



Cabinet

Date:	Thursday, 18 October 2012
Time:	6.15 pm
Venue:	Committee Room 1 - Wallasey Town Hall

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AGENDA

1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Cabinet are asked to consider whether they have any disclosable pecuniary or non pecuniary interests in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

2. MINUTES

The minutes of the last meeting have been printed and published. Any matters called in will be reported at the meeting.

RECOMMENDATION: That the minutes be approved and adopted.

FINANCE

3. ANNUAL GOVERNANCE STATEMENT (Pages 1 - 26)

4. STATEMENT OF ACCOUNTS 2011/2012 (Pages 27 - 40)

5. ANNUAL GOVERNANCE REPORT - WIRRAL COUNCIL (Pages 41 - 84)

6. STATEMENT OF ACCOUNTS 2011/2012 - MERSEYSIDE PENSION FUND (Pages 85 - 92)

7. ANNUAL GOVERNANCE REPORT - MERSEYSIDE PENSION FUND (Pages 93 - 120)

8. REVENUE MONITORING 2012/2013 MONTH 5 (AUGUST 2012) (Pages 121 - 152)

9. CAPITAL MONITORING 2012/2013 MONTH 5 (AUGUST 2012) (Pages 153 - 172)

10. BANK SIGNATORIES (Pages 173 - 178)

IMPROVEMENT AND GOVERNANCE

11. COMMITTEE REFERRAL - REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) (Pages 179 - 212)

At its meeting held on 19 September 2012 (minute 29 refers), the Audit and Risk Management Committee considered a number of amendments and additions to the Council's Policy and Procedure on RIPA, as advised by the Office of Surveillance Commissioners (OSC), together with recommendations from the OSC on the use of RIPA to detect under age sales of alcohol and tobacco.

STREETSCENE AND TRANSPORT SERVICES

**12. LOCAL SUSTAINABLE TRANSPORT FUND (LSTF)
- ACCEPTANCE OF MAJOR BID FUNDING (Pages 213 - 224)**

13. HIGHWAYS AND ENGINEERING SERVICES CONTRACT AWARD AND MANAGEMENT - ACTION PLAN (Pages 225 - 260)

CHILDREN'S SERVICES AND LIFELONG LEARNING

14. SCHOOL FUNDING FORMULA (Pages 261 - 274)

ADULT SOCIAL CARE AND PUBLIC HEALTH

15. FEES FOR RESIDENTIAL AND NURSING HOME CARE (Pages 275 - 304)

16. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 1)

To consider any other business that the Chair accepts as being urgent

**17. EXEMPT INFORMATION
- EXCLUSION OF THE PRESS AND PUBLIC**

The following items contain exempt information.

RECOMMENDATION: That, in accordance with section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraphs of Part I of Schedule 12A (as amended) to that Act. The Public Interest test has been applied and favours exclusion.

18. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 2)

To consider any other business that the Chair accepts as being urgent

WIRRAL COUNCIL

CABINET

18 OCTOBER 2012

SUBJECT	ANNUAL GOVERNANCE STATEMENT
WARD/S AFFECTED	ALL
REPORT OF	DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER	COUNCILLOR PHIL DAVIES
KEY DECISION	YES

1.0 EXECUTIVE SUMMARY

- 1.1 The preparation and publication of an Annual Governance Statement (AGS) is necessary to meet the statutory requirement set out in the Accounts and Audit Regulations 2003 (amended 2006 and 2011). This report explains the requirement for the Authority to produce the AGS declaring the degree to which it meets the Governance Framework.
- 1.2 Cabinet considered, and agreed, the AGS on 21 June 2012. The AGS has subsequently been revised to provide further information and updated to reflect the position at September 2012, when the Statement of Accounts 2011/12 was published. The revised Statement was approved by Audit & Risk Management Committee on 19 September 2012.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 Regulation 4 of the Accounts and Audit Regulations 2003 required councils to review the effectiveness of their system of internal control and to publish a Statement on Internal Control (SIC) with the Financial Statements of the Local Authority each year. It also requires the findings of the review to be considered by a Committee of the Council.
- 2.2 The Accounts and Audit Regulations 2003 were amended in 2006, and CIPFA/SOLACE produced the Delivering Good Governance in Local Government Framework (the Framework). This required the production and publication of an AGS by the Council to replace and subsume the Statement on Internal Control from 2008.

Governance

- 2.3 Governance is about how the Authority ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems, processes and controls, cultures and values, by which the Authority is directed and controlled and through which it accounts to, engages with, and, where appropriate leads the community (Source: CIPFA/SOLACE Delivering Good Governance in Local Government) June 2007.

2.4 Effective governance arrangements ensure that:

- Authority policies are implemented in practice;
- Authority values and ethical standards are met;
- Laws and regulations are complied with;
- Required processes are adhered to;
- Financial statements and other published information are accurate and reliable;
- Human, financial and other resources are managed efficiently and effectively;
- High-quality services are delivered efficiently and effectively.

2.5 The Framework identifies six core principles of good governance:

- i. Focusing on the purpose of the Authority and on the outcomes for the community and creating and implementing a vision for the local area.
- ii. Members and officers working together to achieve a common purpose with clearly defined functions and roles.
- iii. Promoting values for the Authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
- iv. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.
- v. Developing the capacity and capability of Members and officers to be effective.
- vi. Engaging with local people and other stakeholders to ensure robust accountability.

2.6 Taking account of the above, local authorities are expected to undertake the following:

- Review their existing governance arrangements against the Framework.
- Maintain an up to date local Code of Governance, including arrangements for ensuring its ongoing application and effectiveness.
- Prepare an AGS to report publicly on the extent to which they comply with the principles.

Process

2.7 Within the Council there is an existing, well established process for the review of the control system and preparation of the AGS, managed by Internal Audit and reported to the Corporate Governance Group and the Audit and Risk Management Committee.

2.8 Whilst Internal Audit is responsible for undertaking the assurance work, it is important to recognise that this is not a document owned by the audit function but an Authority statement on the effectiveness of its governance processes.

2.9 The process includes:

- a. Reviewing key governance processes, covering such areas as: responsibilities of Members and Chief Officers; adequacy of performance management; partnership working; and risk management.
- b. Reviewing reports completed by external review agencies, so as to ensure that key findings are considered for inclusion in the AGS and that appropriate actions have been taken or are planned to address any issues highlighted.
- c. Requesting Chief Officers and Managers to review and comment upon their areas of responsibility so as to provide assurance that key governance processes are robust.

The AGS 2011/12

- 2.10 The AGS was agreed by the Audit & Risk Management Committee on 13 March 2012 and endorsed by the Improvement Board on 27 April 2012. Cabinet on 21 June 2012 resolved: "That subject to any material change to the control environment or corporate governance arrangements of the Council and the addition of the statement proposed by Councillor McLachlan in the conclusion (which made reference to the Audit Commission report in the Public Interest relating to Highways and Engineering Services) The Annual Governance Statement 2011/12 be appended to the Statement of Accounts 2011/12."
- 2.11 During the period prior to the consideration of the AGS, and since that time, the Council has received additional information through external reports which requires that the previously presented AGS required updating. The response to the various reports has progressed with the preparation of the detailed Wirral Improvement Plan. This Plan having been endorsed by the Improvement Board was approved by Cabinet on 6 September 2012. Therefore the AGS, whilst reflective of the position when originally compiled, required updating to better reflect the position at September 2012 which is the time of producing the Statement of Accounts 2011/12.
- 2.12 In the Audit Commission Annual Governance Report, as at 3 September 2012, the District Auditor stated that "in my opinion the Annual Governance Statement presented for audit does not reflect compliance with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007 because it does not adequately or accurately describe the governance framework and review of effectiveness nor address the weaknesses in the internal control environment highlighted in the Council's Improvement Plan'. His report recommended that the AGS be revised to ensure it:-
- reflects compliance with the CIPFA/SOLACE publication.
 - is consistent with other information on governance that is available to the Council.

- 2.13 The AGS 2011/12 appended to the Statement of Accounts 2011/12 published on 29 June 2012 has been updated and the revised Statement is at Appendix A. The main changes relate to:-

Section 4 : Review of Effectiveness

This section previously contained a number of descriptions which have been integrated with Section 3 which describes the Governance Environment with Section 4 enhanced to provide more detailed comments on the effectiveness of the arrangements. This now includes the comments in respect of Internal Control, Internal Audit and External Reviews with the latter bringing the AGS up to date with the reports received post-March 2012 including the Grant Claims and Returns Report 2010/11, the Highways and Engineering Services Public Interest Report and the outcomes of the Peer Challenge / Peer Review into Adult Social Services.

Section 5 : Significant Governance Issues

This section previously referred to the issues and the actions taken in response to the AKA 'Wirral Borough Council's Corporate Governance Arrangements: Refresh and Review' presented to Cabinet on 22 September 2011 and areas for further work. This was updated and revised to highlight the significant issues flowing from the reports and findings identified in Section 4 and a new Section 6 Improvement Measures included to show the actions taken, and planned, which lead to the production and agreement of the Wirral Improvement Plan which has been appended to the AGS.

3.0 RELEVANT RISKS

- 3.1 Potential failure of the Council to comply with the statutory requirement of Regulation 4 of the Accounts and Audit Regulations 2003 (Amended 2006 and 2011). This could lead to adverse comment by the External Auditor in the Annual Governance Report.
- 3.2 Failure to manage risks identified may prejudice the achievement of corporate objectives.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 The other option was to not amend the AGS presented to Cabinet on 21 June 2012 which was not considered an appropriate course of action.

5.0 CONSULTATION

- 5.1 Members of the Corporate Governance Group and the Executive Team have been involved in the development of the Annual Governance Statement and the Executive Team in the refinement of the Statement.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 There are none arising directly from this report.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

7.1 There are none arising directly from this report.

8.0 LEGAL IMPLICATIONS

8.1 The preparation and publication of an Annual Governance Statement (AGS) is necessary to meet the statutory requirement set out in the Accounts and Audit Regulations 2003 (amended 2006 and 2011).

9.0 EQUALITIES IMPLICATIONS

9.1 There are none arising from this report and so an Equality Impact Assessment (EIA) is not required.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 There are none arising directly from this report.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are none arising directly from this report.

12.0 RECOMMENDATION

12.1 That the revised Annual Governance Statement for 2011/12 be agreed.

13.0 REASON FOR RECOMMENDATION

13.1 The production of the AGS is necessary in order to meet fully the statutory requirements of Regulation 4 of the Accounts and Audit Regulations 2003 (amended 2006 and 2011).

13.2 The revised AGS better reflected the position of the Council at September 2012 when the Statement of Accounts 2011/12 was produced.

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APPENDICES

Appendix A - Annual Governance Statement 2011/12.

REFERENCE MATERIAL

- CIPFA The Annual Governance Statement: Meeting the Requirements of the Accounts and Audit Regulations 2003, incorporating Accounts and Audit (Amendment) (England) Regulations 2006: A Rough Guide for Practitioners (2007) (the "Rough Guide").
- CIPFA/SOLACE Delivering Good Governance in Local Government : Guidance Note and Framework (2007).
- Accounts and Audit Regulations (England) 2006.
- CIPFA Code of Practice for Internal Audit in Local Government 2006.
- CIPFA The Role of the Chief Financial Officer in Local Government 2010.
- CIPFA Application Note to Delivering Good Governance in Local Government: A Framework 2010.

SUBJECT HISTORY

Council Meeting	Date
Audit and Risk Management Committee	19 September 2012
Cabinet	21 June 2012
Audit and Risk Management Committee	13 March 2012
Cabinet	13 October 2011
Audit and Risk Management Committee	28 September 2011
Cabinet	14 April 2011
Audit and Risk Management Committee	28 March 2011
Cabinet	4 November 2010
Audit and Risk Management Committee	28 September 2010
Cabinet	22 July 2010
Audit and Risk Management Committee	30 June 2010
Cabinet	15 April 2010
Audit and Risk Management Committee	24 March 2010

ANNUAL GOVERNANCE STATEMENT 2011/12

1. Scope of Responsibility

- 1.1 Wirral Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for and used economically, efficiently and effectively. Wirral Council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 1.2 In discharging this overall responsibility, Wirral Council is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, which includes arrangements for the management of risk.
- 1.3 The Merseyside Pension Fund (MPF) is part of the Local Government Pension Scheme and is administered by Wirral Council. This covers the pensionable employees of the Merseyside Local authorities and a range of other scheduled and admitted bodies. The MPF is subject to the governance framework of Wirral Council.
- 1.4 Wirral Council has approved and adopted a Code of Corporate Governance, which is consistent with the principles of the CIPFA/SOLACE Framework 'Delivering Good Governance in Local Government' June 2007. A copy of the code is on our website at www.wirral.gov.uk. This statement explains how Wirral Council meets the requirements of Regulation 4 of the Accounts and Audit Regulations 2006 (amended 2011) in relation to the publication of a statement on internal control.

2. The Purpose of the Governance Framework

- 2.1 The governance framework comprises the systems and processes, culture and values for the direction and control of the Authority and its activities through which it accounts to, engages with and leads the community. It enables the Authority to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost effective services.
- 2.2 The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It can not eliminate all risk of not fully achieving policies, aims and objectives, and therefore provides a reasonable, rather than absolute, assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of Wirral Council policies, aims and objectives; to evaluate the likelihood of those risks being realised and the impact should they be realised; and to manage them efficiently, effectively and economically.

3. The Governance Environment

3.1 The CIPFA/SOLACE Framework 'Delivering Good Governance in Local Government' June 2007 lays down principles of governance best practice. Key elements of the systems and processes which comprise the Council's governance arrangements are described in the following paragraphs. Our assessment is based upon the CIPFA/SOLACE guidance.

3.2 Developing and Communicating our Purpose and Vision

- The development of the Authority's purpose and vision is undertaken through corporate and business planning, linked to wider community planning for Wirral.
- Four key themes make up and provide the foundation for the Corporate Plan:

"Your FAMILY"
"Your NEIGHBOURHOOD"
"Your ECONOMY"
"Your COUNCIL"

- The Leader of the Council changed on a number of occasions during the financial year and it should be noted that no one party had a majority rule within Wirral during 2011/12. The elections in May 2012 resulted in the Council coming under a Labour administration. Whilst retaining the four key themes the proposed Draft Corporate Plan 2012/13 was subsequently amended by Council in April 2012 and revised again in July 2012.
- Wirral's Local Strategic Partnership (LSP) Executive Board is in place to lead and develop the vision for the Borough of Wirral set out in the Sustainable Community Strategy. The LSP Executive Board provides strategic guidance to partner organisations and relevant partnerships operating within Wirral's Strategic Partnership and works collaboratively to remove any barriers that hinder or otherwise prevent the vision for the Borough of Wirral being achieved.

3.3 Ensuring that users receive a high quality of service

- The Council's Customer Access Strategy, which was updated during 2011, provides the direction and focus for all services to work together in achieving cost-effective and excellent services for the customer through specific actions and projects. The overall objectives of the Strategy are to improve the quality of life for Wirral people, working with our partners to deliver the best services we can in the most efficient and effective way. It directly supports the Corporate Plan's aim of engaging and empowering individuals and communities in the design and delivery of council services.

- The Council has an objective performance management framework. The system is driven by the Corporate Plan, which focuses attention on corporate priorities. This is cascaded through departmental service plans, individual employee key issue exchanges and action plans. It is clearly laid out in the annual service and financial planning and performance management cycle.
- All performance indicators and projects contained within departmental plans are reported to the relevant Scrutiny Committee.

3.4 Measuring performance and value for money

- The Council has in place a Medium Term Financial Strategy, updated annually to support the medium term aims of the Corporate Plan. This ensures the economical, efficient and effective use of resources, and secures continuous improvement in the way in which its functions are exercised.
- A clear budget timetable is in place with regular monitoring meetings and liaison with the external auditors regarding the publication of the Council's accounts.

3.5 Roles and Responsibilities

- Policy and decision making is facilitated via a Cabinet Structure with Cabinet Member portfolios.
- Roles and responsibilities of the Executive members and all councillors, along with remuneration details, are clearly defined in the Constitution.
- Roles and responsibilities of all senior officers, along with remuneration details, are documented in contracts of employment and job specifications.

3.6 Member/Officer Relations

- The responsibility of the Chief Executive for all aspects of operational management is clearly stated in the Constitution.
- A Protocol on Member and Officer Relations is clearly stated within the Codes and Protocols of the Constitution.
- The Constitution includes the delegation of functions to individual Cabinet members.
- A full Scheme of Delegation is included in the Constitution.

3.7 Partnership Arrangements

- Clear terms of reference are available for specific partnerships setting out the roles and responsibilities of the partnership board along with its purpose.
- A Partnership Framework and Toolkit has been developed and approved, however it is yet to be publicised throughout the Authority.
- The local Code of Corporate Governance, detailing how the Authority complies with the principles of good governance, was reviewed and updated as part of the work programme following the AKA report.

3.8 Standards of Conduct

- The Council has a Standards Committee, which deals with matters relating to the conduct of Councillors, employees, complaints and probity issues, the terms of reference for which comply with latest guidelines from the Standards Board for England.
- The Chair of the Standards Committee is an independent member of the public. The number of independent members is three which meets the statutory requirement for 25% of the Committee to be independent.
- Steps are being taken to ensure appropriate action is taken to ensure the Council is in a position to discharge its duties and responsibilities in respect of Member standards as from 1 July 2012 arising under the Localism Act.
- There is a corporate conflict of interest form for completion by Members and Officers. Members' Conflict of Interest forms are available to the public online which adds to transparency.
- Financial Regulations and Contract Procedure Rules are contained within the Council Constitution.

