992 etc.

Details of changes and amendments are circulated by the DWP in the form of HB/CTB circulars. These are available for reference via E-mail and hard copy.

**3. Objectives of Investigations**

The investigations into suspected fraud will endeavor to:

- *Target resources primarily at areas of perceived high risk (such as Housing Benefit)*
- *Take the lead role in undertaking any Data Matching exercises including the Audit Commission National Fraud Initiative*
- *Instigate the prosecution (or the imposition of other sanctions where appropriate) of offenders having full regard to the Council's prosecution policy*
- *Publicise and manage a phone service for members of the public to report fraud - Fraud Hotline*
- *Undertake joint exercises with other departments and enforcement agencies*
- *Seek to continuously improve standards, and incorporate established good practice into working practices*



**FRAUD POLICY & PROCEDURES MANUAL**

- *Equip staff to perform the duties of the group effectively by means of a program of continual appraisal, training and development.*
- *Provide advice and guidance pro-actively and as requested.*

**4. Conduct of Investigations and Investigators**

The investigation should be conducted in a professional manner adopting recognised procedures. These procedures are in place to ensure the safety and integrity of officers and should be adhered to at all times. Copies of these procedures are issued to all officers. These guidance notes cover the following areas:

- Files, documents and working papers
- Conducting interviews
- Safe systems of work
- Reactive work
- Proactive work
- Prosecutions
- Liaison arrangements

Compliance with Housing Benefit, Council Tax Benefit and related regulations in particular, along with a requirement to work within the law in general, are pre-requisite conditions of professional investigation officers in the employment of the Council. It is also a basic requirement that staff should take the utmost care in undertaking such a sensitive role. The conduct of investigators will always be open to close scrutiny. Officers should ensure that they do not fail to maintain the high standards of honesty and integrity expected of them.

All investigations should be conducted and all evidence gathered, collated and recorded in accordance with CPIA 1996, PACE 1984, Data Protection Act 1984 et seq, HRA 1998, RIPA 2000, and all other standards of good practice. Investigators will be fully qualified Counter Fraud Specialists and must ensure that they remain up to date and conversant with the legislation governing the conduct of investigations.

**5. Files, Documents and Working Papers**

Each file has a unique reference number and will be scored on the investigation matrix. When a referral is input general details will be included i.e. the source of the referral and type of allegation.

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All documents relating to the investigation should be kept in the file and all actions and events should be noted on the investigation matrix, action taken whilst out of the office should also be recorded in the QB50 notebook (further guidance on completion of QB50 in guidance note attached at Appendix).

The details of the weekly rent and/or CTB should be noted at the start of the investigation and held on file. The file record should be maintained in such a way as to reflect the current status of an investigation and detail all events/action taken supplemented by the working file).

Once the file has been completed and an overpayment recorded the file must be closed on all the relevant systems and all relevant papers stored on the file (see Closure Policy Appendix 3).

Invitations to interview letters are in a standard format and issued with the leaflet 'Taper Interview under Caution'. The investigator can send these without being checked by the Fraud Manager. Special one off letters however should be scrutinised by the Fraud Manger before sending out.

When an investigation is complete a report will be sent to the relevant department (for benefit cases this will be the Benefits Section) outlining the findings and making recommendations. Copies of documents supporting the findings and copies of statements or records of interviews conducted should accompany the report. When reporting findings, officers should relate information gathered and succinctly put conclusions drawn from the investigation, these should be based on the evidence gathered not the officer's opinion. Finally the recommended action should be given at the end of the report. It is important to remember that action is only recommended and that decisions on claims are made by the Benefits Section or the appropriate department. Officers therefore should always ensure that evidence is factual and is reported in a clear and concise manner to assist the relevant person in making their decision in accordance with your recommendation.

In all cases referred by an employee of Mid Devon District Council whether Benefits Section, Housing or wherever, the "outcome" will be forwarded to them, thanking them for the referral and letting them know the outcome (i.e. fraud proven, claimant to be prosecuted, sanction etc).

When conducting proactive work information will be provided by the Fraud Manager with instructions/procedures as to the methods to be adopted when carrying out the exercise. Instructions for conducting the periodical exercises are issued to investigators. Working papers and documents for each claim should be kept on file. Each case resulting in an adjustment in benefit should be recorded on the SX3 system.

