

APPENDIX 2 KEY STATUTORY DUTIES BY DIRECTORATE

Director of Adult Social Services: Roles and Responsibilities

Officer: Graham Hodkinson Director Care and Health

1.0 Legislative Framework

The following legislation provides the legal framework for the role of the DASS:

- The Care Act 2014,
- The Mental Capacity Act (2005) and Deprivation of Liberty Safeguards
- The Mental Health Act 2007
- The Human Rights Act 1998

The Domestic Violence, Crime and Victims Act 2004 and subsequent legislation relating to Domestic Violence Protection Notices and Orders, the criminal offence of Coercive and Controlling Behaviour, Modern Slavery and Forced Marriages.

2.0 Key Responsibilities

The council should, through the office of the DASS, ensure that effective systems are in place for discharging the following functions (including where a local authority has commissioned any services from another provider rather than delivering them itself):

- Prevention, information and advice
- Systems leadership and making sure the voice of social care social work and the social model is heard, particularly by working with NHS partners, the police, providers, voluntary organisations, the wider council and members of the community etc. to:
 - shape care and health and wider public services in the area
 - promote the inclusion and rights of disabled and older people
- Leading and championing the voice of people needing social care by engagement with them, shaping, influencing and implementing policy
- Meeting essential needs for care and support
- Market shaping and continuity: commissioning effectively and ensure the availability and quality of services that people want in order to be in control of their lives.
- Safeguarding adults needing care and support:
 - from abuse or neglect
 - when doctors are considering compulsory treatment or admission to psychiatric hospital
 - when people lack capacity to decide and may be restricted of their liberty
- Financial and resources management - to manage within resources, including fair charging policies and to advocate for a fair share for adults needing care and support

3.0 Key Risks

- Mitigate against key risks to the population including:
 - The safety and wellbeing of people needing care and support in relation to the quality of services, quality failure and safeguarding people at home and in the community

- Market and provider failure
- Financial failure
- Legal challenge

4.0 Local Assurance

It is for each local authority to determine the precise nature of its own assurance process and how to provide transparency for local communities about which individuals are fulfilling the statutory role of the DASS, taking account of local circumstances. However, in doing so, the following elements are likely to be essential in assuring that effective arrangements are in place:

- clarity about how senior management arrangements ensure that the safety and the care and support needs of the community are given due priority and how they enable staff to help the local authority discharge its statutory duties in an integrated and coherent way
- clarity about how the local authority intends to discharge its adult social services functions and be held accountable for them from political, professional, legal and corporate perspectives (including where, for example, services are commissioned from external providers or mutualised in an arm's length body)
- the ability to lead the development of an efficient and sustainable social care system and market and to ensure effective financial performance
- the ability to evidence the level of resource required to meet statutory social care requirements, reflecting the needs of the population, changing demographic trends and cost pressures. To oversee the effective use of resources to meet statutory need
- clarity about how the social workers will deliver the legal safeguards for individuals who are at risk of abuse or neglect, who may be being considered for compulsory admission or treatment or who lack capacity to make decisions and are at risk of being deprived of their liberty
- clarity about the seniority of and breadth of responsibilities allocated to individual post holders and are aware of how this impacts on their ability to undertake those responsibilities (especially where a local authority or council and NHS partnership is considering allocating any additional functions to the DASS post)
- the involvement and experiences of people needing care and support in relation to local services
- clarity about safeguarding systems, ensuring that professional leadership and practice is robust and can be challenged on a regular basis, including an appropriate focus on offering early help and working with other agencies in doing so
- the adequacy and effectiveness of local partnership arrangements (e.g. the local authority's relationship with the Health and Wellbeing Board, the NHS, providers, the third sector, Community Safety Partnerships, health and wellbeing boards, police, Multi-Agency Public Protection Arrangements and Multi-Agency Risk Assessment Conferences) and their respective accountabilities

Director of Children's Services: Roles and Responsibilities

Officer: Paul Boyce Corporate Director Children

The Children Act 2004 requires every upper tier local authority to appoint a Director of Children's Services (DCS) in order to discharge the statutory duties for children services relating to the local authority.

The DCS is appointed for the purposes of discharging the education and children's social services functions of the local authority. The functions for which they are responsible are set out in section 18(2) of the Children Act 2004. This includes (but is not limited to) responsibility for children and young people receiving education or children's social care services in their area and all children looked after by the local authority or in custody (regardless of where they are placed). The local authority must ensure that there is a single officer responsible for both education and children's social care.

The DCS have an integrated children's services brief, ensuring that the safety and the educational, social and emotional needs of children and young people are central to the local vision.

The DCS must provide a clear and unambiguous line of local accountability and have professional responsibility for children's services, including operational matters. Together with the Chief Executive and Leader and Lead Member for children services, the DCS has a key leadership role both within the local authority and working with other local agencies to improve outcomes for children and young people.