3.9 Demonstrating the Values of Good Governance

- The transparency of the decision making process is served through the publication of agendas and minutes of all Council Committees, other than exempt items.
- Council call-in procedure allows members to 'call-in' decisions made by Committees of the Council for further consideration by the relevant review Committee.

- In order to meet statutory requirements Internal Audit reviews the operation of the internal control systems and this provides the basis of the Audit Annual Report which includes the audit assurance opinion.
- An Audit and Risk Management Committee, provides assurance about the adequacy of financial management, and reporting, and the management of other processes required to achieve the organisation's corporate and service objectives. It is independent of any other executive function.

3.10 Transparency of the Decision Making Process

- The Cabinet takes the Council's key decisions, but these are then subject to scrutiny.
- The public has access to all meeting minutes with the exception of exempt items.
- An Audit and Risk Management Committee provides independent assurance on risk management and control and the effectiveness of the arrangements the Council has for these matters.
- A corporate complaints procedure is in place.
- Codes of Conduct for Members and employees are in place.

3.11 Quality of Reporting

- All committee reports require the following sections to be completed:- Implications for voluntary, community and faith groups / Resource implications: Financial; IT; Staffing; and Assets / Legal implications / Equalities implications / Carbon reduction implications / Planning and community safety implications. For ease of reference details of the 'Subject History' are also required.

3.12 Risk Management

- A Corporate Risk Register is in place, which is monitored and reviewed on an ongoing basis, and the Authority has in place a Risk and Insurance Team. The Executive Team also review the Register on a regular basis.
- The Council has systems for identifying and evaluating all significant corporate risks, developed and maintained with the participation of those involved in planning and delivering services.
- A Confidential Reporting (Whistleblowing) Policy is in place along with a Grievance procedure for employees.

3.13 Use of legal powers to benefit citizens and communities

- Scheme of Delegation of functions to Officers, included within the Council Constitution, identifies the legal powers of officers.
- The Director of Law, HR & Asset Management is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he considers that such action is necessary to protect the Council's interests.

3.14 Development of members and officers

- All members receive an induction and attend a specifically organised event to introduce them to the Council and its departments.
- All employees are invited to a corporate and departmental induction.
- A 'Skills for Wirral' training and development programme is available tailored to both managers and employees. There are also currently three 'e-learning' courses which are mandatory for all staff: Equality and Diversity; Stress Awareness; and Fraud Awareness. In addition to these, Attendance Management e-learning is also mandatory for all managers.

3.15 Developing the capacity of people with governance responsibilities

- The Audit and Risk Management Committee undertakes an annual self assessment exercise, utilising CIPFA's checklist, in order to assess its role and effectiveness.
- The Key Issues Exchange (KIE) process for all Council employees helps to highlight the requirement to develop skills and improve performance. It should be noted that the proposed performance appraisal system is in the process of being reviewed.

3.16 Encouraging involvement in the membership of the authority

- The Council engages with communities through eleven Area Forums, providing an opportunity to shape services in their neighbourhood. Consultation has recently taken place to enable residents to influence and contribute to Neighbourhood Plans.
- There are different ways in which young people can have their voices heard and make a difference to the communities where they live:

Executive Youth Board
Youth Voice Conference and Youth Parliament
United Kingdom Youth Parliament (UKYP)
Youth Forums

- Wirral's Older People's Parliament provides a forum for older people to voice their opinions, inform the Council and influence its decisions. It is made up of 44 elected members, four from each of Wirral's eleven Area Forums.

3.17 Stakeholder Engagement and Scrutiny

- Wirral's Local Strategic Partnership (LSP) Executive Board is in place to lead and develop the vision for the Borough of Wirral set out in the Sustainable Community Strategy.
- Wirral Council is committed to consultation with its citizens and undertakes borough-wide consultation on specific issues and in connection with budget proposals.

3.18 Public dialogue and accountability

- The Authority's commitment to openness can be demonstrated by, for example, the Constitution, the approach to the Freedom of Information Act, the Customer Access Strategy, the availability of Committee minutes to the public apart from exempt areas, and the Area Forums that give local people a voice.
- As part of the Equality Duty 2010, which came into full force in April 2011, the Council has a legal requirement to give due regard to the impact of its policies and decisions on people who share protected characteristics (race, gender, disability, sexual orientation, age, religion / belief, gender re-assignment, marriage / civil partnership, pregnancy / maternity).
- The use of the electronic tendering portal has been firmly established across the authority and contracts are being advertised via this system.
- An Annual Performance and Financial report is produced following the end of the financial year.

3.19 Responsibility to staff

- The Consultation and Negotiation Policy dealing with the role of unions; One Brief; the Staff Suggestion Scheme; and the One Council magazine; all aim to promote open communication processes.

3.20 Role of the Chief Financial Officer

- The financial management arrangements in place comply with the governance requirements of the CIPFA Statement on the Role of the Chief Financial Officer in Local Government (2010). The local Code of Corporate Governance has been updated to reflect these arrangements.

- The Council has designated the Director of Finance as Chief Finance Officer in accordance with Section 151 of the Local Government Act 1972. The financial management of the Authority is conducted in accordance with the Financial Procedure Rules set out in the Constitution.
- The arrangements for the provision of internal audit are contained within the Financial Regulations included within the Constitution. The Director of Finance is responsible for ensuring that there is an adequate and effective system of internal audit of the accounting and other systems of internal control as required by the Accounts and Audit Regulations 2006 (amended 2011). The internal audit provision is managed by the Chief Internal Auditor and, takes as its reference the requirements of the CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom 2006.

4. Review of Effectiveness

4.1 Introduction

Wirral Council has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by the work of the executive managers within the Authority who have responsibility for the development and maintenance of the governance environment, the Internal Audit Annual Report, and by comments made by the external auditors and other review agencies and inspectorates.

4.2 Corporate Review

4.2.1 The following policies have been reviewed:

- The Equality Impact Assessment (EIA) toolkit has been updated to reflect the legal requirements under the Public Sector Equality Duty, which is part of the Equality Act 2010.
- The Council Constitution has been amended to account for procedural changes. The Council has designated the Director of Law, HR and Asset Management as the Monitoring Officer who has a duty to monitor and review the operation of the Constitution to ensure its aims and principles operate effectively and an annual report is submitted to Cabinet. A review of the Constitution is an objective in the Wirral Improvement Plan (see Appendix)

4.2.2 The review of the effectiveness of the system of internal control reflects best practice guidance identified by the CIPFA Finance Advisory Network being informed by:

- Assurance statements from each Directorate based on management information, performance information, officer assurance statements and Scrutiny Committee reports.
- The work undertaken by Internal Audit, the External Auditor and other independent inspection bodies during the year.

4.3 Statutory Officer Responsibilities

4.3.1 The Council Constitution sets out the responsibilities of both members and senior managers. Roles and responsibilities have been identified and allocated for the following three statutory posts:

Head of Paid Service	Chief Executive
Chief Financial Officer	Director of Finance
Monitoring Officer	Director of Law, HR and Asset Management

4.3.2 As a result of investigations arising from the Public Interest Report into the Highways and Engineering Service Contract (see 4.8.3), the Chief Financial Officer, Deputy Finance Officer and Monitoring Officer were suspended on 29 June 2012. The immediate appointment of interim officers effectively controlled the risk that may have arisen from this action.

4.4 Audit and Risk Management Committee

4.4.1 To comply with professional best practice the Audit and Risk Management Committee carried out an annual review of its role. The self assessment from the CIPFA publication “A toolkit for Local Authority Audit Committees” (IPF, 2006) was used for the evaluation.

4.4.2 The self assessment provides evidence that the Committee is achieving a high level of compliance with CIPFA guidance. However, improvements were identified which have been incorporated into an action plan which was agreed by the Committee of 13 March 2012 and performance against this Plan will be monitored.

4.5 Standards Committee

4.5.1 During the year the Standards Committee, dealt with matters relating to the conduct of Councillors, employees, complaints and probity issues, the terms of reference for which complied with the latest guidelines from the Standards Board for England.

4.5.2 Following the Localism Act 2011, which abolished the Standards Board regime, a new regime to deal with Members / Co-opted Members has been established which includes new terms of reference for the Standards Committee and a new Member’s Code of Conduct.

4.6 Internal Control

- 4.6.1 Weaknesses were identified in the Council's internal control environment. Whilst the procedures are generally in place there needs to be substantial improvement in applying the procedures as there have been significant issues for the Council during the year, principally through failures to follow systems and procedures correctly. A specific area for improvement identified was that senior management should take proper ownership of these issues and ensure that effective consistent governance arrangements are embedded within the culture of the organisation.
- 4.6.2 The Council's risk management process remains effectively coordinated. Issues regarding the updating of departmental registers, clear allocation of responsibilities and streamlined reporting lines need to be addressed as the Council's Strategy and framework are reviewed.
- 4.6.3 In meeting the financial challenges the Council has restructured and refocused service delivery areas which change the way in which the Council operates. These actions will continue to have significant impact on the control environment in many areas with the need to ensure that any resultant risks are effectively managed.

4.7 Internal Audit

- 4.7.1 Internal Audit reviewed key corporate systems evaluating the adequacy of arrangements in areas such as performance management, compliance with legislative, HR and constitutional requirements with reports to Chief Officers identifying improvements. Audit provided input to improving the Council governance arrangements by attending the Corporate Governance Group and by a secondment to support the work of the Governance Team. The Chief and Deputy Chief Internal Auditor met the Audit Commission managers at approximately 3 monthly intervals to share issues, maintain relationships and agree coordinating of work where possible. Copies of all Internal Audit reports completed were shared with the Audit Commission.
- 4.7.2 Areas identified for improvement included:-
- ICT systems and controls – highlighted issues under Information assurance concerning roles and responsibilities, information risk strategy and staff training.
 - National Fraud Initiative – identified areas of savings and future actions.
 - Gifts and Hospitality and Conflict of Interest 2011/12 – identified variations in awareness and application of, the appropriate procedures.
 - Performance management – identified the need for more robust and transparent systems that include more detailed monitoring and reporting arrangements for managers, Chief Officers and Members.

- Compromise agreements – identified the need for improvements to documentary evidence to demonstrate the controls are operating as prescribed.

4.7.3 In his Annual Report for the year ending March 2012, based upon the outcomes from the Audit Plan, the Chief Internal Auditor concludes that the Council's internal control environment, taken as a whole is adequate and generally effective as there are sound systems largely in place though there must be substantial improvement in applying the procedures as there have been significant issues for the Council during the year, which have arisen principally because there have been failures to follow systems and procedures correctly.

4.7.4 The Chief Internal Auditor also notes that whilst recognising that there are control issues which need to be addressed, good areas of effective control have been identified and the Council continues to provide effective services in a very challenging environment.

4.7.5 As a result of an external report of the Council's Corporate Governance., Cabinet on 22 September 2011 requested proposals from the Director of Finance "on ways to strengthen the Council's Internal Audit team in order to ensure any warnings they issue are clearly heard and responded to". This led to the commissioning of an independent review of Internal Audit and is part of the Wirral Improvement Plan.

4.8 External Review

4.8.1 During the financial year 2011/12, and to date in 2012, the Council has been the subject of external reviews and inspections and a summary of the findings is noted in the following paragraphs.

4.8.2 AKA Report - Following an independent report, undertaken and produced by AKA (the trading name of Anna Klonowski Associates Ltd. "Renew and Refresh", September 2011), the Council reported and acknowledged that serious weaknesses within its corporate governance framework existed (see section 5.1).

4.8.3 Grant Claims And Returns Report 2010/11 – The Audit Commission issued an initial report in March 2012 and a Supplementary Report in June 2012. The latter highlighted issues particularly in relation to the West Kirby Marine Lake scheme relating to the award of the contract, contract management and reporting. (see section 5.2).

- 4.8.4 Highways and Engineering Services Public Interest Report June 2012 - In June 2012, a Public Interest Report was issued by the District Auditor following an external audit of the Highways and Engineering Services Contract Award. This identified weaknesses in the Council's arrangements relating to the award and management of the contract. This followed the earlier work in connection with the Highways and Engineering Services Procurement Exercise (HESPE) 2010. (see section 5.3).
- 4.8.5 OFSTED Children's Services Assessment 2011 – The conclusion of the assessment was that the Children's' Services at Wirral are performing excellently
- 4.8.6 The Office of the Surveillance Commissioners June 2012 – The arrangements for the use of authorisations under the Regulation of Investigatory Powers Act 2000, (RIPA) were inspected. The Inspector concluded that "Wirral exhibits a strong commitment to maintaining high standards of RIPA compliance. Their training programme is particularly commendable".
- 4.8.7 The Care Quality Commission and AKA Reports into Adult Social Services - Both reports identified concerns within the Department. In June 2012 a Peer Review was commissioned to assess progress and in preparation a separate Peer Challenge during May 2012 looked in detail at safeguarding practice. These acknowledged that the Department of Adult Social Services has made significant progress in relation to its performance with regard to safeguarding adults and also, more generally in relation to the rest of its work highlighting a number of examples of good practice. Both reports also contained a number of areas for further consideration and these have been taken into the Departmental programme management process for development and implementation.
- 4.8.8 The Annual Governance Report issued by the Audit Commission September 2012 – This included an adverse Value for money conclusion. This was due to the identification of weaknesses in the arrangements to secure economy, efficiency and effectiveness in the use of resources for the year ending 31 March 2012.

5. Significant Governance Issues

- 5.1 The report by AKA (the trading name of Anna Klonowski Associates Ltd.), entitled 'Wirral Borough Council's Corporate Governance Arrangements: Refresh and Renew', was presented to Cabinet on 22 September 2011, and identified examples of failures/weaknesses in Corporate Governance:-
- Inadequate systems to manage performance and spot failures.
 - Being unable to understand and implement fees and charges properly.
 - Not being able to commission, manage and, where necessary, dismiss failing contractors and suppliers.

- Shortfalls in the way the Council evaluates the impact of its policies both prior to execution and in response to evidence about the impact.
 - A reluctance to listen to, and support, Wirral Council staff when they have tried to raise and resolve issues on the Council's behalf.
 - The reluctance of some staff to speak out because of the perceived impact this might have on them and/or their career at Wirral.
- 5.2 The Grant Claims report, June 2012, highlighted that there were failures/weaknesses in Corporate Governance under the following:-
- Reporting to Members, recording and risk management.
 - Fit for purpose Contract Procedure Rules.
 - Compliance with procedures.
- 5.3 The Highways and Engineering Services Contract Public Interest Report, June 2012, found significant weaknesses in managing the contract award and, with a number of specific recommendations, concluded that:-
- “the Council needs to make improvements to demonstrate good governance by improving the Council's arrangements for managing and reporting risks, declaring interests, reviewing and complying with contract procedure rules, delivering internal audit, reporting to elected members and responding to whistleblowing; and; to demonstrate value for money, by improving the Council's arrangements for tender evaluation and contract management, including contract variation, record keeping and performance management.”
- 5.4 The Annual Report of the Chief Internal Auditor noted the lack of consistently documented and communicated controls in some areas, including corporate governance and the resulting lack of consistency in the controls operated between departments and even within individual departments and service areas.
- 5.5 The Annual Governance Report 2011/12, September 2012, identified weaknesses in respect of financial resilience and securing economy, efficiency and effectiveness under the areas of:-
- Leadership and financial governance.
 - Lack of clarity about the Council's strategic priorities.
 - Weaknesses in internal control arrangements.
- 5.6 The key issues can be classified under five themes which have been identified as the priority areas in the Wirral Improvement Plan:-

- **Leadership, Political and Managerial**

Improve trust and respect between politicians and senior management.

Provide strong strategic leadership and oversight of delivery.

Identify and address development needs for Members and management.

- **Corporate governance and decision making**

Establish effective governance procedures, particularly with regard to risk management, whistle blowing and audit.

Ensure there is a clear protocol for sharing information with Members and a clear scheme of delegation.

- **Corporate Plan**

Agree a Corporate Plan that sets out clear priorities reflecting a good understanding of citizens' and customers' views through consultation, participation and localism.

Implement rigorous performance management and through effective performance appraisal arrangements secure specific outcomes for the borough.

- **Budget and financial stability**

Ensure there is a clear longer-term financial plan in place, linked to the Corporate Plan, setting out how the Authority will respond to reducing levels of resources.

Develop and enhance the Strategic Change Programme.

Develop a clear commissioning strategy for the Authority.

- **Critical service areas: Safeguarding and Developing the economy**

Ensure the safeguarding actions from the AKA action plan are implemented.

Design and deliver the action plan to address individual needs as informed by the safeguarding peer review.

Ensure we improve the skills of local residents and stimulate the private sector to grow and create jobs.

