

OVERVIEW AND SCRUTINY COMMITTEE

Thursday 20 January 2022 at 6.30 pm

Council Chamber, Ryedale House, Malton

IMPORTANT: The Council fully recognises and respects the role and importance of democratic meetings and is committed to protecting the health and safety of Elected Members and Officers who participate. Risk assessments are undertaken in advance of each meeting, and are reviewed on an ongoing basis.

Social distancing measures will be in place throughout the meeting, however it is important that you do not attend the meeting if you or anyone in your household are required to self-isolate due to receiving a positive COVID-19 test result, having symptoms of COVID-19, or having been told that you have been in contact with someone who has tested positive for COVID-19.

For the purpose of public transparency and accountability, the meeting will be live streamed online.

The livestream can be accessed here:

<https://www.youtube.com/channel/UCZCvPUsJ0LwMJ9ukDsGf0Hw>

For health and safety reasons and in accordance with our risk assessment, members of the public are asked to follow the meeting via this method rather than attending in person. If you are unable to access the meeting this way, please contact us so that we can explore whether any safe alternative option is possible. The media will be able to report on proceedings from the live stream.

Agenda

1 Emergency Evacuation Procedure

The Chairman to inform Members of the Public of the emergency evacuation procedure.

2 Apologies for absence

3 Minutes of the meeting held on 16 December 2021 (Pages 3 - 8)

4 Urgent Business

To receive notice of any urgent business which the Chairman considers should be dealt with at the meeting as a matter of urgency by virtue of Section 100B(4)(b) of the Local Government Act 1972.

5 Declarations of Interest

Members to indicate whether they will be declaring any interests under the Code of Conduct.

Members making a declaration of interest at a meeting of a Committee or Council are required to disclose the existence and nature of that interest. This requirement is not discharged by merely declaring a personal interest without further explanation.

PART 'A' ITEMS - MATTERS TO BE DEALT WITH UNDER DELEGATED POWERS OR MATTERS DETERMINED BY COMMITTEE

- 6 Delivering the Council Plan - Key Performance Indicators for O&S Review**
(Pages 9 - 12)
 - 7 Second Internal Audit and Counter Fraud Progress Reports 2021/22** (Pages 13 - 28)
 - 8 Internal Audit Plan 2022/23 - Consultation** (Pages 29 - 36)
 - 9 Treasury Management Strategy Statement and Investment Strategy 2022-23**
(Pages 37 - 74)
 - 10 Update on the use of RIPA** (Pages 75 - 80)

PART 'B' ITEMS - MATTERS REFERRED TO COUNCIL

- | | | |
|----|--|-------------------|
| 11 | Model Code of Conduct | (Pages 81 - 112) |
| 12 | Appointment of External Auditors | (Pages 113 - 120) |
| 13 | O&S Forward Plan | (Pages 121 - 122) |
| 14 | Any other business that the Chairman decides is urgent. | |

Agenda Item 3

Overview and Scrutiny Committee

Held at Council Chamber, Ryedale House, Malton
on Thursday 16 December 2021

Present

Councillors Bailey, Middleton (Chair), Oxley and Wass (Vice-Chair)

In Attendance

Stacey Burlet, Simon Copley, Owen Griffiths, Anton Hodge, Gareth Mills, Margaret Wallace and Thilina De Zoysa

The Chair of Council, Cllr Frank, accepted an invitation to attend the meeting for agenda item 6 (minute 60 refers).

Minutes

56 Apologies for absence

Apologies were received from Councillors Cussons, Garbutt Moore, King, Raine, Raper, and Riby.

57 Minutes of the meeting held on 16 November 2021

Decision

That the minutes of the meeting of the Overview and Scrutiny Meeting held on 16 November 2021 be approved and signed by the Chair as a correct record.

Voting Record

Unanimous

58 Urgent Business

There was no urgent business

59 Declarations of Interest

There were no declarations of interest.

60 Questions

The Chair of Council, Cllr Frank, was invited to attend the meeting, under the overview and scrutiny provisions in the Constitution, to answer questions on her decision to postpone the meeting of Full Council scheduled for 2 December 2021.

The Chair of the Overview and Scrutiny Committee, Cllr Middleton, started the proceedings by thanking the Chair of Council for accepting the invitation and agreeing to answer questions that the Committee had.

Below are a summary of the questions asked to the Chair of Council and the answers given.

- 1) Article 5.1 of the Constitution relates to the role of the Chair in being able to interpret the Constitution at necessary times. What evidence was your decision to postpone the meeting, at short notice, made?

The Chair of Council responded that she had a personal responsibility and liability for the safe conduct of the meetings, and those who took part in them. The unknowns of the new variant Omicron, alongside the fact that cases of Covid were higher in Ryedale than anywhere else in North Yorkshire, meant that she was urged to postpone the meeting. She did this with the agreement of 5 of the 6 Council Group Leaders.

- 2) The Chair of the Committee said that the number of Covid cases were in decline on the week of the Full Council meeting. Where did the evidence base lie?

The Chair of Council's evidence was based upon numbers found on the County Council website which showed the different levels of Covid at the different district areas.

Her information indicated that they were higher than elsewhere and that is what the decision was based upon.

- 3) Every Councillor was given a questionnaire ahead of the Council on whether they felt like they could attend the meeting. Was that taken into consideration?

The questionnaire was not taken into account, by the Chair of Council, as the survey did not take into account the unknowns of the new variant of Coronavirus.

- 4) But if the questionnaire suggested that a majority would attend the meeting, why was that not taken into account when considering the different views?

The Chair of Council reiterated that 5 of the 6 Group Leaders had concerns over the safety of the participants. She did agree, though, that the largest individual group, the Conservative Group, did not share her

viewpoint.

- 5) The Head of Corporate Governance was asked when the questionnaire had gone out.

He confirmed that it had been sent out to all members a few days before the Council was due to take place.

- 6) The Chair of the Overview and Scrutiny Committee returned to the Constitution. Article 5.2 concerns the way in which Council meetings need to be run to ensure “business can be carried out efficiently.” The decision to postpone the meeting would have had an financial consequence, did that cost to the Council play any role in your decision making?

The Chair of Council said that the financial cost was not a part of her thinking, the health concerns for the vulnerable members informed all. She did not believe that the date of the 2 December would work for the dispatch of business so used her power to postpone to such a date wherein it would be more feasible.

- 7) The Full Council would still have been quorate, even if there were several apologies. Could it not still have run?

The Chair of Council responded that meetings need to be all-inclusive and so to run the meetings without the input of those who could not be there would be to put those who were vulnerable at a disadvantage. She asked how many attendees would not feel safe.

- 8) Cllr Oxley said that the professional advice of officers was that the meeting could be run with the safeguards in place. Were you aware of this advice and was that part of your consideration?

The Chair of Full Council considered the legal advice in regards to her ability to postpone the meeting.

She echoed the need to consider councillor’s health, but also the health of the officers who would have been present for the meeting.

She said that her decision was vindicated in the long run.

- 9) Cllr Oxley said, regardless of vindication, the advice of both the government and professionals was that the meeting could go ahead and the rules did not change to allow that.

The Chair said that she was ahead of the game in regards to health then.

10) Cllr Oxley questioned if she did not regret the fact that the postponement could have set the work of the Council back by several months.

The Chair of Full Council was insistent that caution was the best judgement in this instance.

11) Cllr Wass asked why the communication over why the meeting had been postponed had not been clearer to the Members.

The Chair of Council said that an email had been sent from the Democratic Services email to all Members setting out why the meeting had been postponed and under what constitutional basis this was done.

12) It was asked of the Head of Corporate Governance if this postponement meant that the Council would move into urgency powers.

He responded that, as there was not a tight deadline for the items on the agenda, there will be no need to go straight into urgency powers. If urgency powers were to be invoked then that would mean that Council meetings would only be consultative. The legislation for virtual Full Council meetings expired in April.

13) The Head of Corporate Governance was asked what his professional advice was.

The officer responded that his view at the time was that safeguards had been put in place. The expert advice was that the meeting could have taken place if the risk assessment and those safeguards had been followed.

Article 6.1 of the Constitution details that the Overview and Scrutiny Committee is there for the effective transparency of the Council. The Chair of the Committee said that they had done that through this meeting. The questions were ended by saying that she disagreed with the decision to postpone the meeting but thanked her for her time and for answering all the questions that had been put to her.

Decision

That the Committee noted the Audit Risk Assessment Presentation, 2020/21 Statement of Accounts (including the Annual Governance Statement), the proposed letter of representation, and the External Auditors Audit Findings ISA 260 document.

Voting Record

Unanimous

62 Decisions from other Committees

The Committee received the Minutes of the Policy and Resources Committee held on 29 November 2021.

63 O&S Forward Plan

The Committee received the Forward Plan.

Since the agenda was sent out, there were several changes to the Forward Plan.

The January meeting would no longer consider the “External Audit Plan.” This will be considered at a later date.

The January meeting would now be considering two additional items. These would contain the report on the “Model Code of Conduct” and a report that feeds back the progress made on the “Scrutiny Task Group on the Performance Appraisal System”.

64 Any other business that the Chairman decides is urgent.

There being no further business the meeting ended at 7:58pm.

This page is intentionally left blank



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	OVERVIEW AND SCRUTINY
DATE:	20 JANUARY 2022
REPORT OF THE:	STRATEGY & PERFORMANCE MANAGER LYNNE BAYES
TITLE OF REPORT:	'DELIVERING THE COUNCIL PLAN' – KEY PERFORMANCE INDICATORS FOR O & S REVIEW
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 Following the monitoring and production of the quarter two performance report (July - September 2021), to provide elected members with details of any key performance indicators showing a repeat of below target performance.

2.0 RECOMMENDATION(S)

- 2.1 It is recommended to Council that:

- (i) The progress report, including actions to improve performance, is noted.

3.0 REASON FOR RECOMMENDATION(S)

- 3.1 To identify any specific areas where progress for individual KPIs has not been achieved over two consecutive quarterly performance reports, together with a further explanation of planned actions to make improvements moving forward.

4.0 SIGNIFICANT RISKS

- 4.1 It should be noted that although Covid-19 restrictions have now been considerably eased, the effects of the pandemic and national lockdown arrangements are continuing to have a significant impact on performance.
- 4.2 The organisation is also now beginning to see the impact on performance of local government reorganisation, with timelines and an increased amount of additional work involved starting to move at pace, requiring substantial staff resource. The risk associated with this is likely to continue to increase moving forward and there is the added risk of potentially losing key staff and expertise along the way.

5.0 POLICY CONTEXT AND CONSULTATION

- 5.1 The areas requiring some improvement in performance fall in the following category of the Council's corporate priorities: Our Economy

REPORT

6.0 REPORT DETAILS

6.1 A motion was passed by Council in October 2018, stating that "on a repeat of 'unavailable', red or amber, a report is produced for the appropriate committee. An explanation to be given as to why the target is close or missed on more than one occasion. Members to agree / recommend to Full Council appropriate changes so that actions can be implemented."

6.2 Under this criteria, there are two performance indicators with an amber status both in quarter 1 (April – June) and quarter 2 (July to September) of the reporting cycle 2021/22.

- Minor planning applications processed within 8 weeks
- Other planning applications processed within 8 weeks

6.3 Minor and Other planning applications processed within 8 weeks

A large increase in applications being received has meant these indicators have still fallen just short of the target in quarter 2. Minor planning applications increased by 6% cumulative from April to October 2021 and other planning applications increased by 3% cumulative during the same period, the combination of which, resulted in delays in processing within target.

A gap in resources had been recognised and swift action taken to resolve this issue. New staff have already started in the team and two more are expected to start shortly, one in November and one in December. This prompt action has resulted in an improved level of performance, which is evidenced by the significant progress made in both areas as follows:

Against a target of 80%, the percentage of minor planning applications processed within 8 weeks - up from 74% in quarter 1 to 75.3% cumulative in quarter 2, with quarter 2 alone at 76%.

Against a target of 90%, the percentage of other planning applications processed within 8 weeks - up from 81% in quarter 1 to 85.6% cumulative in quarter 2, with quarter 2 alone at 89%. The additional staff appointed will assist in the processing times of applications particularly in the Minor and Other categories of applications, with further improvements anticipated for Quarters 3 and 4 of this financial year.

6.4 There is also one performance indicator with a red status both in quarter 1 (April – June) and quarter 2 (July to September) of the reporting cycle 2021/22.

- % Standard searches carried out in 10 working days

Standard searches

Substantial delays in searches have been experienced with NYCC and the sheer volume they have been receiving from all North Yorkshire Authorities - which have more or less doubled from the previous year. However, quarter 2 statistics show the problem there has now largely been resolved and the aim is to reach an amber status by the end of the fourth quarter.

This improvement is evidenced by the 100% target percentage of standard searches carried out in 10 working days improving significantly, up from 55.7% in quarter 1 to 74.4% cumulative in quarter 2, with quarter 2 alone at 94.6%.

7.0 IMPLICATIONS

7.1 The following implications have been identified:

a) Financial

Delivery of Council Plan priorities is reflected in the Medium Term Financial Strategy. The increased workloads has shown that search fee income is approximately £1k above budget and planning application fees for quarters 1 and 2 are approximately £309K, which is approximately £90K above the estimated budget for the first half of the year.

b) Legal

The organisation complies with all relevant statutory, legislative and constitutional matters when executing the delivery of its Council Plan and delivering against key performance indicators.

c) Resource

Performance reporting highlights where we can explore opportunities to adjust resources to support effective implementation of the Council Plan as part of our on-going business and budget planning. The additional capacity funding required to strengthen resources in planning to address the issues identified in this report has been agreed and accounted for in the budget. As a result, the latest trend of improvement in this area of performance is expected to continue moving forward.

d) Other

Equalities, staffing, health and safety, and policy matters such as environmental and climate change inform the content and execution of the Council Plan and performance priorities on an ongoing basis. Anyone requiring this information in an alternative format, may contact the report author to request this.

Name of Service Lead
Job Title

Lynne Bayes
Strategy & Performance Manager

Author: Abigail Downie, Graduate Trainee, Executive, Policy and Research Officer

Telephone No: 07435 980610
E-Mail Address: abigail.downie@ryedale.gov.uk

This page is intentionally left blank



REPORT TO:	OVERVIEW AND SCRUTINY COMMITTEE
DATE:	20 JANUARY 2022
REPORT OF THE:	CHIEF FINANCE OFFICER (s151) ANTON HODGE
TITLE OF REPORT:	INTERNAL AUDIT AND COUNTER FRAUD PROGRESS REPORT 2021/22
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 The purpose of this report is to provide Members with an update on audit reports issued, counter fraud activity and other work completed since the last progress report to this committee. It also provides an update on ongoing work.

2.0 RECOMMENDATION

- 2.1 It is recommended the Committee note the work undertaken by internal audit and the counter fraud team in the year to date.

3.0 REASON FOR RECOMMENDATION

- 3.1 To enable the Committee to fulfil its responsibility for considering the outcome of internal audit and counter fraud work.

4.0 SIGNIFICANT RISKS

- 4.1 The Council will fail to comply with proper practice requirements for internal audit and the Council's Audit Charter if the results of audit work are not considered by an appropriate committee. Overview and Scrutiny Committee is the committee designated with responsibility for receiving internal audit reports at Ryedale District Council.

5.0 POLICY CONTEXT AND CONSULTATION

- 5.1 The work of internal audit is governed by the Accounts and Audit Regulations 2015 and relevant professional standards. These include the Public Sector Internal Audit Standards (PSIAS), CIPFA guidance on the application of those standards in Local Government and the CIPFA Statement on the role of the Head of Internal Audit.
- 5.2 Fraud is a significant risk to the public sector. Annual losses are estimated to exceed £40 billion in the United Kingdom. Councils are encouraged to prevent, detect and deter fraud in order to safeguard public finances.

- 5.3 The Overview and Scrutiny Committee approved the internal audit and counter fraud work programmes for 2021/22 at its meeting held on 28th July 2021.

6.0 REPORT DETAILS

- 6.1 The internal audit progress report is contained in annex 1. It reports on progress against the internal audit work programme. This includes a summary of work completed since 1st April 2021, current work in progress, updated internal audit priorities for the remainder of the year, and a summary of follow-up activity relating to previously agreed audit actions.
- 6.2 The counter fraud progress report is contained in annex 2. It reports on progress against the counter fraud work programme. A range of work is detailed including activity to promote awareness of fraud, work with external agencies, and information on the level of fraud reported to date.

7 IMPLICATIONS

- 7.1 The following implications have been identified:
- a) Financial
None
 - b) Legal
None
 - c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental and Climate Change, Crime & Disorder)
None

Anton Hodge
Chief Finance Officer (s151)

Author: Connor Munro, Audit Manager
The Veritau Group
Telephone No: 01904 553512
E-Mail Address: connor.munro@veritau.co.uk

Author: Jonathan Dodsworth, Assistant Director – Corporate Fraud
The Veritau Group
Telephone No: 01904 552947
E-Mail Address: jonathan.dodsworth@veritau.co.uk

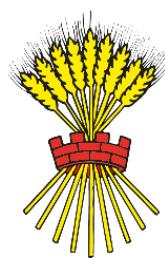
Background Papers:
2021/22 Internal Audit and Counter Fraud Work Programmes

INTERNAL AUDIT PROGRESS REPORT 2021/22

Date: 20 January 2022

Annex 1

RYEDALE
DISTRICT
COUNCIL





BACKGROUND

- 1 Internal audit provides independent and objective assurance and advice about the Council's operations. It helps the organisation to achieve its overall objectives by bringing a systematic, disciplined approach to the evaluation and improvement of the effectiveness of risk management, control and governance processes.
- 2 The work of internal audit is governed by the Accounts and Audit Regulations 2015 and relevant professional standards. These include the Public Sector Internal Audit Standards (PSIAS), CIPFA guidance on the application of those standards in Local Government and the CIPFA Statement on the role of the Head of Internal Audit.
- 3 In accordance with the PSIAS, the Head of Internal Audit is required to report progress against the internal audit plan (the work programme) agreed by the Overview and Scrutiny Committee, and to identify any emerging issues which need to be brought to the attention of the committee.
- 4 The internal audit work programme was agreed by this committee in July 2021. The number of agreed days is 225 and the programme is flexible in nature. Work is being kept under review to ensure that audit resources are deployed to the areas of greatest risk and importance to the Council.
- 5 The purpose of this report is to update the committee on internal activity between 1 April 2021 and 13 January 2021.



INTERNAL AUDIT PROGRESS

- 6 Work is in progress for a number of audits in the programme. As reported previously, this includes records management, income collection and debtor management, and Everyone Active. Both the Waste & Street Scene and payroll audits are at draft report stage. We expect to be able to report the key findings and agreed actions from all of these audits in time for the next meeting of this committee.
- 7 Since the previous progress report the CIPFA Financial Management Code audit has commenced, as have both IT audits included in the programme (disaster recovery and email security).
- 8 A summary of internal audit work currently underway, as well as work finalised in the year to date, is included in appendix A.
- 9 The work programme showing current priorities for internal audit work is included at appendix B. The depot operations audit has recently moved into the 'do now' category following the completion of the Waste & Street Scene audit. Possible focus areas include stores and stock control, fleet operation and workshop management. Several audits are shown in the 'do next' category where we anticipate beginning work during the final quarter of 2021/22 but have not yet agreed a start date with the responsible officers.