Section 18 of the Children Act 2004 requires every top tier local authority to appoint a Director of Children's Services. The DCS has professional responsibility for the leadership, strategy and effectiveness of local authority children's services and, as such, this post should be at first tier officer level. The DCS is responsible for securing the provision of services which address the needs of all children and young people, including the most disadvantaged and vulnerable, and their families and carers. In discharging these responsibilities, the DCS will work closely with other local partners to improve the outcomes and well-being of children and young people. The DCS is responsible for the performance of local authority functions relating to the education and social care of children and young people. The DCS is responsible for ensuring that effective systems are in place for discharging these functions, including where a local authority has commissioned any services from another provider rather than delivering them itself. The DCS should have regard to the General Principles of the United Nations Convention on the Rights of the Child (UNCRC) and ensure that children and young people are involved in the development and delivery of local services. The DCS should report directly to the Chief Executive (Head of Paid Service), who in turn is accountable to the Council for the performance of its chief officers.

Local authorities are bound by some 200 statutory duties covering education and children's social care.

Safeguarding

- Section 11 of the Children Act 2004 requires local authorities and other named statutory partners to make arrangements to ensure that their functions are discharged with a view to safeguarding and promoting the welfare of children. This should ensure that safeguarding is integral to all that local authorities, schools and other named partners do. The DCS should ensure that there are clear and effective arrangements to protect children and young people from harm (including those attending independent schools).
- The DCS has the responsibility within the local authority for improving outcomes for children and young people, children's social care functions and local cooperation arrangements for children's services. The DCS has a crucial role in ensuring collaboration and dialogue with the family courts so that high quality local authority assessments and other evidence contribute to effective and timely court processes for children.

Vulnerable children and young people

- Local authorities should work with partners to promote prevention and early intervention and offer early help so that emerging problems are dealt with before they become more serious. This will help to improve educational attainment, narrow the gaps for the most disadvantaged and promote the wider well-being of children and young people, including at key transition points.
- The DCS has a shared responsibility with all officers and members of the local authority to act as effective and caring corporate parents for looked after children, with key roles in improving their educational attainment, providing stable and high quality placements and proper planning for when they leave care
- The DCS must ensure that disabled children and those with special educational needs (SEN) can access high quality provision that meets their needs and fund provision for children with statements of SEN;
- The DCS must ensure arrangements are in place for alternative provision for children outside mainstream education or missing education (e.g. due to permanent exclusion or illness) to receive suitable full-time education
- The DCS should ensure there is coherent planning between all agencies providing services for children involved in the youth justice system (including those leaving custody), secure the provision of education for young people in custody and ensure that safeguarding responsibilities are effectively carried out

Fair access to services

- Local authorities should promote the interests of children, young people, parents and families and work with local communities to stimulate and support a diversity of school, early years and 16-19 provision that meets local needs.

- The DCS must ensure fair access to all schools for every child in accordance with the statutory School Admissions and School Admissions Appeal Codes and ensure appropriate information is provided to parents
- The DCS must ensure provision for suitable home to school transport arrangements
- The DCS should actively promote a diverse supply of strong schools, including by encouraging good schools to expand and, where there is a need for a new school, seeking proposals for an Academy or Free School
- The DCS should promote high quality early years provision, including helping to develop the market, securing free early education for all three and four year olds and for all disadvantaged two year olds and provide information, advice and assistance to parents and prospective parents, and ensuring there are sufficient services to meet local need and sufficient childcare for working parents
- The DCS must secure access for young people to sufficient educational and recreational leisure-time activities and facilities for the improvement of their well-being and personal and social development
- The DCS should promote children's and young people's participation in public decision- making so they can influence local commissioners
- The DCS should promote participation in education or training of young people, including by securing provision for young people aged 16-19 (or 25 for those with learning difficulties/disabilities).

Educational excellence

- Working with headteachers, school governors and academy sponsors and principals, local authorities should promote educational excellence for all children and young people and be ambitious in tackling underperformance.
- The DCS should take rapid and decisive action in relation to poorly performing schools, including using their intervention powers with regard to maintained schools and considering alternative structural and operational solutions
- The DCS should develop robust school improvement strategies, including choosing whether to offer such services in a competitive and open school improvement market, working beyond local authority boundaries
- The DCS should promote high standards in education by supporting effective school to school collaboration and providing local leadership for tackling issues needing attention which cut across more than one school, such as poor performance in a particular subject area across a cluster of schools
- The DCS should support maintained schools in delivering an appropriate National Curriculum and early years providers in meeting the requirements of the Early Years Foundation Stage (as outlined in the EYFS Statutory Framework)
- The DCS should establish a school's forum for their area, maintain a scheme for financing maintained schools and provide financial information

Public Health

Officer Julie Webster, Director for Health and Wellbeing

Background

Councils' statutory responsibilities for public health services are set out in the Health and Social Care Act 2012. The Act conferred new duties on councils to improve public health. It abolished primary care trusts and transferred much of their responsibility for public health to councils from 1st April 2013. From this date councils have had a new duty to take such steps as they consider appropriate for improving the health of the people in their areas. The Secretary of State continues to have overall responsibility for improving health – with national public health functions delegated to Public Health England.