6.0 Improvement Measures

- 6.1 In response to the AKA report of September 2011 a Corporate Governance Committee (with executive powers) was established, a team created and a comprehensive work programme, to address a range of priority areas of improvement in relation to corporate governance was developed. It was anticipated that this group would operate on a short term basis (it was decommissioned following its meeting on 8 February 2012) and would provide the appropriate building blocks for a wider Wirral Improvement Plan.
- 6.2 The Council is working in partnership with the Local Government Association (LGA) and has established an Improvement Board (without executive powers), chaired independently by the LGA to continue and progress its work (the Board first met on 3 February 2012 and is due to operate in the medium term and possibly up to 2 years). The initial work programme was based around a number of Key Lines of Enquiry' (KLOEs).
- 6.3 Since March 2012, the improvement programme has progressed with the assistance of the Improvement Board. The original KLOEs have been subsumed into a comprehensive Wirral Improvement Plan. The Plan is based on the five Priority Areas referred to in section 5.6. Endorsed by the Improvement Board on 29 July 2012 and agreed by Cabinet on 6 September 2012 (see Appendix) the Plan will be monitored through a defined governance framework.
- 6.4 The appointment of a Chief Executive with experience of working at that level for a number of years was confirmed by Council on 16 July 2012 and the position was formally occupied on 3 September 2012. Since August 2012 an Interim Director of Finance, with similar multi-authority experience, has been in place to provide cover for the suspended officers.

7. Conclusions

- 7.1 In 2011 and 2012, external reviews have identified significant weaknesses in the arrangements for corporate governance in Wirral. The issues have been recognised by Members and senior officers and there is joint commitment to making the necessary changes to strengthen governance at Wirral.
- 7.2 A programme for improvement commenced in November 2011 and has been developed with the support of the Improvement Board into a comprehensive Wirral Improvement Plan. The commitment of Members and senior officers will ensure the achievement of the Improvement Plan and will lead to significantly improved governance arrangements at Wirral.

Signed:

Chief Executive

Leader of the Council

Date

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Priority 1: Leadership: Political and Managerial		Trust and respect needs to be developed between politicians and senior management. There is a requirement for strong strategic leadership and oversight of delivery. Development needs for Members and management should be identified and addressed. Addressing these key areas of focus will support the establishment of a strong corporate culture and a sense of organisational cohesiveness.				
Executive Sponsor:		Chief Executive				
Target 1	Design and implement a leadership programme					
	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
1.1	Establish the leadership competencies and behaviours required by the Council for good governance.	A defined set of competencies to inform a comprehensive gap analysis against desired competencies to inform target 1.2	Within 6 months	Senior Officer job descriptions. Development activities.	Competencies reflecting revised Code of Corporate Governance and scheme of delegation.	Organisational Development Manager
1.2	Design and deliver a learning programme for Cabinet and Senior Management Teams to address individual needs, informed by the gap analysis.	All Members and officers have a Learning & Development Plan that addresses the individual and organisational needs.	Designed within 6 months, deliver initial programme within 12 months.	Skills for Wirral programme.	Revised Code of Governance in place, Scheme of delegation agreed.	Organisational Development Manager
1.3	Ensure learning programme meets requirements through clear target-setting, evaluation and review.	Evaluations and review provide evidence that programme has met targets.	Within 2 years.		Learning & Development is reviewed as part of appraisal process.	Organisational Development Manager
Target 2	Review best practice and put in place an effective model for elected members and senior managers to work together.					
	Objective	Success criteria	Timeline	Linkages	Dependencies	
2.1	Define the boundaries for operation of roles and responsibilities and clarify expectations.	Agreed protocols with clear lines of accountability, regular monitoring and reporting.	Within 6 months		Revision of schemes of delegation and Council's policy framework	External support required
2.2	Establish a framework to support member and officer engagement at all levels of the organisation.	An efficient model for accurate and consistent briefing of members.	Within 6 months		Needs to be reflected in the cultural change programme.	Interim Chief Executive
Target 3	Develop a shared vision and purpose for the organisation					
	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
3.1	Develop Wirral's vision to reflect the changing role of local government.	Understand and articulate what is our "core business" and how we will operate as an organisation in 2015.	Within 6 months		Appointment of Interim Chief Executive. Consultation exercise.	Council Leader / Chief Executive
3.2	Ensure the organisational structure is fit for purpose.	A full-time, experienced Interim Chief Executive appointed; appropriate council restructuring undertaken. Job descriptions reflect officer responsibilities.	Within 12 months	Interim arrangements.	Resolving Interim arrangements. Link to commissioning strategy and understanding of what the Council will directly deliver.	Leader / Chief Executive
3.3	The model for corporate management is supported by enabling strategies.	Officers and Members are located to optimise corporate and efficient working.	Within 12 months	Heads of Service projects.	Asset Management Strategy, Customer Access Strategy, ICT Strategy, People Strategy.	Chief Executive
3.4	Review Business Systems	We have an integrated business focused system environment which enables people to work more efficiently and flexibly.	Within 12 months	ICT Strategy, Customer Access Strategy		Head of Service development project.
Target 4	Design and implement a cultural change programme					
	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
4.1	Define a single set of values and behaviours that are expected to be demonstrated by all.	Values and behaviours have all-party agreement and have been informed through staff engagement.	Within 6 months			Head of HR / Organisational Development
4.2	Staff responsibilities and expectations are clearly articulated.	Single source of guidance and procedures available in a "how to guide".	Within 12 months	Code of Corporate Governance.	To be completed prior to OD programme roll out.	Support required
4.3	Organisational Development programme developed to communicate and support staff understanding and expectations.	Values and behaviours are embedded across the organisation and are adhered to by all staff. Evidence through performance appraisal.	Within 12 months		Articulated in the revised Corporate Plan and re-enforced through performance management and appraisal.	Organisational Development Manager

Priority 2: Corporate governance and decision-making		Establish effective governance procedures, particularly with regard to risk management, whistle blowing and audit. Ensure there is a clear protocol for sharing information with Members and a clear scheme of delegation. The expectation is that this will contribute to developing a culture of openness rather than secrecy.				
Executive Sponsor:		Director of Law, HR & Asset Management / Monitoring Officer				
Target 1	Ensure that the Code of Corporate Governance and supporting policies are consistently understood and followed.					
	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
1.1	Ensure all politicians and senior officers have a working knowledge of the revised Code of Corporate Governance and apply this in decision making, particularly focussing on the areas of risk, audit and whistle-blowing.	Mandatory training undertaken by officers and members. Evaluations and reviews provide evidence that programme has met targets. External validation that decision-making has improved.	Within 12 months	Initial review of Code of Corporate Governance complete.	Leadership Development Programme; Review of Code of Corporate Governance, specifically areas of risk; whistle-blowing; Audit. Review of Internal Audit.	Head of Regulation
1.2	Implement the agreed proposals and initiatives set out in Corporate Governance Key Line Of Enquiry 6 Improvement Report (Cabinet, 21/06/2012)	Improve decision making at member and officer levels.		Corporate Governance Comprehensive Work Programme		Director of Law, HR & AM / Monitoring Officer
1.3	The supporting policies within the Code of Corporate Governance are owned, reviewed and published.	The policies in the Code of Corporate Governance have been reviewed and subject to a controlled version which is linked to a published copy. Document management and retention policies support this.	Within 24 months	DASS Review of Policies & Performance.		Head of Regulation
Target 2	Review and update Schemes of Delegation and support systems for decision making and provide appropriate training					
	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
2.1	Review and update Schemes of Delegation to Cabinet Members and Officers reflecting best practice.	Revised scheme understood and adhered to. Fewer items on Cabinet agendas.	Within 6 months.		Needs to be reflected in Member and officer protocols and revised Code of Corporate Governance.	Director of Law, HR & AM / Monitoring Officer
2.2	Develop a protocol which ensures greater control over procedures such as agenda management and decision recording.	Ensure attention is focussed by officers and elected Members on key decisions. A clear mechanism for delegated decisions to be reported back through the Council decision-making structures.	Within 6 months	Corporate Governance Key Line Of Enquiry 6 Improvement Report (Cabinet, 21/06/2012)		External support required
2.3	Training and development programme on the Scheme of Delegation for both officers and elected members.	Training undertaken.	Within 12 months	Wirral Skills Programme.	To be included in the Leadership programme	Interim HR Business Support Manager
Target 3	Strengthen contract procedure rules and management whilst ensuring that appropriate information is in place to enable informed decision making.					
	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
3.1	Improve contract management by using the evidence base of reports (HESPE etc) identify strengths and weaknesses of existing procedures and protocol.	Contract management principles are clearly reviewed published and adhered to.	Within 6 months			External support (Solicitor)
3.2	Revise procurement procedures and through rigorous review, ensure procedure and protocol are strengthened.	A single source of guidance for procurement within the "how to" toolkit. This will provide advice on rules, e.g. reporting variations, quality issues, informing Members. Supported by appropriate support and training.	Within 12 months.			Corporate Procurement Manager
3.3	Review risk management arrangements.	Enhanced process for managing risk with relevant systems in place.	Within 12 months.	Roll out of Concerto software.		Risk & Insurance Officer
3.4	Provide an effective system of Internal Audit.	Strengthened core function in place with a clear and transparent escalation policy.	Within 12 months.	External Review of Audit completed.	Revised committee reports should ensure that Audit Committee update reports are clear and unambiguous.	To be confirmed.
3.5	The relevant information is available to support decision making and decisions taken are accurately recorded.	Information Strategy is in place. Scheme of Delegation is adhered to.	Within 12 months.		Updated Scheme of Delegation and Member / officer protocols in place	External support
Target 4	Establish an effective and coordinated approach to shaping and implementing policy					

	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
4.1	Establish a coherent and joined up approach to policy, planning and strategy development for the Council.	Elected Members are well-informed on current and future policy issues; there is effective collaboration between departments on cross-cutting policy issues; there is robust implementation and review of policy decisions; there is effective sharing of learning and best practice.	Within 6 months.	Review of policy undertaken. Head of Policy post agreed (29/09/2011).	Elected Members and senior officers are well informed in developing vision and strategic approaches; Corporate Plan reflects national as well as local drivers and reflects effective horizon scanning by the organisation.	Existing policy leads until Head of Policy is appointed.
4.2	Ensure that there is a robust knowledge and evidence based approach to decision making in order to tackle the key challenges for Wirral.	Consistent use of evidence to develop Council plans and strategies; shared view within the Council and amongst partners about the key challenges / opportunities for Wirral.	Within 12 months.	JSNA, annual consultations.	Elected Members and senior officers are well informed in developing vision and strategic approaches which tackle the key challenges for Wirral; the Council's Corporate Plan is based on evidence as well as a good understanding of citizens and customers' views.	Existing policy leads until Head of Policy is appointed.
4.3	Engage with local and sub-regional partners to shape and respond to policy developments and implement decisions.	The Council and Local Strategic Partnership proactively anticipates and plans for policy changes; there is a shared view within the Council and amongst partners about the key challenges / opportunities for Wirral; policy is influenced at sub-regional, regional and national levels through ensuring that Wirral's interests and priorities are effectively represented.	Within 12 months.	Local Enterprise Partnership.	Elected Members and senior officers develop leadership role in respect of wider partnerships; the programme for developing Council's Corporate Plan includes engagement with partners; critical service areas cannot be developed and delivered without strong partnership working.	Chief Executive
Priority 3: Corporate Plan		To put in place an agreed Corporate Plan that sets out clear priorities reflecting a good understanding of citizens' and customers' views through consultation, participation and localism. This is to be underpinned by rigorous performance management and through effective performance appraisal arrangements secure specific outcomes for the borough.				
Executive Sponsor:		Chief Executive				
Target 1	A clear set of priorities based on understanding our customers' needs and expectations.					
	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
1.1	Ensure current Corporate Plan reflects need to deliver critical activities in 2012-13 in relation to the Council's Improvement Plan.	The Council has clear priorities in the current financial year for delivering services and the organisational change required for future improvement.	Within 6 months	Planned actions for 2012-13 in relation to critical service areas provide the baseline for review and long-term strategic planning.	Ensuring budget stability in-year whilst delivering current year service and improvement priorities.	Existing policy leads until Head of Policy is appointed.
1.2	Undertake a comprehensive service review.	The Council undertakes a successful consultation and corporate planning process which complies with legislation; the Council has a long-term vision for the borough.	Within 6 months	Three-year Corporate Plan will set out long-term strategies for critical service areas.	Consultation and corporate planning process will inform three-year financial strategy.	Existing policy leads until Head of Policy is appointed.
1.3	Complete a consultation exercise to support the development of a Corporate Plan for 2013 onwards	The Council undertakes a successful consultation and corporate planning process which complies with legislation; the Council has a long-term vision for the borough.	Within 6 months		Undertake service reviews.	Head of Communications & Engagement
1.4	Create a customer focussed organisation.	We place customers and services users at the heart of everything we do.	Within 12 months	Customer Access Strategy.	Development of Customer Relationship Management	Head of Service development project.
Target 2	Develop a Corporate Performance Management Framework					
	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
2.1	Implement robust business plans that deliver the Corporate Plan.	A clear line of sight between the Corporate Plan and the departmental Business Plans.	Within 6 months (new plans for 13/14)	Roll out of Concerto for performance and business planning.	Corporate plan in place.	Existing policy leads until Head of Policy is appointed.
2.2	Revise Corporate Performance Management Framework	Revised Performance Management Framework implemented: committee deadlines reflect reporting requirements. Dashboard reporting in place.	Within 6 months (new framework for 13/14)	Roll out of Concerto for performance and business planning.	Review of committee services.	Head of Performance & Intelligence (Public Health)
2.3	Create a transparent Council	The Council provides accessible and consistent information and policy and decision making which is open and transparent across all areas and channels of its business.	Within 12 months			Heads of Service development project.
Target 3	Objectives aligned to individual performance appraisal and development					

	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
3.1	Empowerment	Informed decisions are taken at the most appropriate level in the organisation in a timely and efficient way with clear accountability and responsibility for individuals and the organisation.	Within 12 months.			Head of Service development project.
3.2	Design and implement a performance appraisal process.	Top 3 tiers of management have completed appraisal process and have a training and development plan in place.	Within 6 months		Corporate Performance Framework.	Head of HR / Organisational Development
3.3	360 ^o feedback mechanism in place.	Top 3 tiers of management have received 360 feedback.	Within 12 months.		Leadership Development programme.	Head of HR / Organisational Development
Priority 4: Budget and Financial Stability		To ensure there is a clear longer-term financial plan in place, linked to the Corporate Plan, setting out how the Authority will respond to reducing levels of resources. This will include the development and enhancement of the Strategic Change Programme, and the development of a clear commissioning strategy for the Authority.				
Executive Sponsor:		Director of Finance / Section 151 Officer				
Target 1	Ensure that the service review and consultation programme reflects the impact of reducing levels of resources					
	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
1.1	A budget developed in a transparent process that reflects customers needs and expectations.	A three-year budget strategy that is aligned to the three-year Corporate Plan.	Within 6 months.	Government legislative and financial announcements.	Service Review and Consultation process. Corporate Plan.	Head of Financial Services.
1.2	Develop an evidenced based commissioning strategy informed by clearly identified needs.	Demonstrate effective use of resources to our citizens, partners and tax payers.	Within 12 months.	Transfer of Public Health. JSNA.		Head of Performance & Intelligence (Public Health).
Target 2	Review governance and scope of Strategic Change Programme.					
	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
2.1	Integrate governance and scope of the Strategic Change Programme with the Improvement Plan.	A single governance structure for change and improvement activity.	Within 6 months.	SCP 12/13, agreed Cabinet 2 February 2012	Revised scheme of delegation, member and officer protocols.	External Support
2.2	Specify the efficiency projects within the Strategic Change Programme.	A transparent programme of projects that evidence savings within the budget book.	Within 6 months.	SCP 12/13, agreed Cabinet 2 February 2013	Corporate plan, service review and budget preparation.	Programme Manager (Strategic Change)
2.3	Specify the transformational change projects within the Strategic Change Programme.	A programme of projects that demonstrate transformational improvement.	Within 6 months.	Cultural change programme.	Corporate plan and service review.	Programme Manager (Strategic Change)
2.4	Identify the mechanism and staffing structures for delivery.	A clear remit for those involved in delivering change and improvement.	Within 12 months.		Council restructure.	Programme Manager (Strategic Change)
Priority 5: Critical Service Areas: Safeguarding and Developing the Economy		To ensure that there is a clear organisational focus on critical service areas such as safeguarding (children and adults) and developing the local economy through ensuring we improve the skills of local residents and stimulate the private sector to grow and create jobs. Adopting this approach will develop skills in service and strategic review processes.				
Executive Sponsor (Economy)		Director of Regeneration, Housing & Planning				
Executive Sponsor (Safeguarding)		Director of Adult Social Services				
Target 1	Deliver improvements in safeguarding, through implementation of the action plan arising from the safeguarding peer review					
	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
1.1	Design and deliver an action plan to address individual needs, informed by the safeguarding peer review.	Identify clear targets, priorities and success criteria for reporting on improvements.	Plan agreed within 6 months.			Head of Safeguarding
1.2	Ensure the actions arising from the AKA action plan are implemented with regards to safeguarding.	Improvement Board and Cabinet updated of progress.	Within 6 months.			Head of Safeguarding
Target 2	Develop approach to enhancing and adding value to the local economy through 'your Economy' goals and focuses					
	Objective	Success criteria	Timeline	Linkages	Dependencies	Proposed Lead Role
1.1	Ensure policy and budget review approaches reflect the council's commitment to improving Wirral's economy.	Improved skills and capacity in service and strategic review processes.	Within 2 years.	Wirral Investment Strategy.	Corporate plan.	Head of Strategic Development and Regeneration

WIRRAL COUNCIL

CABINET

18 OCTOBER 2012

SUBJECT	STATEMENT OF ACCOUNTS 2011/12
WARD/S AFFECTED	ALL
REPORT OF	DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER	COUNCILLOR PHIL DAVIES
KEY DECISION	YES

1.0 EXECUTIVE SUMMARY

- 1.1. The Council Constitution allocates responsibility for the approval of the Statement of Accounts to the Audit & Risk Management Committee. The draft Statement for 2011/12 was published on 29 June 2012 and was then subject to audit. The District Auditor presented his findings, within the Annual Governance Report (AGR) and an additional update to Audit & Risk Management Committee on 19 September 2012. The Statement of Accounts 2011/12 was then published on 28 September 2012 before the statutory deadline of 30 September 2012.
- 1.2 The Statement of Accounts includes the Merseyside Pension Fund (MPF) accounts as Wirral Council is the Administering Authority for MPF. As the MPF receives a separate Annual Governance Report this was considered by Pensions Committee on 18 September 2012 and Audit & Risk Management Committee on 19 September 2012 as part of approving the Accounts.