- 10 The environmental health audit that was shown as being in the planning stage in our October progress report has been pushed back to early 2022/23. This is so as to allow time for the Council's Food Safety Recovery Plan to gain some momentum, with all higher risk establishments anticipated to be inspected by the end of 2021/22. Work on the Council's risk management framework has also been paused while Strategic Management Board decides how the allocated time in the programme can be best used to support developments at the service level. We hope to resume this work during the final quarter of 2021/22.
- 11 The programme includes a number of audits in the 'do later' category. The internal audit work programme is designed to include all potential areas that should be considered for audit in the short to medium term, recognising that not all of these will be carried out during the current year (work is deliberately over-programmed as previously discussed at committee). In determining which audits will actually be undertaken the priority and relative risk of each area will continue to be considered throughout the remainder of the year, and as part of audit planning for 2022/23.
- 12 Following discussion with members of Strategic Management Board, it has been agreed to transfer 20 days from the 2021/22 internal audit work programme to the information governance programme. This is to allow additional strategic-level work to be undertaken by Veritau's information governance team in areas such as developing the Council's policy framework, fulfilling the Data Protection Officer role, providing advice and training, and coordinating information asset management.
- 13 The decision was made in recognition of the importance of information governance to the Council which is one of the 11 key assurance areas for internal audit, as previously reported to this committee. We will liaise with our colleagues in the information governance team to ensure that the assurance we can place on this work is captured and factored into the annual opinion for 2021/22.
- 14 Appendix C lists our current definitions for action priorities and overall assurance levels.



FOLLOW-UP OF AGREED ACTIONS

- 15 All actions agreed with services as a result of internal audit work are followed up to ensure that underlying control weaknesses are addressed. As a result of this work we are generally satisfied that sufficient progress is being made to address the control weaknesses identified in previous audits. Where further assurances are required, follow-up of agreed actions will be included as part of other audits in the work programme.

APPENDIX A: 2021/22 INTERNAL AUDIT WORK

Audits in progress

Audit	Status
Records management	In progress
Service risk management	Paused
Income collection and debtor management	In progress
CIPFA Financial Management Code	In progress
Everyone Active	In progress
IT disaster recovery	In progress
Email security	In progress
Waste & Street Scene	Draft report
Payroll	Draft report

Final reports issued

Audit	Reported to Committee	Opinion
Creditors	July 2021	Reasonable Assurance
Main accounting system	July 2021	Substantial Assurance
Insurance	July 2021	Reasonable Assurance
Local code of corporate governance	October 2021	Reasonable Assurance

Other work completed in 2021/22

Internal audit work has been undertaken in a range of other areas during the year, including those listed below.

- Certification of the Local Authority Compliance and Enforcement Grant
- Support and advice provided through the year on service risk management development

APPENDIX B: CURRENT PRIORITIES FOR INTERNAL AUDIT WORK

Audit / Activity	Rationale
<p>Corporate & cross cutting</p> <p>Category 1 (do now)</p> <p>Records management Service risk management</p> <p>Category 2 (do next)</p> <p>Freedom of Information Transparency (follow-up)</p> <p>Category 3 (do later)</p> <p>LGR readiness Procurement</p>	<p>High risk area. Information governance is a key assurance area. Continuation of work from 2020/21. Key assurance area.</p> <p>Key assurance area and no recent audit assurance. Required as part of following up previous control weaknesses.</p>
<p>Financial systems</p> <p>Category 1 (do now)</p> <p>Payroll Income collection and debtor management</p>	<p>Specific issues have arisen. Coverage needed in order to provide an annual opinion. Deferred from 2020/21. Controls are changing and / or risks are increasing.</p>

CIPFA Financial Management Code	This work will build on that performed as part of the 2020/21 audit of the Local Code of Corporate Governance.
Category 2 (do next)	
Category 3 (do later)	
Budget monitoring and management Council tax and NNDR	
Service areas	
Category 1 (do now)	
Waste & Street Scene Depot operations	Specific issues have arisen. Continuation of work from earlier in 2021/22. To support ongoing and planned reviews.
Category 2 (do next)	
Empty Homes Strategy Support services review (health check)	Of significant importance to the Council, reflecting key objectives. To support ongoing and planned reviews.
Category 3 (do later)	
Environmental health Post-Covid economic recovery Home energy efficiency	

Technical / projects	
Category 1 (do now)	
Everyone Active	To provide assurance in an area of higher risk with known issues.
IT disaster recovery	Key assurance area and no recent audit assurance.
Email security	Key assurance area and risks are increasing.
Category 2 (do next)	
Category 3 (do later)	

APPENDIX C: AUDIT OPINIONS AND PRIORITIES FOR ACTIONS

Audit opinions

Our work is based on using a variety of audit techniques to test the operation of systems. This may include sampling and data analysis of wider populations. It cannot guarantee the elimination of fraud or error. Our opinion relates only to the objectives set out in the audit scope and is based on risks related to those objectives that we identify at the time of the audit.

Opinion	Assessment of internal control
Substantial assurance	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
Reasonable assurance	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
Limited assurance	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
No assurance	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

Priorities for actions

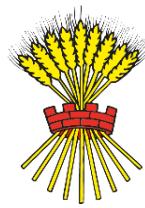
Priority 1	A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management
Priority 2	A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be addressed by management.
Priority 3	The system objectives are not exposed to significant risk, but the issue merits attention by management.

COUNTER FRAUD PROGRESS REPORT 2021/22

Date: 20 January 2022

Annex 2

RYEDALE
DISTRICT
COUNCIL





BACKGROUND

- 1 Fraud is a significant risk to local government. Losses to councils are estimated to exceed £7.8 billion annually in the United Kingdom.¹
- 2 Veritau delivers a corporate fraud service to the council which aims to prevent, detect and deter fraud and related criminality. The counter fraud team investigate allegations of fraud, plan and take part in counter fraud campaigns (e.g. the National Fraud Initiative), undertake fraud awareness activities with staff and the public, and maintain and update the council's counter fraud framework and associated policies.
- 3 This report updates the Overview and Scrutiny Committee on counter fraud activity to date, including recent actions following our last report to the committee.



FRAUD MANAGEMENT

- 4 A key objective for the counter fraud team is to raise awareness of fraud with members of staff and the public, and to inform them of how to report fraud if they suspect it is happening. Fraud awareness training continues to be delivered to relevant departments.
- 5 A campaign to mark Cyber Security Awareness Month was delivered to staff in October. Another campaign to mark International Fraud Awareness Week was delivered to staff and the public in November. International Anti-Corruption Day in December was marked by providing information to staff on how to identify bribery and money laundering and how to report any concerns.
- 6 Veritau have noted an increase in both regional and national attempts by organised criminals operating from overseas to divert genuine payments made to council suppliers (i.e. mandate or payment diversion fraud). The counter fraud team has worked with the council to strengthen processes in place to meet this increasing threat.
- 7 Veritau continues to support the council with Covid-19 related payments. The team works with officers to ensure that the council meets government mandated verification, investigation and recovery requirements for Covid-19 related grant payments.



MULTI-AGENCY WORK

- 8 Work on the 2020/21 National Fraud Initiative (NFI) is ongoing. The counter fraud team is in the process of reviewing over 500 matches across a range of council areas which were produced by the exercise. The NFI recently released additional matches relating to Covid-19 related grants

¹ Annual Fraud Indicator 2017, Crowe Clark Whitehill

which are also being reviewed. The Cabinet Office has requested further data relating to Covid-19 grants issued after the first period of lockdown in 2020/21. This information will be provided and results are expected to be released in the last quarter of the current financial year.

INVESTIGATIVE WORK

- 9 In 2021/22, the counter fraud team has received twenty-three referrals of suspected fraud. These cover potential Covid-19 related fraud, council tax fraud, and council tax support fraud. There are currently nine cases under investigation.

APPENDIX A: SUMMARY OF INVESTIGATIVE WORK 2021/22

The table below shows the success rate of investigations and levels of savings achieved through counter fraud work in 2021/22.

	2021/22 (As at 30/11/21)	2020/21 (Actual: Full Yr)
Amount of actual savings (quantifiable savings - e.g. repayment of loss) identified through fraud investigation	£7,082	£34,549
Amount of savings identified relating to Covid-19 business grant related fraud	£20,000	£30,000
% of investigations completed which result in a successful outcome (for example payments stopped or amended, sanctions, prosecutions)	67%	64%

Caseload figures for the period are:

	2021/22 (As at 30/11/21)	2020/21 (Full Year)
Referrals received	23	57
Number of cases under investigation	9	13 ²
Number of investigations completed	9	11
Number of verification cases completed ³	15	n/a

² As at 31/03/21

³ Verification cases relate to the review of applications for Covid-19 grants.

Activity	Work completed or in progress
Fraud detection and investigation	<p>The service promotes the use of criminal investigation techniques and standards to respond to any fraud perpetrated against the council. Activity to date includes the following:</p> <ul style="list-style-type: none"> • Covid-19 related fraud – The counter fraud team supports the council to prevent and detect fraud within Covid-19 related grants. The council has blocked £20k in payments this year. The counter fraud team, as part of a government mandated exercise, is undertaking verification exercises on grants paid during the first lockdown in 2020. To date fifteen verifications have been completed all of which were found to be correct. One investigation and three verifications are ongoing. • Council Tax fraud – The team has received eight referrals for potential council tax fraud. Three investigations have been completed all relating to false or incorrect claims for single person discounts. All investigations resulted in invoices being issued for unpaid council tax and one person received a formal written warning. • Business Rates fraud – One investigation has been completed in this area which resulted in a large overpayment of incorrectly claimed small business rate relief being identified. The debt has been fully repaid to the council. • Council Tax Support fraud – Thirteen referrals for potential fraud relating to council tax support (CTS) have been received. An investigation this year identified a £9k loss to the council in relation to a long running claim to CTS. There are currently eight investigations ongoing. • Internal fraud – No internal fraud cases have been reported in 2021/22 to date.

This page is intentionally left blank



REPORT TO:	OVERVIEW AND SCRUTINY COMMITTEE
DATE:	20 JANUARY 2022
REPORT OF THE:	CHIEF FINANCE OFFICER (s151) ANTON HODGE
TITLE OF REPORT:	INTERNAL AUDIT WORK PROGRAMME 2022/23 - CONSULTATION
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 The purpose of the report is to seek members' views on risk areas that should be considered a priority for audit in 2022/23, to help inform the preparation of the work programme.

2.0 RECOMMENDATION(S)

- 2.1 Members are asked to identify any specific risk areas which they believe should be considered a priority for audit in 2022/23.

3.0 REASON FOR RECOMMENDATION(S)

- 3.1 To ensure audit resources are targeted to key risk areas and to help inform the overall internal audit planning process.

4.0 SIGNIFICANT RISKS

- 4.1 To comply with proper practice requirements for internal audit, the views of the committee on council strategies, key business objectives, associated risks and risk management processes should be considered in planning internal audit work.

5.0 POLICY CONTEXT AND CONSULTATION

- 5.1 The work of internal audit is governed by the Accounts and Audit Regulations 2015 and relevant professional standards. These include the Public Sector Internal Audit Standards (PSIAS), Cipfa guidance on the application of those standards in Local Government and the Cipfa Statement on the role of the Head of Internal Audit.

6.0 REPORT DETAILS

- 6.1 In accordance with the PSIAS, and as acknowledged in the council's audit charter, "*Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.*"
- 6.2 The council's audit charter requires internal audit to draw up an indicative audit plan (known as the work programme) each financial year. Members will recall that when the 2021/22 work programme was presented at the July 2021 meeting of this committee a new, flexible approach to planning was introduced. This sees internal audit work set out in an indicative programme. This is a long list of areas which are a higher priority for audit during the year. Actual work to be undertaken is selected from the long list throughout the year based on ongoing assessment of risks and priorities.
- 6.3 The work programme is informed by a number of factors such as the council's risk registers, relevant national issues and our wider audit knowledge, including the results of recent audit work. The council's external auditors are also consulted to avoid possible duplication of work programmes, and to maximise the overall benefit of audit activity. The draft work programme will be presented to Overview and Scrutiny Committee in April 2022, for approval.
- 6.4 Internal audit work programmes cover a range of risk areas to ensure that the work undertaken enables Veritau to meet the requirement to provide an overall opinion on the governance, risk management, and control framework operating in the council. We have defined 11 key areas where we require assurance during the course of the year in order to provide that opinion, as follows:
- Strategic planning
 - Organisational governance
 - Financial governance
 - Risk management
 - Information governance
 - Performance management and data quality
 - Procurement and contract management
 - People management
 - Asset management
 - Programme and project management
 - ICT governance
- 6.5 While the overall structure of the work programme remains unchanged, its development and delivery will include consideration of the coverage of the above areas. The work programme continues to be organised according to:
- **Strategic risks** – for example those included as key risk areas in the corporate risk register, the successful management of which are fundamental to the ongoing success of the council
 - **Corporate and cross-cutting areas** – covering areas such as governance, performance, projects and risk

- **Fundamental / material systems** – which represent a high level of inherent risk due to the value and volumes of transactions processed
- **Specific service reviews** – particularly those which make a significant contribution to corporate objectives and where weaknesses may represent a significant risk
- **Technical / projects** – those areas of a technical nature and/or where project management is involved. These areas are key to the council as the risks involved could detrimentally affect the delivery of services.

- 6.6 The standards require that internal audit independently forms a view on the risks facing the council and work to be included in the work programme. However, there is also a requirement to take into account the views of the Overview and Scrutiny Committee and senior council officers in forming that view. This requirement is set out explicitly at paragraph 5.2 of the audit charter which states that internal audit should “*draw up an indicative risk based audit plan on an annual basis following consultation with the Overview and Scrutiny Committee and senior management*”. Some further background information on the standards is included in Appendix 1.
- 6.7 Internal audit is currently at the initial stage of planning work for 2022/23. Consultation meetings will be held with members of Strategic Management Board in February and March 2022. The planning process will take into account those key assurance areas listed at paragraph 6.4 but will also take account of preparations for Local Government Reorganisation (LGR). In particular, the need to ensure the continuity of governance and control arrangements, and the management of risk, in the run up to the transfer.
- 6.8 Members and senior council officers have an important role in shaping the programme by helping to direct internal audit to areas of greatest risk and priority during the council’s last 12 months of operation. It is quite possible that the work programme agreed will look significantly different to previous years given the major influence of LGR on the council’s operations.
- 6.9 As well as forming our own view on key risks and priorities, we will be looking to members and senior officers to have particular input this year. For example, as to whether the overall focus should be on corporate and cross-cutting systems in order to provide assurance on the continued operation of fundamental controls ahead of the transfer to the new authority. Equally, it might be that a focus on operational and service areas is required to ensure that services continue to be effectively delivered while the council is heavily involved in discussions and decisions around the future of the new authority in the lead up to LGR.
- 6.10 Taking into account all of the above, the purpose of this report is to seek the views of the committee on key risks facing the council, and areas it feels should be considered for audit in 2022/23 so that any views can be factored into the planning process.
- 6.11 Our expectation is that most work undertaken during 2022/23 will be reactive in nature in order to allow us to focus on whichever priorities relating to LGR are most pressing at any given point in the year. We will therefore reserve a large proportion of the work programme for such reactive work to ensure that we have the capacity and flexibility to deliver assurance and advisory services when and where they are needed most.
- 6.12 To help members formulate their ideas as to the initial priority areas to include in the 2022/23 work programme we have included, in Appendix 2, our definitions of the 11 key assurance areas which provide the foundations of our approach to planning. These are provided for reference, to assist members in organising their thoughts. While all areas are important in enabling internal audit to arrive at an annual opinion, members may well have views on which of these are deserving of particular attention, and have

suggestions for specific aspects of each they would like assurance on.

7.0 IMPLICATIONS

7.1 The following implications have been identified:

- a) Financial
None
- b) Legal
None
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental and Climate Change, Crime & Disorder)
None

Anton Hodge
Chief Finance Officer (s151)

Author: Connor Munro, Audit Manager
The Veritau Group
E-Mail Address: connor.munro@veritau.co.uk

Background Papers:

Internal Audit Charter
Public Sector Internal Audit Standards
Corporate Risk Register (September 2021)
Council Plan 2020-2024

APPENDIX 1

Background

There is a statutory duty on the Council to undertake an internal audit of the effectiveness of its risk management, control and governance processes. The Accounts and Audit Regulations 2015 also require the audit takes into account public sector internal auditing standards or guidance.

The Public Sector Internal Audit Standards (PSIAS) and CIPFA's local government application note for the standards represent proper practice for internal audit in local government.

Public Sector Internal Audit Standards (PSIAS) - extracts

1100: Independence and Objectivity

The internal audit activity must be independent and internal auditors must be objective in performing their work.

Interpretation: Objectivity requires that internal auditors do not subordinate their judgment on audit matters to others.

1110 Organisational Independence

The chief audit executive must report to a level within the organisation that allows the internal audit activity to fulfil its responsibilities. The chief audit executive must confirm to the board, at least annually, the organisational independence of the internal audit activity.

1110.A1

The internal audit activity must be free from interference in determining the scope of internal auditing, performing work and communicating results. The chief audit executive must disclose such interference to the board and discuss the implications.

2010 Planning

The chief audit executive must establish risk-based plans to determine the priorities of the internal audit activity, consistent with the organisation's goals.

Interpretation: To develop the risk-based plan, the chief audit executive consults with senior management and the board and obtains an understanding of the organisation's strategies, key business objectives, associated risks and risk management processes. The chief audit executive must review and adjust the plan, as necessary, in response to changes in the organisation's business, risks, operations, programmes, systems, and controls.

2020 Communication and Approval

The chief audit executive must communicate the internal audit activity's plans and resource requirements, including significant interim changes, to senior management and the board for review and approval.

Cipfa Local Government Application Note: In accordance with current best practice the audit committee should '*review and assess the annual internal audit work plan*.' The development of the risk-based audit plan remains the responsibility of the chief audit executive after consultation with senior management and the board, but the board should approve it.