Duties of Directors of Public Health

Section 30 of the 2012 Act requires each upper-tier council, acting jointly with the Secretary of State, to appoint a director of public health. The director of public health is the lead officer in the Council for health, and a statutory chief officer. The role of the DPH is to champion health across the whole of the Council's business, promoting healthier lifestyles and challenging the NHS and other partners to promote better health and ensure threats to health are addressed. She is a statutory member of the health and wellbeing board.

Health and Wellbeing Board

The Act established Health and Wellbeing Boards as statutory committees of all upper-tier councils to act as a forum for key leaders from the local health and care system to jointly work to:

- improve the health and wellbeing of the people in their area
- reduce health inequalities
- promote the integration of services

The Board has a duty to ensure that a Joint Strategic Needs Assessment is undertaken to understand and agree the needs of local people and to inform a joint health and wellbeing strategy setting priorities for collective action across the wider determinants that influence improved health and wellbeing, such as housing and education.

Commissioning Public Health Services

Under the Act, Councils have responsibility for commissioning a range of public health services including healthy child programme for 0-19-year olds, most sexual health services and services to address drug or alcohol misuse.

Section 12 of the Act lists some of the steps to improve public health that councils' and the Secretary of State can take, including:

- carrying out research into health improvement, providing information and advice (for example giving information to the public about healthy eating and exercise)
- providing facilities for the prevention or treatment of illness (such as smoking cessation clinics)

- providing financial incentives to encourage individuals to adopt healthier lifestyles (for instance by giving rewards to people for stopping smoking during pregnancy)
- providing assistance to help individuals minimise risks to health arising from their accommodation or environment (for example a local authority may wish to improve poor housing where this impacts on health)

Subsection 12(4) of the 2012 Act gives councils powers to make grants or lend money to organisations or individuals in order to improve public health; it is for the Council to determine the appropriate terms of such grants or loans.

Regulations on the exercise of local authority public health functions

Regulations made under Section 6C of the *NHS Act 2006* require councils to take steps in exercise of their public health functions, or aspects of the Secretary of State's public health functions. Part 2 of the *Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013* (SI 2013/351) makes provision for the steps to be taken by councils in exercising their public health functions. In particular:

Regulation 3 requires local authorities to provide for the weighing and measuring of certain children in their area (including age and school type).

Regulations 4 and 5 relate to the duties of local authorities to provide or make arrangements to provide for health checks for eligible people (depending upon age and health status). The regulations specify the type of information to be recorded. Local authorities must also provide information about dementia to older people.

Regulation 6 requires local authorities to provide or make arrangements to secure the provision of open access sexual health services in their area.

Regulation 7 creates a duty on local authorities to provide or make arrangements to secure the provision of a public health advice service, in relation to their powers and duties to commission health services, to any Clinical Commissioning Groups (CCGs) in their area.

Regulation 8 imposes a duty on local authorities to provide information and advice to certain persons and bodies within their area in order to promote the preparation of, or participation in, health protection arrangements against threats to the health of the local population, including infectious disease, environmental hazards and extreme weather events.

Delivery Services: Roles and Responsibilities

Officer: Nicola Butterworth, Director of Delivery Services

1.0 Key Services / Functions Delivered

Delivery Services comprises of the following areas:

- The provision of **Highway Services** including roads and streetworks, highway asset maintenance, streetlighting, Integrated Transport, Public Rights of Way and Parking Services
- The provision of **Waste Management and Cleansing** services including domestic waste and recycling collections, bulky household waste and routine street cleansing.
- The provision of **Environmental Enforcement** services including removal of abandoned vehicles (statutory duty); nuisance vehicles; trade waste duty of care; waste transport legislation; fly posting and graffiti; fly tipping enforcement; skip permitting and enforcement and untidy property and land.
- The provision of **Leisure, Parks and Greenspaces** including all Council owned and maintained public greenspace, all Council Leisure facilities, libraries, allotments, coastal management.
- The Council's **Asset Management** has responsibilities for all Council owned and maintained buildings and schools, including estate management.
- The Council's **Climate Change** commitments including Carbon Management, Air Quality, Energy Management.
- The **Council's Procurement and Commercial Management** functions including supplier relationship management, contract intervention and income generation through commercial activities or fees/charges.

