

## Agenda for a meeting of the Governance and Audit Committee to be held on Friday 27 November 2015 at 1100 in Committee Room 1, City Hall, Bradford

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### Members of the Committee – Councillors

CONSERVATIVE	LABOUR	THE INDEPENDENTS
Eaton	L Smith (Ch)	Naylor
	Thornton (DCh)	
	Swallow	

### Alternates:

CONSERVATIVE	LABOUR	THE INDEPENDENTS
Ellis	Farley	Hawkesworth
	K Hussain	

### Notes:

- This agenda can be made available in Braille, large print or audio format on request by contacting the Agenda contact shown below.
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  - If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.
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### From:

Dermot Pearson  
Interim City Solicitor  
Agenda Contact: Fatima Butt  
Phone: 01274 432227  
E-Mail: [fatima.butt@bradford.gov.uk](mailto:fatima.butt@bradford.gov.uk)

### To:



## **A. PROCEDURAL ITEMS**

### **1. ALTERNATE MEMBERS** (Standing Order 34)

The City Solicitor will report the names of alternate Members who are attending the meeting in place of appointed Members.

### **2. DISCLOSURES OF INTEREST**

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

*Notes:*

- (1) Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (2) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.
- (3) Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.
- (4) Officers must disclose interests in accordance with Council Standing Order 44.

### **3 MINUTES**

**Recommended –**

**That the minutes of the meeting held on 30 October 2015 be signed as a correct record (previously circulated).**



#### 4. **INSPECTION OF REPORTS AND BACKGROUND PAPERS**

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Director or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Fatima Butt - 01274 432227)

#### B. BUSINESS ITEMS

#### 5. **THE ANNUAL AUDIT LETTER FOR THE 2014/15 AUDITS OF CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL AND WEST YORKSHIRE PENSION FUND**

The External Auditor will submit the Annual Audit Letter (**Document “AA”**) which summarises the key issues arising from the audits of City of Bradford Metropolitan District Council and West Yorkshire Pension Fund for 2014/15.

#### **Recommended-**

**That the Annual Audit Letter for the 2014/15 audits of City of Bradford Metropolitan District Council and West Yorkshire Pension Fund be considered.**

(Steve Appleton – 01274 431995)

#### 6. **A REVISED SANCTIONS POLICY, IN RESPECT OF THOSE WHO COMMIT OFFENCES OF FRAUD, CORRUPTION, THEFT OR OTHER FINANCIAL IRREGULARITY, AGAINST THE COUNCIL**

The Council has been applying sanctions and bringing prosecutions for offences of Housing Benefit (HB) and Council Tax Benefit (CTB) fraud since 1999 under a Committee approved policy. Over time offences such as Council Tax Single Person Discount (SPD) and Misuse of Disabled Persons Blue Badge Scheme were added to the policy as the remit of the Revenues and Benefits Investigation team expanded.

As the responsibility for the investigation, sanction and prosecution of Housing Benefit transferred to the Department for Work and Pensions (DWP) Single Fraud Investigation Service (SFIS) in April 2015, the policy now requires revision to both remove reference to Housing Benefit fraud and to account for the types of fraud that the single Corporate Fraud



Unit are now investigating. The revised policy also needs to consider the criteria used to determine whether a prosecution or an alternative to prosecution sanction is appropriate.

The Finance Director will submit **Document “AB”** which seeks approval on a revised Council policy in respect of applying sanctions and/or pursuing criminal action, through the Courts, to those who commit offences of fraud, corruption, theft or other financial irregularity against the Council.

**Recommended-**

**That the revised Sanctions Policy (Appendix A to Document “AB”) be approved.**

(Tracey Banfield – 01274 434794)

**7. PROPOSED AMENDMENTS TO THE CONSTITUTION**

Previous Reference: Council Minute 58 (2015/16)

The Council on 20 October 2015 referred the Motion on “Council Standing Orders – Report of the Leader of Council” to the Governance and Audit Committee.

In accordance with the above the Interim City Solicitor will submit **Document “AC”** which sets out the terms of the Motion so that the Governance and Audit Committee may make appropriate recommendations to Council.

**Recommended-**

**That Committee make recommendations to Council on the amendments to the Constitution of the Council proposed in the Motion.**

(Dermot Pearson – 01274 432496)

**8. INTERNAL AUDIT PLAN 2015/16 – MONITORING REPORT AS AT 30 SEPTEMBER 2015**

Previous Reference: Minute 16 (2015/16)

The Director of Finance will submit **Document “AD”** which brings to the attention of members of the Committee any significant issues arising from the audit work undertaken to date and to inform them about the progress made up to 30 September 2015, against the Internal Audit Plan, which was approved by the Committee on 24 July 2015.



**Recommended-**

**That the Committee:**

- (1) Takes assurance from the results to date that show that the control environment of the authority is overall satisfactory.**
- (2) Endorse the anticipated coverage and changes of Internal Audit work during the year.**
- (3) Requires Internal Audit to monitor the control environment and continues to assess areas of control weakness and the ability of management to deliver improvements to the control environment when required.**
- (4) Requires Internal Audit to monitor its resourcing levels to ensure that they are sufficient and appropriate to support an effective Internal Audit function.**

(Mark St Romaine – 01274 432888)

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## **Report of the External Auditor to the meeting of Governance and Audit Committee to be held on 27 November 2015.**

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**Subject:**

**AA**

**The annual audit letter for the 2014/15 audits of City of Bradford Metropolitan  
District Council and West Yorkshire Pension Fund**

**Summary statement:**

**The annual audit letter summarises the key findings from our audits for 2014/15.**

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Mark Kirkham  
Director  
Mazars LLP

Report Contact: Steve Appleton  
Phone: (01274) 431995  
E-mail: [steve.appleton@mazars.co.uk](mailto:steve.appleton@mazars.co.uk)

Dermot Pearson, Interim City Solicitor

## **1. SUMMARY**

The annual audit letter summarises the key issues arising from the audits of City of Bradford MDC and West Yorkshire Pension Fund for 2014/15 which have been reported previously to the Committee during the year.

The letter confirms that we gave unqualified audit opinions on the financial statements and the value for money conclusion.

The letter also summarises the key issues detailed in our Audit Completion Reports which we presented to the Committee on 25 September.

## **2. BACKGROUND**

Not applicable.

## **3. OTHER CONSIDERATIONS**

None.

## **4. OPTIONS**

Not applicable.

## **5. FINANCIAL & RESOURCE APPRAISAL**

Not applicable.

## **6. RISK MANAGEMENT AND GOVERNANCE ISSUES**

None.

## **7. LEGAL APPRAISAL**

Not applicable.

## **8. OTHER IMPLICATIONS**

### **8.1 EQUALITY & DIVERSITY**

Not applicable.

### **8.2 SUSTAINABILITY IMPLICATIONS**

Not applicable.

### **8.3 GREENHOUSE GAS EMISSIONS IMPACTS**

Not applicable.



**8.4 COMMUNITY SAFETY IMPLICATIONS**

Not applicable.

**8.5 HUMAN RIGHTS ACT**

Not applicable.

**8.6 TRADE UNION**

Not applicable.

**8.7 WARD IMPLICATIONS**

Not applicable.

**9. NOT FOR PUBLICATION DOCUMENTS**

None.

**10. RECOMMENDATION**

That the Governance and Audit Committee considers the annual audit letter.

**11. APPENDICES**

Annual audit letter

**12. BACKGROUND DOCUMENTS**

None.

# Annual Audit Letter 2014/15

**City of Bradford Metropolitan District Council including  
West Yorkshire Pension Fund**

October 2015

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Leeds  
LS27 7JN

Members  
City of Bradford Metropolitan District Council  
City Hall  
Centenary Square  
Bradford  
BD1 1 HY

October 2015

Dear Members

#### **Annual Audit Letter 2015**

I am delighted to present to you City of Bradford Metropolitan District Council's (the Council's) Annual Audit Letter. The purpose of this document is to summarise the outcome of the audit of the Council's 2014/15 annual accounts and our work on our value for money conclusion.

We carried out the audit in accordance with the Code of Audit Practice for Local Government bodies as issued by the Audit Commission and delivered all expected outputs in line with the timetable established by the Accounts and Audit Regulations 2011 and the National Audit Office.

2014/2015 has been another challenging year for the Council and like most other authorities across the country City of Bradford Metropolitan District Council made some tough decisions on its spending priorities and plans for the future. We reflect on these matters in the value for money and future challenges sections of this letter.

Given the difficult circumstances we were pleased to issue an unqualified opinion on the statement of accounts and the value for money conclusion.

I would like to express my thanks for the assistance of the Council's finance team, as well as senior officers and the Governance and Audit Committee. The continued constructive approach to our audit is appreciated.

If you would like to discuss any matters in more detail then please do not hesitate to contact me or my senior manager Steve Appleton on 0113 387 8850.

Yours faithfully

Mark Kirkham  
Partner  
Mazars LLP

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Our reports are prepared in the context of the Audit Commission’s ‘Statement of responsibilities of auditors and audited bodies’. Reports and letters prepared by appointed auditors and addressed to Members or officers are prepared for the sole use of the Council and we take no responsibility to any Member or officer in their individual capacity or to any third party.

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# 01 Key messages

Our Annual Audit Letter provides a summary of our work and findings for the 2014/15 audit period for Members and other interested parties.

We reported the detailed findings from our audit work to the Governance and Audit Committee in our Audit Completion Reports for City of Bradford Metropolitan District Council and West Yorkshire Pension Fund on 25 September 2015.

We also confirmed that your Whole of Government Accounts (WGA) return was consistent with the audited financial statements.

The key conclusions for each element are summarised below:

## **Our audit of the statement of accounts**

We issued an audit report including an unqualified opinion on the Council's financial statements including West Yorkshire Pension Fund on 28 September 2015.

## **Our VFM conclusion**

We carried out sufficient, relevant work, in line with the Audit Commission's guidance, so that we could conclude on whether you had in place, for 2014/15, proper arrangements to secure economy, efficiency and effectiveness in your use of resources.

We were required to consider two specified criteria:

- the Council has proper arrangements in place for securing financial resilience; and
- the Council has proper arrangements for challenging how it secures economy, efficiency and effectiveness.

We issued an unqualified VFM conclusion on 28 September 2015.

## **Whole of Government Accounts (WGA)**

We provide assurance to the National Audit Office (NAO), as the auditor of central government departments, in relation to the consistency of your WGA consolidation pack with the audited statement of accounts. We reported that your consolidation pack was consistent with the audited statement of accounts.

## **Our other responsibilities**

As the Council's appointed external auditor, we have other powers and responsibilities as set out in the Audit Commission Act 1998. These include responding to questions on the accounts raised by local electors as well as a number of reporting powers such as reporting in the public interest. We did not receive any questions about the accounts or valid objections in relation to your 2014/15 accounts from local electors, nor did we exercise our wider reporting powers.

# 02 Financial statements

## Audit of the financial statements

We audited your financial statements in line with auditing standards and we reported our detailed findings to the meeting of the Governance and Audit Committee on 25 September 2015. We issued an audit report, including an unqualified opinion, on the statement of accounts on 28 September 2015.

## Preparation of the accounts

The Council presented us with draft accounts in accordance with the national deadline. Working papers and other supporting evidence were produced on a timely basis throughout the audit.

## Issues arising from the audit of the accounts

We would like to highlight the following key points:

- officers prepared good quality draft financial statements and working papers;
- there were very few errors identified and no material errors impacting on the Council's General Fund balance;
- all errors were corrected other than those which were clearly trivial;
- the audit progressed well and there were no significant difficulties encountered. We received the full co-operation of officers; and
- we made one minor recommendation to further enhance the closedown process.

## Annual Governance Statement (AGS)

The AGS is drafted by the Council to provide assurance to the reader over how it is managed and how it has dealt with risks in the year. We reviewed the AGS to see whether it complied with relevant guidance and whether it was misleading or was inconsistent with what we know about the Council. We found no areas of concern to report.

## West Yorkshire Pension Fund

We presented the detailed findings from our audit of the West Yorkshire Pension Fund in a separate Audit Completion Report to the Council at the Governance and Audit Committee on 25 September 2015. We noted the following key points:

- officers prepared good quality draft financial statements and working papers;
- there were very few misstatements and disclosure errors identified;
- all errors were corrected except one on the grounds that the misstatement did not have a material impact on the financial statements;
- the audit progressed well and there were no significant difficulties encountered. We received the full co-operation of officers; and
- we did not identify any significant deficiencies in internal controls during the course of the audit (noting our work is not intended to express an opinion on the effectiveness of the system of internal control).