2.0 BACKGROUND AND KEY ISSUES

INTRODUCTION

- 2.1 The purpose of the Statement of Accounts is to present the overall financial position of the Council at 31 March 2012 in accordance with prescribed guidance – the Code of Practice on Local Authority accounting in the United Kingdom (the Code). This is updated annually and specifies the accounting principles and practices required to prepare a Statement of Accounts which present a true and fair view of the financial position.
- 2.2 The Accounts and Audit Regulations 2003, as amended in 2011, state that the Statement of Accounts must be approved by an appropriate Committee no later than 30 September. The Chief Finance Office was required to certify the Accounts by 30 June 2012. On 29 June 2012 the Accounts were issued to all Members of the Audit & Risk Management Committee and made publicly available.

- 2.3 On 4 September 2012 a briefing session was held for Members of the Audit & Risk Management Committee with the session open to all Members of the Council entitled 'Understanding the Council's published final accounts'. The session included:-
- Overview and role of the Audit & Risk Management Committee which included legal requirements, roles, responsibilities and the process.
 - Statement of Accounts 2011/12 which included a review of the contents, a focus of the Financial Statements and highlights of the key areas.
 - Changes in 2011/12 which covered the changes to the accounts as well as the changes to Council procedures to deliver improvements to the production and accuracy of the statements.
 - Overview of the Merseyside Pension Fund accounts for 2011/12 based on the more detailed presentation to Pensions Committee.
- 2.4 The Accounts published at 30 June are subject to audit. Under the Audit Commission Act 1998 and the Audit Commission Code of Audit Practice for Local Government the District Auditor reports on the financial statements. As stipulated by the Regulations, these are reported to the Audit & Risk Management Committee prior to 30 September.

AMENDMENTS TO THE STATEMENT OF ACCOUNTS

- 2.5 The amendments to the financial statements requested by the District Auditor are detailed in the Annual Governance Report (Appendix 2). One item resulted in an increase in the level of General Fund balance and a reduction in the level of provisions whilst the other is an adjustment between accounts.
- 2.6 The amendments result in an increase in the General Fund balance of £0.3 million and a corresponding reduction in the level of provisions at 31 March 2012 compared to that reported to Cabinet on 21 June 2012.

AUDITOR'S REPORT AND OPINION

- 2.7 The District Auditor issued his opinion on 25 September 2012. In giving an unqualified opinion he stated that the accounts are a true and fair view of the financial position of the Council at 31 March 2012 and have been prepared properly in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom 2011/12.
- 2.8 Besides commenting on the Financial Statements the District Auditor also reports on 'Matters by exception'. He refers to the report in the public interest in respect of the Highways and Engineering Services contract. Under Value for Money he concludes that the Council has not made proper arrangements to secure economy, efficiency and effectiveness in the use of resources and issues remain in respect of governance which the Council has acknowledged in the Wirral Improvement Plan and latest financial monitoring reports to Cabinet. The completed AGR action plan is appended to this report.

COMMENTS

- 2.9 In his 2010/11 report the District Auditor highlighted the fact that the Accounts were presented after the deadline of 30 June 2011, were subject to change, the working papers presented at the time were incomplete and not of the required standard and the quality assurance was not evident. The production of the 2010/11 Accounts presented the Council with a number of challenges primarily from 2010/11 being the first year upon which the Accounts were fully prepared under International Financial Reporting Standards (IFRS) but also that the capacity within the Financial Services Division was limited to manage the competing pressures placed upon the Division (as referred to in Recommendation 7 in the AGR Action Plan). It should be noted that despite these issues he gave an unqualified opinion on the Accounts for 2010/11 which were published by the statutory deadline and there were no changes to the financial position that had been reported to Cabinet.
- 2.10 As reported to Audit & Risk Management Committee in February 2012 a review was undertaken of the 2010/11 closedown and based upon this review, the lessons learnt, the comments of the Audit Commission and the experience of the initial year of completing accounts under IFRS to inform the completion of accounts plan for 2011/12. Actions were taken to improve procedures, including greater use of systems, and implement greater discipline into the process in 2011/12. This included a re-focussing of activities to realise capacity through re-organisation rather than the recruitment of additional resources. This approach helped deliver a smoother final accounts process and the District Auditor has reported that he 'received good quality statements in accordance with the statutory deadline which shows evidence of quality assurance and significantly better closedown arrangements than in previous years'. However the issue of competing pressures within the Financial Services Division does remain as capacity is limited and the management of the pressures has proven to be a considerable challenge since the commencement of the current financial year.
- 2.11 The Council continues to improve and enhance its asset records and systems. Since this was first highlighted considerable work has been undertaken to make improvements including the requirement in 2011/12 to separately identify Heritage Assets, and the progress made acknowledged by the Audit Commission. There remains scope for further improvements, particularly with regard to Infrastructure Assets for which work is being undertaken with the Technical Services Department.

ANNUAL GOVERNANCE STATEMENT (AGS)

- 2.12 This Statement is the subject of a separate report on this agenda and, although not required to be included in the Statement of Accounts, is included as it shows how the Council has ensured the effectiveness of its systems for ensuring that it operates legally and that public money is properly used and accounted for.

- 2.13 Committee is advised that the previously agreed AGS has been amended to better reflect the position of the Council as at September 2012 given external reports received since March 2012 and the progress made with regard to the Wirral Improvement Plan which was agreed at Cabinet on 6 September 2012. The agreed AGS for 2011/12 was incorporated within the Statement of Accounts 2011/12 that was published on 28 September 2012.

3.0 RELEVANT RISKS

- 3.1 If concerns raised by the District Auditor are not addressed by the Council then there are potential risks that the Council will not be able to meet its statutory requirements in respect of the Statement of Accounts. There are also concerns relating to the Annual Governance Statement and Value for money raised in the Annual Governance Report.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 The Statement of Accounts has to be produced in accordance with statutory guidance and the Statement being subject to review by the appointed Auditor.

5.0 CONSULTATION

- 5.1 There has been no specific consultation in respect of this report.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 6.1 There are none arising directly from this report.

7.0 RESOURCE IMPLICATIONS

- 7.1 The amendments to the Statement of Accounts 2011/12 have resulted in an increase of £0.3 million in the level of the General Fund balance and a corresponding reduction in the level of provisions compared to that reported to Cabinet on 21 June 2012.

- 7.2 The Annual Governance Report previously made reference to the adequacy of the level of staffing resources within the Financial Services Division. Whilst actions were taken to ensure the Accounts for 2011/12 were successfully completed, and to a better standard than in previous years, issues do remain about the capacity within the Division.

- 7.3 There are no IT or asset implications arising from this report.

8.0 LEGAL IMPLICATIONS

- 8.1 It is a legal requirement to publish the Statement of Accounts by 30 September 2012.

9.0 EQUALITIES IMPLICATIONS

9.1 There are no equality implications arising directly from the production of the Statement of Accounts so an Equality Impact Assessment (EIA) is not required. If requested then arrangements can be made to provide the Accounts in both different languages and formats.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 There are none arising directly from this report.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are none arising directly from this report.

12.0 RECOMMENDATIONS

12.1 That Cabinet agrees the Statement of Accounts for 2011/12 and the Annual Governance Report.

13.0 REASON FOR RECOMMENDATIONS

13.1 Audit & Risk Management Committee has responsibility for approving the Statement of Accounts on behalf of the Council which is a requirement under the Accounts and Audit Regulations 2003, as amended in 2011.

REPORT AUTHOR: Tom Sault
Designation Acting Director of Finance
Telephone 0151 666 3407
Email tomsault@wirral.gov.uk

APPENDICES

Annual Governance Report 2011/12 - Action Plan.
Independent Auditor's Report issued by the District Auditor 25 September 2012.

Note : Statement of Accounts 2011/12 - as the document is in excess of 180 pages it has not been appended but can be accessed via the Council web-site.

BACKGROUND PAPERS

Annual Governance Report for Wirral Council issued by the Audit Commission September 2012.

REFERENCE MATERIAL / SUBJECT HISTORY

Council Meeting	Date
Audit & Risk Management Committee Audit Commission Annual Governance Report – - Merseyside Pension Fund Merseyside Pension Fund Accounts 2010/11 Audit Commission Annual Governance Report – - Wirral Council Statement of Accounts 2010/11	28 September 2011
Audit & Risk Management Committee Audit Commission Annual Governance Report – - Merseyside Pension Fund Merseyside Pension Fund Accounts 2011/12 Audit Commission Annual Governance Report – - Wirral Council Statement of Accounts 2011/12	19 September 2012

AUDIT COMMISSION

ANNUAL GOVERNANCE REPORT 2011/12

ACTION PLAN

Recommendations	
Recommendation 1	
Improve controls for property plant and equipment and ensure infrastructure asset records are sufficient for the 2012/13 reporting requirements.	
Responsibility	Reg Huyton (Financial Services) with Asset Management and Technical Services
Priority	High
Date	June 2013
Comments	Plant and equipment records continue to be enhanced. The Council's Valuers in 2011/12 recorded specific site visits to verify existence and impairment of properties. This practice will continue in future years. Infrastructure has seen a working group established within Technical services Department in seeking to deliver the requirements.
Recommendation 2	
Ensure weaknesses in the application and adherence to the procedures for the authorisation controls in the accounts payable system are addressed.	
Responsibility	Ray Williams (Corporate Procurement)
Priority	High
Date	December 2012
Comments	The Wirral Improvement Plan includes a review of procurement. Procurement toolkit and training in place and controls increased and will be enhanced when the system is upgraded, Specific actions in place to inform all affected staff of processes, reports to highlight non-compliance and Internal Audit review.
Recommendation 3	
Strengthen segregation of duties and authorisation processes for journals.	
Responsibility	Jenny Spick (Financial Services)
Priority	Low
Date	August 2012
Comments	A new on-line journal authorisation process, with segregation of duties, was implemented in August 2012.

Recommendation 4

Ensure all officers and members complete declarations in respect of related party transactions.

Responsibility	Reg Huyton (Financial Services) with Legal Services
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Priority	Medium
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Date	June 2013
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Comments	Always seek to ensure that declarations are returned.
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Recommendation 5

Revise the Annual Governance Statement (AGS) to ensure it:

- reflects compliance with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007;
- is consistent with other information on governance that is available to the Council.

Responsibility	Tom Sault (Finance)
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Priority	High
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Date	September 2012
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Comments	An updated AGS has been prepared and reported to Audit & Risk Management Committee 19 September 2012.
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Recommendation 6

Ensure the weaknesses identified in the Highways and Engineering Services report in the public interest are addressed and the Council's response as required by the Audit Commission Act 1998 is completed as a matter of urgency.

Responsibility	Graham Burgess (Chief Executive)
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Priority	High
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Date	October 2012
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Comments	The Improvement Plan (Cabinet 6 September) includes actions to address the issues raised in this, and other reports. The response to the Audit Commission is being reported to Cabinet in October 2012.
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Recommendation 7

Ensure the weakness identified in respect of financial resilience, securing economy efficiency and effectiveness and proper arrangements are addressed.

Responsibility	Peter Timmins (Interim Director of Finance)
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Priority	High
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Date	March 2013
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Comments	The Improvement Plan (Cabinet 6 September) includes actions to address the weaknesses identified in respect of the Corporate Plan and Performance and Financial Management.
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Independent auditor's report

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF WIRRAL BOROUGH COUNCIL

Opinion on the Authority financial statements

I have audited the financial statements of Wirral Borough Council for the year ended 31 March 2012 under the Audit Commission Act 1998. The financial statements comprise the Movement in Reserves Statement, the Comprehensive Income and Expenditure Statement, the Balance Sheet, the Cash Flow Statement and Collection Fund and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2011/12.

This report is made solely to the members of Wirral Borough Council in accordance with Part II of the Audit Commission Act 1998 and for no other purpose, as set out in paragraph 48 of the Statement of Responsibilities of Auditors and Audited Bodies published by the Audit Commission in March 2010.

Respective responsibilities of the Chief Financial Officer and auditor

As explained more fully in the Statement of the Chief Financial Officer's Responsibilities, the Chief Financial Officer is responsible for the preparation of the Statement of Accounts, which includes the financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom, and for being satisfied that they give a true and fair view. My responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require me to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Authority's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Chief Financial Officer; and the overall presentation of the financial statements. In addition, I read all the financial and non-financial information in the explanatory foreword to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my report.

Opinion on financial statements

In my opinion the financial statements:

- give a true and fair view of the financial position of Wirral Borough Council as at 31 March 2012 and of its expenditure and income for the year then ended; and
- have been prepared properly in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2011/12.

Opinion on other matters

In my opinion, the information given in the explanatory foreword for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I report to you if:

- in my opinion the annual governance statement does not reflect compliance with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007;
- I issue a report in the public interest under section 8 of the Audit Commission Act 1998;
- I designate under section 11 of the Audit Commission Act 1998 any recommendation as one that requires the Authority to consider it at a public meeting and to decide what action to take in response; or
- I exercise any other special powers of the auditor under the Audit Commission Act 1998.

Exception report

Auditor's responsibilities

Report in the public interest under section 8 of the Audit Commission Act 1998

I have a duty under the Audit Commission Act 1998 to consider whether, in the public interest, to report on any matter that comes to my attention in the course of the audit in order for it to be considered by the Authority concerned or brought to the attention of the public.

On 8 June 2012 I issued a report in the public interest under section 8 of the Audit Commission Act 1998 on the subject of weaknesses in the Authority's corporate governance arrangements. My report included a number of recommendations to the Authority.

Opinion on the pension fund financial statements

I have audited the pension fund financial statements for the year ended 31 March 2012 under the Audit Commission Act 1998. The pension fund financial statements comprise the Fund Account, the Net Assets Statement and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2011/12.

This report is made solely to the members of Wirral Borough Council in accordance with Part II of the Audit Commission Act 1998 and for no other purpose, as set out in paragraph 48 of the Statement of Responsibilities of Auditors and Audited Bodies published by the Audit Commission in March 2010.

Respective responsibilities of the Chief Financial Officer and auditor

As explained more fully in the Statement of the Chief Financial Officer's Responsibilities, the Chief Financial Officer is responsible for the preparation of the Authority's Statement of Accounts, which includes the pension fund financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom, and for being satisfied that they give a true and fair view. My responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require me to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the fund's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Chief Financial Officer; and the overall presentation of the financial statements. In addition, I read all the financial and non-financial information in the explanatory foreword to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my report.

Opinion on financial statements

In my opinion the pension fund's financial statements:

- give a true and fair view of the financial transactions of the pension fund during the year ended 31 March 2012 and the amount and disposition of the fund's assets and liabilities as at 31 March 2012, other than liabilities to pay pensions and other benefits after the end of the scheme year; and
- have been properly prepared in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom.

Opinion on other matters

In my opinion, the information given in the explanatory foreword for the financial year for which the financial statements are prepared is consistent with the financial statements.

Conclusion on Authority's arrangements for securing economy, efficiency and effectiveness in the use of resources

Respective responsibilities of the Authority and the auditor

The Authority is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.

I am required under Section 5 of the Audit Commission Act 1998 to satisfy myself that the Authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The Code of Audit Practice issued by the Audit Commission requires me to report to you my conclusion relating to proper arrangements, having regard to relevant criteria specified by the Audit Commission.

I report if significant matters have come to my attention which prevent me from concluding that the Authority has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. I am not required to consider, nor have I considered, whether all aspects of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

Scope of the review of arrangements for securing economy, efficiency and effectiveness in the use of resources

I have undertaken my audit in accordance with the Code of Audit Practice, having regard to the guidance on the specified criteria, published by the Audit Commission in October 2011, as to whether the Authority has proper arrangements for:

- securing financial resilience; and
- challenging how it secures economy, efficiency and effectiveness.

The Audit Commission has determined these two criteria as those necessary for me to consider under the Code of Audit Practice in satisfying myself whether the Authority put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2012.