2.0 Legislative Framework

The following key pieces of legislation (and all subsequent revisions and amendments) provides the legal framework for the duties and powers for the above Delivery Services functions:

- The Highways Act 1980, The New Roads and Street Works Act 1991, The Traffic Management Act 2004, The Road Traffic Act 1988, The Road Traffic Regulation Act 1984
- The Environmental Protection Act 1990, The Controlled Waste Regulations 2012, Clean Neighbourhoods and Environment Act 2005, The Town and Country Planning Act 1990 (Untidy land, buildings, advertising and the power to remove advertising)
- Anti-Social Behaviour Crime and Policing Act 2014 (PSPO), The Refuse Disposal (Amenity) Act 1978
- The Building Act 1984 (Untidy buildings)
- The Climate Change Act 2008 Home Energy Conservation Act 1995
- The Public Services (Social Value) Act 2012
- Flood Risk Regulations 2009 and the Flood and Water Management Act 2010
- Planning and Compulsory Purchase Act of 2004
- The Public Libraries and Museums Act 1964
- The Local Authorities' Cemeteries Order 1977
- The Cremation Act 1902

- The Burial Act 1857
- The Allotments Act 1950
- The Cremation Regulations 2008
- Wildlife and Countryside Act 1981
- The Public Contracts Regulations 2015
- Section 135 Local Government Act 1972 (procurement)
- The Energy Performance of Buildings (Inspection of Air Conditioning Systems) (England & Wales) Regulations 2012
- Control of Asbestos Regulations 2012
- Electricity at Work Regulations 1989 and BS 7671 IEE Wiring Regulations
- The Control of Legionella Bacteria in Water Systems Approved Code of Practice L8 ACOP HSG 274
- Education (School Premises Regulations) 1999
- Controlled Waste (England and Wales) Regulation 2012
- Gas Safety (Installations and Use) Regulations 1998
- Health & Safety at Work Act 1974, Control of Substances Hazardous to Health Regulations 2002 (COSHH)
- Construction (Design and Management) Regulations 2015

3.0 Key Responsibilities

The council should, through the directorate of Delivery Services, ensure that effective systems are in place for discharging the following functions (including where a local authority has commissioned any services from another provider rather than delivering them itself):

- The duty to maintain the highway to keep the road in such good repair, that it is reasonably passable for the ordinary traffic of the area.
- The duty to regulate the activities of developers in relation to the Council's highways
- The duty to collect household waste in its area
- The duty to collect of at least two types of recyclable waste together or individually separated from the rest of the household waste
- The duty to remove abandoned vehicles from the highway
- The duty as respects any relevant highway for which the Council is responsible, to ensure that the land is, so far as is practicable, kept clear of litter and refuse, and to ensure that the highway or road is, so far as is practicable, kept clean
- The management of Parks and Greenspaces including all SSSI's, Council owned and maintained public greenspace, all Council Leisure facilities, libraries, allotments, coastal (beach) management.
- The duty to provide a comprehensive and efficient library service for all persons desiring to make use thereof.
- The duty to comply with regulations concerning burials, cremations, exhumations and together with the maintenance of cemeteries and closed churchyards.
- The duty to facilitate the provision of let allotments and consider certain representations made regarding the provision of allotments.

- The responsibility for the management of investment assets, leased buildings, asset valuations, asset data and mapping.
- The responsibility for the management of all Council assets including schools as part of service level agreements.
- Asset Management has a responsibility to ensure that adequate arrangements are in place to discharge their health and safety responsibilities related to their service area. The duty to undertake valuations for held assets within the Council's portfolio.
- The responsibility for delivering the Capital Programme across all Council assets including maintained schools.
- The responsibility for keeping all assets in a good state of repair via the Facilities Management service, including day to day repair and maintenance and small projects.
- Provision of caretaking and cleaning services to main Council buildings.
- School place planning role to ensure Basic Need of school places is met through annual net capacity calculations and implementation of capital programme works.
- The responsibility for the provision of a compliant and robust procurement service
- The responsibility for ensuring that procurement is non - discriminatory, open and transparent.
- Duty to set targets and policies based on the local potential to reduce emissions, that are at least in line with the Climate Change Act 2008.
- The requirement that local plans include policies "designed to secure", that the development and use of land contributes to the mitigation of, and adaptation to, climate change.

4.0 Key Risks

- Contract failures with outsourced Streetscene delivery arrangements
- Wirral Council does not develop and implement sufficiently ambitious low-carbon plans to meet carbon reduction targets (e.g. Local Plan)
- Failure to update the asset register (affects the Council being able to set a legal budget)
- Failure in Compliance arrangements
- Failure to deliver Capital Programme and realise income targets
- Officer failure to comply with Contracts Procedure Rules and Public Procurement Regulations
- Successful challenges to contract awards by unsuccessful bidders resulting in prosecution and potential fines and compensation claims
- Specification of requirements are not compatible desired outcomes
- Failure to deliver Highways & Transport Capital Programme, including A41 KRN Maintenance and LED Phase 2 major projects
- Risk of failure in delivering the key Leisure Services (Inc. Floral) projects through the proposed models and within timescales that achieve financial sustainability.