APPENDIX 2

Key assurance area	Definition
Strategic planning	<p>Strategic planning is the process by which our clients define and develop their strategy, or direction, and make decisions on resource allocation to successfully pursue this strategy. It also encompasses the control measures in place to guide strategy implementation. The end result for our clients is the production of the corporate plan (or equivalent) and other such key plans and strategies which form part of the wider policy framework.</p> <p>This area is of importance to internal audit as effective strategic planning is a prerequisite for ensuring long term, sustainable success. A strategy developed following a robust strategic planning process is more likely to be fit for purpose and so to help our clients to achieve their key corporate objectives.</p>
Organisational governance	<p>Governance is the combination of processes and structures implemented by the board in order to inform, direct, manage and monitor the activities of the organisation toward the achievement of its objectives. These processes and structures include those relating to</p> <ul style="list-style-type: none"> • Making strategic and operational decisions • Overseeing risk management and control • Promoting appropriate ethics and values within the organisation. • Ensuring effective organisational performance management and accountability • Communicating risk and control information to appropriate areas of the organisation. • Coordinating the activities of, and communicating information among, the board, external and internal auditors, other assurance providers, and management. <p>In a local authority context, the principles of effective governance are set out in Cipfa's 2016 Good Governance framework. Effective corporate governance arrangements should ensure that the aims and objectives of our clients are not subverted, and resources not fraudulently diverted to individuals.</p>
Financial governance	<p>Section 151 of the Local Government Act 1972 requires that every local authority in England and Wales should "... <i>make arrangements for the proper administration of their financial affairs...</i>". Financial governance should ensure this proper administration through the systems by which the finances of local authorities are directed and controlled to support the delivery of the organisation's goals.</p> <p>Common objectives of financial governance such as value for money, probity, stewardship of public resources, and supporting decision-making are achieved through the effective management of a number of systems which collectively form the financial framework (e.g. financial accounting, budget management, income generation and debt management, financial planning, treasury management, and payroll).</p>
Risk management	<p>Risk management encompasses those processes to identify, assess, manage, and control potential events or situations to provide reasonable assurance regarding the achievement of the organisation's objectives.</p> <p>Determining whether risk management processes are effective is a judgement resulting from assessment that:</p>

Key assurance area	Definition
	<ul style="list-style-type: none"> • Organisational objectives support and align with the organization's mission. • Significant risks are identified and assessed. • Appropriate risk responses are selected that align risks with the organisation's risk appetite. • Relevant risk information is captured and communicated in a timely manner across the organisation, enabling staff, management, and the board to carry out their responsibilities.
Information governance	<p>Information governance is the set of multi-disciplinary structures, policies, procedures, processes and controls implemented by our client organisations to manage information at a corporate level. These governance arrangements should support an organisation's immediate and future regulatory, legal, risk, environmental and operational requirements.</p> <p>From an internal audit perspective, it principally relates to our clients' responsibility to comply with the Data Protection Act 2018 and UK GDPR in the way in which it processes its data but it also involves related legislation such as the Freedom of Information Act 2000, and the Environmental Information Regulations 2004. Given that data is the lifeblood of an organisation, it also concerns the proper management of its information assets such that they can be efficiently and effectively, created, tracked, retrieved, and used (as well as securely destroyed) to help with organisational decision-making.</p>
Performance management and data quality	<p>Performance management relates to the systems and responses in place that allow for the taking of effective action in response to actual performance in order to improve outcomes. It is the main means by which organisations are held to account for their use of resources and the quality of the services they provide.</p> <p>Ultimately, the performance management framework is only as good as the data that it is supplied with. Good quality data is that which is accurate, valid, reliable, timely, relevant, and complete. Processes for collecting, compiling and calculating performance information should include procedures for ensuring the quality of data.</p>
Procurement and contract management	<p>Effective procurement is vital for any organisation to minimise unnecessarily wasteful expenditure and to ensure that it maximises value for money in its service delivery. Public sector operating costs/expenditure is dominated by the procurement of services and goods, staffing costs and capital finance costs. Every procurement process undertaken by a local authority or on its behalf needs to comply with the provisions of its own constitution and the strategic objectives and policies set out in its commissioning and procurement strategy or equivalent.</p> <p>Managing the contract and supplier to ensure that the supplier delivers against the contract (and that risks and opportunities are managed) is another fundamental aspect of this assurance area.</p>
People management	<p>The area of people management involves such processes as recruitment and selection, remuneration, attendance management, training / talent development, individual performance management, equal opportunities, welfare and industrial relations, working arrangements, and discipline.</p> <p>Given how fundamental people are to the achievement of an organisation's objectives and the broad spectrum of potentially significant risks to human resources, it is a key area where assurance is required.</p>

Key assurance area	Definition
Asset management	<p>Asset management involves the proper safeguarding and recording of assets. It seeks to align the asset base with the organisation's corporate goals and objectives. The elements of a good asset management process are the maintenance of accurate records an asset register or inventory, an awareness of the physical location of assets and their custodian, and periodic and systematic physical verification of the existence and condition of assets to protect against theft and detect the unauthorised use of property.</p> <p>Our client organisations are exposed to a number of risks in managing their assets through this lifecycle such as financial loss, value for money, lack of data integrity, misappropriation, mismanagement of assets or failure to align asset base with corporate objectives. The management of assets is one of the larger sources of costs on revenue budgets and so is of significant importance from a financial perspective alone.</p>
Programme and project management	<p>Programmes are collection of related projects managed in a coordinated fashion so as to obtain benefits and control that would otherwise not be available from managing those projects individually. By contrast, projects are discrete, clearly defined, shorter-term engagements, involving the application of processes, methodologies, and specific/cross-functional skills and methodologies to achieve specific and measurable outcomes.</p> <p>In general terms, programmes and projects can be considered successful if they bring about sustainable change that aligns with, and furthers delivery of, corporate objectives, delivering outcomes to agreed cost, quality and time parameters.</p>
ICT governance	<p>Information technology (IT) governance is a sub-discipline of organisational governance consisting of the leadership, organisational structures, policies, and processes that ensure that the organisation's information technology supports its strategies and objectives.</p> <p>Ultimately, the strength of an organisation's IT governance arrangements is determined by both strategic- and operational-level control design and effectiveness. Applications, application controls, IT infrastructure (e.g. database, operating system, network/physical assets), and IT general controls combine to form the IT environment. IT governance should guide the management and oversight of these day-to-day activities and so help to establish an effective control environment that is able to support both the operational and strategic objectives of the organisation.</p>



PART B:	RECOMMENDATIONS TO COUNCIL
REPORT TO:	OVERVIEW AND SCRUTINY COMMITTEE
DATE:	20 JANUARY 2022
REPORT OF THE:	CHIEF FINANCE OFFICER (s151) ANTON HODGE
TITLE OF REPORT:	TREASURY MANAGEMENT STRATEGY STATEMENT AND ANNUAL INVESTMENT STRATEGY 2022/23
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 This is a draft of the report which will be presented to the Policy and Resources Committee on 3 February and which will ask members to consider the Treasury Management, Annual Investment and Capital Strategies, the Minimum Revenue Provision Policy and Prudential Indicators for 2022/23, as required by the Department for Levelling Up, Housing and Communities (DLUHC) and CIPFA (as updated 2017).
- 1.2 Some of the financial data in this draft is based on draft estimates and final budget proposals, which will impact on the details included here, will be updated prior to Council approval.

2.0 RECOMMENDATIONS

- 2.1 That Council is recommended to approve:
 - (i) Members receive this report;
 - (ii) The Operational Borrowing Limit for 2022/23 is set at £7m;
 - (iii) The Authorised Borrowing Limit for 2022/23 is set at £12.5m;
 - (iv) Councillors delegate authority to the Chief Finance Officer to effect movement within the agreed authorised boundary limits for long-term borrowing for 2022/23 onwards.
 - (v) Councillors delegate authority to the Chief Finance Officer to effect movement within the agreed operational boundary limits for long-term borrowing for 2022/23 onwards.

- (vi) The treasury management strategy statement 2022/23 be approved.
- (vii) The minimum revenue provision policy statement for 2022/23 be approved.
- (viii) The treasury management investment strategy for 2022/23 be approved.
- (ix) The prudential indicators for 2022/23 which reflect the capital expenditure plans which are affordable, prudent and sustainable be approved.
- (x) The Capital Strategy for 2022/23 be approved

3.0 REASON FOR RECOMMENDATIONS

- 3.1 To ensure the Council's Treasury Management Strategy and association policies are prudent and affordable.

4.0 SIGNIFICANT RISKS

- 4.1 There are significant risks when investing public funds especially with unknown institutions. However, by the adoption of the CIPFA Code and a prudent investment policy, these are minimised. The employment of Treasury Advisors also helps reduce the risk.

5.0 POLICY CONTEXT AND CONSULTATION

- 5.1 The Council has adopted the CIPFA Code of Practice on Treasury Management in Local Authorities and this report complies with the requirements under this code and the relevant requirements of the Local Government Act 2003.
- 5.2 The Council use the services of Link Group to provide treasury management information and advice.

REPORT

6.0 REPORT DETAILS

6.1 TREASURY MANAGEMENT STRATEGY STATEMENT 2022/23

- 6.1.1 The Council is required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low risk counterparties or instruments commensurate with the Council's low risk appetite, providing adequate liquidity initially before considering investment return.
- 6.1.2 The second main function of the treasury management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure that the Council can meet its capital spending obligations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses. On occasion any debt previously drawn may be restructured to meet Council risk or cost objectives.

6.1.3 The contribution the treasury management function makes to the authority is critical, as the balance of debt and investment operations ensure liquidity or the ability to meet spending commitments as they fall due, either on day-to-day revenue or for larger capital projects. The treasury operations will see a balance of the interest costs of debt and the investment income arising from cash deposits affecting the available budget. Since cash balances generally result from reserves and balances, it is paramount to ensure adequate security of the sums invested, as a loss of principal will in effect result in a loss to the General Fund Balance.

6.1.4 CIPFA defines treasury management as:

"The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."

Reporting Requirements

6.1.5 Revised reporting was required from the 2021/22 reporting cycle due to revisions of the DLUHC Investment Guidance, the DLUHC Minimum Revenue Provision (MRP) Guidance, the CIPFA Prudential Code and the CIPFA Treasury Management Code. The primary reporting changes include the introduction of a capital strategy, to provide a longer-term focus to the capital plans, and greater reporting requirements surrounding any commercial activity undertaken under the Localism Act 2011.

6.1.6 Capital Strategy

The CIPFA revised 2017 Prudential and Treasury Management Codes requires all local authorities to prepare a capital strategy report, which will provide the following:

- a high-level long term overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services
- an overview of how the associated risk is managed
- the implications for future financial sustainability

The aim of this capital strategy is to ensure that all elected members on the full council fully understand the overall long-term policy objectives and resulting capital strategy requirements, governance procedures and risk appetite.

6.1.7 Treasury Management Reporting

The Council is required to receive and approve, as a minimum, three main reports each year, which incorporate a variety of policies, estimates and actuals. These reports are required to be adequately scrutinised by committee before being recommended to the Council. This role is undertaken by the Overview and Scrutiny Committee.

Prudential and Treasury Indicators and Treasury Strategy (this report) – The first and most important report covers:

- The capital plans (including prudential indicators);
- A Minimum Revenue Provision Policy (how residual capital expenditure is charged to revenue over time);
- The Treasury Management Strategy (how the investments and borrowings are to be organised) including treasury indicators; and

- An investment strategy (the parameters on how investments are to be managed).

A Mid Year Treasury Management Report. This will update members with the progress of the capital position, amending prudential indicators as necessary, and whether the treasury strategy or whether any policies require revision.

An Annual Treasury Report. This provides details of a selection of actual prudential treasury indicators and actual treasury operations compared to the estimates within the strategy.

Treasury Management Strategy for 2022/23

6.1.8 The strategy for 2022/23 covers two main areas

Capital Issues

- The capital plans and prudential indicators
- The MRP strategy

Treasury Management Issues

- The current treasury position;
- Treasury indicators which will limit the treasury risk and activities of the Council;
- Prospects for interest rates;
- The borrowing strategy;
- Policy on borrowing in advance of need;
- The investment strategy; and
- Creditworthiness policy.

These elements cover the requirements of the Local Government Act 2003, the CIPFA Prudential Code, the CLG MRP Guidance, the CIPFA Treasury Management Code and the CLG Investment Guidance.

6.1.9 **Training**

The CIPFA Code requires the Chief Finance Officer to ensure that members with responsibility for treasury management, particularly those with responsibility for scrutiny, receive adequate training in treasury management. Training has been provided to members by Link Group and further training will be arranged as required.

6.1.10 **Treasury Management Consultants**

The Council uses Link Group, Treasury Solutions as its external treasury management advisors.

The Council recognises that responsibility for treasury management decisions remains with the organisation at all times and will ensure that undue reliance is not placed upon the services of our external service providers. All decisions will be undertaken with regards to all available information, including, but not solely, our treasury advisers.

It also recognises that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources. The Council will ensure that the terms of their appointment and the methods by which their

value will be assessed are properly agreed and documented, and subjected to regular review.

6.1.11 Treasury Management Function & Sweeping Arrangements

Included within the service level agreement with North Yorkshire County Council (NYCC) for the provision on s151 Officer and Finance services, there is provision for treasury management support.

Reporting and monitoring processes are already in place, along with day to day support for treasury activities. It has previously been reported that discussions were underway between the Authorities' respective banks exploring the technical feasibility for Ryedale District Council to join NYCC's investment pool, and that prior to implementing such arrangements Ryedale District Council would be asked to formally adopt the Investment Strategy of NYCC.

Following on-going discussions, a solution for automated balances sweeping between banks has not been identified at present, although opportunities will continue to be investigated. It is therefore not proposed within the 2022/23 Investment strategy to adopt that of NYCC.

6.2 THE CAPITAL PRUDENTIAL INDICATORS 2022/23 – 2024/25

Introduction

- 6.2.1 The 'Prudential Code' provides Council's with a regime of self-regulation for borrowing money for capital purposes. A local authority can borrow as much as it wishes as long as it can afford the repayments. The Code outlines four key objectives relating to the capital investment plans and treasury management procedures of local authorities. To demonstrate that these objectives are being fulfilled the Prudential Code sets out the indicators that must be used, and the factors that must be taken into account.
- 6.2.2 The Code prescribes how the issue of affordability is measured using a set of prudential indicators. The four key objectives of the Code are to ensure that capital investment plans of local authorities are affordable, prudent and sustainable, and to ensure that treasury management decisions are taken in accordance with good professional practice. The indicators are mandatory but the figures used in the calculations are a matter for each local authority.
- 6.2.3 The prudential indicators required by the Code are designed to support and record local decision-making. They are not designed to be comparative performance indicators and the use of them in this way would be likely to be misleading and counter-productive.
- 6.2.4 The Council's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans are reflected in prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

Capital Expenditure.

- 6.2.5 This prudential indicator is a summary of the Council's capital expenditure plans, both

those agreed previously, and those forming part of this budget cycle. *These are currently based draft estimates and final budget proposals will be updated prior to Council approval.*

Table 1: Capital Expenditure

Capital Expenditure	2020/21	2021/22	2022/23	2023/24	2024/25
	Actual £'000	Estimate £'000	Estimate £'000	Estimate £'000	Estimate £'000
General Fund	1,015	5,922	11,290	701	646
Commercial Activities / Non Financial Investments	0	0	0	0	0
Total	1,015	5,922	11,290	701	646

The above financing need excludes other long term liabilities, such as PFI and leasing arrangements which already include borrowing instruments.

Table 2: Financing of Capital Expenditure

- 6.2.6 The table below summarises the above capital expenditure plans and how these plans are being financed by capital or revenue resources. Any shortfall of resources results in a funding need (borrowing):

Capital Expenditure	2020/21	2021/22	2022/23	2023/24	2024/25
	Actual £'000	Est. £'000	Est. £'000	Est. £'000	Est. £'000
General Fund	1,015	5,922	11,290	701	646
Total	1,015	5,922	11,290	701	646
Financed By:					
Revenue & Reserves	-238	-2,314	TBC	TBC	TBC
Capital Receipts	-35	-20			
Grants	-743	-2,155			
Borrowing - Leases	0	-1,433			
Net Financing Need	0	0	0	0	0

Note: These are currently based draft estimates and final budget proposals will be updated prior to Council approval.

The Council's Borrowing Need (the Capital Financing Requirement)

- 6.2.7 The second prudential indicator is the Council's Capital Financing Requirement (CFR). The CFR is simply the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is essentially a measure of the Council's underlying borrowing need. Any capital expenditure above, which has not immediately been paid for, will increase the CFR.

- 6.2.8 The CFR does not increase indefinitely, as the minimum revenue provision (MRP) is a statutory annual revenue charge which broadly reduces the borrowing need in line with each assets life. The Council is asked to approve the CFR projections below:

Table 3: Capital Financing Requirement

	2020/21 Actual £'000	2021/22 Est. £'000	2022/23 Est. £'000	2023/24 Est. £'000	2024/25 Estimate £'000
CFR General Fund	1,553	1,518	1,483	1,447	1,412
CFR GF Leases	514	560	421	278	678
CFR Commercial / Non-financial investments	0	0	0	0	0
Total CFR	2,067	2,078	1,904	1,725	2,090
Movement in CFR	366	10	-174	-178	-182
Movement in CFR represented by:-					
Net Financing need for the year	547	219	0	0	547
Less MRP & Other Financing movements	-181	-209	-174	-178	-182
Movement in CFR	366	10	-174	-178	364

Note: These are currently based draft estimates and final budget proposals will be updated prior to Council approval.

- 6.2.9 The CFR includes any other long term liabilities (e.g. finance leases) brought onto the balance sheet. Whilst this increases the CFR, and therefore the Council's borrowing requirement, these types of scheme include a borrowing facility and so the Council is not required to separately borrow for these schemes. These are also shown in Table 3.

Affordability Prudential Indicators

- 6.2.10 The previous sections cover the overall capital and control of borrowing prudential indicators, but within this framework prudential indicators are required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the Council's overall finances. The Council is asked to approve the following indicator:

- 6.2.11 The indicator of actual and estimates of the ratio of financing costs to net revenue stream identifies the trend in the cost of capital (borrowing and other long term obligation costs net of investment income) against the net revenue stream. These are shown in Table 4. The estimates of financing costs include current commitments and the proposals in this report.

Table 4: Ratio of Financing Costs to Net Revenue Stream

	2020/21 Actual %	2021/22 Est. %	2022/23 Est. %	2023/24 Est. %	2024/25 Est. %
General Fund	0.76	2.37	2.04	1.58	-0.15

Note: These are currently based draft estimates and final budget proposals will be updated prior to Council approval.

6.3 MINIMUM REVENUE PROVISION POLICY STATEMENT 2022/23

Introduction

- 6.3.1 The Council is required to pay off an element of the accumulated General Fund capital spend each year (the CFR) through a revenue charge (the minimum revenue provision – MRP), although it is also allowed to undertake additional voluntary payments if required (voluntary revenue provision – VRP).

DLUHC Regulations have been issued which require the full Council to approve an MRP Policy Statement in advance of each year. A variety of options are provided to councils so long as there is a prudent provision. The Council is recommended to approve the following MRP Statement.

Minimum Revenue Provision Policy

- 6.3.2 The Council's MRP policy is based on the Governments Statutory Guidance and following a review no further changes are considered necessary and the policy for 2022/23 is therefore as follows:

- (a) For all **Capital expenditure incurred before 1 April 2008** which formed the General Fund Capital Financing Requirement (CFR) that is capital expenditure funded through borrowing will be charged at 4% of the outstanding balance each year.
- (b) From 1 April 2018 for all unsupported borrowing (including PFI and finance leases) the MRP policy will be either:
 - **Asset life method** – MRP will be based on the estimated life of the assets, in accordance with the regulations (this option must be applied for any expenditure capitalised under a Capitalisation Direction) (option 3);
 - **Depreciation method** – MRP will follow standard depreciation accounting procedures (option 4);

These options provide for a reduction in the borrowing need over approximately the asset's life

Total MRP for 2022/23 is currently estimated at £174k, (£35k internal borrowing, and £139k for leases).