I planned my work in accordance with the Code of Audit Practice. Based on my risk assessment, I undertook such work as I considered necessary to form a view on whether, in all significant respects, the Authority had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

Basis for adverse conclusion

In considering the Authority's arrangements for securing financial resilience, I identified that:

- there were weaknesses in leadership and financial governance that have diverted action from delivering improvement. This is acknowledged in the Authority's Improvement Plan and Annual Governance Statement;
- the Corporate Plan has been subject to constant change impacting adversely on the Authority's ability to plan and prioritise over the medium to longer term;
- the Corporate Plan is not underpinned by a robust medium term financial plan that clearly sets out plans to address the projected shortfall of around £100 million for 2012 – 2015;
- there has been regular use of reserves to fund recurrent expenditure as well as weaknesses in forecasting capital expenditure; and
- the Authority did not secure robust financial control and continues to face a number of financial challenges, most notably a recurrent overspend in Adult Social Services and a projected Authority overspend of £17 million at month three of 2012/13.

Without robust systems and processes, financial risks and opportunities may not be managed effectively and a secure financial position may not be secured for the foreseeable future.

In considering the Authority's arrangements for challenging how it secures economy, efficiency and effectiveness, I identified that:

- there is a lack of clarity about the Authority's strategic priorities due to the changes in leadership and the Corporate Plan resulting in a lack of a strategic approach to challenging spend and considering how spending matches the priorities of the Authority;
- performance management arrangements were reviewed during the year but remain inadequate. The responsibility for the strategic change programme has continued to move between departments, was not linked to the wider savings programme and did not deliver as planned;
- there is inadequate information for decision-making and partnership arrangements need strengthening; and
- there was limited information to demonstrate that there was an increase in productivity and better output from more limited resources, most notably in respect of the Highways and Engineering Services contract. A third of corporate indicators and corporate projects did not meet targets or were not delivered as planned.

Without clear prioritising of resources within tighter budgets, cost reductions and improved efficiency and productivity may not be achieved.

Adverse conclusion

On the basis of my work, having regard to the guidance on the specified criteria published by the Audit Commission in October 2011, the matters reported in the basis for adverse conclusion paragraph above prevent me from being satisfied that in all significant respects Wirral Borough Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2012.

Report by exception

The Audit Commission's guidance also requires me to report by exception on any other significant additional matters that come to my attention and which I consider to be relevant to proper arrangements to secure economy, efficiency and effectiveness in the use of resources. Such matters have come to my attention relating to significant weaknesses in the Authority's arrangements for:

- promoting and demonstrating the principles and values of good governance; and
- managing risks and maintaining a sound system of internal control.

The Authority has yet to address the corporate governance weaknesses which have been repeatedly identified in respect of key issues such as whistleblowing, conflicts of interest, compliance with procedures, risk management, Internal Audit and providing value for money. In addition gifts and hospitality records were not complete and there was a high incidence of non-compliance with procedures. Without good governance, risk increases and priorities may not be achieved.

I identified weaknesses in corporate arrangements for risk management, compliance with policies, procedures and internal control. There were not adequate and effective arrangements for assurance of the systems of internal control and I identified significant internal control weaknesses in respect of the control and management of, for example, assets and accounts payable. Without sound arrangements risks cannot be managed to a reasonable level and resources may not be used effectively to deliver value for money.

Certificate

I certify that I have completed the audit of the accounts of Wirral Borough Council in accordance with the requirements of the Audit Commission Act 1998 and the Code of Audit Practice issued by the Audit Commission.

Michael Thomas District Auditor

Audit Commission

2nd Floor, Aspinal House, Aspinal Close, Middlebrook, Bolton BL6 6QQ

25 September 2012



Annual governance report

Wirral Council

Audit 2011/12



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Key messages

This report summarises the findings from the 2011/12 audit which is substantially complete. It includes the messages arising from my audit of your financial statements and the results of the work I have undertaken to assess your arrangements to secure value for money in your use of resources.

Financial statements

Subject to satisfactory completion of a number of outstanding issues, I intend to issue an audit report including an unqualified opinion on the financial statements (including the Merseyside Pension Fund statements) 2011/12. As at 3 September 2012 there are two non-material audit adjustments that are being amended by management. One of these adjustments increases the overall general fund balance by £319k.

I received good quality statements in accordance with the statutory deadline which shows evidence of quality assurance and significantly better closedown arrangements than in previous years. I also received good quality working papers on the first day of the audit enabling my team to select samples for further testing promptly and progress the audit efficiently.

I identified significant weaknesses in your systems of internal control in respect of assets, accounts payable and journals. Improvements have been made in the controls over a number of asset types this year,, but some issues still remain,

As part of my audit report I am required to report 'Matters on which I report by exception'. As at 3 September I plan to report two such matters:

- in my opinion the annual governance statement presented for audit does not reflect compliance with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007;
- I issued a report in the public interest in respect of the award and contract management of your Highways and Engineering Services contract under section 8 of the Audit Commission Act 1998 on 8 June 2012.

Value for money (VFM)

I expect to conclude that you have not made proper arrangements to secure economy, efficiency and effectiveness in your use of resources and issue a report by exception on your arrangements for good governance and risk management and internal control. The key issues that have

contributed to my adverse conclusion have been acknowledged by the Council in its reports to the Local Government Association (LGA) Improvement Board, in the Improvement Plan and in the latest financial monitoring reports to Cabinet:

- Securing financial resilience – the Council did not have robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future. In particular there were weaknesses in leadership and financial governance that have diverted action from delivering improvement. The Council continues to face a number of significant financial challenges most notably developing robust plans to address the projected shortfall of around £100 million for 2012 – 2015, the recurrent overspend in Adult Social Services and the 2012/13 projected overspend at June 2012.
- Securing economy, efficiency and effectiveness – the Council did not prioritise its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity. There was a lack of clarity about the Council's strategic priorities due to the changes in leadership and the Corporate Plan resulting in a lack of a strategic approach to challenging spend and considering how spending matched the priorities of the Council. Cost reduction plans were not achieved and there was limited information to demonstrate that there was an increase in productivity and better output from more limited resources, most notably in respect of the Highways and Engineering Services contract.
- Report by exception - The Council has yet to address the corporate governance weaknesses which have been repeatedly identified. In addition there were weaknesses in corporate arrangements for risk management, compliance with policies, procedures and aspects of internal control.

Certificate

Subject to satisfactory completion of a number of outstanding issues I would like to issue my certificate by 28 September 2012. My draft Audit report currently refers to a possible delay in the certificate due to a number of outstanding matters. I am endeavouring to resolve these matters as a matter of urgency.

Before I give my opinion and conclusion

My report includes only matters of governance interest that have come to my attention in performing my audit. I have not designed my audit to identify all matters that might be relevant to you.

Independence

I can confirm that I have complied with the Auditing Practices Board's Ethical Standards for auditors, including ES 1 (revised) - Integrity, Objectivity and Independence.

I am aware of the following relationship that might constitute a threat to independence and that I am required to report to you. I have therefore put in place the following safeguard to reduce the threat.

Table 1: Threats and safeguards

Threat	Safeguard
The son of a member of the audit team works at the Council in the Insurance Section in Finance.	The team member will not carry out any work on payroll or insurance.

Non-audit work

During the year the Audit Commission's Audit Practice undertook non-audit work for the Council in respect of:

- attending the LGA Improvement Board; and
- providing information for the Council's value for money report to members following the qualification of the 2010/11 vfm conclusion.

I ask the Audit and Risk Management Committee to:

- consider the matters raised in the Pension Fund Annual Governance Report and the recommendation of the Pensions Committee; note the adjustments, approve the letter of representation and agree your response to the action plan;
- consider the matters raised and take note of the adjustments to the financial statements included in this report (appendices 2 and 3);
- approve the letter of representation (appendix 4), on behalf of the Council before I issue my opinion and conclusion; and
- agree your response to the proposed action plan (appendix 6).

Financial statements

The Authority's financial statements and annual governance statement are important means by which the Authority accounts for its stewardship of public funds. As elected members you have final responsibility for these statements. It is important that you consider my findings before you adopt the financial statements and the annual governance statement.

Opinion on the financial statements

Subject to satisfactory clearance of outstanding matters, I plan to issue an audit report including an unqualified opinion on the financial statements. Appendix 1 contains a copy of my draft audit report.

Merseyside Pension Fund

As Wirral Council is the administering authority for the Merseyside Pension Fund (MPF), the Fund's accounts form part of the Council's statement of accounts. As at 3 September 2012 the audit of the Pension Fund is substantially complete and there is a separate Annual Governance Report (AGR) that is being considered by the Pensions Committee on 18 September and the Audit and Risk Management Committee on 19 September. The Pension Fund AGR also states that subject to satisfactory clearance of outstanding matters on the MPF accounts, I plan to issue an unqualified opinion on the financial statements. Members need to consider the issues in the Pension Fund AGR prior to considering and approving the overall statement of accounts.

Outstanding matters

As at 3 September I still need to complete the following audit procedures:

- final review of leases, exit packages, related party transactions and tangible fixed assets;
- final check of the amended statements;
- completion of the review of the Whole of Government Accounts (WGA); and
- completion of review of the amended Annual Governance Statement (AGS).

Uncorrected errors

Subject to the completion of outstanding audit work there are no material or non-trivial uncorrected errors in the 2011/12 statement of accounts to report to Members.

My 2010/11 audit found that there were two uncorrected errors of £6m in the Comprehensive Income and Expenditure Statement (CIES) which net each other off and have no impact on balances carried forward. The Council has been unable to correct these items and they remain an uncorrected error in the comparators for the current year statements. This item is detailed at Appendix 2. I have asked you to confirm that the error has no impact on the 2011/12 figures in your letter of representation at appendix 4.

Corrected errors

I identified two non-trivial items that officers have corrected in the main financial statements. The correction of an overstated provision has resulted in the recognition of an additional contingent liability and a release of £319k from provisions to increase the General Fund balance by the same amount.

The corrected non-trivial errors are detailed at Appendix 3.

Significant risks and my findings

I reported to you in my January 2012 Audit Plan the significant risks that I identified relevant to my audit of your financial statements. In Table 2 I report to you my findings against each of these risks.

Table 2: Risks and findings

Risk	Finding
<p>Accuracy and consistency of financial statements and working papers</p> <p>In 2010/11 and in previous years:</p> <ul style="list-style-type: none"> ■ the accounts approved by the Deputy Chief Executive and Director of Finance and presented for audit contained a number of material and other errors; ■ I identified a number of areas where policies were not complied with and financial statements disclosures were not consistent within the accounts; ■ I received a number of versions of statements to audit. <p>In 2010/11, the deadline for approval of the accounts by the Deputy Chief Executive and Director of Finance and the Council's plan for the restatement to IFRS were not met. Working papers were not presented for audit to the deadline and some were not to standard.</p> <p>These factors all led to difficulties during the audit that impacted on our timetable, resources and reporting to members and put at risk the issue of the Auditor's Report and the publishing of the audited accounts by the statutory deadline.</p>	<p>I reviewed:</p> <ul style="list-style-type: none"> ■ the design and implementation of the management controls you put in place to produce the statement of accounts including the Council's closedown plans; ■ achievement of the timetable for closedown; ■ your response to action plans in respect of the 2010/11 pre statements report and final opinion memo to officers and the Annual Governance Report presented to members in respect of: <ul style="list-style-type: none"> – Quality assurance arrangements – Working papers – Accuracy of the statements. <p>The accuracy and consistency of the financial statements and working papers has improved significantly this year:</p> <ul style="list-style-type: none"> ■ The accounts certified by the Acting Director of Finance and presented for audit contained no material errors and only two non-trivial errors; ■ Disclosures were more consistent within the accounts; ■ I received one pre-audit version of the statements rather than several different versions as in previous years; ■ The deadline for certification of the statements was met; ■ Working papers were available from the first day of the audit and were of a good standard.
<p>Heritage Assets</p> <p>The 2011/12 Code adopts the requirements of Financial Reporting Standard (FRS) 30 Heritage Assets and also requires retrospective restatement in a number of accounts (1 April 2010 & 31 March 2011). There is a risk</p>	<p>I evaluated the design and implementation of the management controls you have in place to recognise and value heritage assets. I also carried out testing to check that the Council has accounted for heritage assets in accordance with FRS 30 and the Code and the financial statements are materially stated.</p> <p>I reviewed the identification of heritage assets and verified their existence and Council</p>

Risk	Finding
<p>that the Authority may be unable to identify and account for all heritage assets due to previous problems with restatements and the recording of and accounting for assets.</p>	<p>ownership. There are no material items to bring to your attention but I noted that in some cases, for example, there is not a full listing of items that make up the accounting value recorded in the accounts.</p>
<p>Surplus/deficit on the revaluation of Property Plant and Equipment (PPE) assets disclosed</p> <p>The pre-audit statements 2010/11 included a material error in the Comprehensive Income and Expenditure Statement (CIES) - Surplus/deficit on the revaluation of Property Plant and Equipment (PPE) assets disclosed.</p> <p>The audited financial statements included a (non-material) balance of £6m as an unadjusted error on the face of the CIES in respect of the deficit on the revaluation of Property Plant and Equipment (PPE) assets disclosed. The corresponding entries would have been at a number of service expenditure lines. There is a risk that if this is not resolved the balance could be material in 2011/12.</p>	<p>I evaluated the design and implementation of the controls you have in place over the use and recognition of capital grants. I carried out testing on the resolution of the £6m unadjusted error from 2010/11 and specific testing on the surplus or deficit on the revaluation of PPE. The unadjusted error from 2010/11 is noted above under 'uncorrected errors' and at appendix 2. It will also need to be referred to in your letter of management representation.</p> <p>My testing of the 2011/12 Comprehensive Income and Expenditure Statement (CIES) - Surplus/deficit on the revaluation of Property Plant and Equipment (PPE) assets disclosed has not identified any significant issues to bring to your attention.</p>
<p>Valuation of property, plant and equipment (PPE)</p> <p>The Authority is required to value PPE at fair value (with some exceptions). There is a risk that the valuation reported in the financial statements will be materially misstated due to incorrect classification or application of accounting standards, incomplete asset records or lack of timely and quality assured closedown and communication between Finance and Valuers.</p>	<p>I reviewed the design and implementation of the controls over identifying assets, establishing estimates, including arrangements for instructing your valuer and controls over information provided to the valuer. I carried out procedures for reliance on the work of the valuer and tests of detail on valuations and associated depreciation calculations. I have noted improvements in the process and the Council's responses to my recommendations last year, but some internal control issues remain as noted in the Weaknesses in Internal Control section below.</p>
<p>Schools</p> <p>In most local authorities schools are managed through a variety of governance arrangements. The difference in</p>	<p>I reviewed:</p> <ul style="list-style-type: none"> ■ the design and implementation of the controls and the Authority's consideration of schools and the International Accounting Standard (IAS 16) recognition criteria;

Risk

those arrangements has implications for the accounting treatment. There may be a risk that the Authority has materially misstated its PPE due to the incorrect inclusion or omission of schools in its balance sheet.

Finding

- consistency with the accounting policy. I carried out tests of detail on the accounting treatment of a sample of schools held on the balance sheet and a sample of schools not recognised on the balance sheet against the IAS 16 recognition criteria.
- My testing has not identified any significant issues to bring to your attention.

Significant weaknesses in internal control

It is the responsibility of the Authority to develop and implement systems of internal financial control and to put in place proper arrangements to monitor their adequacy and effectiveness in practice. My responsibility as your auditor is to consider whether the Authority has put adequate arrangements in place to satisfy itself that the systems of internal financial control are both adequate and effective in practice.

I have tested the controls of the Authority only to the extent necessary for me to complete my audit. I am not expressing an opinion on the overall effectiveness of internal control. I have reviewed the Annual Governance Statement (AGS) and in my opinion the statement presented for audit:

- does not reflect compliance with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007; and
- is not consistent with other information that I am aware of from my audit.

My judgement is explained in more detail at 'Matters on which I report by exception' below.

The following weaknesses in internal control are only those I have identified during the audit that are relevant to preparing the financial statements.

Table 3: Internal control issues and my findings

Description of weakness	Potential impact	Management action
Assets – some weaknesses remain in the controls over asset verification. The valuer has not recorded specific site visits and consideration of impairment. Improvements have been made in finance team verification work covering the land and building elements of assets and vehicles, plant and equipment.	The Council may not have sufficient controls in place to assure themselves of the accuracy of Property, Plant and Equipment disclosures. For Infrastructure Assets there is a risk of non-compliance with the 2012/13 reporting requirements.	Issues from 2010/11 Annual Governance Report implemented following September 2011, and further recommendations from our interim memo of February 2012 continue to be implemented.