- Risk of failure to maintain Parks and Open Spaces Assets, both natural (trees & soft landscape) and built (railings, bridges, pathways), to acceptable safe standards.
- Insufficient resources to adequately manage green spaces to meet the economic and health needs of the community.

5.0 Local Assurance

It is for each local authority to determine the precise nature of its own assurance process and how to provide transparency for local communities about which individuals are fulfilling the statutory role of Delivery Services, taking account of local circumstances. However, in doing so, the following elements are likely to be essential in assuring that effective arrangements are in place:

- clarity about how senior management arrangements ensure that the demands and needs of the community are given due priority and how they enable staff to help the local authority discharge its statutory duties in an integrated and coherent way.
- clarity about how the local authority intends to discharge its Delivery Services functions and be held accountable for them from political, professional, legal and corporate perspectives (including where, for example, services are commissioned from external providers or mutualised in an arm's length body)
- the ability to lead the development of an efficient and sustainable system and market and to ensure effective financial performance
- the ability to evidence the level of resource required to meet statutory requirements, reflect the demand needs of the population, changing demographic trends and cost pressures. To oversee the effective use of resources to meet statutory need
- clarity about the seniority of and breadth of responsibilities allocated to individual post holders and are aware of how this impacts on their ability to undertake those responsibilities
- clarity about how the Authority will meet its Climate Change commitments, ensuring that professional leadership and ownership of the required interventions are established and challenged on a regular basis.
- the adequacy and effectiveness of local partnership arrangements (e.g. the local authority's relationship with the Liverpool City Region Combined Authority, Merseytravel, Merseyside Waste and Recycling Authority, the third sector, Community Safety Partnerships, health and wellbeing boards, police, Multi-Agency Public Protection Arrangements) and their respective accountabilities

Change and Organisational Design

Officer: Vacant

Human Resources: Roles and Responsibilities

1.0 Legislative Framework

There is a wide range of employment legislation that the Council must comply with through application of its employment policies and procedures. This includes

- Employment Rights Act 1996
- Working Time Directive 1998
- Health and Safety at Work Act 1974
- Equality Act 2010
- Fixed Term Worker Regulations 2002
- Agency Worker Regulations 2010
- Localism Act 2014
- Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000

In addition to UK and European there are national terms and conditions of employment which apply to Local Government employees including:

- The '[Green Book](#)' – this is the common name for the agreement reached by the National Joint Council for Local Government Services, and it covers the majority of Council employees
- The '[Red Book](#)' - this is the common name for the national agreement on pay and conditions of service for craft and associated employees
- The '[Pink Book](#)' - the full, current conditions of service for youth and community workers, covering issues such as maternity, sick leave and qualified youth worker status
- The '[Blue Book](#)' - this is the common name for the Soulbury Committee, which provides voluntary collective bargaining machinery for advisory staff in local education authorities (including educational improvement professionals, educational psychologists, and young people's/community service managers)
- [Joint National Council for Chief Officers](#) – this sets out the Chief Officers terms and conditions (including Heads of Service and above)
- [Chief Executive Handbook](#) – this sets out the terms and conditions for Chief Executives, and some provisions within this also apply to the Council's Statutory Officers
- NHS Terms and Conditions - these apply to former Public Health employees who transferred into the Council and can be found on the [NHS website](#)
- The '[Burgundy Book](#)' - sets out the Terms and Conditions for school teachers. This agreement covers the general field of conditions of service and represents the national agreement between the six teacher associations and the Local Education Authorities.

The relevant provisions from all of the above must be incorporated into contracts of employment and employment policies.

Information Management

There are numerous legislations that the council must comply with to do the governance, security and use of data. These include:

- Data Protection Act 2018
- Local Government Transparency Code 2015
- General Data Protection Regulation (GDPR)
- Re-use of Public Sector Information Regulations 2015 (RPSI)
- Freedom of Information Act 2000

Legislative Requirements

There are specific requirements for the Council specified in the LGA Toolkit as follows:

Issue	Requirement	Council Position
Pay policy statement	Local authority must prepare a pay policy statement, annually and have regard to Guidance when doing so.	The Council has published its pay policy each year on time as required by the localism act.
Policy - Chief Officer remuneration	The authority must comply with its pay policy statement for the financial year in making the determination of the remuneration of or other terms and conditions applying to a chief officer of the authority	The Council's Chief Officers are paid in accordance with the provisions of the pay policy. All salaries are published as required.
Local government - appointment and management etc. of staff	Every appointment of a person to a paid office or employment under a local authority or parish or community council and Wales shall be made on merit	The Council's recruitment and selection policy sets out a commitment to operate fair and lawful recruitment policies with opportunities advertised and appointments made on merit.
Local government - conflict of interest in staff negotiations	It shall be the duty of a local authority to secure that, so far as practicable, the interests of that authority in any negotiations with respect to the terms and conditions on which persons in local authority employment hold office or are employed are never represented, whether directly or indirectly by, or by persons who include a person who is both a member of the	The Council has a conflict of interest policy that requires all employees to declare any conflict of interest for any activity that they are involved with.