- 6.3.3 MRP Overpayments - A change introduced by the revised DLUHC MRP Guidance was the allowance that any charges made over the statutory minimum revenue provision (MRP), voluntary revenue provision or overpayments (VRP), can, if needed, be reclaimed in later years if deemed necessary or prudent. In order for these sums to be reclaimed for use in the budget, this policy must disclose the cumulative overpayment made each year. At present there are no plans to make voluntary revenue provisions (VRP).

6.4 BORROWING STRATEGY 2022/23

- 6.4.1 The capital expenditure plans provide details of the service activity of the Council. The treasury management function ensures that the Council's cash is organised in accordance with the relevant professional codes, so that sufficient cash is available to

meet the service activity. This will involve both the organisation of the cash flow and, where capital plans require, the organisation of appropriate borrowing facilities. The strategy covers the relevant treasury / prudential indicators, the current and projected debt positions and the annual investment strategy.

- 6.4.2 The Council's treasury portfolio position at 31 December 2021, is shown in Table 5.

Table 5: Current Treasury Portfolio at 31/12/21

		Principal £m	Ave. Rate %
Fixed rate funding	PWLB	1.5	3.44
	Market	0.0	
Variable rate funding	PWLB	0.0	0
	Market	0.0	
Other long term liabilities	Leases	0.6	3.68
Total Debt		2.0	3.50
Total Investments		37.9	0.11

- 6.4.3 Forward projections are summarised in Table 6. The table shows the actual external borrowing (the treasury management operations), against the capital borrowing need (the Capital Financing Requirement - CFR), highlighting any over or under borrowing.

Table 6: Forecasted Portfolio Position

	2021/22 F'cast £000	2022/23 F'cast £000	2023/24 F'cast £000	2024/25 F'cast £000
External Borrowing				
Borrowing at 1 April	1,513	1,473	1,434	1,394
Expected Change in Borrowing	-39	-39	-39	-39
Leases	560	421	278	678
Actual Borrowing at 31 March	2,034	1,855	1,673	2,033
CFR - the borrowing need	2,078	1,904	1,725	2,090
Under / (over) borrowing	44	48	53	57
Investments				
Total Investments	24,377	19,872	10,421	7,690
Investment Change	-1,831	-4,505	-9,451	-2,731
Net Borrowing	-22,343	-18,017	-8,748	-5,667

Note: These are currently based draft estimates and final budget proposals will be updated prior to Council approval.

Treasury Limits for 2022/23 to 2024/25

- 6.4.5 Ryedale District Council has, at any point in time, a number of cash flows both positive and negative, and manages its treasury position in terms of its borrowings and investments in accordance with its approved treasury management strategy and practices. In day-to-day cash management, no distinction can be made between

revenue and capital cash. External borrowing arises as a consequence of all the financial transactions of the authority and not simply those arising from capital spending

- 6.4.6 CIPFA's Prudential code for Capital Finance in Local Authorities' includes the following key indicator of prudence;

"In order to ensure that over the medium term net borrowing will only be for a capital purpose, the local authority should ensure that net external borrowing does not, except in the short term, exceed the total of capital financing requirement in the preceding year plus the estimates of any additional capital financing requirement for the current and the next two financial years."

- 6.4.7 The Chief Finance Officer reports that the authority had no difficulty meeting this requirement in 2020/21, nor are any difficulties envisaged for the current (2021/22) or future years (2022/23 – 2024/25). This view takes into account current commitments, existing plans and the proposals in the budget.
- 6.4.8 The Council must have regard to the Prudential Code when setting the Authorised Limit, which essentially requires it to ensure that total capital investment remains within sustainable limits and, in particular, that the impact upon its future council tax levels is 'acceptable'. It reflects the level of external borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term.
- 6.4.9 Whilst termed an "Affordable Borrowing Limit", it incorporates the capital plans to be considered for inclusion in corporate financing by both external borrowing and other forms of liability, such as credit arrangements.
- 6.4.10 The Authorised Limit for external borrowing is a key prudential indicator and represents a control on the maximum level of borrowing. It is a limit beyond which external borrowing is prohibited, and this limit needs to be set or revised by the full Council on a rolling basis, for the forthcoming financial year and two successive financial years. This information is shown in table 7.

Table 7: Authorised Borrowing Limit

Authorised Limit	2021/22 Estimate £'000	2022/23 Estimate £'000	2023/24 Estimate £'000	2024/25 Estimate £'000
Debt	10,000	10,000	10,000	10,000
Other long term liabilities	2,500	2,500	2,500	2,500
Total	12,500	12,500	12,500	12,500

- 6.4.11 The Operational Boundary is the limit beyond which external borrowing is not normally expected to exceed and within which officers will manage the Council's external debt position. In most cases, this would be a similar figure to the CFR, but may be lower or higher depending on the levels of actual borrowing. This information is shown in table 8.

Table 8: Operational Borrowing Limit

Operational Boundary	2021/22 Estimate £'000	2022/23 Estimate £'000	2023/24 Estimate £'000	2024/25 Estimate £'000
Debt	5,000	5,000	5,000	5,000
Other long term liabilities	2,000	2,000	2,000	2,000
Total	7,000	7,000	7,000	7,000

- 6.4.12 In respect of its external debt, table 8 details the proposed authorised limits for the Council's total external debt gross of investments for the next three financial years which councillors are recommended to approve. These limits separately identify borrowing from other long-term liabilities such as finance leases. It is also recommended that members continue to delegate authority to the Chief Finance Officer, within the total limit for any individual year, to effect movement between the separately agreed limits for borrowing and other long term liabilities. Any such changes made will be reported to Overview & Scrutiny Committee at its next meeting following the change.
- 6.4.13 The Chief Finance Officer reports that these authorised limits are consistent with the authority's current commitments, existing plans and the proposals in the budget for capital expenditure and financing, and with its approved treasury management policy statement and practices. The Chief Finance Officer confirms that they are based on the estimate of the most likely, prudent but not worst-case scenario, with sufficient headroom over and above this to allow for operational management, for example unusual cash movements. Risk analysis and risk management strategies have been taken into account; as have plans for capital expenditure, estimates of the capital financing requirement and estimates of cash flow requirements for all purposes.

Prospects for Interest Rates

- 6.4.13 The Council has appointed Link Group as its treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. Annex 1 draws together a number of current city forecasts for short term (bank rate) and longer fixed interest rates. Table 9 gives the Link central view.

Table 9: Link View interest rate forecast – January 2022

Link Group Interest Rate View 20.12.21														
	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24	Mar-25
BANK RATE	0.25	0.25	0.50	0.50	0.50	0.75	0.75	0.75	0.75	1.00	1.00	1.00	1.00	1.25
3 month ave earnings	0.20	0.30	0.50	0.50	0.60	0.70	0.80	0.90	0.90	1.00	1.00	1.00	1.00	1.00
6 month ave earnings	0.40	0.50	0.60	0.60	0.70	0.80	0.90	1.00	1.00	1.10	1.10	1.10	1.10	1.10
12 month ave earnings	0.70	0.70	0.70	0.70	0.80	0.90	1.00	1.10	1.10	1.20	1.20	1.20	1.20	1.20
5 yr PWLB	1.40	1.50	1.50	1.60	1.60	1.70	1.80	1.80	1.80	1.90	1.90	1.90	2.00	2.00
10 yr PWLB	1.60	1.70	1.80	1.80	1.90	1.90	2.00	2.00	2.00	2.10	2.10	2.10	2.20	2.30
25 yr PWLB	1.80	1.90	2.00	2.10	2.10	2.20	2.20	2.20	2.30	2.30	2.40	2.40	2.50	2.50
50 yr PWLB	1.50	1.70	1.80	1.90	1.90	2.00	2.00	2.00	2.10	2.10	2.20	2.20	2.30	2.30

Borrowing Requirement

- 6.4.14 The Council is currently forecasting a marginally under-borrowed position in 2021/22. This means that the Council's capital borrowing is lower than the underlying need to borrow. As a result of the capital expenditure plans set out in 6.2.5, Table 1, the Council is expected to

be maintain an under-borrowed position from 2022/23 onwards as shown in Table 10 below. This is a prudent strategy as investment returns are low and counterparty risk is relatively high – this approach will be carefully monitored during 2022/23.

Table 10: Borrowing Position

Under / (Over) Borrowing	2021/22 £'000	2022/23 £'000	2023/24 £'000	2024/25 £'000
External Debt				
GF Ext Borrowing	1,474	1,434	1,395	1,355
Capital Financing Requirement	1,518	1,483	1,447	1,412
Under / (Over) Borrowing	44	48	53	57

* The table above excludes leases from the under / over borrowed position, unlike table 6 – Forecasted Portfolio Position.

- 6.4.15 Against this background and the risks within the economic forecast, caution will be adopted with the 2022/23 treasury operations. The Chief Finance Officer will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances.
- 6.4.16 The current capital programme funding forecasts for 2022/23 to 2024/25 shows there is currently no borrowing requirement. However, borrowing needs will be reviewed as the capital programmes are confirmed. Any decisions will be reported to Overview & Scrutiny committee at the next available opportunity.

Treasury Management Limits on Activity

- 6.4.17 There are three debt related treasury activity limits. The purpose of these are to restrain the activity of the treasury function within certain limits, thereby managing risk and reducing the impact of any adverse movement in interest rates. However, if these are set to be too restrictive they will impair the opportunities to reduce costs / improve performance. The indicators are:

- Upper limits on variable interest rate exposure. This identifies a maximum limit for variable interest rates;
- Upper limits on fixed interest rate exposure. This is similar to the previous indicator and covers a maximum limit on fixed interest rates;
- Maturity structure of borrowing. These gross limits are set to reduce the Council's exposure to large fixed rate sums falling due for refinancing, and are required for upper and lower limits.

The Council is asked to approve the following treasury indicators and limits:

%	2022/23 £'000	2023/24 £'000	2024/25 £'000
Interest Rates Exposure	Upper	Upper	Upper
Borrowing:			
Limits on fixed interest rates	100%	100%	100%
Limits on variable interest rates	5%	5%	5%
Investments:			
Limits on fixed interest rates	100%	100%	100%
Limits on variable interest rates	50%	50%	50%

Maturity Structure New Borrowing 2022/23	Lower	Upper
Under 12 months	0%	20%
12 Months and within 2 Years	0%	20%
2 Years and within 5 Years	0%	50%
5 Years and within 10 Years	0%	50%
10 Years and within 15 Years	0%	50%
15 Years and over	90%	20%

Policy on Borrowing in Advance of Need

6.4.18 The Council will not borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be within forward approved Capital Financing Requirement estimates, and will be considered carefully to ensure that value for money can be demonstrated and that the Council can ensure the security of such funds.

6.5 ANNUAL INVESTMENT STRATEGY STATEMENT 2022/23

Investment Policy – management of risk

6.5.1 The DLUHC and CIPFA have extended the meaning of ‘investments’ to include both financial and non-financial investments. This report deals solely with financial investments, (as managed by the treasury management team). Non-financial investments, essentially the purchase of income yielding assets, are covered in the Capital Strategy

6.5.2 The Council’s investment policy has regard to the following: -

- DLUHC’s Guidance on Local Government Investments (“the Guidance”);
- CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes 2017 (“the Code”); and
- CIPFA Treasury Management Guidance Notes 2018.

The Council’s investment priorities will be security first, portfolio liquidity second and then yield, (return).

6.5.3 The above guidance from the DLUHC and CIPFA place a high priority on the management of risk. The Council has adopted a prudent approach to managing risk and defines its risk appetite by the following means: -

- a) minimum acceptable credit criteria are applied in order to generate a list of highly creditworthy counterparties. This also enables diversification and thus avoidance of concentration risk. The key ratings used to monitor counterparties are the short term and long-term ratings;
- b) other information: ratings will not be the sole determinant of the quality of an institution; it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate. The assessment will also take account of information that reflects the opinion of the markets. To achieve this consideration, the Council will engage with its advisors to maintain a monitor

on market pricing such as “credit default swaps” and overlay that information on top of the credit ratings;

- c) other information sources used will include the financial press, share price and other such information pertaining to the financial sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties;
- d) the Council has defined the list of types of investment instruments that the treasury management team are authorised to use:-
 - **Specified investments** are those with a high level of credit quality and subject to a maturity limit of one year.
 - **Non-specified investments** are those with less high credit quality, may be for periods in excess of one year, and/or are more complex instruments which require greater consideration by members and officers before being authorised for use. Once an investment is classed as non-specified, it remains non-specified all the way through to maturity i.e. an 18 month deposit would still be non-specified even if it has only 11 months left until maturity.
- e) **Non-specified investments limit.** The Council has determined that it will limit the maximum total exposure to non-specified investments as being 20% of the total investment portfolio, (£4m);
- f) **Lending limits**, (amounts and maturity), for each counterparty will be set;
- g) the Council will set a limit for the amount of its investments which are invested for **longer than 365 days**;
- h) investments will only be placed with counterparties from countries with a specified minimum **sovereign rating**;
- i) the Council has engaged **external consultants**, to provide expert advice on how to optimise an appropriate balance of security, liquidity and yield, given the risk appetite of the Council in the context of the expected level of cash balances and need for liquidity throughout the year;
- j) all investments will be denominated in **sterling**; and
- k) as a result of the change in accounting standards for 2021/22 under IFRS 9, the Council will consider the implications of investment instruments which could result in an adverse movement in the value of the amount invested and resultant charges at the end of the year to the General Fund. (In November 2018, the DLUHC, concluded a consultation for a temporary override to allow English local authorities time to adjust their portfolio of all pooled investments by announcing a statutory override to delay implementation of IFRS 9 for five years ending 31.3.23)

6.5.4 However, the Council will also pursue value for money in treasury management and will monitor the yield from investment income against appropriate benchmarks for investment performance. Regular monitoring of investment performance will be carried out during the year.

Changes in risk management policy from last year

6.5.5 The above criteria are unchanged from last year.

Credit Worthiness Policy – Security of Capital and use of credit ratings

6.5.6 This Council applies the creditworthiness service provided by Link Group (Sector). This service employs a sophisticated modelling approach utilising credit ratings from all three main credit rating agencies - Fitch, Moodys and Standard and Poors. The credit ratings of counterparties are supplemented with the following overlays:

- Credit watches and credit outlooks from credit rating agencies;
- CDS spreads to give early warning of likely changes in credit ratings;
- Sovereign ratings to select counterparties from only the most creditworthy countries.

(a) This modelling approach combines credit ratings, credit watches, and credit outlooks in a weighted scoring system which is then combined with an overlay of CDS spreads for which the end product is a series of colour code bands, which indicate the relative creditworthiness of counterparties. These colour codes are also used by the Council to determine the duration for investments. The Council will therefore use the counterparties within the following durational bands:

Colour	Maximum Investment Duration
Yellow	5 Years
Purple	2 Years
Orange	1 Year
Blue	1 Year (UK nationalised / semi nationalised banks only)
Red	6 Months
Green	100 Days
No Colour	No investments to be made

6.5.7 The Link Group creditworthiness service uses a wider array of information than just primary ratings and by using a risk weighted scoring system, does not give undue preponderance to just one agency ratings. Furthermore, by using a risk weighted scoring system, it does not give undue preponderance to just one agency's ratings.

6.5.8 Typically the minimum credit ratings criteria the Council use will be a short term rating (Fitch or equivalents) of Short Term rating F1, Long Term rating A-. There may be occasions when the counterparty ratings from one rating agency are marginally lower than these ratings but may still be used. In these, instances consideration will be given to the whole range of ratings available, or other topical market information, to support their use.

6.5.9 All credit ratings will be monitored daily. The Council is alerted to changes to ratings of all three agencies through its use of the Link Group creditworthiness service.

- If a downgrade results in the counterparty / investment scheme no longer meeting

the Council's minimum criteria, its further use as a new investment will be withdrawn immediately;

- In addition to the use of credit ratings the Council will be advised of information in movements in Credit Default Swap against the iTraxx benchmark and other market data on a weekly basis. Extreme market movements may result in downgrade of an institution or removal from the lending list.

6.5.10 Sole reliance will not be placed on the use of this external service. In addition this Council will also use market data and market information, information on government support for banks and the credit ratings of that government support.

UK Banks – Ring-fencing

6.5.11 The largest UK banks, (those with more than £25bn of retail / Small and Medium-sized Enterprise (SME) deposits), are required, by UK law, to separate core retail banking services from their investment and international banking activities by 1st January 2019. This is known as “ring-fencing”. Whilst smaller banks with less than £25bn in deposits are exempt, they can choose to opt up. Several banks are very close to the threshold already and so may come into scope in the future regardless.

6.5.12 Ring-fencing is a regulatory initiative created in response to the global financial crisis. It mandates the separation of retail and SME deposits from investment banking, in order to improve the resilience and resolvability of banks by changing their structure. In general, simpler activities offered from within a ring-fenced bank, (RFB), will be focused on lower risk, day-to-day core transactions, whilst more complex and “riskier” activities are required to be housed in a separate entity, a non-ring-fenced bank, (NRFB). This is intended to ensure that an entity’s core activities are not adversely affected by the acts or omissions of other members of its group.

6.5.13 While the structure of the banks included within this process may have changed, the fundamentals of credit assessment have not. The Council will continue to assess the new-formed entities in the same way that it does others and those with sufficiently high ratings, (and any other metrics considered), will be considered for investment purposes.

Country Limits

6.5.14 Due care will be taken to consider the exposure of the Council’s total investment portfolio to non-specified investments, countries, groups and sectors

- a) **Non-specified investment limit.** The Council has determined that it will limit the maximum total exposure to non-specified investments as being 20% of the total investment portfolio.
- b) **Country limit.** The Council has determined that it will only use approved counterparties from the UK and from countries with a minimum sovereign credit rating of AA- from Fitch. The list of countries that qualify using these credit criteria as at the date of this report are shown in Annex C. This list will be added to, or deducted from, by officers should ratings change in accordance with this policy.

Investment Strategy

6.5.15 In-house funds. Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e. rates for investments up to 12 months). Greater returns are usually obtainable by investing for longer periods. While most cash balances are required in order to manage daily cash flow requirements, where cash sums can be identified that could be invested for longer periods, the value to be obtained from longer term investments will be carefully assessed:-

- if it is thought that Bank Rate is likely to rise significantly within the time horizon being considered, then consideration will be given to keeping most investments as being short term or variable;
- conversely, if it is thought that Bank Rate is likely to fall within that time period, consideration will be given to locking in higher rates currently obtainable, for longer periods.

Investment returns expectations.