Description of weakness	Potential impact	Management action
<p>Infrastructure assets and historic cost valuation are not fully componentised.</p> <p>Accounts payable – my testing of the system found a number of weaknesses in the application and adherence to authorisation controls.</p>	<p>I was unable to rely on the controls in the system and carried out detailed substantive testing of transactions. My additional testing found no errors in the statements, however the nature of the testing covers only a sample of expenditure and there is a risk the Council is committed to expenditure that has not been authorised in line with standing orders and processes.</p>	<p>Detailed recommendations from my 2011/12 interim report of February 2012 are being implemented in 2012/13.</p>
<p>Journals – my testing found that authorisation processes for journals required strengthening.</p>	<p>My testing of material journals found no errors. However the risk of unauthorised journals or no separation of duties between raising and authorisation is that the accuracy of the main accounting system could be compromised.</p>	<p>Recommendations to strengthen controls from my interim report of February 2012 are being implemented in 2012/13</p>
<p>Related Party declarations – Six members and two senior officers did not complete the declarations (One member was in respect of the Pension Fund).</p>	<p>The Council may not be aware of related party relationships that should be disclosed</p>	<p>Management responded to my recommendation from 2010-11 and all exiting members completed a declaration, apart from one Pensions Committee member. The five incomplete member returns are from current members.</p>
<p>The following item has been identified in the Merseyside Pension Fund Annual Governance Report –</p> <ul style="list-style-type: none"> ■ An ex employee of the Fund is still listed as authorised to receive correspondence from external bodies, for example, Fund Managers. This employee has not been 	<p>The Merseyside Pension Fund Annual Governance Report highlights the potential impact of this weakness.</p>	<p>The Merseyside Pension Fund Annual Governance Report includes recommendations and an action plan.</p>

Description of weakness	Potential impact	Management action
working at MPF for a period of 3 years.		
Recommendation		
R1 Improve controls for property plant and equipment and ensure infrastructure asset records are sufficient for the 2012/13 reporting requirements.		
R2 Ensure weaknesses in the application and adherence to the procedures for the authorisation controls in the accounts payable system are addressed.		
R3 Strengthen segregation of duties and authorisation processes for journals.		
R4 Ensure all officers and members complete declarations in respect of related party transactions.		
Other matters		
I am required to communicate to you significant findings from the audit and other matters that are significant to your oversight of the Authority's financial reporting process including the following.		
<ul style="list-style-type: none"> ■ Qualitative aspects of your accounting practices ■ Matters specifically required by other auditing standards to be communicated to those charged with governance. For example, issues about fraud, compliance with laws and regulations, external confirmations and related party transactions. ■ Other audit matters of governance interest <p>I wish to report other matters as noted below:</p>		
Table 4: Other matters		
Issue	Finding	
Qualitative aspects of your accounting practices - Disclosure notes.	I identified a small number of errors (18) in the disclosure notes to the accounts including one material adjustment (£57,490k) to a prior year comparator in note 17.	

Issue	Finding
<p>Compliance with laws and regulations – as reported in my Merseyside Pension Fund Annual Governance Report.</p> <p>Breach of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 in regards to investment limits.</p>	<p>The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (which came into force on 1 January 2010) set out a required process for Pension Funds to follow when planning to increase investment limits. In 2011/12 the Pension Fund exceeded the limits as set out in their current Statement of Investment Principals (SIP), without following the proper procedure as set out in the regulations.</p>

<p>Other audit matters of governance interest</p>	<p>I discussed a number of governance issues with management and those charged with governance during the year. This included issues reported in my:</p> <ul style="list-style-type: none"> ■ Public Interest Report in June 2012 regarding the award and contract management of the Highways and Engineering Services contract; ■ Summary report on grant claims and returns; ■ Follow-up review of Internal Audit's work on gifts, hospitality and conflicts of interest. <p>I have also reviewed the issues included in your Annual Governance Statement, various independent reports to the Council and reports provided to the Improvement Board and Cabinet, most notably the draft Improvement Plan.</p>
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Matters on which I report by exception

As part of my audit report I am required to report 'Matters on which I report by exception'. As at 3 September I plan to report two such matters:

- in my opinion the annual governance statement as presented for audit does not reflect compliance with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007;
- I issued a report in the public interest on 8 June 2012 in respect of the award and contract management of the Highways and Engineering Services contract under section 8 of the Audit Commission Act 1998.

Annual governance statement (AGS)

In my opinion, the annual governance statement as presented for audit does not comply with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007 because it does not adequately or accurately describe the governance framework and review of effectiveness nor address the weaknesses in the internal control environment highlighted in the Council's Improvement Plan.

The AGS complies with the format of the CIPFA/SOLACE Framework. My review concluded however that the content of the AGS was generally not in the appropriate sections of the report and some statements were factually incorrect or not consistent with my knowledge of the Council.

The AGS as presented for audit was not up to date nor complete and did not accurately reflect the position of the Council as it was at February/March 2012 nor as it was at the end of June 2012. The version presented for audit was prepared in Feb/Mar 2012 but should have represented the position at the date the accounts were certified on 29 June 2012. The AGS will also need to be updated closer to the 30 September 2012 deadline to recognise any events and/or reviews of arrangements where they are indicative of the position at the Council during the 2011/12 year to 31 March 2012.

Internal Audit carried out a review of effectiveness and confirmed that appropriate evidence supports the assertions in the statements. However, there are gaps and inconsistencies and the statements in the AGS at section 5 (review of effectiveness) are generally descriptions of arrangements rather than outcomes noted from the review of effectiveness. The Chief Internal Auditor's opinion in his annual report to the Audit and Risk Management Committee in itself is contradictory and is not consistent with the AGS.

I have now been provided with an updated version of the AGS that I am currently reviewing.

Recommendation

R5 Revise the Annual Governance Statement (AGS) to ensure it:

- reflects compliance with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007;
- is consistent with other information on governance that is available to the Council.

Highways and Engineering Services report in the public interest

On 8 June 2012 I issued a report in the public interest under section 8 of the Audit Commission Act 1998 in respect of the award and contract management of the Council's Highways and Engineering Services Contract. My report included a number of recommendations in relation to the Council's corporate governance arrangements and was considered by the Council on 16 July 2012. As at 3 September 2012 I have yet to receive a formal response to the report. The Audit Commission Act 1998 requires a response as soon as is practical after the Council meeting. The response also needs to be publicised in the local press.

Recommendation

R6 Ensure the weaknesses identified in the Highways and Engineering Services report in the public interest are addressed and the Council's response as required by the Audit Commission Act 1998 is completed as a matter of urgency.

Whole of Government Accounts

Alongside my work on the financial statements, I also review and report to the National Audit Office on your Whole of Government Accounts (WGA) return. As at 3 September 2012 I have not completed the procedures specified by the National Audit Office. I expect to receive your amended financial statements and amendments for the WGA return by 13 September 2012 in order to complete my report by 28 September 2012.

Value for money

I am required to conclude whether the Authority put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is the value for money conclusion.

I assess your arrangements against the two criteria specified by the Commission. In my January 2012 Audit Plan I reported to you the significant risks that were relevant to my conclusion. I have set out below my conclusion on the two criteria, including the findings of my work addressing each of the risks I identified.

I have identified weaknesses that prevent me from being satisfied that in all significant respects Wirral Borough Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2012. I include my draft adverse conclusion at Appendix 1 and set out the issues below.

Table 5: Value for money conclusion criteria and my findings

Criteria	Findings
<p>1. Financial resilience</p> <p>The organisation has proper arrangements in place to secure financial resilience.</p> <p>Focus for 2011/12:</p> <p>The organisation has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future.</p> <p>Audit Plan (Jan 2012) risk</p> <p>The Council has identified significant pressures within</p>	<p>I identified that the Council does not have robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future:</p> <ul style="list-style-type: none"> ■ There were weaknesses in leadership and financial governance that have diverted action from delivering improvement. This is acknowledged in the Council's draft Improvement Plan and Annual Governance Statement. ■ The Corporate Plan has been subject to constant change impacting adversely on the Council's ability to plan and prioritise over the medium to longer term. ■ The Corporate Plan is not underpinned by a robust medium term financial plan that clearly sets out plans to address the projected shortfall of around £100 million for 2012 – 2015; ■ There has been regular use of reserves to fund recurrent expenditure as well as

Criteria

the Children and Young People's and Adult Social Services revenue budgets for 2011/12. Achieving the savings identified in the Change Programme and implementing robust plans for bridging the current budget shortfall for 2012/13 of £18.7m are fundamental to securing financial resilience and economy, efficiency and effectiveness.

2. Securing economy efficiency and effectiveness

The organisation has proper arrangements for challenging how it secures economy, efficiency and effectiveness.

Focus for 2011/12:

The organisation is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.

Audit Plan (Jan 2012) risk

In 2010/11 I concluded that the Council was not able to provide information on activity and performance to determine whether it is receiving better value for the money spent in respect of the Highways and Engineering contract.

Proper arrangements

The Audit Commission's guidance also requires me to report by exception on any other significant additional matters that come to my attention and which I consider

Findings

weaknesses in forecasting capital expenditure.

- The Council did not secure robust financial control and continues to face a number of financial challenges most notably a recurrent overspend in Adult Social Services and a projected overspend of £17m at month three of 2012/13.

Without robust systems and processes, financial risks and opportunities may not be managed effectively and a secure financial position may not be secured for the foreseeable future.

I identified that the Council is not prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity:

- There is a lack of clarity about the Council's strategic priorities due to the changes in leadership and the Corporate Plan resulting in a lack of a strategic approach to challenging spend and considering how spending matches the priorities of the Council;
- Performance management arrangements were reviewed during the year but remain inadequate. The responsibility for the strategic change programme has continued to move between departments, was not linked to the wider savings programme and did not deliver as planned;
- There is inadequate information for decision-making and partnership arrangements need strengthening.
- There was limited information to demonstrate that there was an increase in productivity and better output from more limited resources, most notably in respect of the Highways and Engineering Services contract. A third of corporate indicators and corporate projects did not meet targets or were not delivered as planned.

Without clear prioritising of resources within tighter budgets, cost reductions and improved efficiency and productivity may not be achieved

A number of governance and internal control issues are impacting on the efficiency and effectiveness of the Council:

- Promoting and demonstrating the principles of good governance: The Council has yet to address the corporate governance weaknesses which have been repeatedly identified

Criteria

to be relevant to proper arrangements to secure economy, efficiency and effectiveness in the use of resources.

Audit Plan (Jan 2012) risk

In 2010/11 I identified a number of governance and internal control issues that are impacting on the efficiency and effectiveness of the Council.

Findings

in respect of key issues such as whistleblowing, conflicts of interest, compliance with procedures, risk management, Internal Audit and providing value for money. In addition gifts and hospitality records were not complete and there was a high incidence of non-compliance with procedures. Without good governance, risk increases and priorities may not be achieved.

- Managing risks and maintaining a sound system of internal control: I identified weaknesses in corporate arrangements for risk management, compliance with policies, procedures and internal control. There were not adequate and effective arrangements for assurance of the systems of internal control and I identified significant internal control weaknesses in respect of the control and management of, for example, assets and accounts payable. Without sound arrangements risks cannot be managed to a reasonable level and resources may not be used effectively to deliver value for money.

Recommendation

R7 Ensure the weakness identified in respect of financial resilience, securing economy efficiency and effectiveness and proper arrangements are addressed.

Certificate

I am required to certify that I have completed the audit of the accounts of the Council in accordance with the requirements of the Audit Commission Act 1998 and the Code of Audit Practice issued by the Audit Commission.

Subject to satisfactory completion of a number of outstanding issues I would like to issue my certificate by 28 September 2012. The outstanding issues are:

- Completion of my review and report to the National Audit Office on your Whole of Government Accounts (WGA) return;
- Your responses to issues that have been raised by local electors;
- Your response to my report on Gifts, hospitality and conflicts of interest;
- Your response to my Report in the Public Interest on the Highways and Engineering Contract.

My draft Audit report currently refers to a possible delay in the certificate due to the outstanding matters.

Fees

I reported my planned audit fee in the January 2012 Audit Plan.

I have agreed with the Acting Director of Finance a revision to the fee because of the matters highlighted in this report.

Table 6: Fees

	Planned fee 2011/12 (£)	Expected fee 2011/12 (£)
Audit (additional expected fee of £8,000* for the number of questions and issues raised by local electors and Council)	352,800	360,800*
Claims and returns (decrease resulting from a reduction in the number of claims requiring certification)	100,093	85,000*
Non-audit work – LGA Improvement Board and Council VFM report to members	None planned	23,700*
Total	452,893	469,500*

* estimate

The Audit Commission has paid a rebate of £28,224 to reflect attaining internal efficiency savings, reducing the net amount payable to the Audit Commission to **£441,256**.

Appendix 1 – Draft independent auditor’s report

DRAFT - INDEPENDENT AUDITOR’S REPORT TO THE MEMBERS OF WIRRAL BOROUGH COUNCIL

Opinion on the Authority financial statements

I have audited the financial statements of Wirral Borough Council for the year ended 31 March 2012 under the Audit Commission Act 1998. The financial statements comprise the Movement in Reserves Statement, the Comprehensive Income and Expenditure Statement, the Balance Sheet, the Cash Flow Statement, and Collection Fund and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2011/12.

This report is made solely to the members of Wirral Borough Council in accordance with Part II of the Audit Commission Act 1998 and for no other purpose, as set out in paragraph 48 of the Statement of Responsibilities of Auditors and Audited Bodies published by the Audit Commission in March 2010.

Respective responsibilities of the Chief Financial Officer and auditor

As explained more fully in the Statement of the Chief Financial Officer’s Responsibilities, the Chief Financial Officer is responsible for the preparation of the Statement of Accounts, which includes the financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom, and for being satisfied that they give a true and fair view. My responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require me to comply with the Auditing Practices Board’s Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Authority’s circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Chief Financial Officer; and the overall presentation of the financial statements. In addition, I read all the

financial and non-financial information in the explanatory foreword to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my report.

Opinion on financial statements

In my opinion the financial statements:

- give a true and fair view of the financial position of Wirral Borough Council as at 31 March 2012 and of its expenditure and income for the year then ended; and
- have been prepared properly in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2011/12.

Opinion on other matters

In my opinion, the information given in the explanatory foreword for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I report to you if:

- in my opinion the annual governance statement does not reflect compliance with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007;
- I issue a report in the public interest under section 8 of the Audit Commission Act 1998;
- I designate under section 11 of the Audit Commission Act 1998 any recommendation as one that requires the Authority to consider it at a public meeting and to decide what action to take in response; or
- I exercise any other special powers of the auditor under the Audit Commission Act 1998.

Exception reports

Auditor's responsibilities

Annual governance statement

I report to you if, in my opinion, the annual governance statement does not reflect compliance with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007.

In my opinion, the annual governance statement does not comply with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007 because it does not adequately or accurately describe the governance framework and review of effectiveness nor address the weaknesses in the internal control environment highlighted in the Authority's Improvement Plan..

Report in the public interest under section 8 of the Audit Commission Act 1998

I have a duty under the Audit Commission Act 1998 to consider whether, in the public interest, to report on any matter that comes to my attention in the course of the audit in order for it to be considered by the Authority concerned or brought to the attention of the public.

On 8 June 2012 I issued a report in the public interest under section 8 of the Audit Commission Act 1998 on the subject of weaknesses in the Authority's corporate governance arrangements. My report included a number of recommendations to the Authority.

Opinion on the pension fund financial statements

I have audited the pension fund financial statements for the year ended 31 March 2012 under the Audit Commission Act 1998. The pension fund financial statements comprise the Fund Account, the Net Assets Statement and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2011/12.

This report is made solely to the members of Wirral Borough Council in accordance with Part II of the Audit Commission Act 1998 and for no other purpose, as set out in paragraph 48 of the Statement of Responsibilities of Auditors and Audited Bodies published by the Audit Commission in March 2010.

Respective responsibilities of the Chief Financial Officer and auditor

As explained more fully in the Statement of the Chief Financial Officer's Responsibilities, the Chief Financial Officer is responsible for the preparation of the Authority's Statement of Accounts, which includes the pension fund financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom, and for being satisfied that they give a true and fair view. My responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require me to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the fund's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Chief Financial Officer; and the overall presentation of the financial statements. In addition, I read all the financial

and non-financial information in the explanatory foreword to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my report.

Opinion on financial statements

In my opinion the pension fund's financial statements:

- give a true and fair view of the financial transactions of the pension fund during the year ended 31 March 2012 and the amount and disposition of the fund's assets and liabilities as at 31 March 2012, other than liabilities to pay pensions and other benefits after the end of the scheme year; and
- have been properly prepared in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom.

Opinion on other matters

In my opinion, the information given in the explanatory foreword for the financial year for which the financial statements are prepared is consistent with the financial statements.

Conclusion on Authority's arrangements for securing economy, efficiency and effectiveness in the use of resources

Respective responsibilities of the Authority and the auditor

The Authority is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.

I am required under Section 5 of the Audit Commission Act 1998 to satisfy myself that the Authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The Code of Audit Practice issued by the Audit Commission requires me to report to you my conclusion relating to proper arrangements, having regard to relevant criteria specified by the Audit Commission.

I report if significant matters have come to my attention which prevent me from concluding that the Authority has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. I am not required to consider, nor have I considered, whether all aspects of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

Scope of the review of arrangements for securing economy, efficiency and effectiveness in the use of resources

I have undertaken my audit in accordance with the Code of Audit Practice, having regard to the guidance on the specified criteria, published by the Audit Commission in October 2011, as to whether the Authority has proper arrangements for:

- securing financial resilience; and
- challenging how it secures economy, efficiency and effectiveness.

The Audit Commission has determined these two criteria as those necessary for me to consider under the Code of Audit Practice in satisfying myself whether the Authority put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2012.

I planned my work in accordance with the Code of Audit Practice. Based on my risk assessment, I undertook such work as I considered necessary to form a view on whether, in all significant respects, the Authority had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

Basis for adverse conclusion

In considering the Authority's arrangements for securing financial resilience, I identified that:

- there were weaknesses in leadership and financial governance that have diverted action from delivering improvement. This is acknowledged in the Authority's draft Improvement Plan and Annual Governance Statement;
- the Corporate Plan has been subject to constant change impacting adversely on the Authority's ability to plan and prioritise over the medium to longer term;
- the Corporate Plan is not underpinned by a robust medium term financial plan that clearly sets out plans to address the projected shortfall of around £100 million for 2012 – 2015;
- there has been regular use of reserves to fund recurrent expenditure as well as weaknesses in forecasting capital expenditure; and
- the Authority did not secure robust financial control and continues to face a number of financial challenges most notably a recurrent overspend in Adult Social Services and a projected overspend of £17 million at month three of 2012/13.