Issue	Requirement	Council Position
	authority and in such employment; or a person who is both a member of the authority and an official or employee of a trade union whose members include persons in local authority employment.	
Social services - appointment of director.	A local authority must appoint a Director of Social Services or may jointly appoint with another authority and provide him with adequate staff for his function	The Council has a Director of Social Services in post
Apprenticeships regulations regarding targets	A local authority with Apprenticeship Targets must have regard to the target and must comply with Regulations	Wirral Council complies with the statutory duty to have 'due regard' to the apprenticeship targets. Apprenticeships are actively considered/monitored for new starters and existing staff and there are apprenticeship schemes in place.
Apprenticeships publication of information	A local authority with Apprenticeship Targets must publish and send to the Secretary of State prescribed information.	Wirral Council is compliant with this duty, providing and publishing the prescribed information as necessary
Open data - re-use of public sector information	A local authority must establish an internal complaints procedure to determine complaints arising under the Re-use of Public Sector Information Regulation.	The council has an internal complaints procedure which the complainant can instigate by emailing the Data Protection Officer.
Transparency - smaller authorities	Local authorities in England to which the Transparency code for smaller authorities issued on 17th December 2014 applies, must comply with that Code.	This requirement does not apply to Wirral Council
Data protection - GDPR compliance	All public bodies must comply with the requirements of the General Data Protection Regulations and of the Data Protection Act 2018.	Wirral Council comply with the GDPR Regulations and Data Protection Act 2018 as set out on the council website - https://www.wirral.gov.uk/about-council/freedom-information-and-data-protection/data-protection-policy

Issue	Requirement	Council Position
Data protection - appointment of data protection officer	All public bodies must appoint a data protection officer.	Wirral Council have an appointed Data Protection Officer
Local government - transparency	Local authorities in England must comply with Part 2 of the Local Government Transparency Code 2015	Wirral Council publishes the datasets detailed within Part 2 of the Local Government Transparency Code 2015

Regeneration and Place Directorate

Officer: Alan Evans, Director of Regeneration and Place

1. Statutory Planning Functions

There are a number of planning functions which come under the Town and Country Planning Acts and related planning legislation

In summary these include:

The preparation of a Local Plan

The Local Plan is currently being prepared following the statutory regulations. Wirral is at Regulation 18 – Issues and Options stage. It has an agreed timeline for moving through the other regulation stages to adoption (the final stage) in 2021.

Determination of Planning Applications

The Council has to determine planning applications which it receives, in line with the Town and Country Planning Acts and the National Planning Policy Framework. There are set Government timescales for determination with the Council performing above the required targets.

Designation of areas and protections

Under this heading there are a number of statutory functions including designation of conservation areas, local development orders, tree preservation orders, listed building consent, and neighbourhood planning areas. In all these areas the Council meets its statutory requirements.

Compulsory Purchase Orders (Planning Act)

Where the legal tests are met, the Council uses these statutory powers to acquire land for the good planning of the area. The statutory processes are followed when using these powers.

Habitats Regulations

The Council has to comply with the HRA legislation when determining planning applications and it has a legal requirement to do so. The Council complies with this statutory duty as it determines each application being advised by the Environmental Advisory Service and Natural England.

2. Building Control

Under the Building Act 1984, there are statutory functions to determine building regulation applications, and to deal with dangerous structures. The Council complies with these functions through the Building Control Team.

3. Economic Development functions

Assurance and risk mitigation

1. The Council employs professional and qualified officers to undertake these statutory functions on behalf of the Council.

2. The DMT oversees these functions to ensure compliance and that adequate resources are in place to deliver them.
3. Members through the Planning Committee, Planning sub-Committee and scrutiny committees oversee the Council's performance on these statutory functions.
4. The Council has to submit performance returns to Government on functions such as planning determinations and monitoring takes place through these processes.
5. SLT monitors performance on planning.
6. Independent peer review to modernize the planning service which is being implemented

1.0 Legislative Framework

The following legislation provides the key legal framework for the role of the Director of Finance & Investment:

- Section 151 of the Local Government Act 1972 – England and Wales
- Section 114 of the Local Government Finance Act 1988 – England and Wales

Specific requirements in relation to the production and audit of the annual accounts are also set out in detail in the Accounts and Audit Regulations 2015.

Section 151 of the Local Government Act 1972

This section requires that every local authority in England and Wales should ‘make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs’.