## FRAUD POLICY &amp; PROCEDURES MANUAL

**6. Surveillance**

Surveillance will only be undertaken having taken into account the guidance contained in the Regulation of Investigatory Powers Act 2000, and in compliance with the authorities Code of Practice for Surveillance (copies available in section and with Legal Section or from the Intranet).

**7. Interviews**

Interviews are an essential part of any investigation and should be conducted in a professional manner, and where appropriate under caution (see below). Whenever practicable interviews should be conducted in the Interview rooms provided. This approach is not only conducive to staff safety but should ensure that investigations are undertaken in the most cost effective manner. Interviews should not be conducted when the mental and physical condition of the interviewee is such that they are unaware of what they are being asked. Discretion should be exercised where it is apparent that the interviewee may be under the influence of drugs and/or alcohol.

The translation service can provide interpreters where an interviewee cannot speak English. Investigators should establish prior to interview. Where it is apparent that the person's first language is not English, the investigator should try to establish what their first language is, and make appropriate arrangements with the Translation Service.

Recording the interview contemporaneously is important, and staff should insist the interviewee read the record of the interview (or where appropriate have it read to them) prior to it being signed. This minimises any confusion later. If the interview is recorded on a "statement of witness" form the interviewee should be made aware of the pre-printed declaration before the interview commences.

If during the course of an interview an officer has reasonable grounds to suspect that an offence has been committed, the officer must stop the interview and caution the interviewee, recording the caution in their QB50 notebook. If possible the customer should sign the QB50 acknowledging that the caution has been issued.

**8. Interviews under Caution**

IUC interview letters are held in the shared fraud folder for inviting customers to attend. These letters should be used without amendment and issued with a copy of the leaflet 'Taped Interview under Caution'. There are also follow up letters if no response is received by the customer. If after the final invitation letter we have had no response from the customer, consideration should be given to passing the case for prosecution.

**FRAUD POLICY & PROCEDURES MANUAL**

The interviews are held in Interview rooms provided. Before conducting the interview the investigating officer should prepare a detailed interview plan which should include details of the offence(s), possible defenses, mitigation and points to prove.

Officers should be aware that the code of practice for conducting these types of interviews should be available at all times for reference. All the necessary documentation has been prepared and an aide memoir for the investigator is available to ensure the procedures are strictly adhered to.

At the end of the interview the master and copy tapes should be signed in by the Fraud Manager and stored in a secure cabinet. All movements of the working tape are recorded on a file also held in a secure cabinet. These should be completed whenever the working copy is removed. The interviewee will be given a copy of the leaflet 'After an Interview under Caution'.

**9. Safe Systems of Work**

Investigators should always remember that their safety is of paramount importance, particularly when conducting visits outside the office. It is the responsibility of each officer to adopt the safe system of work that is detailed in the investigators guide. (See Safety of Staff, Appendix 4).

**10. Reactive Work**

Cases are referred for investigation from various sources including Benefit Section, Housing, anonymously from members of the public as well as from various other sources such as the Housing Benefit Matching Service (referrals are issued on a quarterly basis) and National Fraud Initiative (conducted bi-annually). To enable analysis of these referrals it is important that care is taken to ensure that the source is correctly noted on Intelligence report.

**11. Proactive Work**

Proactive work focuses on various types of initiatives such as residency, landlord exercises etc.

**12. Prosecutions**

In all cases where fraud is proven consideration should be given by the investigator as to whether prosecution or other penalty is appropriate (See prosecution policy and guidance on the suitability of offenders Appendix 5). Where prosecution is recommended the case should be referred to the Benefits Manager with a case summary outlining the reasons the investigator has come to this decision. The Benefits Manager will review the case and

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decide whether it is suitable for proceedings. All other cases that have been interviewed under caution should be referred to the Fraud Manager outlining what action is proposed (i.e. sanction or closure) for authorisation. All of this action should be recorded on Matrix Notes.

**13. Cases involving Staff or Members**

Any case where an investigator suspects that a Council employee or Councilor may be involved should be brought to the attention of line management immediately. It is Council policy to pursue prosecutions in cases involving employees and/or members particularly where their position gives them knowledge of the benefit or local taxation system.