Without robust systems and processes, financial risks and opportunities may not be managed effectively and a secure financial position may not be secured for the foreseeable future.

In considering the Authority's arrangements for challenging how it secures economy, efficiency and effectiveness, I identified that:

- there is a lack of clarity about the Authority's strategic priorities due to the changes in leadership and the Corporate Plan resulting in a lack of a strategic approach to challenging spend and considering how spending matches the priorities of the Authority;
- performance management arrangements were reviewed during the year but remain inadequate. The responsibility for the strategic change programme has continued to move between departments, was not linked to the wider savings programme and did not deliver as planned;
- there is inadequate information for decision-making and partnership arrangements need strengthening; and
- there was limited information to demonstrate that there was an increase in productivity and better output from more limited resources, most notably in respect of the Highways and Engineering Services contract. A third of corporate indicators and corporate projects did not meet targets or were not delivered as planned.

Without clear prioritising of resources within tighter budgets, cost reductions and improved efficiency and productivity may not be achieved.

Adverse conclusion

On the basis of my work, having regard to the guidance on the specified criteria published by the Audit Commission in October 2011, the matters reported in the basis for adverse conclusion paragraph above prevent me from being satisfied that in all significant respects Wirral Borough Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2012.

Report by exception

The Audit Commission's guidance also requires me to report by exception on any other significant additional matters that come to my attention and which I consider to be relevant to proper arrangements to secure economy, efficiency and effectiveness in the use of resources. Such matters have come to my attention relating to significant weaknesses in the Authority's arrangements for:

- promoting and demonstrating the principles and values of good governance; and
- managing risks and maintaining a sound system of internal control.

The Authority has yet to address the corporate governance weaknesses which have been repeatedly identified in respect of key issues such as whistleblowing, conflicts of interest, compliance with procedures, risk management, Internal Audit and providing value for money. In addition gifts and hospitality records were not complete and there was a high incidence of non-compliance with procedures. Without good governance, risk increases and priorities may not be achieved.

I identified weaknesses in corporate arrangements for risk management, compliance with policies, procedures and internal control. There were not adequate and effective arrangements for assurance of the systems of internal control and I identified significant internal control weaknesses in respect of the control and management of, for example, assets and accounts payable. Without sound arrangements risks cannot be managed to a reasonable level and resources may not be used effectively to deliver value for money.

Delay in certification of completion of the audit

I cannot formally conclude the audit and issue an audit certificate until I have completed the work necessary to issue my assurance statement in respect of the authority's Whole of Government Accounts consolidation pack and concluded on your responses to a number of governance issues. I am satisfied that this work does not have a material effect on the financial statements or on my value for money conclusion.

[Signature]

Michael Thomas

District Auditor

Audit Commission
2nd Floor, Aspinall House, Aspinall Close, Middlebrook, Bolton BL6 6QQ

[Date] September 2012

Appendix 2 – Uncorrected errors

I identified the following error during the audit which management have not addressed in the revised financial statements.

Item of account	Nature of error	Statement of comprehensive income and expenditure		Balance sheet	
		Dr £'000s	Cr £'000s	Dr £'000s	Cr £'000s
2010/11 restated comparators for cost of services and deficit on revaluation of PPE	<p>The 2010/11 statements included a £6m overstatement of income in service lines and expenditure in the revaluation line of the CIES. These items net each other off. The error is due to accounting for release of grants received in previous years and the Council were unable to accurately correct the error across the service lines. The uncorrected error in comparators has been disclosed in note 49 to the accounts.</p>	£6,000	£6,000		

Appendix 3 – Corrected errors

I identified the following errors during the audit which management have addressed in the revised financial statements.

Item of account	Nature of error	Statement of comprehensive income and expenditure		Balance sheet	
		Dr £'000s	Cr £'000s	Dr £'000s	Cr £'000s
Provision for land charges	My testing found that the provision of £569k was overstated and that the provision should be £250k with the remainder a contingent liability		£319 (Net cost of services)	£319 (provisions)	£319 (Usable reserves - General Fund)
Recognition of deferred capital receipts for assets where the Council is the lessor of a finance lease	The long term debtor has been correctly recognised. The error is in disclosure within the reserves only as the Council has failed to recognise a deferred capital receipts reserve and instead recorded the figure in the Capital Adjustment Account.			£2,678 Capital Adjustment Account (unusable reserves)	£2,678 Deferred Capital Receipts

Appendix 4 – Draft letter of management representation

Wirral Council - Audit for the year ended 31 March 2012

I confirm to the best of my knowledge and belief, having made appropriate enquiries of other directors of Wirral Council the following representations given to you in connection with your audit of the Authority's financial statements for the year ended 31 March 2012.

Compliance with the statutory authorities

I have fulfilled my responsibility under the relevant statutory authorities for preparing the financial statements in accordance with the Accounts and Audit (England) Regulations 2011 and the Code of Practice on Local Authority Accounting in the United Kingdom which give a true and fair view of the financial position and financial performance of the Authority, for the completeness of the information provided to you, and for making accurate representations to you.

Uncorrected misstatements

The effects of uncorrected financial statements misstatements summarised in the attached schedule are not material to the financial statements, either individually or in aggregate. *[schedule required for the uncorrected error from 2010/11]*

These misstatements have been discussed with those charged with governance within the Council and the reasons for not correcting these items are as follows.

- reason 1 etc;
- reason 2]

[This section must include prior year uncorrected misstatements so needs to be tailored to reflect £6m last year and impact on the accounts this year.]

Supporting records

I have made available all relevant information and access to persons within the Authority for the purpose of your audit. I have properly reflected and recorded in the financial statements all the transactions undertaken by the Authority.

Internal control

I have communicated to you all deficiencies in internal control of which I am aware.

Irregularities

I acknowledge my responsibility for the design, implementation and maintenance of internal control to prevent and detect fraud or error.

I also confirm that I have disclosed:

- my knowledge of fraud, or suspected fraud, involving either management, employees who have significant roles in internal control or others where fraud could have a material effect on the financial statements;
- my knowledge of any allegations of fraud, or suspected fraud, affecting the entity's financial statements communicated by employees, former employees, analysts, regulators or others; and
- the results of our assessment of the risk the financial statements may be materially misstated as a result of fraud.

Law, regulations, contractual arrangements and codes of practice

I have disclosed to you all known instances of non-compliance, or suspected non-compliance with laws, regulations and codes of practice, whose effects should be considered when preparing financial statements.

Other than the breach of regulations identified in respect of the Pension Fund, transactions and events have been carried out in accordance with law, regulation or other authority. The Authority has complied with all aspects of contractual arrangements that could have a material effect on the financial statements in the event of non-compliance.

All known actual or possible litigation and claims, whose effects should be considered when preparing the financial statements, have been disclosed to the auditor and accounted for and disclosed in accordance with the applicable financial reporting framework.

Accounting estimates including fair values

I confirm the reasonableness of the significant assumptions used in making the accounting estimates, including those measured at fair value.

For the [accounting estimate of historical infrastructure assets value](#), I confirm:

- the appropriateness of the measurement method, including related assumptions and models, and the consistency in application of the method;
- the assumptions appropriately reflect management's intent and ability to carry out specific courses of action on behalf of the Authority, where relevant to the accounting estimates and disclosures;
- the disclosures relating to the accounting estimate are complete and appropriate under the Code; and
- that no subsequent event requires the Authority to adjust the accounting estimate and related disclosures included in the financial statements. [\[Wirral to tailor as appropriate\]](#)

[Other representations may include:

Financial Guarantees

I confirm that the Council has not given any Financial Guarantees in the financial year 2011/12.

Specific representations e.g. The legal claim by ABC Limited has been settled out of court by a payment of £X. No further amounts are expected to be paid and no similar claims have been received or are expected to be received.

Whether the selection, and application, of accounting policies are appropriate.

Whether the following matters have been recognised, measured, presented or disclosed in accordance with the financial reporting framework:

- Plans or intentions that may affect the carrying value or classification of assets and liabilities;
- Liabilities, both actual and contingent; and
- Title to, or control over, assets, the liens or encumbrances on assets, and assets pledged as collateral.]

[\[We will agree whether it is necessary to request one or more of these representations about the financial statements\].](#)

Related party transactions

I confirm that I have disclosed the identity of the Authority's related parties and all the related party relationships and transactions of which I am aware. I have appropriately accounted for and disclosed such relationships and transactions in accordance with the requirements of the Code.

Subsequent events

Audit Commission

I have adjusted for or disclosed in the financial statements all relevant events subsequent to the date of the financial statements.

Signed on behalf of Wirral Council

I confirm that this letter has been discussed and agreed by the Audit and Risk Management Committee on 19 September 2012.

Signed

Name

Position

Date

Appendix 5 – Glossary

Annual Audit Letter

Letter issued by the auditor to the Authority after the completion of the audit that summarises the audit work carried out in the period and significant issues arising from auditors' work.

Annual Governance Report (AGR)

The auditor's report on matters arising from the audit of the financial statements presented to those charged with governance before the auditor issues their opinion [and conclusion].

Annual Governance Statement (AGS)

The annual report on the Authority's systems of internal control that supports the achievement of the Authority's policies aims and objectives.

Audit of the accounts

The audit of the accounts of an audited body comprises all work carried out by an auditor under the Code to meet their statutory responsibilities under the Audit Commission Act 1998.

Audited body

A body to which the Audit Commission is responsible for appointing the external auditor.

Auditing Practices Board (APB)

The body responsible in the UK for issuing auditing standards, ethical standards and associated guidance to auditors. Its objectives are to establish high standards of auditing that meet the developing needs of users of financial information and to ensure public confidence in the auditing process.

Auditing standards

Pronouncements of the APB that contain basic principles and essential procedures with which auditors must comply, except where otherwise stated in the auditing standard concerned.

Auditor(s)

Auditors appointed by the Audit Commission.

Comprehensive income and expenditure statement (CIES)

One of main statements that shows income and expenditure for the year of account.

Chartered Institute of Public Finance and Accountancy (CIPFA)

Produces standards and guidance for the preparation of the financial statements.

Code (the)

The Code of Audit Practice for local government bodies issued by the Audit Commission and approved by Parliament.

Commission (the)

The Audit Commission for Local Authorities and the National Health Service in England.

Ethical Standards

Pronouncements of the APB that contain basic principles relating to independence, integrity and objectivity that apply to the conduct of audits and with which auditors must comply, except where otherwise stated in the standard concerned.

Financial Reporting Standards (FRS)

Accounting standards for the preparation of financial statements (see also IAS and IFRS below)

Financial statements

The annual statement of accounts that the Authority is required to prepare, which report the financial performance and financial position of the Authority in accordance with the Accounts and Audit (England) Regulations 2011 and the Code of Practice on Local Authority Accounting in the United Kingdom.

Group accounts

Consolidated financial statements of an Authority and its subsidiaries, associates and jointly controlled entities.

Highways and Engineering (HES)

Refers to the Highways and Engineering contract in Technical Services

International Accounting Standards (IAS)

Accounting standards for the preparation of financial statements

International Financial Reporting Standards (IFRS)

Accounting standards for the preparation of financial statements

Internal control

The whole system of controls, financial and otherwise, that the Authority establishes to provide reasonable assurance of effective and efficient operations, internal financial control and compliance with laws and regulations.

Local Authority (Scotland) Accounts Advisory Committee (LASAAC)

Works in partnership with CIPFA England. The partnership board is responsible for preparing, maintaining, developing and issuing the Code of Practice on Local Authority Accounting for the United Kingdom.

Local Government Association (LGA)

The membership organisation for local government bodies in England.

Materiality

The APB defines this concept as ‘an expression of the relative significance or importance of a particular matter in the context of the financial statements as a whole. A matter is material if its omission would reasonably influence the decisions of an addressee of the auditor’s report; likewise a misstatement is material if it would have a similar influence. Materiality may also be considered in the context of any individual primary statement within the financial statements or of individual items included in them. Materiality is not capable of general mathematical definition, as it has both qualitative and quantitative aspects’.

The term 'materiality' applies only to the financial statements. Auditors appointed by the Commission have responsibilities and duties under statute, as well as their responsibility to give an opinion on the financial statements, which do not necessarily affect their opinion on the financial statements.

Merseyside Pension Fund (MPF)

The pension fund administered by Wirral Council.

Office for Standards in Education, Children's Services and Skills (OFSTED)

Regulates standards of teaching in schools and colleges.

Property, plant and equipment (PPE)

A category of long term assets on the balance sheet.

Society of Local Authority Chief Executives (SOLACE)

The membership organisation for local authority chief executives

Significance

The concept of 'significance' applies to these wider responsibilities and auditors adopt a level of significance that may differ from the materiality level applied to their audit of the financial statements. Significance has both qualitative and quantitative aspects.

Those charged with governance

Those entrusted with the supervision, control and direction of the Authority. This term includes the members of the Authority and its Audit and Risk Management Committee.

Value for money (VFM)

Economy, efficiency and effectiveness in the use of resources

Whole of Government Accounts (WGA)

A project leading to a set of consolidated accounts for the entire UK public sector on commercial accounting principles. The Authority must submit a consolidation pack to the department for Communities and Local Government which is based on, but separate from, its financial statements.

Appendix 6 – Action plan

Recommendations

Recommendation 1

Improve controls for property plant and equipment and ensure infrastructure asset records are sufficient for the 2012/13 reporting requirements.

Responsibility

Priority

Date

Comments

Recommendation 2

Ensure weaknesses in the application and adherence to the procedures for the authorisation controls in the accounts payable system are addressed.

Responsibility

Priority

Date

Comments

Recommendation 3

Strengthen segregation of duties and authorisation processes for journals.

Responsibility

Priority

Date	
Comments	
Recommendation 4	
Ensure all officers and members complete declarations in respect of related party transactions.	
Responsibility	
Priority	
Date	
Comments	
Recommendation 5	
Revise the Annual Governance Statement (AGS) to ensure it: <ul style="list-style-type: none"> ■ reflects compliance with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007; ■ is consistent with other information on governance that is available to the Council. 	
Responsibility	
Priority	
Date	
Comments	
Recommendation 6	
Ensure the weaknesses identified in the Highways and Engineering Services report in the public interest are addressed and the Council's response as required by the Audit Commission Act 1998 is completed as a matter of urgency.	
Responsibility	
Priority	
Date	

Comments
Recommendation 7
Ensure the weakness identified in respect of financial resilience, securing economy efficiency and effectiveness and proper arrangements are addressed.
Responsibility
Priority
Date
Comments

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0844 798 7070

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The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors, members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.



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September 2012

WIRRAL COUNCIL

CABINET

18 OCTOBER 2012

SUBJECT	STATEMENT OF ACCOUNTS 2011/12 - MERSEYSIDE PENSION FUND
WARD/S AFFECTED	ALL
REPORT OF	DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER	COUNCILLOR PHIL DAVIES
KEY DECISION	YES

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to present Members with the audited Accounts of Merseyside Pension Fund for 2011/12 and to respond to the Annual Governance Report (AGR) from Audit Commission.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 The purpose of the Accounts is to present the overall financial position of the Pension Fund as at 31 March 2012; in accordance with prescribed guidance.
- 2.2 The un-audited Accounts was discussed at a meeting of the Merseyside Pension Fund Governance and Risk Working Party in July. They were also presented as part of a briefing session on the Wirral Council Statement of Accounts 2011/12 to Wirral Council Members on 4 September 2012.
- 2.3 On 25 September 2012 the District Auditor issued an unqualified opinion stating that the accounts present fairly the financial position of the Merseyside Pension Fund as at 31 March 2012. The Accounts will form the basis of the Merseyside Pension Fund Annual report for the year ended 31 March 2012.
- 2.4 The key changes made to the Accounts during the audit process in response to the issues raised by the District Auditor, and responses to his recommendations relating to Internal Control and other matters raised, are detailed in the Appendix.

3.0 RELEVANT RISKS

- 3.1 There are not directly relevant to this report.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 The Statement of Accounts has to be produced in accordance with statutory guidance and the Accounts are subject to review by the appointed Auditor.

5.0 CONSULTATION

5.1 There has been no specific consultation in respect of this report

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 There are no implications arising directly from this report

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

7.1 The financial implications are set out in Annual Governance Report.

7.2 There are no IT, staffing or asset implications arising from this report.

8.0 LEGAL IMPLICATIONS

8.1 There is a legal requirement to publish the Statement of Accounts.

9.0 EQUALITIES IMPLICATIONS

9.1 There are no equality implications arising directly from the Accounts so an Equality Impact Assessment (EIA) is not required.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 There are no implications arising directly from this report.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are no implications arising from this report.

12.0 RECOMMENDATIONS

12.1 That Cabinet agrees the Statement of Accounts for 2011/12 and the Annual Governance Report.

13.0 REASONS FOR RECOMMENDATIONS

13.1 Under the Audit Commission Act 1998 and the Audit Commission Code of Audit Practice for Local Government, the District Auditor reports on Pension Fund Financial Statement, as part of those of the Council.