6.5.16 Investment rates available remain at low levels as a result of the continuing low Bank Rate. Though the December 2021 Monetary Policy Committee voted to increase the Bank Rate to 0.25%, the first rise since the Covid-19 Pandemic began, this increase will take time to filter through to council investments, as existing investments mature and are replaced. Bank Rate forecasts for financial year ends are:

- Q1 2023 0.50%
- Q1 2024 0.75%
- Q1 2025 1.00%

6.5.17 For its cash flow generated balances, the Council will seek to utilise its notice accounts, money market funds and short dated deposits (overnight to three months) in order to benefit from the compounding of interest.

Ethical Investment Opportunities

6.5.18 Investment guidance, both statutory and from CIPFA, makes clear that all investing must adopt SLY principals – security, liquidity and yield: ethical issues must play a subordinate role to those principals. Link Group is looking at ways in which Environmental, Social and Governance (ESG) metrics may be incorporated into credit rating agency assessments, and a small but growing number of financial institutions and fund managers are starting to promote ESG products. However, with a lack of consistency and coverage, Link Group continue to review options in this area and will update clients as progress is made, which will be brought forward in future Treasury reporting updates when available.

6.5.19 Within the Council's current lending criteria, an ethical money market fund is available to the Council for investment, (details are attached at Annex H) and will continue to be considered, should favourable return rates become available.

End of Year Investment Report

6.5.20 At the end of the financial year the Council will report on its investment activity as part of the Annual Treasury Report.

Scheme of Delegation

6.5.21 Please see Annex E.

Role of the section 151 officer

6.5.22 Please see Annex E.

6.6 CAPITAL STRATEGY

The Prudential Code 2017 introduced a new requirement for local authorities to produce an annual capital strategy. Please refer to Annexes F and G.

7.0 IMPLICATIONS

7.1 The following implications have been identified:

a) Financial

The results of the investment strategy affect the funding of the Capital Programme.

b) Legal

There are no legal implications regarding this report.

c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder, Climate Change)

There are no legal implications regarding this report.

**Anton Hodge
Chief Finance Officer (s151)**

Author: **Anton Hodge, Chief Finance Officer (s151)**

Telephone No: 01653 600666 ext: 201

E-Mail Address: anton.hodge@ryedale.gov.uk

Background Papers:

None

Background Papers are available for inspection at: None

TREASURY MANAGEMENT STATEMENT AND INVESTMENT STRATEGY REPORT- RISK MATRIX

– ANNEX A

Issue/Risk	Consequences if allowed to happen	Likeli-hood	Impact	Mitigation	Mitigated Likelihood	Mitigated Impact
Credit risk - associated with investing with financial institutions that do not meet the credit rating criteria.	Could mean loss of principal sum and interest accrued.	2	D	The economic climate has seen uncertainty as a consequence of the COVID-19 Pandemic, meaning counterparty risk is still a big issue. As a result the Council have adopted and maintained a stringent credit rating methodology.	1	D
Market risk - Selection of wrong type of investment for higher return.	The poor performance of the chosen investment.	2	B	The number of investment options is kept to a minimum. Investments are normally restricted to short term fixed rate deposits or instant access accounts.	2	B
Liquidity risk - Use of fixed term deposits and / or instruments / investments with low marketability may mean a lack of liquidity	Unable to take advantage of better investment options. Funds are unavailable to cover capital spend.	1	B	This Strategy specifies the type of instrument the authority is prepared to invest in and maximum term for those investments. A cash balance is kept in a call account for access when needed, and all deposits are restricted to a maturity profile of 12 months or less	1	B

Score	Likelihood	Score	Impact
1	Very Low	A	Low
2	Not Likely	B	Minor
3	Likely	C	Medium
4	Very Likely	D	Major
5	Almost Certain	E	Disaster

This page is intentionally left blank

SPECIFIED AND NON-SPECIFIED INVESTMENTS

SPECIFIED INVESTMENTS:

Page 57

Investment	Security / Minimum Credit Rating	Circumstances of Use
Term Deposits with the UK Government or with UK Local Authorities (as per Local Government Act 2003) with maturities up to 1 year	High security as backed by UK Government	In-house
Term Deposits with credit rated deposit takers (Banks and Building Societies), including callable deposits with maturities less than 1 year		In-house
Certificate of Deposits issued by credit rated deposit takers (Banks and Building Societies) up to 1 year	Organisations assessed as having "high credit quality" within the UK or from Countries with a minimum Sovereign rating of AA- for the country in which the organisation is domiciled	Fund Manager or In-house "buy and hold" after consultation with Treasury Management Advisor
Forward deals with credit rated Banks and Building Societies less than 1 year (i.e. negotiated deal plus period of deposit)		In-house
Money Market Funds i.e. collective investment scheme as defined in SI2004 No 534 <i>(These funds have no maturity date)</i>	Funds must be AAA rated	In-house Limited to £3m
Gilts (with maturities of up to 1 year)	Government Backed	Fund Manager or In-house buy and hold after consultation with Treasury Management Advisor
Bonds issued by a financial institution that is guaranteed by the UK Government (as defined in SI 2004 No 534) with maturities under 12 months <i>(Custodial arrangements required prior to purchase)</i>	Government Backed	After consultation with Treasury Management Advisor

NON-SPECIFIED INVESTMENTS

Investment	Security / Minimum Credit Rating	Circumstances of Use	Max % of total investments	Maximum investment with any one counterparty	Max. maturity period
Term Deposit with credit rated deposit takers (Banks & Building Societies), UK Government and other Local Authorities with maturities greater than 1 year	Organisations assessed as having “high credit quality” under the Credit Worthiness Policy	In-house	100% of agreed maximum proportion of Core Cash funds (£4m)	£1m	5 years
Certificate of Deposit with credit rated deposit takers (Banks & Building Societies) with maturities greater than 1 year Custodial arrangements prior to purchase	Organisations assessed as having “high credit quality” under the Credit Worthiness Policy	Fund Manager or In-house “buy & hold” after consultation with Treasury Management Advisor	100% of agreed maximum proportion of Core Cash funds (£4m)	£1m	5 years
Callable Deposits with credit rated deposit takers (Banks & Building Societies) with maturities greater than 1 year	Organisations assessed as having “high credit quality” under the Credit Worthiness Policy	In-house	50% of agreed maximum proportion of Core Cash funds (£2m)	£1m	5 years
Term Deposits with Housing Associations with maturities greater than 1 year	Organisations assessed as having “high credit quality” under the Credit Worthiness Policy	In-house	25% of agreed maximum proportion of Core Cash funds (£1m)	£1m	5 years
Forward Deposits with a credit rated Bank or Building Society > 1 year (i.e. negotiated deal period plus period of deposit)	Organisations assessed as having “high credit quality” under the Credit Worthiness Policy	In-house	25% of agreed maximum proportion of	£1m	5 years

Investment	Security / Minimum Credit Rating	Circumstances of Use	Max % of total investments	Maximum investment with any one counterparty	Max. maturity period
			Core Cash funds (£1m)		
Bonds issued by a financial institution that is guaranteed by the UK Government (as defined in SI2004 No534) with maturities in excess of 1 year Custodial arrangements required prior to purchase	AA or Government backed	Fund Manager or In-house “buy & hold” after consultation with Treasury Management Advisor	25% of agreed maximum proportion of Core Cash funds (£1m)	n/a	5 years
Bonds issued by Multilateral development banks (as defined in SI2004 No534) with maturities in excess of 1 year Custodial arrangements required prior to purchase	AA or Government backed	Fund Manager or In-house “buy & hold” after consultation with Treasury Management Advisor	25% of agreed maximum proportion of Core Cash funds (£1m)	£1m	5 years
UK Government Gilts with maturities in excess of 1 year Custodial arrangements required prior to purchase	Government backed	Fund Manager	25% of agreed maximum proportion of Core Cash funds (£1m)	n/a	5 years
Collateralised Deposit	UK Sovereign Rating	In-house	25% of agreed maximum proportion of Core Cash funds (£1m)	n/a	5 years

This Authority will seek further advice on the appropriateness and associated risks with investments in these categories.

ANNEX C

APPROVED COUNTRIES FOR INVESTMENTS

This list is based on those countries which have sovereign ratings of AA- or higher, (we show the lowest rating from Fitch, Moody's and S&P) and also, (except - at the time of writing - for Hong Kong, Norway and Luxembourg), have banks operating in sterling markets

Sovereign Rating	Country
AAA	Australia Denmark Germany Luxemburg Netherlands Norway Singapore Sweden Switzerland
AA+	Canada Finland USA
AA	Abu Dhabi (UAE) France
AA-	Belgium Qatar Hong Kong UK

ANNEX D
APPROVED LENDING LIST 2021/22

Maximum sum invested at any time (The overall total exposure figure covers both Specified and Non-Specified investments)

	Country	Specified Investments (up to 1 year)		Non-Specified Investments (> 1 year £4m limit)	
		Total Exposure £m	Time Limit *	Total Exposure £m	Time Limit *
UK "Nationalised" banks / UK banks with UK Central Government involvement					
Royal Bank of Scotland PLC (RFB)	GBR	4.0	365 days	-	-
National Westminster Bank PLC (RFB)	GBR				
Building Societies					
Santander UK PLC (includes Cater Allen)	GBR	3.0	6 months	-	-
Barclays Bank PLC (NRFB)	GBR	4.0	6 months	-	-
Barclays Bank UK PLC (RFB)	GBR				
Bank of Scotland PLC (RFB)	GBR	3.0	365 days	-	-
Lloyds Bank PLC (RFB)	GBR				
Lloyds Bank Corporate Markets PLC (NRFB)	GBR		6 months		
HSBC Bank PLC (NRFB)	GBR	1.5	365 days	-	-
HSBC UK Bank PLC (RFB)	GBR				
Goldman Sachs International Bank	GBR	3.0	6 months		
Sumitomo Mitsui	GBR	1.5	6 months		
Standard Chartered Bank	GBR	3.0	6 months		
Handlesbanken	GBR	2.0	365 days		
Nationwide Building Society	GBR	2.0	6 months	-	-
Leeds Building Society	GBR	1.0	3 months	-	-
High Quality Foreign Banks					
National Australia Bank	AUS	1.5	365 days	-	-
Commonwealth Bank of Australia	AUS	1.5	365 days		
Toronto-Dominion Bank	CAN	1.5	365 days		
Credit Industriel et Commercial	FRA	1.5	6 months	-	-
Landesbank Hessen-Thueringen Girozentrale (Helaba)	GER	1.5	365 days		
DBS (Singapore)	SING	1.5	365 days		
Local Authorities					
County / Unitary / Metropolitan / District Councils		2.0	365 days	1.0	5 years
Police / Fire Authorities		1.0	365 days	1.0	5 years
National Park Authorities		1.0	365 days	1.0	5 years
Other Deposit Takers					
Money Market Funds		1.0	365 days	1.0	5 years
UK Debt Management Account		5.0	365 days	1.0	5 years

TREASURY MANAGEMENT SCHEME OF DELEGATION

1. Full Council

- receiving and reviewing reports on treasury management policies, practices and activities;
- approval of annual strategy.

2. Policy and Resources Committee

- approval of/amendments to the organisation's adopted clauses, treasury management policy statement and treasury management practices;
- budget consideration and approval;
- approval of the division of responsibilities;
- approving the selection of external service providers and agreeing terms of appointment.

3. Overview and Scrutiny Committee

- reviewing the treasury management policy and procedures and making recommendations to the responsible body.

THE TREASURY MANAGEMENT ROLE OF THE SECTION 151 OFFICER

Background

1. The Prudential Code for Capital Finance in Local Authorities (the Prudential Code) plays a key role in capital finance in local authorities. Local authorities determine their own programmes for investment that are central to the delivery of quality public services. The Prudential Code was developed by CIPFA as a professional code of practice to support local authorities in taking their decisions. Local authorities are required by regulation to have regard to the Prudential Code when carrying out their duties under Part 1 of the Local Government Act 2003.
2. In financing capital expenditure, local authorities are governed by legislative frameworks, including the requirement to have regard to CIPFA's Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes.
3. In order to demonstrate that capital expenditure and investment decisions are taken in line with service objectives and properly take account of stewardship, value for money, prudence, sustainability and affordability, the Prudential Code requires authorities to have in place a Capital Strategy that sets out the long term context in which capital expenditure and investment decisions are made, and gives due consideration to both risk and reward and impact on the achievement of priority outcomes.
4. The Prudential Code requires the Chief Financial Officer to report explicitly on the affordability and risk associated with the Capital Strategy. The Capital Strategy provides an overview of the governance process for approval and monitoring of capital expenditure. In addition, the Capital Strategy and Prudential Indicators also demonstrates that the capital expenditure, investment and financing plans of the Authority are robust, affordable and sustainable.”

The S151 (responsible) officer

The following are specific responsibilities of the Section 151 Officer:

- recommending clauses, treasury management policies and practices for approval, reviewing the same regularly, and monitoring compliance;
- submitting regular treasury management policy reports to Members;
- submitting budgets and budget variations to Members;
- receiving and reviewing management information reports;
- reviewing the performance of the treasury management function;
- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function;

- ensuring the adequacy of internal audit, and liaising with external audit;
 - recommending the appointment of external service providers;
 - preparation of a capital strategy to include capital expenditure, capital financing, non-financial investments and treasury management;
 - ensuring that the capital strategy is prudent, sustainable, affordable and prudent in the long term and provides value for money;
 - ensuring that due diligence has been carried out on all treasury and non-financial investments and is in accordance with the risk appetite of the authority;
 - ensure that the authority has appropriate legal powers to undertake expenditure on non-financial assets and their financing;
 - ensuring the proportionality of all investments so that the authority does not undertake a level of investing which exposes the authority to an excessive level of risk compared to its financial resources;
 - ensuring that an adequate governance process is in place for the approval, monitoring and ongoing risk management of all non-financial investments and long term liabilities
 - provision to members of a schedule of all non-treasury investments including material investments in subsidiaries, joint ventures, loans and financial guarantees
 - ensuring that members are adequately informed and understand the risk exposures taken on by an authority
 - ensuring that the authority has adequate expertise, either in house or externally provided
 - creation of Treasury Management Practices which specifically deal with how non treasury investments will be carried out and managed
5. “The Capital Strategy provides an overview of the governance process for approval and monitoring of capital expenditure. In addition, the Capital Strategy and Prudential Indicators also demonstrate that the capital expenditure, investment and financing plans of the Authority are robust, affordable and sustainable.”

CAPITAL STRATEGY 2022/23

1.0 BACKGROUND

- 1.1 The purpose of the Capital Strategy is to demonstrate that the Council takes capital expenditure and investment decisions in line with Corporate and service objectives and properly takes account of stewardship, value for money, prudence, sustainability and affordability. It sets out the long term context in which capital expenditure and investment decisions are made and gives due consideration to both risk and reward and impact on the achievement of priority outcomes.
- 1.2 The Capital Strategy comprises a number of distinct, but inter-related, elements as follows:

(a) Capital expenditure (Section 2)

This section includes an overview of the governance process for approval and monitoring of capital expenditure, including the Council's policies on capitalisation, and an overview of its capital expenditure and financing plans.

(b) Capital financing and borrowing (Section 3)

This section provides a projection of the Council's capital financing requirement, how this will be funded and repaid. It therefore sets out the Council's borrowing strategy and explains how it will discharge its duty to make prudent revenue provision for the repayment of debt.

(d) Alternative investments (Section 4)

This section provides an overview of those of the Council's current and proposed alternative investment activities that count as capital expenditure, including processes, due diligence and defining the Council's risk appetite in respect of these, including proportionality in respect of overall resources.

(e) Chief Financial Officer's statement (Section 5)

This section contains the Chief Financial Officer's views on the deliverability, affordability and risk associated with the capital strategy

2.0 CAPITAL EXPENDITURE

Capitalisation Policy

- 2.1 Expenditure is classified as capital expenditure when it results in the acquisition or construction of an asset (e.g. land, buildings, roads and bridges, vehicles, plant and equipment etc.) that:
- Will be held for use in the delivery of services, for rental to others, investment or for administrative purposes; and
 - Are of continuing benefit to the Council for a period extending beyond one financial year.
- Subsequent expenditure on existing assets is also classified as capital expenditure if these two criteria are met.
- 2.2 There may be instances where expenditure does not meet this definition but would be treated as capital expenditure, including:
- Where the Council has no direct future control or benefit from the resulting assets, but would treat the expenditure as capital if it did control or benefit from the resulting assets; and
 - Where statutory regulations require the Council to capitalise expenditure that would not otherwise have expenditure implications according to accounting rules
- 2.3 The Council operates de-minimis limits for capital expenditure. This means that items below these limits are charged to revenue rather than capital. The limits are currently as follows:
- **General Limit:** £10,000

Governance

- 2.4 Policy & Resources Committee shall, during each financial year and after consultation with the relevant Overview and Scrutiny Committee(s), approve a capital expenditure programme for the next following and subsequent 2 financial years. Such programmes shall be in a form and in accordance with deadlines approved by the Chief Finance Officer and in accordance with the Council's Financial Strategy. Capital expenditure plans shall be prepared in conjunction with the Chief Finance Officer for submission to The Policy & Resources Committee and then Council for approval.
- 2.5 The Council's Financial and Contract Procedure Rules provide a framework for the appropriate authorisations for individual schemes to proceed and facilitate the overall management of the Capital Plan within defined resource parameters.

Capital Expenditure and Funding Plans

- 2.6 Capital expenditure plans are set out within the Treasury Management Strategy (6.2.2).
- 2.7 When expenditure is classified as capital expenditure for capital financing purposes, this means that the Council is able to finance that expenditure from any of the following sources:

- (a) **Capital grants and contributions** - amounts awarded to the Council in return for past or future compliance with certain stipulations.
- (b) **Capital receipts** – amounts generated from the sale of assets and from the repayment of capital loans, grants or other financial assistance.
- (c) **Revenue contributions** – amounts set aside from the revenue budget in the Reserve for Future Capital Funding.
- (d) **Borrowing** - amounts that the Council does not need to fund immediately from cash resources, but instead charges to the revenue budget over a number of years into the future.

2.8 The implications of financing capital expenditure from 'borrowing' are explained in section 3 below.

3.0 CAPITAL FINANCING REQUIREMENT AND BORROWING

Context

- 3.1 The Council is required to comply with the CIPFA Prudential Code for Capital Finance in Local Authorities (referred to as the 'Prudential Code') when assessing the affordability, prudence and sustainability of its capital investment plans.
- 3.2 Fundamental to the prudential framework is a requirement to set a series of prudential indicators. These indicators are intended to collectively build a picture that demonstrates the impact over time of the Council's capital expenditure plans upon the revenue budget and upon borrowing and investment levels, and explain the overall controls that will ensure that the activity remains affordable, prudent and sustainable.
- 3.3 A summary of the actual prudential indicators for 2021/22, and the estimates for 2022/23 through to 2024/25 are provided in the Treasury Management Strategy document.