Where departmental personnel are involved either because they have made the referral or where they are considering disciplinary action updates should be sent (the content having been agreed with your team leader) at least every 28 days.

**14. FIS Liaison Arrangements**

Liaison arrangements are in place to facilitate the exchange of information between ourselves and various other agencies. Formal liaison exists between the Fraud Investigation Service (FIS).

In all investigations where another Social Security benefit is in payment along with HB/CTB the investigator must issue an FPA1 when the file has been raised.

If for whatever reason a case cannot be investigated and the alleged fraud would affect entitlement to another Social Security benefit in addition to HB/CTB it should be referred to FIS using form FPA2 immediately.

At the conclusion of the investigation or when sufficient evidence has been collated for a decision regarding entitlement an FPA4 should be sent to Jobcentre plus to obtain an adjudication decision. If no response is received within 28 days follow up action should be taken, if no reply is then received within a further 14 days the case should be referred to your line manager.

**15. Liaison Arrangement Other LA's**

The authority is affiliated to LAIOG (Local Authorities Investigating Officers Group) and WBIG (Wales Benefit Investigation Group). Copies of the directories are held on the LAIOG website with details of investigators in other authorities, which is a useful reference source when dealing with enquiries from other LA's.

**FRAUD POLICY & PROCEDURES MANUAL**

It is important that investigators should always bear in mind the requirements of the Data Protection Act when dealing with requests for and making requests for information, and that checking that someone is listed in a directory does not ensure that they are the person on the other end of the phone.

**16. Fraud Awareness**

As fraud investigators, you will likely be the most aware of potential areas of abuse, if you become aware of weakness in, or breakdown of, procedures that may make fraud more likely. Investigators should inform their line managers so that steps can be taken to rectify the situation and promote good fraud prevention.

**17. Standards of Behavior - General Principles**

Officers should be aware that the Council expects staff to carry out their duties with the highest standards of honesty and integrity.

The Council demands a very high standard of conduct when dealing with the public. Members of the public have a right to expect courtesy and co-operation at all times.

## FRAUD POLICY &amp; PROCEDURES MANUAL

## Appendix 1

**Referral Matrix****Benefit Section Referrals**

All referrals from the Benefits Unit are to be looked at unless the following applies: -

**The referral is a request for us to obtain or verify information that the Benefit Section can request themselves.**

Mid Devon District Council Referral Matrix criteria will ensure that all referrals from the benefits section are acknowledged and a record is issued as to who the case has been allocated to or why the case has been rejected.

The Matrix includes a scoring system, ensuring all quality referrals are investigated. The investigating team reserves the right to “manually” override any score – based on local knowledge.

**The score guide is as follows: -**

40 Minimum Score. The scoring system incorporates sections, which require further scoring. This will add weight to the decision to investigate but will not necessarily override any decision made by the Investigator not to proceed based on previous knowledge or low Matrix scoring.

**OPTIONS**

Accept Referral

Treat as Priority

Reject Referral

Options:

Pass back to processors for consideration

Pass to FIS for consideration

– No Action

Marginal –

Refer details to Investigation Officer to decide if score should be amended. (Take into consideration: suitability for observations, local knowledge etc).

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**Override** The Investigation team, reserve the right to “manually” override any score

**All other Referrals**

A referral is vetted within 5 working days of receipt and work will commence within 14 working days of receipt of referral. Referrals are allocated to Investigators based on work load.



## FRAUD POLICY &amp; PROCEDURES MANUAL

## Appendix 2

## QB50 Procedural Notes

- 1) The notebook should contain sequentially numbered pages.
- 2) Pages must not be removed or left blank. Deletions should be made with a single line, which the officer must initial and date. **Under no circumstances should you use liquid or any other types of erasing material, rub out mistakes with an eraser, or scrub through any deletion.**
- 3) The margin on the left hand side of each page should be used to enter the time that particular events take place, e.g. the time observations on a subject started and ended.
- 4) Each day should be clearly recorded, showing the date, day and month. Any unused space on a line should be lined through and initialed. At the end of the day the notes should have a line drawn across the page.
- 5) The official notebook must be used whilst conducting any business outside the office, each time an entry is completed it should be timed and dated. **All officers must have their notebooks with them when conducting interviews.** When an individual has been cautioned notes must be made contemporaneously and the customers' signature should be obtained or the reason why the customers has not signed the notebook.
- 6) Wherever practicable note should be taken contemporaneously otherwise the reason for the delay should be noted.
- 7) The notebooks are items of controlled stationery and contain highly confidential information and should be treated as security items Maxine Tucker is the current stockholder for QB50's and will issue new notebooks and store-completed notebooks.
- 8) Notebook will be subject to monthly checks and the manager will initial and date the notebook after inspection.