The term ‘proper administration’ is not statutorily defined, but proper administration, based on CIPFA’s guidance on the Role of the Chief Financial Officer, requires consideration of all aspects of local authority financial management and should include:

- Compliance with the statutory requirements for accounting and internal audit
- Ensuring the authority’s (and ultimately its members’) responsibility for securing proper administration of its financial affairs
- Proper exercise of a wide range of delegated powers both formal and informal
- Responsibility for managing the financial affairs of the local authority in all its dealings; and
- Recognition of the fiduciary responsibility owed to local taxpayers, as strengthened by Section 113 of the Local Government Finance Act 1988 which requires the responsible officer under Section 151 of the 1972 Act to be a member of a specified accountancy body.

Section 114 of the Local Government Finance Act 1988 – England and Wales

Under this section, a report to all the authority’s members is to be made by the S151 officer, in consultation with the council’s monitoring officer, if there is, or is likely to be unlawful expenditure or an unbalanced budget. The duty of the CFO to report is triggered if they believe that a decision involves (or would involve) unlawful expenditure or a course of action is unlawful and is likely to cause a loss or deficiency. In those circumstances the CFO is required to make a report to the authority and send a copy to every member and the external auditor. The course of conduct which led to the report must not be pursued until the full council has considered the report. The council must consider the report within 21 days and decide whether it agrees or disagrees with the views in the report and what action it proposes to take.

Similarly, the CFO must inform the authority where they believe that the authority’s expenditure is likely to exceed available resources. The authority is prevented from

entering into any agreements incurring expenditure until the council has considered the report.

Accounts and Audit Regulations 2015

These regulations set out specific requirements in relation to:

- Production of an annual Statement of Accounts, including a narrative statement, annual governance statement and collection fund accounts, and prepared in line with accounting standards.
- Signature of the Statement of Accounts by the section 151 officer to confirm that they present a true and fair view of the Council's financial position and its income and expenditure for the year
- Publication of public inspection period notices for queries relating to the accounts
- Publication of the annual Statement of Accounts by 31 July each year or, where the audit has not been concluded by this date, a notice stating the reasons for this; and
- Retention of copies of documents available for public inspection for at least five years from their initial publication date.

Further guidance on the Role of the Chief Financial Officer in Local Government can be found in CIPFA's publication below:

<https://www.cipfa.org/policy-and-guidance/reports/the-role-of-the-chief-financial-officer-in-local-government>

With reference to the legislation for Payroll the following consideration apply when undertaking duties:

Employment Act 1996 - Provide staff with an itemised payslip

Pay eligible workers Statutory sick, maternity, paternity, adoption and redundancy pay (Child bereavement pay from April 2020)

Social Security Contributions and Benefits Act 1992 & Social Security Administration Act 1992 – Operation of National Insurance Contributions, deduction, return and accounting.

ITEPA 2003 – Operation of Paye - Deduction, return and accounting including Student and Post Graduate Loans, Apprentice Levy

The Pension Act 2008 - Automatic Enrolment ensures employees are assessed and if eligible enrolled into a qualifying pension scheme. Report membership detail to the Pension Regulator following initial staging and cyclical re-enrolment. Adminstrating Contractual Pension Schemes – LGPS, TP

Attachment of Earnings Act 1971 – Make deductions from pay following receipt of an AEO or DEO

Section 17 of the Statistics of Trade Act 1974 – Complete Office of National Statistic Returns

2.0 Key Responsibilities

The key responsibilities of the Director of Finance & Investment are summarised into five key Statements that define the core activities and behaviours required, as documented in CIPFA's The Role of the Chief Financial Officer in Local Government:

The CFO, or equivalent, in a public service organisation:

- *Is a key member of the leadership team, helping it to develop and implement strategy and to resource and deliver the organisation's strategic objectives sustainably and in the public interest*
- *Must be actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered, and alignment with the organisation's financial strategy*
- *Must lead the promotion and delivery by the whole organisation of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.*

To deliver these responsibilities the CFO:

- *Must lead and direct a finance function that is resourced to be fit for purpose; and*
- *Must be professionally qualified and suitably experienced.*

Further details of the Governance requirements relating to each Statement are set out in CIPFA's publication, accessible via the link in section 1 above.

Key statutory return submissions completed within the Finance Directorate include the following:

Statutory return	Frequency	Approval process
Statement of Accounts	Annually	The final accounts are subject to sign off by the Director of Finance & Investment and external audit.
Whole of Government Accounts submission	Annually	Sign off is required from the Director of Finance & Investment and external audit.
Quarterly Revenue Expenditure Outturn (RO) return	Quarterly	Sign off by Senior Finance Business Partners
General Fund Revenue Account Outturn (RA) return	Annually	Sign off by Senior Finance Business Partners
S251 returns (Local Authority Education Funding & Expenditure Plans)	Annually	Sign off by Senior Finance Business Partners
National Non Domestic Rates returns (NNDR 1-3)	Annually	Sign off by Senior Finance Business Partners

Additional responsibilities include:

Internal Audit

The Chief Internal Auditor (CIA) must deliver an annual internal audit opinion and report that can be used by the organisation to inform its annual governance statement. The annual internal audit opinion must conclude on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control.