Capital Financing Requirement

- 3.4 When capital expenditure is funded from borrowing, this does not result in expenditure being funded immediately from cash resources, but is instead charged to the revenue budget over a number of years. It does this in accordance with its policy for the repayment of debt, which is set out in the Minimum Revenue Policy Statement, within the Treasury Strategy (6.3).
- 3.5 The forward projections of the CFR reflect:
 - Capital Expenditure plans that are expected to be funded from finance leases, which includes Streetscene vehicle replacements and Ryecare system renewal
 - Revenue budget provision being made for the repayment of debt, which results in a reduction to the CFR).
- 3.6 The actual CFR for 2021/22 and forward projections for the current and forthcoming years are as follows:

	2020/21 Act. £000	2021/22 Est. £000	2022/23 Est. £000	2023/24 Est. £000	2024/25 Est. £000
CFR General Fund	1,553	1,518	1,483	1,447	1,412
CFR GF Leases	514	560	421	278	678
CFR Commercial / Non-financial investments	0	0	0	0	0
Total CFR	2,067	2,078	1,904	1,725	2,090
Movement in CFR	366	10	-174	-178	-182
Movement in CFR represented by:-					
Net Financing need for the year	547	219	0	0	547
Less MRP & Other Financing movements	-181	-209	-174	-178	-182
Movement in CFR	366	10	-174	-178	364

- 3.7 The forecast decrease in the CFR shows that there are borrowing requirements to fund capital expenditure to be financed through Finance Leases, and therefore the increase in 20/21 and 21/22 reflects the timing on the capital spend, then gradual reduction from 22/23 reflects the annual minimum revenue provisions towards the repayment of debt.

External borrowing limits

- 3.9 The Council is only permitted to borrow externally (including via credit arrangements) up to the level implied by its Capital Financing Requirement (CFR). To ensure that external borrowing does not exceed the CFR, other than in the short term, limits are established for external debt, as follows:
- **Authorised limit** – this defines the maximum amount of external debt permitted by the Council, and represents the statutory limit determined under section 3 (1) of the Local Government Act 2003.
 - **Operational boundary** – this is an estimate of the probable level of the Council's external debt, and provides the means by which external debt is managed to ensure that the 'authorised limit' is not breached.
- 3.10 The proposed limits, which are set out in the Treasury Strategy, make separate provision for external borrowing and other long-term liabilities, and are based upon an estimate of the most likely but not worst case scenarios. They allow sufficient headroom for fluctuations in the level of cash balances and in the level of the CFR.
- 3.11 Alternative investment activities included in the plan are to be classed as capital expenditure. An Alternative Investments Strategy has not yet been developed and, in the event that major initiatives are proposed, it may be necessary to review the current borrowing limits.
- 3.12 The agreed **Operational Boundary** and **Authorised Limits** for external debt are as follows:

Authorised Limit	2021/22 Estimate £'000	2022/23 Estimate £'000	2023/24 Estimate £'000	2024/25 Estimate £'000
Debt	10,000	10,000	10,000	10,000
Other long term liabilities	2,500	2,500	2,500	2,500
Total	12,500	12,500	12,500	12,500

Operational Boundary	2021/22 Estimate £'000	2022/23 Estimate £'000	2023/24 Estimate £'000	2024/25 Estimate £'000
Debt	5,000	5,000	5,000	5,000
Other long term liabilities	2,000	2,000	2,000	2,000
Total	7,000	7,000	7,000	7,000

Borrowing strategy

- 3.13 The Council's Borrowing Strategy is set out in the Treasury Strategy document (6.4).
- 3.14 The Council's capital borrowing is slightly lower than the underlying need to borrow, and the Council is expected to be in an under-borrowed position from 2021/22 onwards. This has been a prudent strategy as investment returns are low and counterparty risk is relatively high – this approach will be carefully monitored during 2022/23
- 3.15 The use of internal borrowing has been an effective strategy in recent years as:
- Rising cash balances as a result of MRP set aside mean available cash for the medium to longer term;
 - It has enabled the Council to avoid significant external borrowing costs; and
 - It has mitigated significantly the risks associated with investing cash in what has often been a volatile and challenging market.
- 3.16 Further long term external borrowing may be undertaken, in excess of the current forecasts, in the event that it is not possible or desirable to sustain the anticipated internal borrowing position.
- 3.17 The external borrowing requirement will be kept under review and long term external loans will be secured within the parameters established by the **authorised limit** and **operational boundary** for external debt, as set out above.
- 3.18 Opportunities to generate savings by refinancing or prematurely repaying existing long term debt will also be kept under review. Potential savings will be considered in the light of the current treasury position and the costs associated with such actions.

Minimum Revenue Provision

- 3.19 The Council sets cash resources aside from the Revenue Budget each year to repay the borrowing. This practice is referred to as the minimum revenue provision (MRP) for the repayment of debt.

- 3.20 The Capital Financing Requirement (CFR) provides a measure of the amount of capital expenditure which has been financed from borrowing that the Council yet to fund from cash resources.
- 3.21 Statutory guidance requires MRP to be provided annually on a prudent basis. In accordance with the requirement to make a prudent 'revenue provision for the repayment of debt', the Council ensures that debt is repaid over a period that is commensurate with the period over which the capital expenditure provides benefit. This is achieved by applying the methodology set out within the Policy. The revenue budget provision for MRP charges in 2022/23 has been compiled on a basis consistent with this policy

4.0. Alternative Investments

Introduction

- 4.1 The prolonged low interest rate environment has resulted in reduced returns on treasury management investments. Moreover, the introduction of the general power of competence has given local authorities far more flexibility in the types of activity they can engage in. These changes in the economic and regulatory landscape, combined with significant financial challenges, have led many authorities to consider different and more innovative types of investment.
- 4.2 The CIPFA Treasury Management in the Public Services: Code of Practice and Cross Sectoral Guidance Notes (the Treasury Management Code) requires authorities to incorporate all of the financial and non-financial assets held for financial return in authorities' annual capital strategies.
- 4.3 Separately, the Department for Levelling Up, Housing and Communities Statutory Guidance on Local Authority Investments also reinforces the need for Commercial Activities to be included in the Capital Strategy.
- 4.4 In addition, Her Majesty's Treasury introduced revised lending terms for borrowing from the PWLB on 25 November 2020. Under the revised lending terms, the government has now ended access to the PWLB for Local Authorities that wish to buy commercial assets primarily for yield, as assessed by the statutory section 151 officer. Local Authorities remain free to buy commercial assets primarily for yield, but are not be able to take out new loans from the PWLB in year where they have any plans to buy commercial assets at any point over the following 3 year period (any loans taken out under the old system are not be affected by this change). As a result, of the revised lending terms the government has now cut PWLB lending rates.
- 4.6 More recently, CIPFA published updated Treasury Management and Prudential Codes on 20 December 2021 and DLUHC issued a further consultation on MRP rules – the resultant changes will be required to be reflected in local authority Treasury Management and Capital Strategies from 2023/24. The new CIPFA Codes and potential MRP rules changes are intended to further tighten regulations around financing capital expenditure on investments in commercial projects for yield.
- 4.7 The 2021 Capital Expenditure Programme does not include any plans to purchase commercial assets primarily for yield.
- 4.8 **This section of the Capital Strategy will need to be updated if the Council's own agenda for commercial investments evolves.**
- 4.9 It is worth highlighting that all commercial investment activities are subject to approval in accordance with the Council's governance framework for decision making.

Alternative Investment Objectives

- 4.7 The primary objectives of the commercial investment activities:

- Security – to protect the capital sums invested from loss; and
 - Liquidity – ensuring the funds invested are available for expenditure when needed.
- 4.8 The generation of **yield** is distinct from these prudential objectives. However, once proper levels of security and liquidity are determined, it is then reasonable to consider what yield can be obtained consistent with these priorities.
- 4.9 Non-core activities and investments would primarily be undertaken by the Council in order to generate income to support the delivery of a balanced budget. Such investments would only be entered following a full assessment of the risks and having secured expert external advice (i.e. where it is relevant to do so)
- 4.10 To ensure that alternative investment plans are financially sustainable, the Council would need to carefully consider the internal funds available for investment and proportionate risk.

Investment Properties

- 4.11 Land and buildings may be acquired for investment purposes rather than for the supply of goods or services or for administrative purposes. Such assets will be classified as Investment Properties. The council already holds a number of properties in this class, and may wish to consider increasing its property portfolio.
- 4.12 Investment properties are measured at their fair value annually (which will ensure the valuation reflects the market conditions at the end of each reporting period). The fair value measurement will enable the Council to assess whether the underlying assets provide security for capital investment. Where the fair value of the underlying assets is no longer sufficient to provide security against loss, mitigating actions will be considered, to ensure that appropriate action is taken to protect the capital sum invested.

Loans to Third Parties

- 4.13 Loans to third parties could be considered, as part of a wider strategy for local economic growth for example. However they may not all be seen as prudent if adopting a narrow definition of prioritising security and liquidity.
- 4.14 Such loans should only be considered when all of the following criteria are satisfied:
- The loan is given towards expenditure which would, if incurred by the Council, be capital expenditure;
 - The purpose for which the loan is given is consistent with the Council's corporate / strategic objectives and priorities;
 - Due diligence is carried out that confirms the Council's legal powers to make the loan, and that assesses the risk of loss over the loan term;
 - A formal loan agreement is put in place which stipulates the loan period repayment terms and loan rate (which will be set at a level that seeks to mitigate any perceived risks of a loss being charged to the General Fund, and takes appropriate account of state aid rules) and any other terms that will protect the Council from loss;

- Prior to any loan being granted, the Council's own cashflow requirements are reviewed to ensure that appropriate levels of liquidity will be maintained.

Other Alternative Investment Opportunities

4.15 There are a number of other potential opportunities the Council may want to consider, such as investment in property funds and other institutions such as Credit Unions. As stated above, this would need to be considered in the wider context of the Council's corporate priorities and appropriate due diligence and approvals sought. Such an investment should be considered as a capital expenditure decision, and therefore would form part of the Capital Programme Budget should an 'investment' be supported.

5.0 SECTION 151 OFFICER STATEMENT

Background

- 5.1 The Prudential Code for Capital Finance in Local Authorities (the Prudential Code) plays a key role in capital finance in local authorities. Local authorities determine their own programmes for investment that are central to the delivery of quality public services. The Prudential Code was developed by CIPFA as a professional code of practice to support local authorities in taking their decisions. Local authorities are required by regulation to have regard to the Prudential Code when carrying out their duties under Part 1 of the Local Government Act 2003.
- 5.2 In financing capital expenditure, local authorities are governed by legislative frameworks, including the requirement to have regard to CIPFA's Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes.
- 5.3 In order to demonstrate that capital expenditure and investment decisions are taken in line with service objectives and properly take account of stewardship, value for money, prudence, sustainability and affordability, the Prudential Code requires authorities to have in place a Capital Strategy that sets out the long term context in which capital expenditure and investment decisions are made, and gives due consideration to both risk and reward and impact on the achievement of priority outcomes.
- 5.4 The Prudential Code requires the Chief Financial Officer to report explicitly on the affordability and risk associated with the Capital Strategy. The following are specific responsibilities of the Section 151 Officer:
- recommending clauses, treasury management policy/practices for approval, reviewing regularly, and monitoring compliance;
 - submitting quarterly treasury management reports;
 - submitting quarterly capital budget update reports;
 - reviewing the performance of the treasury management function;
 - ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function;

- ensuring the adequacy of internal audit, and liaising with external audit;
 - recommending the appointment of external service providers.
 - preparation of a capital strategy to include capital expenditure, capital financing, non-financial investments and treasury management
 - ensuring that the capital strategy is prudent, sustainable, affordable and prudent in the long term and provides value for money
 - ensuring that due diligence has been carried out on all treasury and non-financial investments and is in accordance with the risk appetite of the authority
 - ensure that the authority has appropriate legal powers to undertake expenditure on non-financial assets and their financing
 - ensuring the proportionality of all investments so that the authority does not undertake a level of investing which exposes the authority to an excessive level of risk compared to its financial resources
 - ensuring that an adequate governance process is in place for the approval, monitoring and ongoing risk management of all non-financial investments and long term liabilities
 - provision to members of a schedule of all non-treasury investments including material investments in subsidiaries, joint ventures, loans and financial guarantees
 - ensuring that members are adequately informed and understand the risk exposures taken on by an authority
 - ensuring that the authority has adequate expertise, either in house or externally provided
 - creation of Treasury Management Practices which specifically deal with how non treasury investments will be carried out and managed
- 5.5** The Capital Strategy provides an overview of the governance process for approval and monitoring of capital expenditure. These processes are well established and are highly effective in ensuring delivery of the Authority's capital investment plans. In addition, the Capital Strategy and Prudential Indicators also demonstrates that the capital expenditure, investment and financing plans of the Authority are robust, affordable and sustainable.

This page is intentionally left blank

RYEDALE
DISTRICT
COUNCIL



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	OVERVIEW AND SCRUTINY COMMITTEE
DATE:	20 JANUARY 2022
REPORT OF THE:	HEAD OF CORPORATE GOVERNANCE SIMON COPLEY
TITLE OF REPORT:	UPDATE ON USE OF REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 This report provides details of the use of covert surveillance under the Regulation of Investigatory Powers Act by Ryedale District Council.

2.0 RECOMMENDATION(S)

- 2.1 That Members note that no application for covert surveillance has been made to the Council's approved "Authorising Officers" in the last twelve months and as a consequence no application to the Magistrates Court requesting approval of any such grant has been made.

3.0 REASON FOR RECOMMENDATION(S)

- 3.1 To ensure oversight by Members of the Council's compliance with the legislation.

4.0 SIGNIFICANT RISKS

- 4.1 There are no significant risk management/assessment implications arising from this proposed decision.

REPORT

5.0 BACKGROUND AND INTRODUCTION

- 5.1 The role of local government is bound by a wide breadth of statutory duties and powers. In an attempt to quantify the full extent of legal duties placed on local government, the

Department of Communities and Local Government undertook a review of local government statutory duties in 2011 and identified 1,294 statutory duties that central government places on local authorities. Local authorities have a wide range of prosecution powers in discharging their regulatory roles.

- 5.2 Currently (in England and Wales) local authorities can bring their own prosecutions based on their own investigations by their own departments – including housing benefit, environmental health, fly tipping, dangerous dogs, food safety, listed building control, planning control and health and safety.
- 5.3 When taking enforcement action, the Council's enforcing officers may on occasion consider it necessary to undertake covert surveillance work in order to undertake the Council's statutory duties or "core work". For example, covert surveillance may be necessary to observe individuals who may be suspected of benefit fraud.
- 5.4 The Regulation of Investigatory Powers Act 2000 (RIPA) was enacted to protect the human rights of individuals who are the subject of covert investigatory techniques, and others who might be affected by collateral intrusion. Contrary to widespread misreporting in the media, it is not anti-terrorism legislation and it did not give local authorities access to covert investigatory techniques for the first time. RIPA merely provides a regulatory framework for the exercise of existing powers which is transparent, addresses human rights issues and has clearly defined authorisation processes.
- 5.5 RIPA controls the use of covert surveillance operations by the Council when undertaking its various enforcement functions.
- 5.6 In essence, RIPA imposes a requirement that an investigating officer cannot use covert surveillance as a method of gathering evidence unless they have first obtained a proper authorisation by an officer of senior rank. RIPA requires that formal "Authorisation" from a senior officer must be obtained before carrying out covert surveillance, monitoring and other evidence-gathering activities.
- 5.7 The investigating officer must make a written application describing the proposed surveillance activity and giving details of the reasons for it, the person or persons who will be the subject of the surveillance, and what evidence the surveillance is intended to obtain. The authorising officer must be satisfied that the proposed surveillance is both **necessary** and **proportionate** in the circumstances and that there is no other reasonable method of achieving the desired outcome.
- 5.8 RIPA requires the Council to have in place procedures to ensure that when required, surveillance is necessary and is properly authorised. Surveillance is usually a last resort that an investigator will use to prove or disprove an allegation. RIPA sets out a statutory mechanism for authorising covert surveillance and the use of covert human intelligence sources.
- 5.9 Any such Authorisation granted must be supported by an Order approving the grant or renewal of such Authorisation from a JP (either a District Judge or lay magistrate) before it can take effect.

6.0 POLICY CONTEXT

- 6.1 Surveillance of illegal activity can take place as part of a number of Council regulatory functions which contribute to improving the district as a place to live.
- 6.2 Whilst the Council is not usually a user of covert surveillance, such methods are used where it is considered necessary and proportionate to do so in order to help achieve the Council's priorities, particularly in relation to the protection of the public and the environment.

7.0 CONSULTATION

- 7.1 Senior Council officers have contributed to the preparation of the report.

8.0 REPORT DETAILS

- 8.1 Systems have been in place since RIPA came into force and include guidance notes on the Council's Intranet, periodic training for officers, and advice and oversight from Legal Services. One of the requirements of the regime is that a central record of authorisations be kept. This is kept and maintained securely by the Solicitor.
- 8.2 The Home Office has issued detailed Codes of Practice on compliance with RIPA's provisions together with standard authorisation forms. RIPA requires that only a "Director, Head of Service or Service Manager or equivalent are lawfully entitled to authorise covert techniques. Currently this is limited to the Programme Director for Place and Resources, the Programme Director for People and Resources, and the Environmental Health Services Manager. Further key guidance notes, distilled from the Home Office codes of practice, are available to the Authorising Officers.
- 8.3 It is emphasised that the use of covert investigatory techniques should, in all cases, be the last resort and the only ground upon which an authorisation may be granted is for the purposes of preventing or detecting a criminal offence, which must be punishable by a maximum term of at least 6 months' imprisonment (with an exception relating to sale of alcohol and tobacco to children). In addition, as previously mentioned, local authority RIPA authorisations must be approved by the Magistrates' Court.
- 8.4 Although RIPA covers a number of activities undertaken by investigatory bodies (e.g., phone tapping by the Security Services and Police) its principle use in respect of Local Authorities relates to:-
 - covert surveillance, and
 - covert human intelligence sources.
- 8.5 Covert surveillance covers the monitoring, observing or listening to persons, their movements, conversations or other activities and communications in a way that is calculated to ensure that persons who are subject to surveillance are unaware. It may be conducted with or without the assistance of a surveillance device and includes the recording of any information obtained. RIPA is most relevant to the Council's activities in effecting enforcement procedures such as the investigation and prosecution of offences. This would not include the initial investigation of contraventions such as planning enforcement or noise investigations. The Council's use of the powers has

been very limited in recent years. For example, the Council has not used authorisations under the Act in the last ten years.

- 8.6 Covert human intelligence sources relate to the use of a third party to gather information. For example, this could be an informer or someone used to undertake test purchases. This is not an activity that the Council engages in at all. The Council also needs the approval of a magistrate to carry out this activity.
- 8.7 The only area in which the Council very occasionally involves itself where RIPA might be relevant is covert surveillance. It is necessary for the Council therefore to follow the legislation and the requirements of Government Codes of Practice. Most of the requirements of the Code are dealt with at an Officer level. However, Members are expected to have some involvement in the monitoring of how the Council implements RIPA requirements.
- 8.8 The Investigatory Powers Commissioner held a remote inspection of the Council's RIPA arrangements in October 2021. The overall outcome of the inspection was positive, confirming that all recommendations from the previous inspection had been discharged and that a physical inspection was not currently required. Some remedial work was recommended to the Council's guidance document and this work is underway.