## FRAUD POLICY &amp; PROCEDURES MANUAL

## Appendix 3

**Conduct and Closure of Investigations**

Investigations should be conducted in a professional manner adopting recognised procedures and in full compliance with all relevant legislation (CPIA 1996, PACE1984 and RIPA2002). Additionally all other appropriate regulations (Housing Benefit, Council Tax Benefit for benefit fraud cases) must be adhered to. The requirements to work within the law in general and apply appropriate associated regulations are pre-requisite conditions of professional investigation officers in the employment of the Council. It is also a basic requirement that staff should take the utmost care in undertaking such a sensitive role. The conduct of investigators will always be high profile and open to close scrutiny. Officers should ensure that they do not fail to maintain the high standards of honesty and integrity expected of them.

**Review of open cases**

Officer should as a matter of course review each case to see whether evidence is available or obtainable if the investigation is likely to be successful. Consideration should be given to the method / resources required to ensure the necessary information is proportionate and whether delay or age of information are likely to have a detrimental impact on the outcome. Such factors need to be balanced against the seriousness of the offence and its prevalence.

**Closure of Investigation**

On completion of each investigation a report will be sent to the relevant department outlining the findings and making recommendations. Copies of all relevant documents should accompany the report but full regard must be given to any Data Protection implications when providing documentation. Documents obtained from third parties or those that could be regarded as sensitive should only be referred with the Fraud Managers agreement.

Reports must be factual and relate to the information / evidence gathered and not the opinion of the investigator. Any recommendations should be made at the end of the report, and it is important to remember that action is only recommended and that the appropriate department makes decisions on claims. Officers therefore should always ensure that reports are written in a clear and concise manner to assist each department in making their decision in accordance with your recommendation.

At the conclusion of the investigation feedback should be provided on all internal referrals to the originator. The details given will of necessity have to be brief and not breach Data Protection or issues of claimant confidentiality.

**FRAUD POLICY & PROCEDURES MANUAL**

Investigators will ensure all relevant documents are secure in the file in date order, the most recent being at the top. The investigator will record on the Referral Matrix system all relevant events for each case thus providing a complete record of events for the life of the file. All relevant fields on Referral Matrix must be completed by the investigator e.g. closure category, overpayment, final report etc. prior to filing. All files going dormant will be passed to the Fraud Manager for a final check before being filed away.

**Case Monitoring**

Cases will be monitored monthly, a sample of open and closed will be selected which, each investigator will provide to the Fraud Manager the selected files within 3 days. The files will be checked to ensure that they have been actioned in accordance with the relevant guidance and comply with appropriate legislation. Files that have been open for over three months will also be reviewed to ensure that an extension has been agreed, the case warrants further investigation and that they are being progressed. Files worked by the Fraud Manager, along with a sample of the Investigation files, will be checked by the Benefits Manager following the same procedure.

The line manager will provide feedback and instruction to the investigator on files where appropriate and discuss the findings at performance appraisals.

## FRAUD POLICY &amp; PROCEDURES MANUAL

## Appendix 4

**Safety of Staff: Visiting the Public**

The safety of staff is of paramount importance, and whilst one cannot eradicate all the dangers associated with visiting the public it is hoped that by adhering to the following procedures they can be minimised.