# 03 VFM conclusion

We performed our work in line with the Audit Commission's Code of Audit Practice for Local Government bodies and the Commission's guidance on the VFM conclusion for 2014/15. Our audit report included a conclusion that the Council had proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources.

Our work in this area focused on the two criteria specified by the Audit Commission namely:

Criteria	Focus of the criteria
The Council has proper arrangements in place for securing financial resilience.	Systems and processes to manage financial risks and opportunities effectively, and to secure a stable financial position that enables it to continue to operate for the foreseeable future.
The Council has proper arrangements for challenging how it secures economy, efficiency and effectiveness.	Prioritising resources within tighter budgets, for example, by achieving cost reductions and by improving efficiency and productivity.

As part of our work, we also:

- review your Annual Governance Statement;
- consider the work of other relevant regulatory bodies or inspectorates to the extent the results of the work have an impact on our responsibilities; and
- carry out any risk-based work we determined to be appropriate.

Like other public sector bodies, the Council faces a number of challenges and in light of these we reviewed the Council's arrangements for managing financial risks and securing a stable financial position. We included the results of our review of arrangements for securing VFM in a separate report to the Governance and Audit Committee on the 26 June 2015.

## Risk based work

We identified significant audit risks relating to the funding gap in the medium term financial strategy and the implementation of the Better Care Fund both in respect of the financial resilience criterion.

As reported in our Audit Completion Report, we were able to gain sufficient assurance from our work to mitigate the audit risk but we note that the scale of the financial challenge is so significant that fundamental changes to the level and scope of service provision are envisaged to ensure the Council manages within its available resources.

## Overall conclusion

We satisfied ourselves that, in all significant respects, the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2015 and we issued an unqualified VFM conclusion.

# 04 Future challenges

## Financial challenges

The Council has made good progress in addressing its biggest challenges to date and has a proven track record of strong budget management and delivering planned budget reductions. The Council under-spent on its 2014/15 budget by £3.4 million ending the year with usable corporate reserves of £33.6 million to support future budget decisions although £15 million has been committed to support the 2015/16 budget as planned.

The Council faces significant financial pressure from reduced funding and increasing demand for some services. The Council needs to achieve challenging savings plans and to identify further plans to bridge funding gaps for 2016/17 (£19m) and 2017/18 (£59m).

## Other challenges

The difficulty in maintaining good service performance levels at the same time as reducing budgets is recognised by the Council. Performance assessment arrangements are in place and outcomes are regularly reported to and monitored by Members.

The Council faces a number of other challenges in the coming year which we will consider in planning our audit for 2015/16. These challenges include:

- improving the level of educational attainment;
- the ongoing impact of the Welfare Reform Act;
- responding to pressures on services which face increasing demand such as externally purchased care for adult and community services; and
- joint working with care commissioners and providers and others key partners.

With a financial outlook that is increasingly challenging, to develop locally responsive services that maintain standards of access and quality, the Council will need to continue to:

- carefully forecast and effectively monitor budgets;
- deliver a long term financial strategy that addresses immediate pressure while allowing scope for strategic service change;
- maintain effective arrangements for public engagement; and
- use constructive relationships with partners to safeguard service quality and resilience.



# 05 Fees

As outlined in our Audit Strategy Memoranda for City of Bradford MDC and West Yorkshire Pension Fund presented to the Governance and Audit Committee on 17 April 2015 and 26 June 2015 respectively, the Audit Commission sets a scale fee for our audit and certification work. The fees applicable to our work in 2014/15 are summarised below.

Element of work	2013/14 Final Fee	2014/15 As previously reported	2014/15 Final Fee
<b>City of Bradford Metropolitan District Council</b>			
Code audit work	£246,359	£247,089	£247,089
Certification work	£22,027	£26,310	£26,310
Non-audit work for certification of grants outside the Audit Commission regime	£5,100	£5,250	£5,250
<b>Total</b>	<b>£273,486</b>	<b>£278,649</b>	<b>£278,649</b>
<b>West Yorkshire Pension Fund</b>			
Code audit work	£48,545	£48,545	£48,545

The fee outlined above in relation to certification work is an estimate as we are yet to complete our work on certifying the Council's Housing Benefit claim.

Non-audit work during the year relates to our work certifying the Teachers' Pensions return 2013/14 (£2,000), Home and Communities Agency grants (£1,500) and Regional Growth Fund grant (£1,750) for which fees were agreed separately with officers.

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

**Mark Kirkham**

Partner

T: 0113 387 8850

E: [mark.kirkham@mazars.co.uk](mailto:mark.kirkham@mazars.co.uk)

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## **Report of the Finance Director to the meeting of the Governance & Audit Committee to be held on 27<sup>th</sup> November 2015**

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**AB**

### **Subject:**

A revised Sanctions policy, in respect of those who commit offences of fraud, corruption, theft or other financial irregularity, against the Council.

### **Summary statement:**

The purpose of this report is to seek approval on a revised Council policy in respect of applying sanctions and/or pursuing criminal action, through the Courts, to those who commit offences of fraud, corruption, theft or other financial irregularity against the Council.

Stuart McKinnon-Evans  
Director of Finance

**Portfolio:**  
**Leader of the Council & Strategic  
Regeneration**

Report Contact: Tracey Banfield  
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**Overview & Scrutiny Area:**  
**Corporate**

## **1. SUMMARY**

The purpose of this report is to seek approval on a revised Council policy in respect of applying sanctions and/or pursuing criminal action, through the Courts, to those who commit offences of fraud, corruption, theft or other financial irregularity against the Council.

## **2. BACKGROUND**

Following the introduction of a new Corporate Fraud Unit (CFU), in June 2012, bringing the investigation resources from Internal Audit and the Revenues and Benefits Service together to form a single team, a number of key policies and procedures were identified as requiring revision. One such policy was the Counter Fraud Policy and Strategy that was approved by this Committee on 28<sup>th</sup> June 2013. Another key policy was the one for applying sanctions, including pursuing criminal action, through the Courts, to those who commit offences of fraud, corruption, theft or other financial irregularity against the Council. This was highlighted to Committee on 28<sup>th</sup> June 2013 when the Committee resolved that the Director of Finance bring a draft combined sanctions policy to a future Committee for approval.

The Council has been applying sanctions and bringing prosecutions for offences of Housing Benefit (HB) and Council Tax Benefit (CTB) fraud since 1999 under a Committee approved policy (*Appendix B*). Over time offences such as Council Tax Single Person Discount (SPD) and Misuse of Disabled Persons Blue Badge Scheme were added to the policy as the remit of the Revenues and Benefits Investigation team expanded.

As the responsibility for the investigation, sanction and prosecution of Housing Benefit transferred to the Department for Work and Pensions (DWP) Single Fraud Investigation Service (SFIS) in April 2015, the policy now requires revision to both remove reference to Housing Benefit fraud and to account for the types of fraud that the single Corporate Fraud Unit are now investigating. The revised policy also needs to consider the criteria used to determine whether a prosecution or an alternative to prosecution sanction is appropriate.

## **3. OTHER CONSIDERATIONS**

The objectives of the revised policy remain the same in that the policy seeks to ensure that sanctions are applied in a fair and consistent manner and that the sanction decision making process is stringent, robust and transparent.

The principles of the revised policy will apply equally to any fraud corruption, theft or other financial irregularity against the Council or against funds for which the Council has responsibility.

The full revised Sanctions Policy is shown in *Appendix A* and details of the revisions are summarised below:

The revised Council Sanctions policy retains the 3 levels of sanctions that can be applied to those who commit offences of fraud corruption, theft or other financial irregularity. This is the two “alternative to prosecution” sanction options, formal caution or financial penalty, and the third for more serious cases, criminal proceedings in a Court.

Where a Council employee has committed the offence then additional to one of the 3 sanctions options, disciplinary action may also be taken, however it should be noted that this revised Council Sanctions Policy document does not cover disciplinary matters relating to Council employees. Such disciplinary matters fall under the Council’s own disciplinary policy, “Fairness at Work”.

**“Alternative to prosecution” sanction – Formal Caution**

This is an administrative sanction, offered as an alternative to prosecution, to those who, following investigation, have admitted committing offences of fraud corruption, theft or other financial irregularity.

Once a formal caution has been accepted then the Council will not institute criminal proceedings for that offence, however, should the person commit other subsequent similar offences against the Council then a prosecution may be considered as the first option for that subsequent offence.

Where a formal caution is not accepted or the person fails to respond to invitations to be offered such a sanction then the Council will consider instituting criminal proceedings.

A summary of the criteria for considering whether a formal caution is appropriate is shown in Table A below and compares between current policy and the proposed revised policy.

**Table A**

	<b>Current policy</b>	<b>Proposed revised policy</b>
The loss or potential loss to the Council is.....	Less than £2,000 <ul style="list-style-type: none"> <li>• Covers offences of Housing Benefit and Council Tax Benefit only</li> <li>• Does not apply to offences of wrongful use of a Disabled Persons badge</li> </ul>	Less than £5,000 <ul style="list-style-type: none"> <li>• Covers all offences of fraud, corruption or theft or other financial irregularity <b>and</b> Offences relating to Council Tax Reduction (CTR) Scheme</li> <li>• Does not apply to offences of wrongful use of a Disabled Persons badge</li> </ul>
The offence has been admitted at an interview under caution.	√	√ <ul style="list-style-type: none"> <li>• and reasonable mitigation has been offered and accepted – in offences of wrongful use of a Disabled Persons badge <b>only</b></li> </ul>

The offence has not been deliberate, planned or committed over a long period of time.	√	√
The person has not committed any similar offences against the Council...	<p>In the last 5 years.</p> <ul style="list-style-type: none"> <li>Covers offences of Housing Benefit and Council Tax Benefit only</li> </ul> <p>In the last 2 years</p> <ul style="list-style-type: none"> <li>Applies to offences of wrongful use of a Disabled Persons badge</li> </ul>	<p>In the last 5 years.</p> <ul style="list-style-type: none"> <li>Covers all offences of fraud, corruption or theft or other financial irregularity <b>and</b> Offences relating to Council Tax Reduction (CTR) Scheme <b>and</b> offences of wrongful use of a Disabled Persons badge</li> </ul>
The “Evidential Test” is satisfied (i.e. The Council considers there is sufficient evidence to provide a realistic prospect of conviction should a formal caution be refused).	√	√

### “Alternative to prosecution” sanction – Administrative Penalty

This is a financial penalty, offered as an alternative to prosecution, to those where, following investigation, the Council believes it has sufficient evidence to prosecute.

No admission of guilt is required before offering an administrative penalty, although there is a statutory requirement to ensure that there are grounds for instituting criminal proceedings for an offence and that a written notice concerning the offer of the penalty and its operation is provided to the person concerned.

Whilst administrative penalties form part of the current Sanctions policy they only apply to offences of Housing Benefit and Council Tax benefit and therefore the revised policy introduces a financial penalty for offences relating to Council Tax reduction (CTR) only in accordance with the Local Government Finance Act 1992 (as amended by the Council Tax Reduction Schemes (Detection and Fraud Enforcement) (England) Regulations 2013).

A summary of the criteria for considering whether a financial penalty is appropriate is shown in Table B below and compares between current policy and proposed revised policy.

**Table B**

	Current policy	Proposed revised policy
The loss or potential loss to the Council is.....	<p>Less than £2,000</p> <ul style="list-style-type: none"> <li>Covers offences of Housing Benefit and Council Tax Benefit only</li> </ul>	<p>Less than £5,000</p> <ul style="list-style-type: none"> <li>Covers offences relating to Council Tax Reduction (CTR) Scheme <b>only</b></li> </ul>

The offence has not been deliberate, planned or committed over a long period of time.	√	√
The person has not committed any similar offences against the Council...	In the last 5 years.	In the last 5 years.
The "Evidential Test" is satisfied (i.e. The Council considers there is sufficient evidence to provide a realistic prospect of conviction should a penalty be refused).	√	√

Where the Council considers applying a financial penalty, as a first option, would cause severe hardship then a formal caution will be considered.

The financial penalty will be calculated based on 50% of the extra CTR received with a minimum penalty of £100 and a maximum of £1000 in accordance with the Local Government Finance Act 1992 (as amended by the Council Tax Reduction Schemes (Detection and Fraud Enforcement) (England) Regulations 2013).

### Prosecution

The Council will only consider instituting criminal proceedings where it considers that there is sufficient evidence to provide a realistic prospect of conviction and the public interest factors have been satisfied.