9.0 IMPLICATIONS

- 9.1 The following implications have been identified:

- a) Financial
None arising from the report.
- b) Legal

Article 8 of the European Convention on Human Rights provides: "Everyone has the right to respect for his private and family life, his home and his correspondence."

There can be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society for the purpose of the prevention of disorder or crime.

The right to non interference with an Article 8 right is not absolute. It is a qualified right. This means that in certain circumstances the Council *may* interfere with the right if the interference is:

- in accordance with the law
 - necessary, and
 - proportionate
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental and Climate Change, Crime & Disorder)
None arising from the report.

Simon Copley
Head of Corporate Governance

Telephone No:01653 600666 ext. 43277
E-Mail Address: simon.copley@ryedale.gov.uk

Background Papers:

1. [Home Office Guidance - Covert Surveillance and Property Interference \(August 2018\)](#)
2. [Home Office Guidance – Covert Human Intelligent Sources \(August 2018\)](#)
3. [Home Office Guidance - Protection of Freedoms Act 2012- changes to the provisions under the Regulation of Investigatory Powers 2000 \(October 2012 \)](#)
4. [Office of Surveillance Commissioners - Procedures and Guidance \(July 2016\)](#)

Background Papers are available for inspection at: www.ryedale.gov.uk
or Ryedale House, Malton, North Yorkshire, YO17 7HH



PART B:	RECOMMENDATIONS TO COUNCIL
REPORT TO:	OVERVIEW AND SCRUTINY COMMITTEE ACTING AS THE CORPORATE GOVERNANCE STANDARDS COMMITTEE
DATE:	20 JANUARY 2022
REPORT OF THE:	HEAD OF CORPORATE GOVERNANCE AND MONITORING OFFICER SIMON COPLEY
TITLE OF REPORT:	MODEL CODE OF CONDUCT
WARDS AFFECTED:	ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 This report presents the Local Government Association (LGA) Model Code of Conduct for Councillors and seeks approval to adopt this as Ryedale District Council's Code of Conduct for Councillors.

2.0 RECOMMENDATION(S)

- 2.1 It is recommended to Council that the Local Government Association (LGA) Model Code of Conduct for Councillors be adopted as Ryedale District Council's Code of Conduct for Councillors, subject to minor amendments to replace gender-specific language (e.g. 'him/her') with gender neutral language (e.g. 'their') and to add socio-economic group to the list of characteristics to be protected in the 'Equalities' section.

3.0 REASON FOR RECOMMENDATION(S)

- 3.1 The LGA's aim was to make the Code relatively short and easy to read rather than an overly-complex legal document as it needed to be accessible to councillors, officers, and the public alike. Supporting guidance was also requested to help understand some of the key provisions in greater depth with examples and case illustrations. This supporting guidance aims to help understanding and consistency of approach towards the Code.
- 3.2 The LGA states that the Code together with the guidance have been designed to protect the democratic role of councillors, encourage good conduct, and safeguard the public's trust and confidence in the role of the councillor in local government. While it sets out the minimum standards of behaviour expected, together with the guidance, it is designed to encourage councillors to model the high standards expected, to be

mutually respectful even if they have personal or political differences, to provide a personal check and balance, and to set out the type of conduct that could lead to complaints being made of behaviour falling below the standards expected of councillors and in breach of the Code. It is also there to protect councillors, the public, local authority officers and the reputation of local government.

- 3.3 Standards issues continue to be a significant concern for the Council, as illustrated both by the numbers of formal complaints received and ongoing informal feedback from Members, officers and members of the public. Appendix 4 provides a summary of complaints over the past year, though it should be noted that parish and town councils have their own Codes of Conduct. A disproportionate amount of officer time is required to deal with standards issues and complaints, particularly following meetings of Full Council, and adoption of the Model Code would be extremely helpful in supporting the Council to deal with this more effectively.
- 3.4 Elected Member approval is required for adoption of a new Code of Conduct. The Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee has a constitutional role advising the Council on the adoption or revision of the Members Code of Conduct, and Full Council approval is required as this involves changing the Constitution itself. The support of elected Members for this new Code is essential to effectively tackling standards issues.

4.0 SIGNIFICANT RISKS

- 4.1 The main risk around adopting a new Code of Conduct for Councillors is that the change results in confusion amongst councillors, officers and members of the public around the required standards of conduct. However given that the Model Code is clearer and easier to use and understand than the current Code, it could in fact mitigate the risk of confusion. Learning and development has taken place to support understanding of the Model Code, so that an informed decision can be made on its adoption and implementation.
- 4.2 Poor standards of conduct and / or the perception of poor standards resulting from a lack of clarity in the Code of Conduct can result in reputational damage, complaints, legal challenge, financial penalties and costs, and poor Member / Officer relations.

5.0 POLICY CONTEXT AND CONSULTATION

- 5.1 In December 2020, the LGA developed and published a Model Councillor Code of Conduct in association with key partners and following extensive consultation with the sector. This was in response to the recommendation of the Committee of Standards in Public Life Local Government Ethical Standards 2019. The Code was part of their work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance, and their civility in public life programme. An updated version of the Model Code was published in July 2021, along with the guidance referenced above.
- 5.2 The Code is a template for Local Authorities to adopt in whole and or with amendments to take into account local circumstances. All councils are required to have a local Councillor Code of Conduct.
- 5.3 The LGA will undertake an annual review of this Code to ensure it continues to be fit for purpose, incorporating advances in technology, social media and changes in

legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code.

REPORT

6.0 REPORT DETAILS

- 6.1 The Council's current Member Code of Conduct took effect from 1 July 2012. There is a consensus of opinion that it is a confusing document, overly complex and unclear to understand, and this significantly hampers efforts to provide a clear message as to expected standards of conduct and to deal with complaints fairly and effectively when they arise.
- 6.2 The Council needs to adopt a proactive approach to promoting high standards of conduct, with the endorsement of the Council's Overview and Scrutiny Committee acting as the Corporate Governance Standards Committee. Regular learning and development sessions have been provided around standards matters, Code of Conduct and Member / Officer relations. These have included exploration of the benefits offered by adopting the Model Code and it has been the intention to bring this forward for consideration once the Model Code had been reviewed and updated and supporting guidance produced.
- 6.3 Further learning and development sessions have been held in October 2021 to ensure that all councillors have a thorough understanding of the provisions of the Model Code prior to considering it for adoption. Adoption of the Code makes training on standards mandatory for all elected Members, through the clause that "*I undertake Code of Conduct training provided by my local authority*".
- 6.4 Appendix 3 of this report provides a summary of training sessions held and attendance levels at them.
- 6.5 The Model Code is attached as Appendix 1 of this report and a brief summary of the main differences between it and the current Code is attached as Appendix 2.
- 6.6 The plans for local government reorganisation in North Yorkshire add a further incentive to move to a uniform and easily understood set of standards for councillors. A number of other councils in the area have adopted the Model Code, or intend to do so, including the County Council, and Harrogate and Scarborough Borough Councils.
- 6.7 Adoption of the Model Code is strongly recommended for the reasons outlined in detail in section 3 above, namely to provide a clear and strong set of standards for councillors, for their use and understanding and to clearly communicate expected behaviours to other interested parties, such as residents and Council officers.

7.0 IMPLICATIONS

- 7.1 The following implications have been identified:
 - a) Financial
There are no financial implications arising directly from the adoption of the Model Code. Financial penalties and costs may be incurred as a result of poor standards of conduct and a lack of clarity around required standards.
 - b) Legal
There are no legal implications arising directly from the adoption of the Model

Code. Legal challenges may occur as a result of poor standards of conduct and a lack of clarity around required standards. The Member Code of Conduct forms a section of Part 5 of the Council's Constitution and this will be replaced with the new Model Code if adopted.

- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental and Climate Change, Crime & Disorder)

There are no other implications arising directly from the adoption of the Model Code. The Model Code includes an explicit requirement for councillors that "*I promote equalities and do not discriminate unlawfully against any person*" and that "*I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority*". Equalities issues and difficulties with Member / Officer relations may occur as a result of poor standards of conduct and a lack of clarity around required standards. The recent staff survey results have highlighted the need for good Member / Officer relations. An equalities impact assessment has been undertaken, which shows a positive impact if the Model Code is adopted and recommends minor amendments to replace gender-specific language (e.g. 'him/her') with gender neutral language (e.g. 'their') and to add socio-economic group to the list of characteristics to be protected in the 'Equalities' section.

8.0 NEXT STEPS

- 8.1 If the Model Code is adopted, this will be published as part of the Council's Constitution and a new Register of Interests form will be made available for completion in line with its requirements.

Simon Copley

Head of Corporate Governance and Monitoring Officer

Author: Simon Copley, Head of Corporate Governance and Monitoring Officer
Telephone No: 01653 600666 ext: 43277
E-Mail Address: simon.copley@ryedale.gov.uk

Background Papers:

Ryedale District Council's current Member Code of Conduct
LGA Guidance on the new Model Code of Conduct

Background Papers are available for inspection at:

www.ryedale.gov.uk
<https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct>



Local Government Association

Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring

Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and

contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
 - i. I have received the consent of a person authorised to give it;
 - ii. I am required by law to do so;
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - iv. the disclosure is:
 1. reasonable and in the public interest; and
 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
 3. I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport

- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative or close associate; or
 - c. a financial interest or wellbeing of a body included under Other Registerable Interests as set out in **Table 2**you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied
9. Where a matter (referred to in paragraph 8 above) **affects** the financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interestYou may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.
If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council—</p> <ul style="list-style-type: none"> (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <ul style="list-style-type: none"> (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	<p>Any beneficial interest in securities* of a body where—</p> <ul style="list-style-type: none"> (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— <ul style="list-style-type: none"> (i)) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were

	spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.
--	--

* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You must register as an Other Registerable Interest :

- a) any unpaid directorships
- b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
- c) any body
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

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

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

Summary of differences between the current Ryedale District Council Code and the new LGA Model Code

The new LGA Model Code (the new code) broadly covers the same issues as the current Code of Conduct of the Council (the current code) i.e.

- Principles of public life
- When the code applies
- Outcomes/behaviour expected of councillors
- Interests
- Gifts and hospitality

If the Council was to adopt the new code, members would probably see little real difference in practice in the standards of conduct required and in the circumstances where they have to register and declare interests. But there are some differences in language and approach, some additional requirements and some clearer wording in certain areas. These differences are summarised as follows:-

Terminology

1. The new code uses the term “councillors” not “members” on the basis that this is better understood by the public. It should be noted however that some councils who have adopted the new code have retained the term “member” as they feel this more accurately covers co-opted independent members to whom the code also applies.

Principles of public life

2. The new code retains the Nolan Principles (which are in the current code) but adds an additional set of “Principles”. The new principles set out how the generic Nolan Principles (which apply to all aspects of public life) specifically translate into the role of a local authority councillor. They are helpful, but do not change or add to the core requirements of councillor conduct, which are set out elsewhere in the code.

When the code applies

3. The new Code makes it much clearer when the Code applies i.e. which activities of a councillor are covered by its provisions. It clarifies that the Code applies to any form of communication (including social media) and also that it applies if a councillor misuses their role or if someone might reasonably think they were acting as a councillor – this is designed to cover the situation where members use their position improperly.

APPENDIX 2

4. The LGA Guidance which has been issued to supplement the new code, helpfully expands on when the code applies to social media activity – the use of the designation “councillor” is not definitive. Whether the activity is covered by the code will depend on what is being said and its link to the council.

Outcomes/behaviours

5. The current code sets out a series of “outcomes” which the Principles seek to achieve and to which members should adhere, for example:-
 - Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents
 - Always treating people with respect, including the organisations and public I engage with and those I work alongside
6. The current code does not describe the behaviours that are required to produce the outcomes. The new code approaches this in a different way and **does** set out detailed requirements for the behaviour of councillors. It is drafted in a very direct way, for example:-
 - I treat other councillors and members of the public with respect
 - I do not misuse council resources
7. Although the two codes are expressed differently, many of the essential requirements of behaviour are common to both and cover the same broad areas of responsibility. However, comparing the codes, there are a number of areas which do not directly read across. The new code contains the following provisions which are not explicitly found in the current code:-
 - I do not bully any person
 - I do not harass any person
 - I promote equalities and do not discriminate unlawfully against any person
 - I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf, of the local authority
 - I do not bring my role or local authority into disrepute
 - I undertake Code of Conduct training and co-operate with Code of Conduct investigations or determinations
 - I do not intimidate anyone involved with Code of Conduct investigations/proceedings
 - I comply with any Code of Conduct sanctions
8. Although these provisions are not found in the current code in these specific terms, they are all rooted in the principles and outcomes which are part of that code.

APPENDIX 2

Interests

9. The current code has two types of interest which require registration and/or declaration:-

- Disclosable Pecuniary Interests
- Disclosable Other Personal Interests

10. The new code has three types of interest:-

- Disclosable Pecuniary Interests
- Other Registerable Interests
- Non-registerable Interests

11. Although the two codes approach the topic in different ways and use different definitions, the overall impact of the changes in the new code are likely to be minimal in terms of which interests members need to register and/or declare.

12. **Disclosable Pecuniary Interests** are exactly the same as in the current code – these are specified in legislation and cannot be changed. The other types of interests largely mirror the different kinds of interests in the current code, but they are set out differently.

13. **Other Registerable Interests** are defined in Table 2 of the new code. They cover such situations as membership of an outside body and are very close to the current requirements of Part B para 1 of the current Code. The only differences are that the new Code

- Adds the requirement to register unpaid directorships and
- Omits the requirement of the current code to register easements/rights over land.

14. **Non-registerable Interests** in the new code cover a range of situations where members must declare an interest and, depending on the circumstances, must then go on to withdraw from the meeting. Although these are set out differently from the current code, and there are subtle distinctions in the wording, the overall result is quite similar.

15. It is possible that there could be a few more declarations of personal interests by members under the new code than under the current one because of the new definitions. The new code requires a declaration of interest where a matter on an agenda affects:-

- a member's financial position or wellbeing or
- the financial position or wellbeing of a relative or close associate of the member

APPENDIX 2

whereas the current code only requires these particular interests to be declared if they affect the financial position or wellbeing of the person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the division or ward affected by the decision.

16. A similar test is used under the new code, but the purpose of the test here is to see whether a personal interest turns into a prejudicial one (not to decide if there is an interest to start with).

17. There are various other differences of definition and approach but, overall, the purpose and thrust of the two codes in relation to interests are very similar. The wording of the new code is much clearer than the current code in relation to interests.

Gifts and Hospitality

18. Both codes require the registration of gifts and hospitality in excess of £50. The new code has additional provisions as follows (summarised):-

- I do not accept gifts and hospitality which could give rise to personal gain or a reasonable suspicion of influence
- I register with the MO any significant gift or hospitality that I have been offered but have refused.

Appendix 3

Conduct	Roles & Interests	Chairing Skills	Committee Rules & Member Roles	Working with Officers	Standards	Standards	LGA Code of Conduct	Chair of Council Briefing	Committee Chair Skills	Member Officer Relations	New LGA Code of Conduct
09.05.19	03.07.19	07.08.19	13.11.19	04.12.19	11.11.20	02.12.20	28.04.21	25.05.21	26.05.21	28.06.21	20/25.10.21
					Virtual	Virtual	Virtual	Virtual	Virtual	Virtual	Physical/Virtual
23	5	11	19	14	23	17	11	1	5	11	9

This page is intentionally left blank

APPENDIX 4 – Complaints Summary Oct 2020-Oct 2021

No	RDC Cllr	Parish/Town Cllr	Nature of complaint	No further action	Informal resolution
1	X		Inappropriate comments and behaviour by a member of the planning committee		Standards training sessions to be arranged. Intro to next meeting to cover issues of respect and behaviour
2		X	Complaint from a member of the public re planning application procedure during COVID – Cllrs discussions held privately, no public involvement except uninvited visit to neighbour.		In future the Agenda will be published and placed on the Parish Notice Board and the public informed that they can make written representations on any item of business, which will then be considered by the Members.
3		X	Complaint from business owner against members of Parish Council acting against their code of conduct and in breach of her protection under GDPR legislation and the Data Protection Act.	No further action	
4	X		Complaint by 3 Parish Cllrs regarding conduct of Ward Councillor – inappropriate submissions during the Parish Council monthly meeting	The Code of Conduct is not engaged	
5		X	Code of Conduct complaint from member of the public against Parish Cllr	No further action	

APPENDIX 4 – Complaints Summary Oct 2020-Oct 2021

6		X	Code of Conduct complaint re Town Council Cllr- Breach of Members code of Conduct	No further action	
7	X		Code of conduct complaint from re alleged bullying by Cllr	No further action	
8	X		Complaint by member of the public against RDC Cllr re potential bias via social media group.	No further action	
9	X		Complaint re alleged bullying of RDC Officer.	No further action	
10		X	Code of Conduct complaint from member of the public re 2 Cllrs at Parish meeting.	No further action	
11	X		Code of Conduct complaint re inappropriate use of social media by RDC Cllr.		Cllr reminded of code regarding Blogging and Social Networking.
12	X		Code of Conduct complaint re inappropriate use of social media.		As above
13	X		Code of Conduct complaint re inappropriate use of social media.		As above

APPENDIX 4 – Complaints Summary Oct 2020-Oct 2021

14		X	Code of Conduct complaint re proceedings at Parish meeting.		Advised to refer complaint to Parish Council to investigate as appropriate course of action.
15	X		Code of Conduct complaint by various councillors following Planning Meeting		As No's 19-24
16	X		Code of Conduct complaint against various Cllr's by member of public following Planning Meeting		As No's 19-24
17		X	Code of Conduct complaint against the Parish Cllr.	No further action	
18		X	Complaint by Cllr, also on behalf of others re letter to press	No further action	
19 -24	X		Member complaint re various Cllrs from Planning meeting (re items 15 & 16 above)		Proposed action - all Members of the Planning Committee attend a training session to be presented by a specialist planning trainer;

APPENDIX 4 – Complaints Summary Oct 2020-Oct 2021

25	X		Complaint from member of the public re Cllr following RDC meeting 15.04.21		Ongoing investigation
26		X	Code of Conduct complaint by Cllr against Cllr.	No further action	
27		X	Code of conduct complaint from a member of the public following Annual Parish meeting May 2021		Complainant advised to put his grievance to the Chair/Vice Chair in the first instance.
28	X		Complaint against Cllr by member of the public	No further action	
29	X		Complaint from member of public - Various incl unauthorised building/bonfires/road/corruption/protected trees/caravans		Complainant asked to provide evidence regarding allegations of corruption or withdraw
30		X	Code of Conduct complaint from member of public re Cllr		Cllr resigned

APPENDIX 4 – Complaints Summary Oct 2020-Oct 2021

31		X	Complaint from member of public re Cllr at Town Council		Cllr apologised
32		X	Complaint from member of the public re Cllr	No further action	
33		X	Complaint from member of the public re Mayor and Town Clerk	No further action	
34		X	Complaint from member of the public re Cllr using position to influence caravan park owners	No further action for Cllr but referral to planning and enforcement considered	
35		X	Complaint a Parish Councillor threatened the caretaker of a local playing field	No further action	

APPENDIX 4 – Complaints Summary Oct 2020-Oct 2021

Page 112

OFFICIAL



PART B:

RECOMMENDATIONS TO COUNCIL

REPORT TO: OVERVIEW AND SCRUTINY COMMITTEE (AUDIT COMMITTEE)

DATE: 20 JANUARY 2022

REPORT OF THE: CHIEF FINANCE OFFICER (s151)
ANTON HODGE

TITLE OF REPORT: APPOINTMENT OF EXTERNAL AUDITORS

WARDS AFFECTED: ALL

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

- 1.1 This report sets out proposals for appointing the external auditor to the Council for the accounts for the five-year period from 2023/24. The report is presented in the context of local government re-organisation and with the support of the s151 officer of all 8 councils in North Yorkshire.
- 1.2 In the context of LGR, Public Sector Auditor Appointments (PSAA) has advised that existing councils should, if they choose to do so, opt-in to the arrangements in case there is a delay to LGR.