- Whenever practicable interviews should be conducted at purpose built secure locations, such as the Phoenix House or district local offices.
- All officers engaged in duties that may necessitate visiting members of the public will receive training on identifying and dealing with potentially aggressive situations.
- Visits are normally made unaccompanied, however if it is felt that it would be unwise to visit a particular address or person alone then the Fraud Manager should be informed and where appropriate an accompanied visit arranged.
- Mobile phones have been provided so that contact can be maintained with staff whilst they are out visiting, and staff are aware that they should not undertake a tour of visits without one.
- The Revenues Manager will hold details on all visiting officers giving their home telephone number, a description of the officer, photograph, any alternative contact point (such as spouse or close relative), together with details of their motor vehicle. These details would assist management and/or the Police should it become necessary to instigate a search.
- Each officer will hold the home telephone numbers of the Fraud Manager and Benefits Manager to enable contact to be made if a tour of visits is scheduled to finish outside normal office hours. Senior staff will leave their phones on continually to enable emergency contact.

**Visits from the Office**

- Before leaving the office the officer must complete the Schedule of Visits detailing all addresses to be visited, the intended sequence of visits, which mobile phone they are on and the expected time of return. They must also business out on the Wintime system. Alternatively where an officer does not intend returning to the office the time noted will be the time by which they will contact the office to advise that they have completed their tour of visits safely. Whilst out on a tour of visits contact should be made with the office every two hours, therefore the first contact time on the visit sheet should be no longer than two hours after the tour of visits commenced. When they contact the office the officer receiving the call must note the

**FRAUD POLICY & PROCEDURES MANUAL**

new time on the visit sheet and annotate the schedule of visits to show the time of contact and which visits have been completed.

- If it becomes necessary to change the sequence, location or number of visits the office should be contacted and the schedule of visits amended. Likewise if it becomes apparent that the tour of visits will take longer than the time estimated the office should be contacted, a new estimated time given and the schedule amended.
- If the estimated time of return/contact is significantly exceeded (over 30 minutes) a senior member of staff should be notified immediately and efforts made to contact the visiting officer either on the mobile phone and/or (where officers had not intended returning to the office) through their home contact point. If we have still been unable to make contact a Senior Manager should consider contacting the Police.

**Early Visits before arriving at the Office**

- When an officer intends making visits before arriving at the office they should complete the schedule of visits (including the estimated time of return) the day before, and ensure that the Fraud Manager is informed of what they intend to do. They must contact the office when they start their tour and confirm the next contact time. The officer receiving the call should note the schedule of visits sheets accordingly. Where a tour of visits is due to start before normal office hours, arrangements regarding contact must be agreed with a senior officer within the group on the day prior to the tour of visits.
- If it becomes necessary to change the sequence, location or number of visits the office should be contacted and the schedule of visits amended. Likewise if it becomes apparent that the tour of visits will take longer than estimated the office should be contacted and the schedule amended. Whilst out on a tour of visits contact should be made with the office every two hours, therefore the first contact time on the visit sheet should be no longer than two hours after the tour of visits commenced. When contact is made with the office the officer receiving the call must note the new time on the visit sheet and annotate the schedule of visits to show the time of contact and which visits have been completed.
- If the estimated time of return/contact is significantly exceeded (over 30 minutes) a senior member of staff should be notified immediately and efforts made to contact the visiting officer either on the mobile phone and/or (where officers had not intended returning to the office) through their home contact point. If we have still been unable to make contact a Senior Manager should consider contacting the Police.

## FRAUD POLICY &amp; PROCEDURES MANUAL

**Monitoring and Review**

All members of the group are responsible for ensuring that the procedures are adhered to and that prompt action is taken when staff do not make contact by a specified time. Team leaders will be responsible for ensuring staff comply with the procedures and for monitoring the completion of the schedule of visits.

The procedure will be subject to an annual review, with staff being encouraged to participate. Any amendments will be discussed at group meetings.

## FRAUD POLICY &amp; PROCEDURES MANUAL

## Appendix 5

**Prosecution Policy**

As outlined in the Mid Devon's Antifraud Policy Statement the Council is committed to protecting the public funds it administers through its actions in respect of the investigation of suspected fraudulent claims for Housing Benefits and/or Council Tax Benefits.

This policy statement is intended to provide the agreed framework for Council officers involved in the detection, investigation and prosecution of Housing Benefit and Council Tax fraud.

All investigations identified as suspected fraudulent claims for benefit, will be investigated to prosecution standard. Each individual case will incorporate investigation techniques necessary, proportionate and legal, relevant to the circumstances of the allegation.