A summary of the criteria for considering whether a prosecution is appropriate is shown in Table C below and compares between current policy and proposed revised policy.

**Table C**

	<b>Current policy</b>	<b>Proposed revised policy</b>
The loss or potential loss to the Council is.....	£2,000 or more <ul style="list-style-type: none"> <li>Covers offences of Housing Benefit and Council Tax Benefit only</li> </ul>	£5,000 or more <ul style="list-style-type: none"> <li>Covers all offences of fraud, corruption or theft or other financial irregularity <b>and</b> Offences relating to Council Tax Reduction (CTR) Scheme</li> </ul>

	<p>In cases where the potential loss to the Council is below the above amount then prosecution will normally only be considered as a first option when one or more of the following apply;-</p> <ul style="list-style-type: none"> <li>• The offence(s) are considered deliberate <b>or</b> planned</li> <li>• The offence(s) have been committed over a long period of time</li> <li>• The offence(s) involve more than one person</li> <li>• Similar offences have been committed in the last 5 years</li> <li>• An alternative to prosecution sanction has been offered and refused.</li> </ul>	
	<p>For offences of wrongful use of a Disabled Persons badge then prosecution will only be considered as a first option where the offence has not been admitted at an interview under caution <b>or</b> the mitigation offered has not been accepted by the Council or any one of the 5 options above apply.</p>	
<p>The “Evidential Test” is satisfied (i.e. The Council considers there is sufficient reliable evidence to provide a realistic prospect of conviction)</p>	√	√
<p>The “Public Interest” Test is satisfied</p>	√	√

#### 4. OPTIONS

Members approve the revised policy attached at Appendix A or make suggestions for changes they consider appropriate.

#### 5. FINANCIAL & RESOURCE APPRAISAL

The revised policy recommends that the financial loss criteria, used to determine whether a prosecution or alternative to prosecution sanction is appropriate, for offences of fraud, corruption, theft or other financial irregularity and offences relating to Council Tax Reduction (CTR) Scheme, should rise from £2,000 to £5,000.

It should be noted that the financial loss criteria does not apply in determining the appropriate sanction on cases related to offences of the misuse of a Disabled Persons Blue Badge.

In applying these revised criteria the Council would not be suggesting that there is a level of fraud it is prepared to tolerate but would be ensuring that the level of sanction applied to those who commit such offences is proportionate and that prosecution through the Criminal Courts is reserved for those committing the more serious offences of fraud and/or those who have reoffended or have been involved in a deliberate, planned or protracted offence(s) of fraud.



This revision of the financial criteria would bring Council policy in line with the other external organisations it regularly works with, for example, the Police, the DWP etc.

This would also support the Council’s effective use of financial investigation under the Proceeds of Crime Act 2002. In all cases where the suspected potential loss is considered to be in excess of £5,000 the Council will consider cases for financial investigation with a view to recovering monies or property obtained as a result of offences of fraud, corruption, theft or other financial irregularity and any offences relating to Council Tax Reduction (CTR) Scheme. When appropriate, the Council will apply or support applications to the courts for restraint orders in order to freeze and stop the offender from dissipating assets. The Council will seek to recover assets by means of supporting confiscation order proceedings under the Proceeds of Crime Act 2002 or the Criminal Justice Act 1988.

In the 18 month period ending 30<sup>th</sup> September 2015, the Council investigated 95 cases that were subsequently prosecuted through the Courts and an additional 102 cases where alternative to prosecution sanctions were applied.

Table D below demonstrates the impact the proposed policy changes would have had on both the numbers of prosecution and “alternative to prosecution” cases and on the costs incurred by the Council had the proposed policy been introduced on 1<sup>st</sup> April 2014.

**Table D**

	<b>Current policy</b>	<b>Proposed revised policy</b>
<b>Total no. of cases prosecuted through the Courts</b>	<p><b>95</b></p> <p><i>Of the 95 cases prosecuted through the Courts, 39 of these were prosecuted by the Council’s Legal Services and the remaining by either the Department for Work and Pensions, who prosecuted the Housing Benefit element on behalf of the Council, or the Crown Prosecution Service (CPS).</i></p>	<p><b>78</b></p> <p><i>Of the 78 cases that would have prosecuted through the Courts, 37 of these would have been prosecuted by the Council’s Legal Services.</i></p>
<b>Total prosecution costs incurred by the Council (investigative and legal)</b>	<b>£56,855.76</b>	<b>£47,034.74</b>
<b>Total no. of cases where an “alternative to prosecution” sanction was applied</b>	<b>102</b>	<p><b>119</b></p> <p><i>This is the total number of cases closed in the period plus an additional 17 who under this policy may not be prosecuted</i></p>

		<i>through the Courts as the offences related to a loss under £5,000.</i>
<b>Total cost to the Council “alternative to prosecution” sanction</b>	<b>£18,465</b> <i>This is the investigative costs only (as there are no legal costs) for the 102 cases</i>	<b>£21,542</b> <i>This is an estimate of the investigative costs for the additional 17 cases</i>
<b>Grand total of cost of prosecutions and sanctions</b>	<b>£75,320.76</b>	<b>£68,576.74</b>

## 6. RISK MANAGEMENT AND GOVERNANCE ISSUES

Where fraud corruption, theft or other financial irregularity is found proven, Officers nominated by the Section 151 Officer, will consider each case on its own merits and consider and apply the appropriate sanction, which may include authorising a prosecution through the Criminal Courts and/or applications for confiscation and /or restraint orders under the Proceeds Of Crime Act 2002 (POCA). The Council’s Solicitors will undertake appropriate criminal prosecutions referred to them and identify those cases which are not suitable for evidential and/or public interest reasons.

## 7. LEGAL APPRAISAL

Where fraud, corruption, theft or other financial irregularity is suspected then fully trained Investigators from the CFU, who specialise in criminal investigations, will take immediate action to thoroughly investigate, in accordance with legislation and advice and guidance from the Council’s Legal Services.

The Council’s Legal Services are a key partner in the delivery of the Council’s Sanctions policy providing specialist advice, support and services and ensuring compliance with all relevant legislation.

The Council has power to bring any criminal proceedings before the Court “in the interests of the inhabitants of its district” under section 222 Local Government Act 1972 and will only do this where it is in the public interest.

In bringing criminal proceedings for offences of fraud, corruption, theft or other financial irregularity the Council will normally use the following legislation;-

- Fraud Act 2006
- Theft Act 1968
- Theft Act 1978

- Road Traffic Act 1984 Section 117 – Offences of Misuse of Disabled Persons Blue Badge
- Proceeds of Crime Act 2002
- Conspiracy to defraud contrary to Common Law
- Prevention Of Social Housing Fraud Act 2013
- Local Government Finance Act (as amended) 1992 - Council Tax Reduction Scheme

## **8. OTHER IMPLICATIONS**

### **8.1 EQUALITY & DIVERSITY**

All decisions on investigations and the application of sanctions are made on the individual facts of the case, taking into account the Council's Sanctions Policy.

### **8.2 SUSTAINABILITY IMPLICATIONS**

None

### **8.3 GREENHOUSE GAS EMISSIONS IMPACTS**

None

### **8.4 COMMUNITY SAFETY IMPLICATIONS**

The reduction of all crime, including fraud, corruption and /or theft, contributes to improving community safety.

### **8.5 HUMAN RIGHTS ACT**

The Council's current counter fraud approach complies with the Human Rights Act, in particular in relation to surveillance and the right to privacy. All surveillance operations are formally approved in compliance with the Regulation of Investigatory Powers Act and Council protocols.

### **8.6 TRADE UNION**

None.

### **8.7 WARD IMPLICATIONS**

None

### **8.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)**

None

## **9. NOT FOR PUBLICATION DOCUMENTS**

None

**10. RECOMMENDATIONS**

**10.1** That the Committee approves the revised Sanctions Policy at Appendix A

**11. APPENDICES**

Appendix A – Revised Sanctions policy  
Appendix B – Current Sanctions Policy

**12. BACKGROUND DOCUMENTS**

None

# **Bradford Metropolitan District Council Sanctions Policy**

## **1.0 Introduction**

The Council's Counter Fraud Policy and Strategy states that *"the Council will ensure that, where fraud, corruption or theft is suspected or detected, it will be thoroughly investigated and any proven cases dealt with consistently and proportionally, applying appropriate sanctions and/or redress for any loss"*.

This document sets out the policy of the Council in respect of applying sanctions and/or pursuing criminal action, through the Courts, against those who commit offences of fraud, corruption, theft or other financial irregularity

The objectives of this policy are to ensure that sanctions are applied in a fair and consistent manner and that the sanction decision making process is stringent, robust and transparent.

The principles of the policy will apply equally to any fraud corruption, theft or other financial irregularity against the Council or against funds for which the Council has responsibility.

## **2.0 General Policy Principles**

Where fraud, corruption, theft or other financial irregularity is suspected then the Council will take immediate action to thoroughly investigate and if proven will apply the appropriate sanction, which may include a prosecution through the Criminal Courts.

Any case that is subject to investigation is considered on its own merits, having regard to all the facts, before an appropriate sanction is administered.

All investigations into fraud, corruption, theft or other financial irregularity will be undertaken by the Council's Corporate Fraud Unit (CFU), and will be in accordance with relevant legislation, Council Policy and advice and guidance from the Council's Legal Services and, where appropriate, Human Resources.

All Corporate Fraud Investigators will be fully trained in undertaking criminal investigations into allegations of fraud, corruption, theft or other financial irregularity and will possess an appropriate Counter Fraud qualification. They will conduct investigations in a professional manner, ensuring that policy and legislation and approved working methods are correctly applied. They will consider each investigation on its own merits and will not let political or personal views about ethnic or national origin, sex, religious beliefs, or the sexual orientation of the suspect, victim or witness influence their actions and will not be affected by improper or undue pressure from any source.

The Council will work closely with the Police and in particular, with the Economic Crime Unit. In all cases where the potential loss to the Council is estimated to be in excess of £5,000, the Council will invite the Police to carry out a joint investigation and where this invitation is accepted the Police will normally take the role of lead investigating and prosecuting body.

In cases where a joint investigation is declined by the Police then the decision to

investigate and apply a sanction will rest with the Council and will be based on the individual facts of the case.

Where necessary, the Council will work in collaboration with other organisations such as the Department for Work and Pensions, Her Majesty's Revenue and Customs and other Local Authorities.

### **3.0 Financial Investigation**

Financial Investigation is an important tool in the fight against crime and it can provide valuable new avenues for investigations. The Proceeds of Crime Act (POCA) 2002 was not intended solely to seize the assets of those committing large-scale financial fraud, but also for those involved in low value, high frequency acquisitive crime.

Bradford Council continues to integrate financial investigation across investigative processes in order to enhance the quality of investigations, disrupt criminality, protect communities and build public trust and confidence sending a strong message to both criminals and the community that "crime will not pay".

Where an investigation into fraud, corruption, theft or other financial irregularity is considered to be likely to result in a conviction, the Council will refer all suitable cases for financial investigation with a view to recovering monies or property obtained as a result of the crime. When appropriate, the Council will apply and/or support applications to the Courts for restraint orders to freeze and stop the offender from dissipating assets. The Council will seek to recover assets by means of supporting confiscation order proceedings under the Proceeds of Crime Act 2002 or the Criminal Justice Act 1988.

### **4.0 Sanction Recommendations, Approvals and Authorisations**

Relevant Officers, exercising delegated authority given by the Council's Section 151 Officer will recommend, approve and authorise the commencement of criminal proceedings and/or applications for confiscation and /or restraint orders under POCA, or apply "alternative to prosecution" sanctions.

### **5.0 Role of the Council's Legal Services**

The Council's Legal Services provide advice and guidance to the Corporate Fraud Unit throughout the investigative process and whilst they will not conduct any part of the investigation they are available to give advice on Investigator obligations and evidential requirements.

Additionally the Council's Legal Services will advise on whether a case is suitable for prosecution. They will undertake appropriate criminal prosecutions referred to them and identify those cases which are not suitable for evidential and/or public interest reasons.

### **6.0 Role of Internal Audit**

In order that the Council’s statutory functions can be fulfilled, the Corporate Fraud Unit will work closely with the Internal Audit Service (IAS), who has a responsibility to ensure that, where an irregularity or fraud occurs, the appropriate controls are in place, weaknesses are identified and recommendations made to improve the control environment.