Business Continuity

- To facilitate the embedding of business continuity within the Council's day-to-day management processes and to achieve a business continuity capability appropriate to the size, nature and complexity of the organisation and which is in proportion to its risk appetite.
- To prevent or minimise business interruption by identifying and protecting critical premises, systems, processes and people through suitable continuity and resilience measures.
- To prepare, maintain and regularly update business continuity plans including the testing and rehearsing of continuity plans.

Risk Management

- To support the decision-making process at all levels within the Council by the identification and management of risks which could affect the achievement of the Council's objectives.
- Integration of risk management with other management practices to ensure that risks are managed effectively at strategic and operational level and for all key programmes and strategies.

3.0 Key Risks

Key risks include:

- Changes to existing funding mechanisms, including the outcome of the Fair Funding Review, changes in Business Rates retention rates or reductions in other current grant receipts
- The delivery of expected savings and efficiencies required to achieve budgeted outturn
- The impact of increasing demand for services, particularly care services
- The generation of capital receipts from the sale of land and buildings
- The possibility of legal challenge including judicial review; and
- Risks relating to Council Tax and Business Rates collection levels and appeals.
- Failure to develop and maintain effective business continuity plans leaves the Council unable to respond to a disruptive incident
- Lack of robust risk management procedures in place leads to a failure to identify, understand and monitor key strategic and operational risks
- Insufficient resources to allow the CIA to deliver his annual internal audit opinion.
- Inherent risk of threats to the independence of the CIA.

Director of Governance & Assurance and Monitoring Officer: Roles & Responsibilities

Officer: Philip McCourt

Introduction

The purpose of the Directorate is to:

1. Ensure fair, lawful decision making, conducted in an atmosphere of open and transparent reporting and high standards of ethical governance, that achieves the Council's objectives and effectively manages risk.
2. Provide regulatory, licensing, litigation, legal and governance functions that are efficient, effective and economic, delivered to a high level of customer service and represented through clear, professional and focussed advice and advocacy.

Role of the Monitoring Officer and Legal Services

The Monitoring Officer's role is set out in section 5 of the Local Government and Housing Act 1989, which was amended by Schedule 5 of the Local Government Act 2000. Additional responsibilities relating to standards and conduct can be found in Part III of the 2000 Act.

The Monitoring Officer has three principal responsibilities:

1. To report on matters they believe are, or may be, illegal or amount to maladministration.
2. To be responsible for the conduct of councillors and officers;
3. To be responsible for the operation, review and updating of the constitution. This includes providing advice on the interpretation of the constitution, and making determinations where necessary.

The Legal Services team support this role alongside carrying out those functions reserved to admitted or called staff under the Legal Services Act and wider advice to Members and officers of the Council.

Committee and Civic Services sit at the heart of the Council's democratic core and play an important part in ensuring open and transparent decision making and the publication of the Forward Plan of Key Decisions. Key Performance indicators in relation to compliance with the Council's duties under the Local Government (Access to Information) Act 1985 are monitored and published as part of the Council's quarterly performance reports

The Electoral Registration Team's functions are split into two areas which are electoral registration and elections/referenda. This includes:

Electoral Registration:

The preparation and maintenance of the Register of Electors on an annual and rolling registration basis.

The publication and distribution of the revised Register and monthly updates.

Updating and maintaining the list of Postal and Proxy voters.

Providing assistance to the Boundary Commission during any review of parliamentary/ward boundaries and implementing revised boundaries.

Elections/Referenda:

The organisation and running of all Elections and Referenda undertaken within the Borough.

Constantly keeping under review all polling districts, polling places and polling stations and undertaking a statutory full review every five years.

The Electoral Commission sets standards and monitors and reports on the performance of Returning Officers (ROs). The Commission is currently consulting on a new performance standards framework.

The Licensing Service is responsible for determining and issuing licences and permits to individuals, businesses, and other organisations in accordance with legislative requirements and ensuring compliance with the conditions of licences. Categories of licences and permits issued include:

- Premises Licences (pubs, clubs, restaurants),
- Gambling Premises (casinos, betting shops),
- Scrap Metal Dealers,
- Street Trading,
- House to House collections,
- Marriage and Civil Partnership Premises,
- Sex Establishments,
- Street Collections,
- Private Hire and Hackney Carriages (drivers, vehicles and operators),
- Small society lotteries

Performance of the service is monitored through quarterly Directorate Performance meetings and reports to the Licensing and General Purposes Committee.

The Registration Service Team conduct and register marriages and civil partnerships and register all the births, deaths and still births which occur in Wirral.

Statutory performance indicators are set by the Registrar General and monitored internally and by quarterly returns to the GRO.

The Coroner Service is provided as part of a shared service arrangement with Liverpool City Council.

The Chief Coroner for England and Wales sets national standards for all coroners and provides an annual report to the Lord Chancellor.