At the conclusion of all investigations by members of the Council's Fraud Investigation Section, where it is considered that appropriate evidence exists to sustain a prosecution the Authority will consider which of the following actions are appropriate:

**Local Authority Caution**

Where the overpayment is under £2000, and

- The claimant has never previously committed offences of fraud, theft or benefit related offences or offences against the Local Authority or DWP
- The offence(s) were not planned or systematic, and
- There was no other person involved in the fraud, and
- The offender has admitted the offence in full,

are grounds for considering the use of a Local Authority Caution as the relevant penalty.

A caution is offered as an alternative to prosecution. Mid Devon District Council retains the right to pursue a prosecution should a caution not be accepted.

**Administrative Penalty**

Where the overpayment is under £2000, and

- It was a first offence, and
- The offence(s) were not planned or systematic, and
- There was no other person involved in the fraud, and

**FRAUD POLICY & PROCEDURES MANUAL**

An Administrative Penalty is offered as an alternative to prosecution. Mid Devon District Council retains the right to pursue a prosecution should the offer of a penalty not be accepted.

An officer of Mid Devon District Council of Grade 7 or above will be responsible for the administration of Cautions and Administrative Penalties.

**Criminal Prosecution**

For all other cases where the overpayment is £2000 or over, or

- It was not a first offence, or
- The offence(s) were planned or systematic, or
- There were other persons involved in the fraud, or
- Employees or Members are involved in the commission of the offence(s)

then the Authority would consider prosecuting the offender and other persons directly involved in the offence.

However, every case will be considered on its own merits and action will be considered as appropriate. It is noted that some cases will not fall into any category.

A prosecution under taken by Mid Devon District Council will be in line with the relevant legislation as detailed below. However should an offence under any other legislation be identified Mid Devon District Council retain the right to consider it's suitability.

- Social Security Administration Act 1992 Sections 112, 111 including amendments to the act.
- Theft Act 1968 section 15, 15a, 17 & 24a
- Conspiracy (common law)
- Accessory & Aiding and Abetting Act 1867

Mid Devon District Council work jointly with the Department for Work and Pensions. Any identified offence likely to effect either agency will be reported to the other.

Both will consider each case for joint investigation and based upon evidence of identified offences consider joint action in the previously mentioned manner (Caution, Administrative Penalty or Prosecution).



## FRAUD POLICY &amp; PROCEDURES MANUAL

**Suitability of Offenders for Prosecution**

When considering whether it is appropriate to instigate proceedings, the Fraud Manager must first consider:

- a) Is there sufficient admissible evidence to justify bringing a prosecution?

And

- b) Is the prosecution in the public interest?
- a) In considering whether the evidential test has been met the Fraud Manager must decide:

- (1) Whether there is clear evidence of an offence
- (2) Whether it is likely evidence will be excluded by the court, given the rules of evidence and the Codes of Conduct issued pursuant to the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996 and any other relevant legislation;
- (3) Whether there has been any remiss administration or fault on the part of the Council or the DWP (formerly the DSS) that has contributed to the processing of the fraudulent claim or subsequent benefit
- (4) Whether there is evidence that might support or detract from the reliability of a confession?
- (5) Whether a court is likely to find the explanation given by the defendant is credible in the light of all the evidence and whether the evidence supports an innocent explanation.
- (6) Whether a witness' background may weaken the prosecution case. For example if a witness has a motive which may affect their attitude to the case.
- (7) Whether there are concerns over the accuracy or credibility of a witness and is there further evidence which the investigator should seek which may support or detract from the account of the witness

## FRAUD POLICY &amp; PROCEDURES MANUAL

- (8) Whether all reasonable lines of enquiry have been pursued
- (9) Whether there has been a delay a court is likely to find unacceptable
- (10) Whether there are any other relevant considerations from the Code for Crown Prosecutors or relevant circumstance of the particular case.

ii. In deciding whether 'public interest' is best served by prosecuting an offender the following factors should be considered:

- (1) Obtained significant fraudulent payments, or for a prolonged period
- (2) The fraud was planned or systematic,
- (3) Evidence that they had previously claimed Benefits fraudulently
- (4) No personal circumstances likely to be offered in mitigation
- (5) Abused their position of trust within the Authority

The following paragraphs go into greater detail regarding the factors, which must be considered, to ensure consistent and equitable treatment of those accused of fraud.