**7.0 Sanction application**

The Council has a range of sanctions that can be applied to those who commit offences of fraud corruption, theft or other financial irregularity. These include formal cautions or financial penalties, criminal proceedings in a Court and/or disciplinary action, where a Council employee has committed the offence.

The Council will, in certain circumstances, take more than one form of action. For example, where an employee has committed offences of fraud, corruption, theft or other financial irregularity then disciplinary, criminal prosecution and civil recovery action may be appropriate, however the sanction decision will consider every case on its own merits, taking into account factors, such as a person’s physical and mental health, their age, financial circumstances and, in considering prosecution as a first option, whether it is in the public interest in addition to assessing the overall impact of the punishment to both the individual and the community.

It should be noted that this Sanction Policy document does not cover disciplinary matters relating to Council employees. Such disciplinary matters fall under the Council’s own disciplinary policy, “Fairness at Work”.

To ensure a consistent and equitable application of sanctions, the City of Bradford Metropolitan District Council will normally apply the following guidelines.

<p><b><u>Formal Caution</u></b></p> <p>This is an administrative sanction offered in certain circumstances, as an alternative to prosecution.</p> <p>A Formal Caution is normally offered by way of a face to face interview at Council offices and if accepted then the person is admitting to the offence and will be required to sign the appropriate document(s) which will be retained by the City of Bradford Metropolitan District Council.</p> <p>Once a formal caution has been accepted then the Council will not institute criminal proceedings for that offence, however, should the person commit other subsequent similar offences against the City of Bradford Metropolitan District Council then a prosecution may be considered as the first option for that subsequent offence.</p> <p>Where a formal caution is not accepted or the person fails to respond to invitations to be offered such a sanction then the City of Bradford Metropolitan District Council will consider instituting criminal proceedings.</p>	
<p><b>Offences of fraud,</b></p>	<p>The City of Bradford Metropolitan District Council will normally</p>



<p><b>corruption or theft or other financial irregularity</b></p>	<p>only consider offering a formal caution when <b>all</b> of the following apply;-</p>
<p><b>Offences relating to Council Tax Reduction (CTR) Scheme</b></p>	<ul style="list-style-type: none"> <li>• The loss or potential loss to the Council is less than £5,000</li> <li>• The offence has been admitted at an interview under caution.</li> <li>• The offence has not been deliberate, planned or committed over a long period of time.</li> <li>• The person has not committed any similar offences against the Council in the last 5 years.</li> <li>• The “Evidential Test” is satisfied (i.e. The City of Bradford Metropolitan District Council considers there is sufficient evidence to provide a realistic prospect of conviction).</li> </ul> <p>If the offence has not been admitted during an interview under caution, but all the other criteria have been met, a decision will be made in conjunction with the Council’s Legal Services as to whether a formal caution is appropriate.</p> <p>Where the offence is subject to a financial penalty but this will cause severe hardship the Council can consider a formal caution as the first option.</p>
<p><b>Offences of wrongful use of a Disabled Persons badge</b></p>	<p>The City of Bradford Metropolitan District Council will normally only consider offering a formal caution when <b>all</b> of the following apply;-</p> <ul style="list-style-type: none"> <li>• The offence has been admitted at an interview under caution when reasonable mitigation has been offered and accepted.</li> <li>• The offence has not been deliberate, planned or committed over a long period of time</li> <li>• The person has not committed a similar offence in the last 5 years.</li> <li>• The “Evidential Test” is satisfied (i.e. The City of Bradford Metropolitan District Council considers there is sufficient evidence to provide a realistic prospect of conviction).</li> </ul>

<p><b><u>Financial Penalty</u></b></p> <p>This is a financial penalty, offered in certain circumstances, as an alternative to prosecution. Where a financial penalty is not accepted or the person fails to respond to invitations to be offered such a sanction, then the Council will consider instituting criminal proceedings</p> <p>A financial penalty is normally offered by way of a face to face interview at a Council building and if accepted then the person will be required to sign the appropriate document(s) which will be retained by the City of Bradford Metropolitan District Council. A signed copy will be given to the person at the time of interview.</p> <p>Once a financial penalty has been accepted then the Council will not institute criminal proceedings for that offence, however, should the person commit other subsequent similar offences against the City of Bradford Metropolitan District Council then a prosecution may be considered as the first option.</p>	
<p><b>Offences of fraud, corruption, theft or other financial irregularity</b></p>	<p>The City of Bradford Metropolitan District Council will not consider offering financial penalties as an alternative to prosecution for this type of offence.</p>
<p><b>Offences relating to Council Tax Reduction (CTR) Scheme</b></p>	<p>The City of Bradford Metropolitan District Council will normally only consider offering a financial penalty when <b>all</b> of the following apply;-</p> <ul style="list-style-type: none"> <li>• The loss or potential loss to the Council is less than £5,000</li> <li>• The offence has not been deliberate, planned or committed over a long period of time.</li> <li>• The person has not committed any similar offences against the Council in the last 5 years.</li> <li>• The “Evidential Test” is satisfied (i.e. The City of Bradford Metropolitan District Council considers there is sufficient evidence to provide a realistic prospect of conviction).</li> </ul> <p>Where the Council considers applying a financial penalty, as a first option, and this would cause severe hardship then a formal caution will be considered.</p> <p>The financial penalty will be calculated based on 50% of the</p>

	<p>extra CTR received with a minimum penalty of £100 and a maximum of £1000*</p> <p>* in accordance with the Local Government Finance Act 1992 (as amended by the Council Tax Reduction Schemes (Detection and Fraud Enforcement)(England)Regulations 2013)</p>
<b>Offences of wrongful use of a Disabled Persons badge</b>	The City of Bradford Metropolitan District Council will not consider offering financial penalties as an alternative to prosecution for this type of offence.
<b><u>Prosecution</u></b>	
<b>Offences of fraud, corruption, theft or other financial irregularity</b>	<p>The City of Bradford Metropolitan District Council will normally only consider instituting criminal proceedings when <b>all</b> of the following apply;-</p> <ul style="list-style-type: none"> <li>• The loss or potential loss to the Council exceeds £5,000.</li> <li>• The “Evidential Test” is satisfied (i.e. The City of Bradford Metropolitan District Council considers there is sufficient evidence to provide a realistic prospect of conviction).</li> <li>• The Public Interest test is satisfied. (i.e. The City of Bradford Metropolitan District Council has considered the public interest factors in determining whether to prosecute or consider an “alternative to prosecution”).</li> </ul> <p>Some exceptions to this are (not an exhaustive list);-</p> <ul style="list-style-type: none"> <li>• A formal caution has been offered and refused.</li> <li>• There are known previous convictions for fraud related offences against the Council.</li> <li>• The offence has been deliberate, planned, committed over a long period of time or involved more than one person.</li> </ul>
<b>Offences relating to the Council Tax Reduction (CTR) Scheme</b>	<p>The City of Bradford Metropolitan District Council will normally only consider instituting criminal proceedings when <b>all</b> of the following apply;-</p> <ul style="list-style-type: none"> <li>• The loss or potential loss to the Council exceeds £5,000.</li> <li>• The “Evidential Test” is satisfied (i.e. The City of Bradford Metropolitan District Council considers there is sufficient evidence to provide a realistic prospect of conviction)</li> </ul>

	<ul style="list-style-type: none"> <li>• The Public Interest test is satisfied. (i.e. The City of Bradford Metropolitan District Council has considered the public interest factors in determining whether to prosecute or consider an “alternative to prosecution”).</li> </ul> <p>Some exceptions to this are (not an exhaustive list);-</p> <ul style="list-style-type: none"> <li>• A formal caution or financial penalty has been offered and refused</li> <li>• There are known previous convictions for Council Tax related offences</li> <li>• The offence has been deliberate, planned, committed over a long period of time or involved more than one person.</li> </ul>
<p><b>Offences of wrongful use of a Disabled Persons badge</b></p>	<p>The City of Bradford Metropolitan District Council will normally only consider instituting criminal proceedings as a first option when <b>all</b> of the following apply;-</p> <ul style="list-style-type: none"> <li>• The offence has not been admitted at an interview under caution <b>or</b> the mitigation offered has not been accepted by the Council.</li> <li>• The “Evidential Test” is satisfied (i.e. The City of Bradford Metropolitan District Council considers there is sufficient evidence to provide a realistic prospect of conviction).</li> <li>• The Public Interest test is satisfied (i.e. The City of Bradford Metropolitan District Council has considered the public interest factors in determining whether to prosecute or consider an “alternative to prosecution”).</li> </ul> <p>Some exceptions to this are (not an exhaustive list);-</p> <ul style="list-style-type: none"> <li>• A formal caution has been refused</li> <li>• There are known previous convictions for Blue Badge related offences</li> <li>• The offence has been deliberate, planned, committed over a long period of time or involved more than one person.</li> </ul>

## 8.0 Recovery of losses

Where the Council has suffered a financial loss arising from offences of fraud, corruption, theft or other financial irregularity including CTR offences then it will make vigorous attempts to recover the resultant loss, including taking action in the Civil Courts if

necessary, in addition to any sanction that may be imposed in respect of that offence.

In cases where the loss to the Council is estimated to be in excess of £5,000 then the Council will consider instigating a financial investigation – see para 3.0.

# **Revenues and Benefits Service Sanctions Policy**

## **Introduction**

This document sets out the policy of the City of Bradford Metropolitan District Council towards sanctions including criminal prosecutions, for offences relating to revenues and benefit fraud.

## **General Principles**

The City of Bradford Metropolitan District Council is committed to the prevention, detection, correction, investigation and, where appropriate, sanction or prosecution of those making a fraudulent revenues or benefits applications or abusing or misusing a disabled persons Blue Badge.

The City of Bradford Metropolitan District Council wishes to prevent criminal offences occurring by making it clear to the people of the District that they have a responsibility to provide accurate and timely information about their Revenues and Benefits claims, discounts, exemptions, disregards and concessions to punish wrong doing and to deter offending.

Each potential fraud referral is assessed and the assessment will result either in cases being investigated further under criminal investigation standards or referred for compliance action. Compliance action usually consists of an interview where the customer is questioned about any allegations. Further action will depend upon the outcome of the interview.

Each case that is subject to criminal investigation is considered on its own merits, having regard to all the facts, before an appropriate sanction is administered.

## **Organisation**

Both Criminal and Compliance investigations are undertaken by the Council's Revenues and Benefits Service Counter Fraud Team.

Criminal Investigations are undertaken in accordance with:-

- The Police and Criminal Evidence Act 1984 (PACE) and its Codes of Practice
- The Criminal Procedures and Investigations Act 1996 (CPIA) and its Codes of Practice
- All other relevant legislation
- Council Policy
- Guidance from the Department for Work and Pensions
- Advice from the Council's Legal Services
- Advice from the Department for Work and Pensions Solicitors Branch

Counter Fraud officers involved in criminal investigations receive Professionalism in Security (PINS) training which is accredited by the University of Portsmouth. Additional guidance is provided by Counter Fraud Working Practices and the DWP Fraud Procedures and Instructions Manual which are regularly updated to ensure that investigations are

conducted in a legal and professional manner, policy and legislation and approved working methods are correctly applied.

Recommendations to apply sanctions will be made by the Assistant Benefit Manager (Counter Fraud), Section Leader (Counter Fraud) or a Senior Counter Fraud Officer.

All recommendations to institute criminal proceedings will be authorised by the Benefits Manager, Revenues Manager or the Assistant Director - Revenues and Benefits

The Council's Solicitors are a prosecuting authority in their own right and they will advise on whether a case is suitable for prosecution and take the case forward or identify those cases which are not suitable for criminal prosecution for evidential and/or public interest reasons. Most cases are seen before a Magistrates Court although the more serious cases are usually referred to the Crown Court.

The Council's Solicitors provide advice and guidance to the Revenues and Benefits Service Counter Fraud team throughout the investigative and prosecuting process. They do not conduct any part of the investigation but advise on the Counter Fraud Officers obligations, and evidential requirements.

In relation to housing and council tax benefit the Council works closely with the Department for Work and Pensions operating under similar prosecution practices and signs up to a partnership agreement which supports joint working activity. Prosecutions arising from such joint work would normally be prosecuted by the DWP Solicitors Branch who would include Housing Benefit and/or Council Tax Benefits along with any "National" benefit

The Social Security (Local Authority Investigations and Prosecutions) Regulations 2008, introduced under the Welfare Reform Act 2008, gives Local Authorities powers to investigate and prosecute offences against the following national social security benefits alongside HB and / or CTB.