2.0 RECOMMENDATION

2.1 It is recommended that Audit Committee

- Recommends that Council accepts Public Sector Audit Appointments' invitation to opt into the sector-led option for the appointment of external auditors to principal local government and police bodies for five financial years from 1 April 2023.

3.0 REASON FOR RECOMMENDATION

- 3.1 Under the Local Government Audit & Accountability Act 2014 ("the Act"), the Council is required to appoint an auditor to audit its accounts for each financial year. The Council has three options:
 - To appoint its own auditor, which requires it to follow the procedure set out in the Act.

- To act jointly with other authorities to procure an auditor following the procedures in the Act.
- To opt in to the national auditor appointment scheme administered by a body designated by the Secretary of State as the ‘appointing person’. The body currently designated for this role is Public Sector Audit Appointments Limited (PSAA).

3.2 In order to opt in to the national scheme, a council must make a decision at a meeting of the Full Council.

4.0 SIGNIFICANT RISKS

4.1 The principal risks are that the Council:

- fails to appoint an auditor in accordance with the requirements and timing specified in local audit legislation; or
- does not achieve value for money in the appointment process.

4.2 These risks are considered best mitigated by opting into the sector-led approach through PSAA although as we have experienced over the last two years there are challenges within the audit sector which are impacting on timely delivery.

5.0 POLICY CONTEXT AND CONSULTATION

5.1 Under the Local Government Audit & Accountability Act 2014 (“the Act”), the Council is required to appoint an auditor to audit its accounts for each financial year.

REPORT

6.0 REPORT DETAILS

6.1 The current auditor appointment arrangements cover the period up to and including the audit of the 2022/23 accounts. The Council opted into the ‘appointing person’ national auditor appointment arrangements established by Public Sector Audit Appointments (PSAA) for the period covering the accounts for 2018/19 to 2022/23.

6.2 PSAA is now undertaking a procurement for the next appointing period, covering audits for 2023/24 to 2027/28. During Autumn 2021 all local government bodies need to make important decisions about their external audit arrangements from 2023/24. They have options to arrange their own procurement and make the appointment themselves or in conjunction with other bodies, or they can join and take advantage of the national collective scheme administered by PSAA.

6.3 Given our transition to a new unitary council from 1 April 2023, and with agreement of the section 151 Officers of all 8 councils in North Yorkshire this report concludes that the sector-wide procurement conducted by PSAA will, on balance, produce better outcomes and will be less burdensome for the Council than a procurement undertaken locally because:

- collective procurement reduces costs for the sector and for individual authorities compared to a multiplicity of smaller local procurements;
- if it does not use the national appointment arrangements, the Council will need to

- establish its own auditor panel with an independent chair and independent members to oversee a local auditor procurement and ongoing management of an audit contract;
- it is the best opportunity to secure the appointment of a qualified, registered auditor - there are only nine accredited local audit firms, and a local procurement would be drawing from the same limited supply of auditor resources as PSAA's national procurement; and
- supporting the sector-led body offers the best way of ensuring there is a continuing and sustainable public audit market into the medium and long term.

6.4 If the Council wishes to take advantage of the national auditor appointment arrangements, it is required under the local audit regulations to make the decision at full Council. The opt-in period starts on 22 September 2021 and closes on 11 March 2022. To opt into the national scheme from 2023/24, the Council needs to return completed opt-in documents to PSAA by 11 March 2022.

Procurement of External Audit for the period 2023/24 to 2027/28

- 6.5 As stated in section 3 above, under the Local Government Audit & Accountability Act 2014 ("the Act"), the Council is required to appoint an auditor to audit its accounts for each financial year.
- 6.6 In order to opt in to the national scheme, a council must make a decision at a meeting of the Full Council.

The Appointed Auditor

- 6.7 The auditor appointed at the end of the procurement process will undertake the statutory audit of accounts and Best Value assessment of the Council in each financial year, in accordance with all relevant codes of practice and guidance. The appointed auditor is also responsible for investigating questions raised by electors and has powers and responsibilities in relation to Public Interest Reports and statutory recommendations.
- 6.8 The auditor must act independently of the Council and the main purpose of the procurement legislation is to ensure that the appointed auditor is sufficiently qualified and independent.
- 6.9 The auditor must be registered to undertake local audits by the Financial Reporting Council (FRC) employ authorised Key Audit Partners to oversee the work. As the report below sets out there is currently a shortage of registered firms and Key Audit Partners.
- 6.10 Auditors are regulated by the FRC, which will be replaced by a new body with wider powers, the Audit, Reporting and Governance Authority (ARGA) during the course of the next audit contract.
- 6.11 Councils therefore have very limited influence over the nature of the audit services they are procuring, the nature and quality of which are determined or overseen by third parties.

Appointment by the Council itself or jointly

- 6.12 The Council may elect to appoint its own external auditor under the Act, which would require the Council to
- Establish an independent auditor panel to make a stand-alone appointment. The auditor panel would need to be set up by the Council itself, and the members of the panel must be wholly or a majority of independent members as defined by the Act. Independent members for this purpose are independent appointees, excluding current and former elected members (or officers) and their close families and friends. This means that elected members will not have a majority input to assessing bids and choosing to which audit firm to award a contract for the Council's external audit.
 - Manage the contract for its duration, overseen by the Auditor Panel.
- 6.13 Alternatively, the Act enables the Council to join with other authorities to establish a joint auditor panel. Again, this will need to be constituted of wholly or a majority of independent appointees. Further legal advice would be required on the exact constitution of such a panel having regard to the obligations of each Council under the Act and the Council would need to liaise with other local authorities to assess the appetite for such an arrangement.

The national auditor appointment scheme

- 6.14 PSAA is specified as the 'appointing person' for principal local government under the provisions of the Act and the Local Audit (Appointing Person) Regulations 2015. PSAA let five-year audit services contracts in 2017 for the first appointing period, covering audits of the accounts from 2018/19 to 2022/23. It is now undertaking the work needed to invite eligible bodies to opt in for the next appointing period, from the 2023/24 audit onwards, and to complete a procurement for audit services. PSAA is a not-for-profit organisation whose costs are around 4% of the scheme with any surplus distributed back to scheme members.
- 6.15 In summary the national opt-in scheme provides the following:
- the appointment of a suitably qualified audit firm to conduct audits for each of the five financial years commencing 1 April 2023;
 - appointing the same auditor to other opted-in bodies that are involved in formal collaboration or joint working initiatives to the extent this is possible with other constraints;
 - managing the procurement process to ensure both quality and price criteria are satisfied. PSAA has sought views from the sector to help inform its detailed procurement strategy;
 - ensuring suitable independence of the auditors from the bodies they audit and managing any potential conflicts as they arise during the appointment period;
 - minimising the scheme management costs and returning any surpluses to scheme members;
 - consulting with authorities on auditor appointments, giving the Council the opportunity to influence which auditor is appointed;
 - consulting with authorities on the scale of audit fees and ensuring these reflect scale, complexity, and audit risk; and
 - ongoing contract and performance management of the contracts once these have been let.

Pressures in the current local audit market and delays in issuing opinions

- 6.16 Much has changed in the local audit market since audit contracts were last awarded in 2017. At that time the audit market was relatively stable, there had been few changes in audit requirements, and local audit fees had been reducing over a long period. 98% of those bodies eligible opted into the national scheme and attracted very competitive bids from audit firms. The resulting audit contracts took effect from 1 April 2018.
- 6.17 During 2018 a series of financial crises and failures in the private sector year led to questioning about the role of auditors and the focus and value of their work. Four independent reviews were commissioned by Government: Sir John Kingman's review of the Financial Reporting Council (FRC), the audit regulator; the Competition and Markets Authority review of the audit market; Sir Donald Brydon's review of the quality and effectiveness of audit; and Sir Tony Redmond's review of local authority financial reporting and external audit. The recommendations are now under consideration by Government, with the clear implication that significant reforms will follow. A new audit regulator (ARGA) is to be established, and arrangements for system leadership in local audit are to be introduced. Further change will follow as other recommendations are implemented.
- 6.18 The Kingman review has led to an urgent drive for the FRC to deliver rapid, measurable improvements in audit quality. This has created a major pressure for audit firms to ensure full compliance with regulatory requirements and expectations in every audit they undertake. By the time firms were conducting 2018/19 local audits during 2019, the measures they were putting in place to respond to a more focused regulator were clearly visible. To deliver the necessary improvements in audit quality, firms were requiring their audit teams to undertake additional work to gain deeper levels of assurance. However, additional work requires more time, posing a threat to the firms' ability to complete all their audits by the target date for publication of audited accounts. Delayed opinions are not the only consequence of the FRC's drive to improve audit quality. Additional audit work must also be paid for. As a result, many more fee variation claims have been needed than in prior years.
- 6.19 This situation has been accentuated by growing auditor recruitment and retention challenges, the complexity of local government financial statements and increasing levels of technical challenges as bodies explore innovative ways of developing new or enhanced income streams to help fund services for local people. These challenges have increased in subsequent audit years, with Covid-19 creating further significant pressure for finance and audit teams.
- 6.20 None of these problems is unique to local government audit. Similar challenges have played out in other sectors, where increased fees and disappointing responses to tender invitations have been experienced during the past two years.

The invitation

- 6.21 PSAA is now inviting the Council to opt in for the second appointing period, for 2023/24 to 2027/28, along with all other eligible authorities. Based on the level of opt-ins it will enter into contracts with appropriately qualified audit firms and appoint a suitable firm to be the Council's/Authority's auditor. Details relating to PSAA's invitation are provided in an Appendix to this report [Appendix will be the opt-in invitation information issued by PSAA].

The next audit procurement

- 6.22 The prices submitted by bidders through the procurement will be the key determinant of the value of audit fees paid by opted-in bodies. PSAA will:
- seek to encourage realistic fee levels and to benefit from the economies of scale associated with procuring on behalf of a significant number of bodies;
 - continue to pool scheme costs and charge fees to opted-in bodies in accordance with the published fee scale as amended following consultations with scheme members and other interested parties (pooling means that everyone within the scheme will benefit from the prices secured via a competitive procurement process – a key tenet of the national collective scheme);
 - continue to minimise its own costs, around 4% of scheme costs, and as a not-for-profit company will return any surplus funds to scheme members. In 2019 it returned a total £3.5million to relevant bodies and in 2021 a further £5.6million was returned.
- 6.23 PSAA will seek to encourage market sustainability in its procurement. Firms will be able to bid for a variety of differently sized contracts so that they can match their available resources and risk appetite to the contract for which they bid. They will be required to meet appropriate quality standards and to reflect realistic market prices in their tenders, informed by the scale fees and the supporting information provided about each audit. Where regulatory changes are in train which affect the amount of audit work suppliers must undertake, firms will be informed as to which developments should be priced into their bids.
- 6.24 The scope of a local audit is fixed. It is determined by the Code of Audit Practice (currently published by the National Audit Office), the format of the financial statements (specified by CIPFA/LASAAC) and the application of auditing standards regulated by the FRC. These factors apply to all local audits irrespective of whether an eligible body decides to opt into PSAA's national scheme or chooses to make its own separate arrangements. The requirements are mandatory; they shape the work auditors undertake and have a bearing on the actual fees required.
- 6.25 There are currently nine audit providers eligible to audit local authorities and other relevant bodies under local audit legislation. This means that a local procurement exercise would seek tenders from the same firms as the national procurement exercise, subject to the need to manage any local independence issues. Local firms cannot be invited to bid. Local procurements must deliver the same audit scope and requirements as a national procurement, reflecting the auditor's statutory responsibilities.

Assessment of options and officer recommendation

- 6.26 If the Council did not opt in there would be a need to establish an independent auditor panel to make a stand-alone appointment. The auditor panel would need to be set up by the Council itself, and the members of the panel must be wholly or a majority of independent members as defined by the Act. Independent members for this purpose are independent appointees, excluding current and former elected members (or officers) and their close families and friends. This means that elected members will not have a majority input to assessing bids and choosing to which audit firm to award a contract for the Council's external audit.
- 6.27 Alternatively, the Act enables the Council to join with other authorities to establish a

joint auditor panel. Again, this will need to be constituted of wholly or a majority of independent appointees. Further legal advice would be required on the exact constitution of such a panel having regard to the obligations of each Council under the Act and the Council would need to liaise with other local authorities to assess the appetite for such an arrangement.

- 6.28 These would be more resource-intensive processes to implement for the Council, and without the bulk buying power of the sector-led procurement would be likely to result in a more costly service. It would also be more difficult to manage quality and independence requirements through a local appointment process. The Council is unable to influence the scope of the audit and the regulatory regime inhibits the Council's ability to affect quality.
- 6.29 The Council and its auditor panel would need to maintain ongoing oversight of the contract. Local contract management cannot, however, influence the scope or delivery of an audit.
- 6.30 The national offer provides the appointment of an independent auditor with limited administrative cost to the Council. By joining the scheme, the Council would be acting with other councils to optimise the opportunity to influence the market that a national procurement provides.
- 6.31 The recommended approach is therefore to opt in to the national auditor appointment scheme.

The way forward

- 6.30 Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 requires that a decision to opt in must be made by a meeting of the Council (meeting as a whole), except where the authority is a corporation sole.
- 6.31 The Council then needs to respond formally to PSAA's invitation in the form specified by PSAA by the close of the opt-in period (11 March 2022).
- 6.32 PSAA will commence the formal procurement process in early February 2022. It expects to award contracts in August 2022 and will then consult with authorities on the appointment of auditors so that it can make appointments by the statutory deadline of 31 December 2022.

7.0 IMPLICATIONS

- 7.1 The following implications have been identified:

- a) Financial

The Council's current audit fees for the year 2021/22 are £57k with additional charges of £15k for supplementary work agreed via PSAA, including £11.5k for Housing Benefit audit.

There is a risk that current external audit fee levels could increase when the current contracts end. It is clear that the scope of audit has increased, requiring

more audit work. There are also concerns about capacity and sustainability in the local audit market.

Opting into a national scheme provides maximum opportunity to ensure fees are as realistic as possible, while ensuring the quality of audit is maintained, by entering into a large scale collective procurement arrangement.

If the national scheme is not used some additional resource may be needed to establish an auditor panel and conduct a local procurement. Until a procurement exercise is completed it is not possible to state what, if any, additional resource may be required for audit fees from 2023/24.

b) Legal

Section 7 of the Local Audit and Accountability Act 2014 requires a relevant Council to appoint a local auditor to audit its accounts for a financial year not later than 31 December in the preceding year.

Section 8 governs the procedure for appointment including that the Council must consult and take account of the advice of its auditor panel on the selection and appointment of a local auditor. Section 8 provides that where a relevant Council is a local Council operating executive arrangements, the function of appointing a local auditor to audit its accounts is not the responsibility of an executive of the Council under those arrangements.

Section 12 makes provision for the failure to appoint a local auditor. The Council must immediately inform the Secretary of State, who may direct the Council to appoint the auditor named in the direction or appoint a local auditor on behalf of the Council.

Section 17 gives the Secretary of State the power to make regulations in relation to an 'appointing person' specified by the Secretary of State. This power has been exercised in the Local Audit (Appointing Person) Regulations 2015 (SI 192) and this gives the Secretary of State the ability to enable a sector-led body to become the appointing person. In July 2016 the Secretary of State specified PSAA as the appointing person.

c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental and Climate Change, Crime & Disorder)
None arise from the contents of this report.

Anton Hodge
Chief Finance Officer (s151)

Author: **Anton Hodge**
Telephone No: 01653 600666 ext: 43385
E-Mail Address: anton.hodge@ryedale.gov.uk

Background Papers:

RDC Forward Plan

Date of Meeting	Committee	A/B	Service Area	Report Title	Draft Deadline	Final Deadline	Draft Press Release	Implement Date	Full Council	Reporting Officer	Annual Y/N
February											
10-Feb-22	Overview and Scrutiny Committee	OS	Customer Services	Customer Complaints and Compliments Q3 2021/22	19-Jan-22	01-Feb-22				JK	Y
10-Feb-22	Overview and Scrutiny Committee	OS	Corporate Governance	Timetable of Meetings 2022-2023	19-Jan-22	01-Feb-22				SC	Y
March											
24-Mar-22	Overview and Scrutiny Committee	OS	Customer Services	Safer Ryedale and Ryedale Community Safety Partnership Action Plan	02-Mar-22	15-Mar-22				BS	Y
24-Mar-22	Overview and Scrutiny Committee	OS	Human Resources and Organisational Development	Delivering the Council Plan - Key Performance Indicators for O&S Review (if required)	02-Mar-22	15-Mar-22				LB	Y
24-Mar-22	Overview and Scrutiny Committee	OS	Financial Services	CIPFA Financial Management Code	02-Mar-22	15-Mar-22				AH	Y
24-Mar-22	Overview and Scrutiny Committee	OS	Economic Development, Business and Partnerships	Progress Report on the Implementation of the Climate Change Action Plan and Associated Projects	02-Mar-22	15-Mar-22				AT	Y
24-Mar-22	Overview and Scrutiny Committee	Au	Corporate Governance	Risk Management Update	02-Mar-22	15-Mar-22				SC	Y
April											
21-Apr-22	Overview and Scrutiny Committee	OS	Corporate Governance	Standards Complaints Overview and Annual Report	30-Mar-22	12-Apr-22				SC	Y
21-Apr-22	Overview and Scrutiny Committee	OS	People and Resources	Progress on the Equalities Action Plan	30-Mar-22	12-Apr-22				MW	N
21-Apr-22	Overview and Scrutiny Committee	Au	Financial Services	External Audit Plan	30-Mar-22	12-Apr-22				AH	Y

Date of Meeting	Committee	A/B	Service Area	Report Title	Draft Deadline	Final Deadline	Draft Press Release	Implement Date	Full Council	Reporting Officer	Annual Y/N
21-Apr-22	Overview and Scrutiny Committee	Au	Financial Services	Third Internal Audit and Counter Fraud Progress report	30-Mar-22	12-Apr-22				AH	Y
21-Apr-22	Overview and Scrutiny Committee	Au	Financial Services	Internal Audit and Counter Fraud Governance Plans 2022/23	30-Mar-22	12-Apr-22				AH	Y