### 1) Financial Limits

Careful consideration would have to be given to commencing a prosecution where the amount of the fraudulent activity has not resulted in 'significant financial gain' to the claimant, i.e. the amount of the fraudulent overpayment is less than the cost of proceedings.

Where there is no significant financial gain a prosecution could still be considered if it is felt that the fraud was a deliberate attempt to gain money by deception (if, for example, the fraud has been discovered after a relatively short space of time and a significant financial gain has not yet occurred), or in the case of a persistent offender or any other case where prosecution would be warranted.

An initial financial guideline figure of £2000 has been established as the minimum amount at which the Authority would refer a case for prosecution, unless there were aggravating factors such as previous history of fraud or where it the offences were planned.

**FRAUD POLICY & PROCEDURES MANUAL****2) Physical / Mental Factors**

Consideration must be given to the mental and physical condition (including age) when deciding whether to prosecute. The officer should consider whether there are significant personal or mental problems that may have contributed to the reasons for committing the offence. In addition, due consideration should be given where there is any evidence to suggest that the claimant or partner or a third party (e.g. a child) would be severely affected by our action. .

It is essential when considering the above issues that an appropriate impartial opinion as to the claimant's physical and/or mental condition is obtained.

**3) Voluntary Disclosure**

It may not be appropriate to prosecute those, whose disclosure of their own free will, has led to the identification of a fraud of which the Authority was unaware. Admissions made after enquiries had commenced do not constitute voluntary disclosure.

**4) Previous Incidence of Fraud**

Any evidence of previous benefits-related fraudulent activity should form part of the overall "prosecution assessment", regardless of whether any previous offences resulted in prosecution.

**5) Social Factors**

If it is considered that the claimant's failure to declare the correct circumstances has been caused by significant extenuating social or financial factors these should be fully evaluated. The fact that an individual was in debt or has limited assets would not in it self meet this requirement.

**6) Adequacy of Evidence**

Substantive evidence is essential to secure any conviction. Proceedings should not be sought if there is any doubt that the required evidence is not available. It must be clear that the fraudulent act was actually committed, that it was committed in the full knowledge of benefit regulations and that it was committed with the clear and deliberate intention to obtain property by deception. Satisfying the requirements of the Code for Crown Prosecutors Evidential Test will ensure that evidence is of the standard required by the courts.

**FRAUD POLICY & PROCEDURES MANUAL****7) Failure in Investigation**

It should be evident on the case file that all appropriate procedures have been adhered to with regard to satisfying the requirements of the Police and Criminal Evidence Act 1984, Criminal Procedures and Investigations Act 1996 and other relevant legislation. Particular consideration should also be given to any delay in the course of enquiries, which may be considered as unacceptable by the court.

**8) Failure in Benefit Administration**

Full account must be taken of remiss administration or fault on the part of the Authority or the DWP (formerly the DSS) that has contributed to the processing of the fraudulent claim and subsequent award of benefit.

**Post-investigation Considerations**

Once the Investigating Officer has completed the investigation, the Fraud Manager will consider each case on its merits applying the criteria in this policy and in the Code for Crown Prosecutors and any other circumstances relevant to the case.

The Fraud Manager will decide whether there is enough evidence to provide a realistic prospect of securing a conviction and if so, whether it is in the public interest to offer a caution, offer an administrative penalty or recommend prosecution.

**Authorisation of Sanction or Prosecution**

Decision to offer Caution or Administrative Penalty will be made by the Fraud Manager, having full regard to the Council policy. Cases being referred for prosecution will be authorised by the Benefits Manager, in consultation with the designated Legal Advisor.

The Benefits Manager may also refer cases to the Police where it is considered that the nature of the offence or the procurement of evidence requires them to undertake the investigation.

The Benefits Manager may instruct the manager of the Fraud Investigations Section to act on his/her behalf in this regard.

As recognised by the Benefit Fraud Inspectorate it may be necessary on occasion to vary the level at which sanctions or prosecutions are applied in the light of particular circumstances or for operational reasons.