- Income Support (IS)
- Jobseeker's Allowance (JSA)
- Incapacity Benefit (IB)
- State Pension Credit, and
- Employment and Support Allowance (ESA)

### **Sanction Process**

Where an offence has been committed the Council can consider administering a caution, offering a penalty or instigating a prosecution. Every case will be considered on its own merits, taking into account factors, such as a person's physical and mental health, their age, financial circumstances and, in considering prosecution as a first option, whether it is in the public interest. To ensure a consistent and equitable application of sanctions, the City of Bradford Metropolitan District Council will normally apply the following guidelines.



**“ Housing Benefit/Council Tax Benefit Alternative to prosecution sanctions”**

**Formal Caution ( housing and council tax benefit)**

**Introduction**

A formal caution is an administrative sanction given in certain circumstances to a person who has committed an offence. The Council will offer this as an alternative to prosecution where certain criteria are met and the case is one that the Council would prosecute if the caution was refused.

Formal cautioning is based on a principle that no prosecuting authority is under an obligation to prosecute. The City of Bradford Metropolitan District Council recognises the need to introduce a meaningful penalty and deterrent for those persons who commit offences considered to be less serious, whilst also being aware of the increasing importance of keeping offenders out of the Courts. The City of Bradford Metropolitan District Council will, therefore, in certain circumstances, consider offering a formal caution.

**Criteria**

The City of Bradford Metropolitan District Council will normally only consider offering a formal caution when **all** of the following apply;-

- The overpayment is less than £2,000
- The offence has been admitted at an interview under caution.
- The offence has not been deliberate, planned or committed over a long period of time.
- The person has not committed a benefits fraud offence in the last 5 years.
- The “Evidential Test” is satisfied (i.e. The City of Bradford Metropolitan District Council considers there is sufficient reliable evidence to provide a realistic prospect of conviction should a formal caution be refused).

If the offence has not been admitted during an interview under caution, but all the other criteria have been met, the case will be referred to Legal Services who will decide whether a formal caution is appropriate.

The Council may investigate cases jointly with the DWP, in these cases the offering of a Caution may be delegated to either agency.

## **Administrative Penalty (housing and council tax benefit fraud)**

<b>Introduction</b>	<p>Section 115a of the Social Security Administration Act 1992 (as amended by Section 15 of the Social Security Administration (Fraud) Act 1997) introduced administrative penalties as an alternative to a prosecution in Court.</p> <p>The penalty is set at 30% of the gross fraudulent overpayment of benefit. Failure to repay the overpayment or penalty, may result in court action being taken.</p> <p>The Council may investigate cases jointly with the DWP, in these cases the offering of an administrative Penalty may be delegated to either agency.</p>
<b>Criteria</b>	<p>The City of Bradford Metropolitan District Council will normally only consider offering an Administrative Penalty when <b>all</b> of the following apply;-</p> <ul style="list-style-type: none"><li>• The gross adjudicated overpayment is more than £50 but less than £2,000.</li><li>• The offence has not been deliberate, planned or committed over a long period of time.</li><li>• The person has not committed a benefit fraud offence in the last 5 years.</li><li>• The “Evidential Test” is satisfied (i.e. The City of Bradford Metropolitan District Council considers there is sufficient reliable evidence to provide a realistic prospect of conviction should an administrative penalty be refused).</li><li>• The offer of an administrative penalty would not cause financial hardship.</li></ul>
<b><u>Fraud Prosecutions</u></b>	
<b>Introduction</b>	<p>Fraud prosecutions will normally be processed by the Criminal Litigation Department of the City of Bradford Metropolitan District Council, however, in cases where a joint investigation has been carried out with the Department for Work and Pensions Fraud Investigation Service (FIS), the DWP Solicitors Branch will normally process the prosecution on behalf of the City of Bradford Metropolitan District Council. Where this is not possible then the Council will consider using its powers, under</p>

	<p>the Social Security (Local Authority Investigations and Prosecutions) Regulations 2008, to process the prosecution in respect of national and local benefits.</p> <p>In all prosecution cases the Council or DWP Solicitors retain discretion as to whether criminal proceedings are started.</p>
<b>Criteria</b>	<p>The City of Bradford Metropolitan District Council will normally only consider instituting criminal proceedings as a first option when <b>all</b> of the following apply;-</p> <ul style="list-style-type: none"> <li>• The overpayment is over £2,000.</li> <li>• The “Evidential Test” is satisfied (i.e. The City of Bradford Metropolitan District Council considers there is sufficient reliable evidence to provide a realistic prospect of conviction)</li> <li>• The Public Interest test is satisfied. (i.e. The City of Bradford Metropolitan District Council has considered the public interest factors in determining whether to prosecute or consider an “alternative to prosecution”).</li> </ul> <p>Some exceptions to this are (not an exhaustive list);-</p> <ul style="list-style-type: none"> <li>• A formal caution or penalty has been refused</li> <li>• Acceptance of an administrative penalty has been withdrawn.</li> <li>• There are known previous convictions for benefit fraud offences</li> <li>• The offence has been deliberate, planned, committed over a long period of time or involved more than one person.</li> </ul>
<b><u>Council Tax Single Person Discount</u></b>	
<b><u>Introduction</u></b>	<p><u>Schedule 3 of Local Government Finance Act 1992 allows penalties to be raised in relation to the failure to supply information or to notify a billing authority. There are two levels of penalty depending on whether it is a first or a repeat offence.</u></p> <p>A criminal prosecution could also be pursued by the Council under Fraud Act 2006 for the same incorrect relevant material or failing to report a change in circumstances.</p>
<b>Criteria</b>	<p>The City of Bradford Metropolitan District Council will normally only consider offering a penalty or consider a prosecution when at least one of the following apply;-</p> <p>Penalty</p> <ul style="list-style-type: none"> <li>• False documents received and evidence proves a change in circumstances was not notified to the council</li> </ul>

	<p>Prosecution</p> <ul style="list-style-type: none"> <li>• The offence has been admitted at an interview.</li> <li>• The offence has been deliberate or planned.</li> <li>• A prosecution may be considered if 2 penalties have already been issued</li> </ul>
<p><b><u>Blue Badge Misuse/Abuse</u></b></p>	
<p><b><u>Introduction</u></b></p>	<p>Action can be pursued by the Council under Section 117 and 112 of the Road Traffic Regulation Act 1984 or Section 21(4B) of the Chronically Sick and Disabled Persons Act 1970, Or under the Fraud Act 2006, or Forgery and Counterfeiting Act 1981, all of which enables prosecutions to be taken against people who may have misused a blue badge or used a copied / forged / stolen or a deceased person's badge. Cases to be summonsed no later than 6 months from the date of offence.</p>
<p><b><u>Criteria Formal Caution</u></b></p> <p><b><u>Prosecution</u></b></p>	<p>The City of Bradford Metropolitan District Council will normally only consider offering a formal caution when <b>all</b> of the following apply;-</p> <ul style="list-style-type: none"> <li>• The offence has been admitted at an interview under caution</li> <li>• The offence has not been deliberate, planned or committed over a period of time.</li> <li>• The person has not committed a Blue Badge related offence in the last 2 years.</li> <li>• The “Evidential Test” is satisfied (i.e. The City of Bradford Metropolitan District Council considers there is sufficient reliable evidence to provide a realistic prospect of conviction should a formal caution be refused).</li> </ul> <p>The City of Bradford Metropolitan District Council will normally only consider instituting criminal proceedings as a first option when <b>all</b> of the following apply;-</p> <ul style="list-style-type: none"> <li>• The “Evidential Test” is satisfied (i.e. The City of Bradford Metropolitan District Council considers there is sufficient reliable evidence to provide a realistic prospect of conviction</li> </ul>

	<ul style="list-style-type: none"> <li>• The Public Interest test is satisfied. (i.e. The City of Bradford Metropolitan District Council has considered the public interest factors in determining whether to prosecute or consider an “alternative to prosecution”.)</li> <li>• The offence has been deliberate, planned or committed over a long period of time</li> </ul> <p>Some exceptions to this are (not an exhaustive list);-</p> <ul style="list-style-type: none"> <li>• A formal caution has been refused</li> <li>• There are known previous convictions for Blue Badge offences</li> </ul>
<p><b><u>Administering formal cautions and penalties for HB/CTB and Blue badge</u></b></p>	
<p><b>Who will administer “alternative to prosecution” sanctions?</b></p>	<p>Most formal cautions and penalties will be administered in-house by dedicated staff, from the counter fraud team or a nominated Officer from Revenues for Council Tax penalties.</p> <p>In certain circumstances of benefit fraud the administration of formal cautions and administrative penalties can be delegated to the DWP who will administer both the LA and DWP sanction simultaneously.</p> <p>Where a customer has moved out of the Bradford district then another LA may be asked to administer the sanction on Bradford’s behalf.</p>
<p><b>Accepting or rejecting “alternative to prosecution” sanctions</b></p>	<p>All persons who are to be offered a formal caution or penalty by The City of Bradford Metropolitan District Council will be contacted in writing and in Housing, Council Tax Benefit and Blue Badge cases offered the opportunity of an interview to explain the process.</p> <p>If a formal caution or administrative penalty is accepted then the person will be required to sign the appropriate document(s) which will be retained by the City of Bradford Metropolitan District Council. A signed copy will be given to the person at the time of interview.</p> <p>Once a formal caution or administrative penalty has been accepted then the Council will not institute criminal proceedings for that offence, however, should the person commit other subsequent benefit fraud or Blue Badge offence against the City of Bradford Metropolitan District Council then a prosecution may be considered as the first option.</p> <p>Upon accepting an administrative penalty, a person has 28 days in which to change their mind. If a penalty is not withdrawn within that time then action to recover the administrative penalty will commence.</p> <p>If a formal caution or administrative penalty are;-</p>

- |  |   |
|--|---|
|  | <ul style="list-style-type: none"><li>• Not accepted or</li><li>• Withdrawn within 28 days (administrative penalty cases only), or</li><li>• Invitations to attend sanction interviews are declined</li></ul> |
|--|---|

The City of Bradford Metropolitan District Council will consider instituting criminal proceedings.

### **Recovery of debt**

Where an overpayment arising from fraud is identified the City of Bradford Metropolitan District Council will take steps to recover the resultant debt, including taking action in the Civil Courts if necessary, in addition to any sanction it may impose in respect of that fraud.

## Report of the Interim City Solicitor to the meeting of Governance and Audit Committee on 27 November 2015

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### AC

**Subject:**

Proposed Amendments to the Constitution

**Summary statement:**

At the meeting of Council on 20 October 2015 Council referred the Motion on “Council Standing Orders – Report of the Leader of Council” to the Governance and Audit Committee for report.

This report sets out the terms of the Motion so that the Governance and Audit Committee may make appropriate recommendations to Council.

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Dermot Pearson  
Interim City Solicitor

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## 1. Summary

- 1.1 At the meeting of Council on 20 October 2015 Council referred the following motion to Governance and Audit Committee for report:

### ***COUNCIL STANDING ORDERS – REPORT OF THE LEADER OF THE COUNCIL***

*To be moved by Councillor Green  
Seconded by Councillor Val Slater*

*This Council recognises that the format of the current Full Council Meeting Agenda limits the opportunities for all Elected Members to receive the most up to date information on issues of significance affecting the District and to ask questions about any action that the Council or other parties are taking to address those issues.*

*The Council therefore believes that its Standing Orders should be amended to allow for a written Leader's Report to be circulated at the meeting updating members on key issues and providing the opportunity for them to ask questions relating to issues raised in the report.*

*This Council resolves that Council Standing Orders be amended as follows:  
To insert a new paragraph 4.1.9A in standing order 4 to read:*

#### *4.1.9A Report by the Leader of the Council*

*To insert a new standing order 11A, to read:*

#### *11A Report by the Leader of the Council*

*11A.1 At each ordinary meeting of Council, not including any meeting at which consideration of the Council's budget is on the agenda, the Leader or a member of the Council nominated by the Leader will provide a written report, a copy of which shall be made available to every member of Council and the public at the commencement of the meeting.*

*11A.2 There shall be a period of up to 15 minutes during which any member of the Council may ask the Leader of the Council or the member of the Council nominated by the Leader a question on any matter arising out of the written report.*

*11A.3 The Leader of the Council or the member of the Council nominated by the Leader will reply to each question and the answer may take the form of:*

*11A.3.1 A direct oral answer.*

*11A.3.2 Where the desired information is contained in a Council publication or a publication of a relevant joint authority, a reference to that publication.*

*11A.3.3 Where the reply cannot conveniently be given orally, a written answer circulated to all members of Council.*



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11A.3.4      *A reference to a written answer provided under standing order 12.9*

## **2. Background**

- 2.1 There is currently no provision in the Constitution of the Council for the Leader of the Council to make such a report.

## **3. Proposed Amendments to the Constitution**

- 3.1 At the Appendix to this report are set out the relevant extracts from the current Rules of Procedure at Part 3A of the Constitution with the proposed amendments in italics.

## **4. Financial and Resource Appraisal**

- 4.1 The resources required to amend the Constitution can be met from existing provision.

## **5. Legal Appraisal**

- 5.1 It is a matter for Council as to whether it wishes to have report from the Leader of the Council at each meeting of Council.

## **6. Other Implications**

- 6.1 There are no equal rights, sustainability, community safety, Human Rights Act or trade union implications of this report.

## **7. Not for Publication Documents**

- 7.1 None

## **8. Recommendation**

- 8.1 That Committee make recommendations to Council on the amendments to the Constitution of the Council proposed in the Motion.

## **9. Background Papers**

- 9.1 Constitution of the Council, available at:

<http://www.bradford.gov.uk/NR/rdonlyres/1AC7A905-A2C8-47A9-847F-69B0AE65B4B9/0/CBMDCCConstitution.pdf>

## **10. Appendix**

- 10.1 Extracts from the Council's Constitution showing proposed amendments in italics.

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## APPENDIX

### EXTRACTS FROM THE COUNCIL'S CONSTITUTION SHOWING PROPOSED AMENDMENTS IN ITALICS

#### PART 3A RULES OF PROCEDURE

##### STANDING ORDER 4

###### 4 Ordinary Meetings

4.1 At ordinary meetings, business will usually be dealt with in the following order:

4.1.1 Choice of a person to chair the meeting if the Lord Mayor and Deputy Lord Mayor are absent.

4.1.2 Disclosures of interest from members and officers.

4.1.3 Agreeing the minutes of the last meeting and signing them.

4.1.4 Receiving any apologies for absence.

4.1.5 Written announcements from the Lord Mayor. These (if any) will be circulated to all members and placed in the public galleries before the meeting starts.

4.1.6 Considering any appeal against a decision to restrict a document.

4.1.7 Petitions.

4.1.8 Public Question Time.

4.1.9 Membership of the Executive, committees and joint committees, appointment of chairs and deputy chairs of committees excluding area committees.

*4.1.9A Report by the Leader of the Council*

4.1.10 Member Question Time.

4.1.11 Any business remaining from previous meetings.

4.1.12 Recommendations from the Executive and committees.

4.1.13 Motions (in the order in which they were notified).

4.1.14 Other business on the agenda.

4.2 The order of the items set out in paragraphs 4.1.5 to 4.1.14 may be changed by the meeting on a motion passed without discussion.

4.3 The items set out in paragraphs 4.1.7, 4.1.8, 4.1.10, 4.1.11 and 4.1.13 will not be considered at any meeting at which the setting of the Council Tax as part of the budget process is on the agenda.

##### PROPOSED NEW STANDING ORDER 11A

*11A Report by the Leader of the Council*

*11A.1 At each ordinary meeting of Council, not including any meeting at which consideration of the Council's budget is on the agenda, the Leader or a member of the Council nominated by the Leader will provide a written report, a copy of which shall be made available to every member of Council and the public at the commencement of the meeting.*

*11A.2 There shall be a period of up to 15 minutes during which any member of the Council may ask the Leader of the Council or the member of the Council nominated by the Leader a question on any matter arising out of the written report.*

---

11A.3 *The Leader of the Council or the member of the Council nominated by the Leader will reply to each question and the answer may take the form of:*

11A.3.1 *A direct oral answer.*

11A.3.2 *Where the desired information is contained in a Council publication or a publication of a relevant joint authority, a reference to that publication.*

11A.3.3 *Where the reply cannot conveniently be given orally, a written answer circulated to all members of Council.*

11A.3.4 *A reference to a written answer provided under standing order 12.9*

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**Report of the Director of Finance to the meeting of the Governance and Audit Committee to be held on 27 November 2015.**

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**AD**

**Subject:**

**INTERNAL AUDIT PLAN 2015/16 – MONITORING REPORT AS AT 30 SEPTEMBER 2015**

**Summary statement:**

**This report monitors the progress made by Internal Audit against the Internal Audit Plan for 2015/16 as at 30 September 2015.**

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Stuart McKinnon-Evans  
Director of Finance

**Portfolio**

**Leader of Council and Strategic  
Regeneration**

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**Improvement Area:**

**Corporate**

## **SUMMARY**

- 1.1 The purpose of this report is to bring to the attention of members of the Governance and Audit Committee (G&AC) any significant issues arising from the audit work undertaken to date and to inform them about the progress made up to 30 September 2015, against the Internal Audit Plan, which was approved by the Committee on 24 July 2015.

## **2. BACKGROUND**

- 2.1 Internal Audit is part of Financial Services within the Department of Finance. This is the half year monitoring report on the Internal Audit Plan for 2015/16. This is detailed in Appendix 1. The overall Audit Opinion is that from the audit work performed to date, Internal Audit concludes that the Council's overall control framework is satisfactory.
- 2.2 The report enables the Council to demonstrate compliance with the Public Sector Internal Audit Standards (PSIAS). These require the Head of Internal Audit & Insurance to report periodically to the Governance and Audit Committee on Internal Audit's activity, purpose, authority, responsibility and performance relative to its plan. Reporting must also include significant risk exposures and control issues, including fraud risks, governance issues and other matters needed or requested either by senior management or the Governance and Audit Committee.

The PSIAS also require the Head of Internal Audit & Insurance to communicate the Internal Audit activity's plans and resource requirements, including significant interim changes, to the Governance and Audit Committee, including any impact of resource limitations.

- 2.3 Due to pressures on resources and the need to maintain a sustainable service, the Internal Audit sections of Bradford and Wakefield have been looking to deliver efficiencies through joint working. From 1st September 2014 Wakefield and Bradford Councils have shared a Head of Internal Audit. This has been undertaken through a Service Level Agreement which also requires a business case by the 31<sup>st</sup> December 2015 to determine future service arrangements.

Bradford will also be buying in computer audit service days from Wakefield in 2015/16, as its Computer Auditor retired in March 2015. Opportunities to increase joint working in the future are actively being explored by both audit teams and a joint training day is also taking place in December 2015.

## **3. OVERVIEW AND SCRUTINY COMMITTEE CONSIDERATION**

- 3.1 Not Applicable.

## **4. OTHER CONSIDERATIONS**

- 4.1 There are no other considerations.

## **5. OPTIONS**

- 5.1 Not applicable

## **6. FINANCIAL AND RESOURCE APPRAISAL**

6.1 The work of Internal Audit adds value to the Council by providing management with an assessment on the effectiveness of internal control systems, making, where appropriate, recommendations that if implemented will reduce risk and deal with financial uncertainty.

## **7. RISK MANAGEMENT**

7.1 The work undertaken by Internal Audit is primarily concerned with examining risks within various systems of the Council and making recommendations to mitigate those risks. Consideration was given to the corporate risk register when the Audit Plan for 2015/16 was drawn up and any issues on the risk register that relate to an individual audit are included within the scope.

7.2 The key risks examined in our audits are discussed with management at the start of the audit and the implementation of recommendations is followed up with Strategic Directors.

## **8. LEGAL APPRAISAL**

8.1 The Accounts and Audit Regulations for 2015 require the Council to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance. These standards are detailed in the Public Sector Internal Audit Standards supported by CIPFA's Local Government Application Note.

## **9. OTHER IMPLICATIONS**

### **9.1 Equal Rights**

Internal Audit seeks assurance that the Council fulfils its responsibilities in accordance with its statutory responsibilities and its own internal guidelines. When carrying out its work Internal Audit reviews the delivery of services to ensure that they are provided in accordance with the formal decision making process of the Council.

### **9.2 Sustainability Implications**

When reviewing Council Business Internal Audit examines the sustainability of the activity and ensures that mechanisms are in place so that services are provided within the resources available

### **9.3 Greenhouse Gas Emissions Impacts**

There are no impacts on Gas Emissions.

### **9.4 Community Safety Implications**

There are no direct community safety implications.

### **9.5 Human Rights Act**

There are no direct Human Rights Act implications.

## 9.6 **Trade Union**

There are no implications for the Trade Unions arising from the report.

## 9.7 **Ward Implications**

Internal Audit will undertake specific audits through the year which will ensure that the decisions of council are properly carried out.

## 10. **NOT FOR PUBLICATION DOCUMENTS**

10.1 None.

## 11. **RECOMMENDATIONS**

That the Governance and Audit Committee:

11.1 Takes assurance from the results to date that show that the control environment of the authority is overall satisfactory.

11.2 Endorse the anticipated coverage and changes of Internal Audit work during the year.

11.3 Requires Internal Audit to monitor the control environment and continues to assess areas of control weakness and the ability of management to deliver improvements to the control environment when required.

11.4 Requires Internal Audit to monitor its resourcing levels to ensure that they are sufficient and appropriate to support an effective Internal Audit function.

## 12. **APPENDICES**

Appendix 1 – Internal Audit Plan for 2015/16 – Monitoring Report as at 30<sup>th</sup> September 2015.

## 13. **BACKGROUND DOCUMENTS**

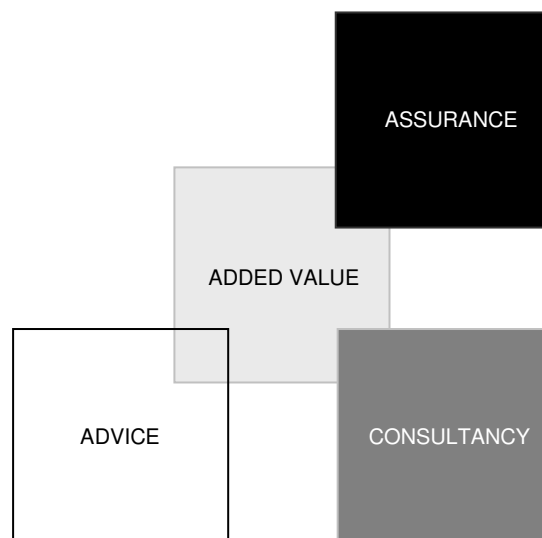
13.1 G&AC report dated 24 July 2015 – Internal Audit Plan 2015/16.



**INTERNAL AUDIT PLAN 2015/16**

**MONITORING REPORT**

**AS AT 30.09.15.**



## **1 INTRODUCTION**

The Internal Audit Annual Plan for 2015/16 was approved by the Governance and Audit Committee (G&AC) at its meeting on 24 July 2015. This report is the half year monitoring report for this financial year. It identifies the progress made against the Internal Audit Plan up until 30 September 2015 and identifies any significant audit issues arising.

## **2 RESOURCES**

### **2.1 Reduction in Audit Resources**

The Internal Audit Plan for 2015/16 has 30% less capacity than in 2014/15 (1795 days v 2567 days) and 34% less than in 2013/14 (2732 days). This reduction has required the Service in conjunction with the s151 officer to consider and prioritise the use of these resources. The main core delivery of Internal Audit in 2015/16 was planned to be the provision of assurance on the Council's fundamental financial systems.

Further, in September 2014 the Council entered into a Service Level Agreement (SLA) with Wakefield Council, for Bradford to provide its Head of Internal Audit and Insurance to manage Wakefield's Internal Audit & Risk Service. The SLA also requires a Business Plan to be prepared for December 2015 to determine an option appraisal for future service delivery.

This SLA commitment, together with insurance management and accountancy support to Bradford, absorb 184 days (10%) of the available planned 1795 days. In addition, a further 170 days are provided to West Yorkshire Pension Fund. The net audit days currently provided to Bradford Council in 2015/16 is 1441 days. This is to be increased slightly by the buying in of computer audit service days (estimated to be 60 days p.a.) from Wakefield, as Bradford's Computer Auditor retired in March 2015. This arrangement is to commence in the 2<sup>nd</sup> half of 2015/16.

The net outcome, assuming no other changes impacting on resources occur in the year, is that Bradford Council will receive circa 1470 audit days in 2015/16.

## **3 SERVICE DELIVERY**

### **3.1 Audit Coverage**

As at 30 September 2015, 48% of the 2015/16 audit plan has been completed compared to last year when 41% of the 2014/15 audit plan had been completed by this time.