**Publicity**

**FRAUD POLICY & PROCEDURES MANUAL**

Press releases will be issued in suitable cases to seek to maximise the deterrent effect and raise the level of public fraud awareness. Consideration will be given to the amounts involved, nature of the offence, public interest and deterrent value of publicising a particular case. For example if the court imposes an unusually lenient sentence it may not be in the public interest to publicise the case as it sends out the wrong message.

**Review of Policy**

The policy will be reviewed in the light of any legislative changes, trends or other factors that impact on the effectiveness of the policy.

**Reviewed 3<sup>rd</sup> June 2008**  
**M.Tucker**

Cllr Pugsley's wording to Scrutiny:

Proceedings against Councillor Wilson. (We can all remember the very unpleasant atmosphere in the Council after the Court decision in February.) It is time now to have a calm post mortem to see what lessons can be learnt for the future.

Transcript of the recording of the meeting held on Monday 19<sup>th</sup> January 2015.

Cllr Pugsley - You may remember that we didn't cover ourselves in glory last February and the atmosphere was most unpleasant and I said then that we need a post-mortem when people had calmed down but we are a bit late. Last month we brought a prosecution for benefit fraud which cost us £13K and all that it got was a suspended prison sentence. Now, the practical effect of a suspended sentence is for the judge to say 'go away and don't do it again for 2 years' and one does wonder if that is the best way of spending £13K, particularly in our present financial circumstances. But it raises an immediate detailed point – that was at the Exeter Magistrates Court and it cost us £13K. We were told that the prosecution in the Crown Court, which went on for 3 days, with an expensive barrister, also cost us £13K. So this raises questions – it must have cost more to go to Crown Court than it did in the magistrate's court and more general issues on our prosecutions. Arising out of the case last February first of all before we prosecuted we hadn't collected all the evidence, evidence was collected on the 3<sup>rd</sup> day of the trial and the trial thereon collapsed. We should have collected the evidence in advance. We had a very experienced barrister but because the case collapsed we weren't actually paying for anything useful, and the legal profession will tell you that was an awful waste of money. Last February we spent £13K, if that is the right figure, and we recovered in costs £240 which is 2% of our outlay and again that ought to be making us think – is this best way to do things. You will know that the RSPCA had the same on a larger scale when they spend £327K to prosecute David Cameron's hunt, they recovered £20k which is 6% of costs. The judge said to them in the trial 'isn't there a better way of using your money?' The RSPCA then had a full post-mortem at the end of which it was suggested that they should think, for controversial cases, to use the police and the crown prosecution service. That is my suggestion in these cases. The Police are there to investigate cases and collect evidence, it's what they do, they are doing it all the time. The CPS are dealing with that all the time and they have an idea of the sentence that will be passed and the staff needed to do the job, and indeed there are some very good Crown Prosecutors who could quite possibly have done it themselves. If we say there is an offence and we hand it over to the police to investigate and prosecute, if they think it's appropriate. That's what they are specialist at, let them get on and do it, I think it will cost less to the public purse but in any case it would cost a great deal less to us and I suggest that we go down that line. With one final point the police when they look at these cases with the CPS do think, is that worth a prosecution to achieve a conditional discharge or suspended sentence and what the police then do is to issue a police caution – that saves going to court,

has the same effect as a suspended sentence and it is on the record so that if they do it again it comes up. As we don't do a lot of prosecuting under difficult circumstances I suggest that we let the Police get on with it because they are specialist and it's cheaper to us and the caution is a way forward.

Kevin Finan - If you want to carry out a post-mortem then you need to have the information before you. I can't tell you off hand what our prosecution policy is, we do have thresholds and if you want to carry out a post-mortem and consider making recommendations about how we prosecute then I suggest this is something for the next agenda and we'll bring a report forward"

Discussion took place.

Cllr Pugsley asked that his original question not get lost – 'If Magistrates court cost £13K how much more did a three day Crown Court case cost?'

Kevin Finan 'We will analyse the cost between the magistrate's court and the crown court' - If the Chairman is happy with that we will prepare a report that will answer Councillor Pugsley's questions.

Paul Williams also asked that we find out what the Police can and can't prosecute.

Jenny Roach asked for clarification of the 'threshold'.

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