However, Internal Audit faces a challenge in the second half of 2015/16 to deliver the audit plan. This challenge is due to the available resources of the function, which now has very limited capacity to absorb unforeseen audit issues and unplanned work, without it affecting the delivery of planned core audit work.

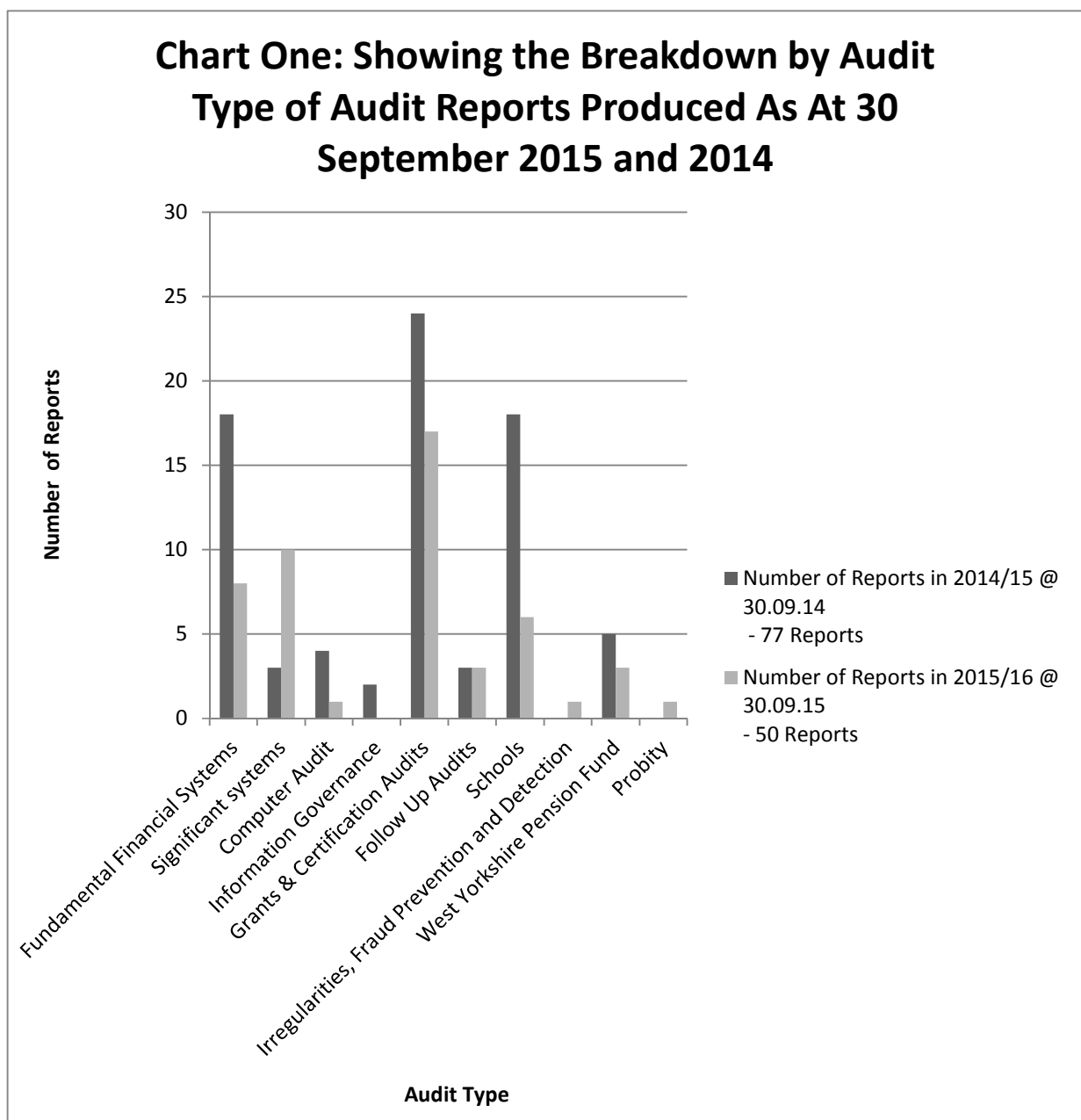
During the year to date there have been some revisions to the 2015/16 audit plan to reflect the priorities of the service and that several audits are taking more time to complete than was anticipated. These plan changes are detailed in section 3.7. The net effect of the proposed changes is that the section will focus marginally less on significant and fundamental systems than planned.

Currently it is forecast that 90% of the audit plan will be delivered by the end of the financial year which is the target level of completion. However, due to its relatively low resourcing levels, this forecast is more sensitive to changes in available resources than in prior years.

### 3.2 Reports Issued

All Internal Audit assignments result in an Audit Report which identifies the audit coverage, findings from the audit, risks arising from identified control weaknesses and prioritised audit recommendations. Chart One below shows that as at 30 September 2015 a total of 50 reports have been issued, which compares with 77 at this time last year. The chart shows a breakdown of the reports by audit type, with grant and certification audits generating the highest number of reports to date in each year.

The reduction in the number of reports issued is due to the reduction in available resources.



### 3.3 Control Environment

The following table details the opinions from those audits over the last two years where an appraisal of the overall system could be obtained. As can be seen the proportion of reports assessed as either good or excellent opinions are largely increasing over time and account for approximately half of the opinions reached. This is somewhat expected, although reassuring, as Internal Audit's core focus is on fundamental and significant systems.

**Table One: Six Monthly Analysis of Audit Opinions raised in Internal Audit Reports issued in the Period 1 October 2013 to 30 September 2015**

	1 Oct 2013 and 31 March 2014		1 April 2014 and 30 Sept 2014		1 Oct 2014 and 31 March 2015		1 April 2015 and 30 Sept 2015	
Opinions	Total	Proportion	Total	Proportion	Total	Proportion	Total	Proportion
Excellent	12	22%	12	25%	13	28%	10	31%
Good	15	27%	17	35%	14	30%	9	28%
Adequate	15	27%	10	21%	9	19%	7	22%
Limited Assurance	11	20%	8	17%	6	13%	5	16%
No Assurance	2	4%	1	2%	5	11%	1	3%
<b>Total Relevant Reports</b>	<b>55</b>		<b>48</b>		<b>47</b>		<b>32</b>	
Not applicable**	28		29		29		18	
<b>Total Reports</b>	<b>83</b>		<b>77</b>		<b>76</b>		<b>50</b>	

\*\* Internal Audit gives an opinion on the control environment whenever it is appropriate to do so. However, traditionally audit reports that provide advice, review specific control concerns or investigate irregularities generally do not have an opinion as they are too limited in scope.

Other trends are reports classified as adequate, limited assurance and no assurance are decreasing.

The analysis above relates to those reports with opinions. Opinions are derived from a standard analysis of the level of control satisfaction and number of high priority recommendations within a report. Where reports are produced that do not relate to the planned evaluation of risks and controls, for example in response to requests for advice on specific matters, or in response to known control failures there is often no opinion applied to the report.

The proportion of reports issued without an opinion being expressed has slightly decreased, but is still high representing 36% (18) of all reports issued over this period. In future, Internal Audit will try and increase the proportion of reports issued that include an audit opinion.

The audit work has identified that 78% of controls examined were operating satisfactorily. All concerns arising from the audit assignments result in an audit recommendation. To date, 100% of our audit recommendations have been accepted by management. This is consistent with the 2014/15 outcome (98%).

### 3.4 Follow Up Audits

3.4.1 It is essential for good corporate governance, that management have effective arrangements for implementing agreed improvements or correcting deficiencies in their financial operations.

Internal Audit currently follows up its audit work in two ways – Annual follow up returns from Strategic Directors and performing individual follow up audits. The purpose of this section is to report the progress that Strategic Directors have confirmed as being made in implementing previously agreed Internal Audit recommendations and also to inform G&AC of the outcome of the Internal Audit follow up audits undertaken in the period 01.04.15 to 31.10.15.

#### 3.4.2 Annual Returns From Strategic Directors

Analysis of the Annual Returns from Strategic Directors is shown in Table Two below.

**Table Two: Analysis of Strategic Director's Reported Rate of Implementation of Agreed Recommendations for Reports issued up to 31.03.15**

Department	Total in Follow Up		Overall Progress of Implementation		Outstanding Reports & Rec's Carried Forward		No Progress in Level of Implementation During Year	
	Reports	Rec's	2015/16	2014/15	Reports	Rec's	Reports	Rec's
Adult & Community Services	8	26	42%	90%	5	9	4	6
Chief Executive	9	15	100%	70%	0	0	-	-
Children's Services	54	195	96%	95%	7	23	1	1
City Solicitor	0	0	-	100%	-	-	-	-
Environment & Sport	9	14	97%	91%	3	4	-	-
Finance	26	47	88%	82%	9	21	2	3
Human Resources	7	18	92%	90%	3	4	-	-
Public Health	2	4	67%	100%	1	2	-	-
Regeneration	10	22	97%	93%	2	3	-	-
<b>Total for all Departments</b>	<b>125</b>	<b>341</b>	<b>85%</b>	<b>90%</b>	<b>30</b>	<b>66</b>	<b>7</b>	<b>10</b>

In total 125 reports containing 341 High Priority recommendations were followed up with Strategic Directors. This included 36 reports and 77 agreed recommendations brought forward as not fully implemented at the time of last year's follow up, plus 89 reports and 264 agreed recommendations issued during the 2014/15 financial year. The Strategic Directors' returns showed that 75% of reports and 81% of recommendations were fully implemented during the year, which is broadly in line with last year's figures (71% and 80% respectively). If progress is adjusted to reflect overall progress for each report, including partial completion, as shown on the Covalent system (used to monitor the recommendations) then total overall progress of implementation of recommendations rises to 85%.

The Strategic Director's returns showed that 30 reports and 66 recommendations were not fully implemented, at the time of the sign off. A small number of these (3 reports and 6 recommendations) had not reached the agreed completion date. The

remaining carry forward included 12 reports and 27 recommendations that were brought forward from the previous year (i.e. reports issued in or before 2013/14).

The total carry forward also included 7 reports and 10 recommendations where the agreed date for implementation had passed but the Strategic Director's return showed that no progress (or further progress) had been made in implementing the recommendations. Four of these reports related to Adult and Community Services, two to Finance and one to Children's Services. These reports are detailed below. With respect to Finance the reports were brought forward from the previous year and, although the returns contained comments to indicate that they continue to be tracked, the level of implementation has not changed.

This reported absence of progress has been brought to the attention of the relevant Directors to allow them to reconfirm that the progress shown in Covalent is accurate and/or prompt corrective action to be taken as appropriate.

### **List of Reports Where No Progress/Further Progress Has Been Made in Implementing Agreed Recommendations**

#### **Adult & Community Services**

Supporting People Annual Assurance 2013/14: Issued 14.10.2014

Resource Allocation System: Issued 08.12.2014

Community Care Payments Assurance: Issued 20.02.2015

Follow Up Audit – Direct Payments: Issued 27.02.2015

#### **Finance**

Concerns Relating to Documentation Uploaded onto Web Based Systems: Issued 13.07.12

Information Retention & Disposal: Issued 28.03.14

#### **Children's Services**

Follow up of Concerns Relating to Compliance with Council's Procure to Pay Process: Issued 05.11.14

### **3.4.3 Individual Follow Up Audits Undertaken by Internal Audit**

During the year Internal Audit has carried out 9 follow up Audits to determine the level of implementation of agreed recommendations. Three of the follow ups formed part of the original audit plan and were selected due to the significance or number of high priority concerns they contained. These audits commenced before the Strategic Directors returns were received. Following receipt of the Strategic Directors' returns Internal Audit subsequently performed a follow up of a further sample of 6 reports where the returns showed that the recommendations were fully implemented. The purpose of all the follow up audits was to independently validate the reported implementation rates of agreed recommendations and these, together with the audit results are shown in Appendix A.

In summary, just over half (52%) of the agreed High Priority recommendations followed up were found to have been fully implemented which is of concern when compared to the 89% full implementation rate reported in the Director's Returns. In addition, 30% of the recommendations were still considered to be High Priority in terms of the residual risk remaining. It is however pleasing that none of the recommendations were considered to be wholly unimplemented.

All follow up audits resulted in a report, and where necessary further recommendations have been made, to ensure that the original control weaknesses are addressed in their entirety.

A further follow up audit has commenced to determine the current status of implementation of 14 High Priority recommendations made to 3 Departments following the review of Sickness Monitoring, however this is currently in its early stages.

### **3.5 Summary of Audit Reports and Findings**

A summary of the routine audits undertaken and the recommendations identified is reported in Appendix B.

### **3.6 Overall Opinion**

From the audit work performed to date Internal Audit concludes that the Council's overall control framework is satisfactory, though this is based upon a reduced level of coverage in comparison to prior years.

### **3.7 Existing and Planned Changes to Internal Audit Coverage in 2015/16**

During the year the audit plan is subject to revision in light of requests for, or the need to do additional unplanned audit work and also to reflect any in year changes in available resources. Action is taken as appropriate to ensure that audit resources are efficiently and effectively deployed. The 2015/16 audit plan has been revised. Appendix C indicates those audits added to the plan and those that have been replaced. Those audits replaced will be considered when establishing the 2016/17 audit plan, but in a number of cases it is anticipated that there will no longer be a need for the audit work in 2016/17.

In determining these plan changes Internal Audit has considered a number of relevant factors including risk and impact of control failure, external funding requirements, prior audit assurance, maturity of the control environment, appropriate timing for the review, Corporate and Directors' priorities.

It is proposed that the section continues to focus on Fundamental and Significant Systems work in the second half of the financial year as these areas of work materially contribute to audit's opinion on the Council's control environment. In addition, as significant system work takes longer to prepare and complete this reduces the ability of the service to reach its 90% audit plan completion target.

The fundamental and significant systems planned to be covered in the second half of the year include the following.

#### **Fundamental systems**

Collection, Refunds & Write Offs of Council Tax, NNDR and Accounts Receivable  
Accounts Receivable Billing  
Recovery of benefit overpayments  
Bank Reconciliation and Unallocated Cash - 15/16  
Quotes, tenders and contract award process  
Purchase cards

**Significant systems**

Public Health

Individual Service Funds

Affordable Housing / New Homes Bonus

Continuing Healthcare

Strategic Risk Management

Artistes Fees

Transitional Planning

**3.8 Internal Audit's Performance Indicators**

Client Feedback

After each audit a client feedback questionnaire is issued to the appropriate officer to obtain feedback from them about the audit. 100% of the officers that responded said that the audit recommendations made were useful, realistic and overall the audit was of benefit to management.

Timeliness of Audits

During the first 6 months, 84% of draft reports were issued within 3 weeks of finishing the site work, this exceeds the target of 80%. 97% of final reports were issued within a week of the post audit meeting, exceeding that target of 90%. The timeliness of issuing draft and final reports is crucial to providing a good service to officers, enabling them to deal with the issues raised and consider the recommendation made.

**Appendix A Follow Up Audits Performed 1.4.15. to 31.10.15**

**Appendix B Summary of Audit Reports and Findings**

**Appendix C Unplanned Audit Work Included in or Deleted from the Revised 2015/16 Internal Audit Plan as at 31.10.15**



## Follow Up Audits Performed 1.4.15 to 31.10.15

Department	Audit	Agreed High Priority Recs in Original Report	Confirmed as Fully Implemented in Directors Return	Audit Results		
				Fully Implemented	Partially Implemented	
					Residual Action High Priority	Residual Action Requires Attention
Chief Executive (WYPF)	Access to Data	3	3	1	2	-
Children's Services	Penalty Charges for Unauthorised Absences from school - follow up	3	3	2	1	-
	St Paul's Primary School	11	11	7	4	-
Environment & Sport	Taxi Procurement	3	*0	3	-	-
	Information Assurance within Transport Services	6	6	3	-	3
Human Resources	Recruitment & Safer Environment	4	4	1	2	1
Regeneration	Miscellaneous Rents	9	*7	4	4	1
	Utility Payments	3	*3	1	-	2
	Pavilion Gardens Compensation Payments	2	2	1	-	1
<b>Totals</b>		<b>44</b>	<b>39</b>	<b>23</b>	<b>13</b>	<b>8</b>
<b>% of Total Agreed Rec's</b>		<b>100%</b>	<b>89%</b>	<b>52%</b>	<b>30%</b>	<b>18%</b>

\* This implementation level confirmation was taken from the October 2014 Director Sign Off as the follow up audits started in advance of the 2015 Director Sign Off process

## Appendix B

### Summary of Audit Reports and Findings

#### 1. Fundamental Systems

- 1.1 The majority of the fundamental systems work occurs in the second half of the financial year, however up to September 2015 the following work was completed.
- 1.2 Assurance work on Council Tax, Accounts Receivable, and NNDR were all assessed as excellent or good. Requisitioning, Ordering & Receipting processes at Bradford and Airedale Community Equipment Service were also assessed as excellent.
- 1.3 Payroll work on services provided to full budget share schools and external bodies gave a limited assurance opinion. Improvements have again been recommended regarding the invoicing and recovery of payroll costs and service charges.

#### 2. Significant Systems

- 2.1 The audit of the charging system for bulky residential waste and new bins identified that VAT on the sale of a significant proportion of wheelie bins is not being paid over to Her Majesties Revenues & Customs (HMRC) which could result in fines being levied on the Council. The audit also identified that Payment Card Industry (PCI) security awareness training is not up to date which could result in fines and the inability of the Council to process payment card income internally. Corrective action is being taken by management, with processes being put in place to identify and notify the VAT due to the HMRC and security awareness training being brought up to date, which will then be performed annually.
- 2.2 The audit of Emergency Planning reviewed the Council's preparedness for civil emergencies and its compliance with the statutory requirements. The audit identified that the Council has not put in place adequate business continuity management plans for all Service areas. The following 6 Services (25%), from 3 Departments, did not have an agreed plan;

- Policy, Programmes and Change (Chief Executive)
- Public Health (Chief Executive)
- Access and Inclusion (Children's Services)
- Education and School Improvement (Children's Services)
- Deputy Director's Office (Children's Services)
- Planning, Transportation and Highways (Regeneration and Culture)

Additionally, the content of the Council's entry in its Corporate Risk Register relating to business continuity management arrangements are not consistent with the findings of the compliance review.

The following corrective action is being taken by management. A top down approach has commenced to reinvigorate the Business Continuity Management (BCM) Programme having recently been raised at Senior Leadership Team. All services (AD's) will be asked to:

- Confirm a single point of contact (SPOC) for BCM.
- To ensure that the SPOC is trained by the Emergency Management Team (EMT)

- Ensure the production of a BCM plan for all services.
- With support from the EMT, ensure the exercise and annual review of the plan
- Ensure that all incidents or near misses are recorded, as directed by the EMT, and that lessons learned can be identified and shared corporately.
- Through all of the above, better integrate BCM into the organisational culture and place it as an agenda item on management meetings.

2.3 The audit of Youth Services at Bradford West and Shipley identified a number of issues regarding HR, payroll, procurement and reimbursement of travel expenditure processes. Management are addressing these issues.

2.4 The audit of partnership agreements that Adult Services has with the NHS identified that not all s75 or s256 agreements could be found, were up to date or signed by both parties; there has been a significant delay in establishing an overarching s75 agreement with the NHS; and VAT had not been properly accounted for in relation to the community care administration agreement. Management are continuing to liaise with CCGs to address these concerns.

### **3. Schools**

#### **3.1 School Audits**

During the first half of the year, six reports relating to schools were issued. Of these, five related to individual school audits and included recommendations to improve the control environment at all schools visited. The remaining report provided a summary of the Schools Financial Value Standard process.

This is a decrease on the number of reports issued during the same period last year particularly in the area of themed audits, which has been the subject of several audits in recent years. This reduction is due to a decision to refocus Internal Audit's limited resources on areas of greater risk within the Council.

#### **3.2 Schools Financial Value Standard**

At the 2015/16 year end all maintained schools were required to complete a self assessment against the Department for Education's Schools Financial Value Standard (SFVS). As at 31 March 2015, self assessments had been completed by 157 of the authority's 170 schools. Of those not completing the return three were exempted because an Academy order was in place and ten schools submitted returns after the 31<sup>st</sup> March. 51% of schools gave a 'Yes' response to all questions indicating that they fully comply with the standard; the remaining schools produced action plans to address areas of non-compliance.

Overall the returns received for 2015 showed an improvement in the standard of completion and the level of compliance with individual questions and the SFVS overall. In particular it was pleasing to see an improvement in the quality of the returns from those schools represented at the SFVS training delivered by Internal Audit earlier this year.

Further SFVS training will be offered in November 2015. In response to comments from the previous Audit Committee this training has been advertised by emailing Chairs of Governors directly as well as publishing it on Bradford Schools online. This has proved successful with the majority of places booked being taken by Governors (other staff involved with SFVS have also confirmed their attendance). Internal Audit

hopes that the approach of focussing on training rather than auditing individual schools' SFVS returns will be a more efficient use of resources and will achieve greater coverage across the district.

#### **4. Grants**

Grant certification work is carried out in response to conditions placed on central government targeting of funding to local authorities, for example funding for road repairs following the damage caused by the harsh winter.

The grants requiring certification can vary each year. The audit plan for 2015/16 has seen an overall decrease in grant certification work, although two new grants were reviewed. To date 17 reports have been issued relating to 9 capital and revenue grants which required Internal Audit certification.

The values of the grants varied considerably and conditions also varied and included confirming that targets had been met, that funds had been appropriately spent and that other requirements, such as publication of how the grant had been used, had been complied with.

One of the grants examined, the troubled families grant, has moved into phase two. Internal Audit have been instrumental in developing the outcome plan for this grant which will form the basis for future grant claims.

Overall Internal Audit has been able to give a positive opinion for all grants and consequently no funding has been lost.

#### **5 Computer Audit**

During the first half of 2015/16, Internal Audit reviewed the management of the IT Transition Programme to transition the IT services provided by the Council's strategic partner IBM in house. The standard of control of the identified risks associated with the management of the IT Transition Programme was excellent. The review concluded that there was effective management over the programme to successfully transition the IT service from an outsourced model to an in-house delivered service.

#### **6. West Yorkshire Pension Fund (WYPF)**

During 2015/16 Internal Audit has carried out a variety of audits in the West Yorkshire Pension Fund (WYPF). Reports issued to the 30 September 2015 include:-

- **Review of WYPF 2014/15 Accounts.** This audit is carried out at the request of the Financial Controller to assist in producing accurate, easy to read information within the financial accounts.
- **Monthly Contribution Data Usage.** Employers pay combined contributions to the WYPF, being employers and employees contributions, on a monthly basis. In April 2014 the West Yorkshire Pension Fund introduced a new system for the monthly collection of data in respect of the contributions received from participating employers. This audit focussed on the usage of this data across the WYPF and highlighted opportunities for future development of this use.

- **AVC Arrangements.** This audit examined the controls in place for the management of pension cases involving additional voluntary contribution arrangements. The standard of control was found to be excellent with no issues to report.

### Unplanned Audit Work Included in and Planned Audit Work Deleted from the Revised 2015/16 Internal Audit Plan as at 30.09.15

Additional unplanned audit work done / propose doing in 2015/16	Reason
Bradford District PRU	Review of the procurement process for its delivery partners following concerns being raised as to its fairness
Annual Assurance of WYPF Contributions Certificate	Review of the Council's payroll procedures to provide assurance of their adequacy and operation to support the sign off of the Certificate for WYPF
Curriculum Innovation Service	Audit advice on the selling of surplus ICT equipment on Ebay including the need to data cleanse to ISO accredited standards before the sale
Disabled Facilities Grant	Review required to confirm that the conditions of the grant had been complied with
Transitional Planning	Governance Audit Committee and Adults requested review in looking at processes being developed for new integrated service.
Housing Options Transformation	Adults requested audit involvement as a critical friend in the early implementation in transformation of service provision
Green Deal for Communities Grant phase 1	Grant audit certification required

Planned audit work proposed not doing in 2015/16	Reason
Better Care Fund	Defer audit to 16/17 to allow time for processes and legislation to 'bed in'.
Third Sector Contracts	Defer to 16/17 as the audit relates to Public Health and already doing a similar audit in 15/16
Purchased Care - Older People	Transformation Programme suggested that this is better deferred until 16/17 as due to introduction of Controcc
Resource Allocation System implementation	Audit to be deferred until 16/17 when the new RAS will be operational
Controcc	Being implemented in 16/17. Combine with purchased care that is being deferred until 16/17
Severe Weather Recovery System	No audit required as no grant allocated in 14/15 to certify
Capital scheme 1	Provision to review capital scheme removed as Internal Audit providing direct financial support to the Affordable Homes scheme
Budgetary Control	Removed not priority
Safer Recruitment - Disclosure and Barring Service Checks for Council staff excluding those in Children's	Removed not priority