13.2 As the Pension Fund receives a separate AGR, this report has already been considered by the Pensions Committee on 18 September 2012 and the Audit and Risk Management Committee on 19 September 2012.

REPORT AUTHOR: Paddy Dowdall
Designation Investment Manager
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APPENDICES

Response to Annual Governance Report : Audit 2011/12
Merseyside Pension Fund Accounts 2011/12.

REFERENCE MATERIAL

The Statement of Accounts plus relevant working papers and the AGR from Audit Commission were used in the production of this report.

SUBJECT HISTORY

Council Meeting	Date
Pensions Committee	27 September 2010
Audit & Risk Management Committee	28 September 2010
Pensions Committee	19 September 2011
Audit & Risk Management Committee	28 September 2011
Pensions Committee	18 September 2012
Audit & Risk Management Committee	19 September 2012

APPENDIX 1

Response to Annual Governance Report : Audit 2011/12

1. Executive Summary

- 1.1 The key points are that subject to outstanding work there will be an unqualified opinion and that there are no material errors. All of the non material errors non trivial errors and disclosure errors have been amended. All of the recommendations have been agreed. The Audit Commission deliver a positive verdict on the conduct of the audit.

2. Explanation of Most Significant Corrected Errors (Non material)

- 2.1 Error
Overstatement of Pooled Investment Vehicles of £3.279 m due to incorrect currency rates being used.

Response

This was an error not picked up in management checks on accounts and subsequently amended.

- 2.2 Error
Mis-classification of investment management fee credit as investment income - amendment of £3.687m.

Response

This has no effect on the net assets statement of the fund and arguably is open to interpretation but officers are happy to accept Audit Commission's interpretation and to amend this.

- 2.3 Error
Re-classification of UK quoted equities to overseas quoted equities - amendment of £12.183 m.

Response

This is due to external UK Equities managers holding overseas equities within portfolios (This is permitted in the mandates as part of their unconstrained nature). For management accounting and performance measurement purposes these are treated as UK equities. The Fund is moving custodians and enhanced reporting from them will prevent a repetition of this error.

3. Recommendations relating to Internal Control

- 3.1 Finding
Out of date list of authorised employees within the Pension Fund to receive correspondence from external bodies, for example Fund Managers.

Recommendation R1

Ensure that the Pension Fund's authorised contacts list is updated.

Response

This exercise has been planned for some time and been delayed due to staffing issues and forthcoming banking changes. It will be implemented as part of communication exercise taking part within the implementation of new banking arrangements

4. Recommendations relating to other matters

4.1 Finding

Breach of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 in regards to investment limits.

Recommendation R2

Implement robust controls for monitoring and reporting against the investment limits set in the Statement of Investment Principles to ensure that future breaches of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 do not occur.

Response

The Fund has increased allocations to recent years in asset classes such as infrastructure which are invested through limited partnerships. The Fund has breached the limit of 5% to be invested in limited partnerships. Under the LGPS Regulations Pensions Committee through the Statement of Investment Principles is able to raise this limit to 15%. As reported to IMWP on 4th September officers will recommend to Pensions Committee in November to amend the SIP to increase this limit to 15%. Officers will also amend procedure for approval of new investments to include a check on these limits.

4.2 Finding

Compliance with requirements for Financial instruments disclosures

Recommendation R3

Review the current reporting arrangements for credit and liquidity risk, to enable fully compliant reporting in line with the Code of Practice on Local Authority Accounting in the United Kingdom.

Response

This is the first year of the requirement of these disclosures. Officers consider that they have met the requirements of the Code. There is a difference in the quantitative risks exposure of the Fund, as perceived by management of the Fund to that within the Code, the interpretation of auditors and advice issued by CIPFA. More work will be done on this, including dialogue with auditors and accountancy bodies which may result in amendments to the Statement of Investment Principles and future quarterly reporting practices to ensure that disclosures are fully compliant with the Code in future financial statements.

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Fund Account - for year ended 31 March 2012

	Note	2012 £'000	2011 £'000
Contributions and benefits			
Contributions receivable	6	243,213	266,747
Transfers in	7	11,024	19,273
Administration income		199	326
		254,436	286,346
Benefits payable	8	267,053	259,911
Payments to and on account of leavers	9	13,119	18,589
Administration expenses	10	4,107	4,778
		284,279	283,278
Net (withdrawals)/additions from dealings with members		-29,843	3,068
Return on investments			
Investment income	11	91,070	88,540
Profit and losses on disposal of investments and changes in value of investments	13	35,962	330,903
Taxes on income	11	-1,453	-1,988
Investment management expenses	12	-11,225	-10,300
Net return on investments		114,354	407,155
Net increase (-decrease) in the fund during the year		84,511	410,223
Net assets of the fund at the start of the year		5,115,872	4,705,649
Net assets of the fund at the end of year		5,200,383	5,115,872

Net Assets Statement as at 31 March 2012

		2012 £'000	2011 £'000
Investment assets			
Equities	13	1,514,762	1,725,620
Pooled investment vehicles		3,216,404	2,960,106
Derivative contracts		6,669	756
Direct property		290,965	251,935
Short term cash deposits		56,271	59,570
Other investment balances		75,895	89,555
		5,160,966	5,087,542
Investment liabilities	16	-15,338	-37,114
		5,145,628	5,050,428
Long term assets	17	30,864	30,844
Current assets	18	36,330	50,586
Current liabilities	18	-12,439	-15,986
Net assets of the fund as at 31 March 2012		5,200,383	5,115,872

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Annual governance report

Merseyside Pension Fund

Audit 2011/12



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Key messages

This report summarises the findings from my 2011/12 audit of the Pension Fund financial statements which is substantially complete.

Subject to satisfactory completion of a small number of outstanding issues, I intend to issue an unqualified opinion on the Pension Fund's Annual accounts for 2011/12 and the Pension Funds Annual Report.

The Pension Fund presented me with a set of statements in accordance with the statutory deadline. The statements were produced to a good standard and were supported by a comprehensive set of working papers. The standard of the working papers and timeliness of their receipt represents a significant improvement to the previous year.

I identified a number of non-material errors, all of which have been amended by the Pension Fund. None of these errors had a significant impact to the reported performance of the fund.

I also identified a number of disclosure errors and non trivial errors, all of which the pension fund have amended. These are detailed for your information at appendix 3.

There are no other significant matters that I need to bring to your attention.

Before I give my opinion

My report includes only matters of governance interest that have come to my attention in performing my audit. I have not designed my audit to identify all matters that might be relevant to you.

Independence

I can confirm that I have complied with the Auditing Practices Board's ethical standards for auditors, including ES 1 (revised) - Integrity, Objectivity and Independence.

I am not aware of any relationships that may affect the independence and objectivity of the Audit Commission, the audit team or me, that I am required by auditing and ethical standards to report to you.

Next Steps

I ask the Pension Fund Committee to:

- Consider the matters raised in this report before recommending the approval of the financial statements to the Audit and Risk Management Committee (ARMC) of Wirral Council.
- take note of the adjustments to the Pension Fund's accounts which are set out in this report (Appendix 3);
- recommend to the Audit and Risk Management Committee the letter of representation on behalf of the Pension Fund before I issue my opinion and conclusion (Appendix 4); and
- confirm your response to the proposed action plan (Appendix 6).

I will ask the ARMC to consider the recommendation of the Pension Fund Committee in relation to this report before it:

- considers the matters raised in this report before approving the financial statements;
- takes note of the adjustments to the financial statements which are set out in this report;
- approves the letter of representation before I issue my opinion; and
- agrees a response to the proposed action plan.

Financial statements

The Pension Fund’s financial statements are an important mechanism for the Pension Fund to account for its stewardship of public funds. As Members you have final responsibility for these statements. It is important that you consider my findings before you adopt the financial statements.

Opinion on the financial statements

Subject to satisfactory clearance of a small number of outstanding matters, I plan to issue an audit report including an unqualified opinion on the financial statements. My opinion will be included within Wirral Council’s Statement of Accounts and the financial statements included within the Pension Fund Annual Report. Appendix 1 and 1a contain copies of my draft audit reports.

As at 30 August 2012, my work is ongoing in a number of areas. These outstanding matters are:

- Completion of testing of investment valuations;
- Completion of review of related party transactions;
- Check of the final post audited financial statements; and
- Review of the final Annual Report.

I expect to complete all my work, including my final review procedures, before the Pensions Committee on 18 September. I will update the Committee as necessary as part of my oral report.

Corrected errors

My work identified a number of non-material errors in the statements presented for audit. None of these have a significant impact on the financial position of the Pension Fund at 31 March 2012. These have now been amended. A schedule of the changes is attached, appendix 3. I also agreed a number of changes to disclosures and supporting narrative.

The most significant amendments are:

- Overstatement of Pooled Investment Vehicles of £3.279 m due to incorrect currency rates being used.
- Mis-classification of investment management fee credit as investment income - amendment of £3.687m.
- Re-classification of UK quoted equities to overseas quoted equities - amendment of £12.183 m.

Specific risks and my findings

I reported to you in my December 2011 Audit Plan the specific risks that I identified relevant to my audit of your financial statements. In Table 1 I report to you my findings against each of these risks.

Table 1: **Risks and findings**

Risk	Finding
<p><u>Scheme contributions</u></p> <p>The Pension Fund receives contributions in respect of equal pay settlements made by admitted bodies. Some but not all admitted bodies have made contributions in respect of equal pay. There is a risk this may lead to a material misstatement of contributions income in the financial statements.</p>	<p>I have reviewed management's arrangements for ensuring that reasonable contributions have been made in respect of equal pay.</p> <p>I have considered settlements made within major scheduled bodies to the fund and assessed if they may give rise to potential material assets to the fund, if contributions were not made. I am satisfied that the risk of material misstatement has been reduced to an appropriately low level.</p>
<p><u>Investment valuations</u></p> <p>The Pensions Statement of Recommended Practice (SORP) requires the valuation of investments to be at market value or where the value is not readily ascertainable, at the Fund's estimate of 'fair value'.</p> <p>The Pension Fund's accounting policies describe the valuation methodology used for unquoted investments, including hedge funds and private equity. These are in line with the valuations provided by the independent administrators, or where these are not available, at the investment managers' valuation.</p> <p>As reported in my 2010/11 Annual Governance report and supplement, unquoted investments, primarily private equity, were undervalued by £13m because out of date valuations were used.</p>	<p>I have reviewed the Pension Fund's due diligence procedures for the valuation of investments, including its review and consideration of AAF 01/06, ISAE 3402 controls reports from investment managers, and found these procedures to be adequate.</p> <p>My team is in the process of substantively testing investments. Their work has so far identified two investments where incorrect currency rates were applied. This has led to an overstatement of £3.279m in the net assets statement.</p> <p>I plan to have completed my testing by the 18 September. If there are any further significant errors I will update the Pensions Committee and Audit and Risk Management Committee.</p>

Risk

Impact of redundancies on capacity within the Pension Fund

I am aware that Wirral Council and the Pension Fund have undergone a redundancy process in 2010/11 and 2011/12. This may affect the capacity of the finance team to deliver materially correct statements within agreed timescales.

Finding

The statements were provided within deadline, and supported by comprehensive working papers.

We have maintained regular dialogue with the Pension Fund officers and have been kept informed of significant changes in resources. Where potential weaknesses around separation of duties have arisen from the new structure, we are satisfied that the Pension Fund has applied adequate safeguards to mitigate risks.

Weaknesses in internal control

It is the responsibility of the Pension Fund to develop and implement systems of internal financial control and to put in place proper arrangements to monitor their adequacy and effectiveness in practice. My responsibility as your auditor is to consider whether the Pension Fund has put adequate arrangements in place to satisfy itself that the systems of internal financial control are both adequate and effective in practice.

I have tested the controls of the Pension Fund only to the extent necessary for me to complete my audit. I am not expressing an opinion on the overall effectiveness of internal control.

The following weakness in internal control is only that I have identified during the audit that is relevant to preparing the financial statements.

Table 2: **Weakness in internal control**

Issue

Out of date list of authorised employees within the Pension Fund to receive correspondence from external bodies, for example Fund Managers.

Finding

An ex employee of the Fund is still listed as authorised to receive correspondence from external bodies, for example, Fund Managers. This employee has not been working at MPF for a period of 3 years. Whilst this employee is still employed by Wirral MBC, it is essential that only authorised employees of the fund are authorised to receive such information. I have been told that the Fund has postponed updating this information as it has been awaiting the conclusion of the internal restructure and the revised banking arrangements. However, this should be addressed without further delay.

Recommendation

R1 Ensure that the Pension Fund's authorised contacts list is updated. .

Other matters

I am required to communicate to you significant findings from the audit and other matters that are significant to your oversight of the Pension Fund's financial reporting process including the following.

- Qualitative aspects of your accounting practice
- Matters specifically required by other auditing standards to be communicated to those charged with governance. For example, issues about fraud, compliance with laws and regulations, external confirmations and related party transactions.
- Other audit matters of governance interest.

My findings are reported in the table below:

Table 3: **Other matters**

Issue	Finding
Breach of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 in regards to investment limits.	The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (which came into force on 1 January 2010) set out a required process for Pension Funds to follow when planning to increase investment limits. In 2011/12 the Pension Fund exceeded the limits as set out in their current Statement of Investment Principals (SIP), without following the proper procedure as set out in the regulations
Financial instruments disclosures	The Pension fund has enhanced the financial instruments disclosures in 2011/12, in line with requirements. To be fully compliant with the requirements of the Code of Practice on Local Authority Accounting in the United Kingdom, further enhancements are needed, particularly in regards to the quantitative reporting of credit, currency and liquidity risk.

Recommendation

- R2** Implement robust controls for monitoring and reporting against the investment limits set in the Statement of Investment Principals to ensure that future breaches of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 do not occur.
-
- R3** Review the current reporting arrangements for credit and liquidity risk, to enable fully compliant reporting in line with the Code of Practice on Local Authority Accounting in the United Kingdom.
-

Pension Fund Annual Report

The Pension Fund prepared its draft Annual Report on 1 August 2012. Upon satisfactory completion of my audit of the financial statements, the Pension Fund will prepare its final Annual Report, which I will review. As a result I have not yet completed my review and report on the financial statements included in the Annual Report. I expect to report on the financial statements included in the Annual Report by 18 September 2012.

Fees

I reported my planned audit fee in the December 2011 Audit Plan.

I will complete the audit within the planned fee.

Table 4: Fees

	Planned fee 2011/12 (£)	Expected fee 2011/12 (£)
Audit	59,181	59,181
Non-audit work	0	0
Total	59,181	59,181

Appendix 1 – Draft independent auditor’s report for the Councils financial statements

DRAFT INDEPENDENT AUDITOR’S REPORT TO THE MEMBERS OF WIRRAL BOROUGH COUNCIL - EXCERPT REGARDING MERSEYSIDE PENSION FUND.

Opinion on the pension fund financial statements

I have audited the pension fund financial statements for the year ended 31 March 2012 under the Audit Commission Act 1998. The pension fund financial statements comprise the Fund Account, the Net Assets Statement and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2011/12.

This report is made solely to the members of Wirral Borough Council in accordance with Part II of the Audit Commission Act 1998 and for no other purpose, as set out in paragraph 48 of the Statement of Responsibilities of Auditors and Audited Bodies published by the Audit Commission in March 2010.

Respective responsibilities of the Chief Financial Officer and auditor

As explained more fully in the Statement of the Chief Financial Officer’s Responsibilities, the Chief Financial Officer is responsible for the preparation of the Authority’s Statement of Accounts, which includes the pension fund financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom, and for being satisfied that they give a true and fair view. My responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require me to comply with the Auditing Practices Board’s Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the fund's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Chief Financial Officer; and the overall presentation of the financial statements. In addition, I read all the financial and non-financial information in the explanatory foreword and the annual report to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my report.

Opinion on financial statements

In my opinion the pension fund's financial statements:

give a true and fair view of the financial transactions of the pension fund during the year ended 31 March 2012 and the amount and disposition of the fund's assets and liabilities as at 31 March 2012, other than liabilities to pay pensions and other benefits after the end of the scheme year; and have been properly prepared in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom.

Opinion on other matters

In my opinion, the information given in the explanatory foreword and the content of the Annual Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

Appendix 2 – Draft independent Auditor’s report for the Pension Fund Annual Report

DRAFT INDEPENDENT AUDITOR’S REPORT TO THE MEMBERS OF WIRRAL BOROUGH COUNCIL

Opinion on the pension fund accounting statements

I have audited the pension fund financial statements for the year ended 31 March 2012 under the Audit Commission Act 1998. The pension fund financial statements comprise the Fund Account, the Net Assets Statement and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2011/12.

This report is made solely to the members of Wirral Borough Council in accordance with Part II of the Audit Commission Act 1998 and for no other purpose, as set out in paragraph 48 of the Statement of Responsibilities of Auditors and of Audited Bodies published by the Audit Commission in March 2010.

Respective responsibilities of the Chief Financial Officer and auditor

As explained more fully in the Statement of the Chief Financial Officer’s Responsibilities, the Chief Financial Officer is responsible for the preparation of the pension fund’s financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require me to comply with the Auditing Practices Board’s Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting

policies are appropriate to the fund's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Chief Financial Officer; and the overall presentation of the financial statements. In addition, I read all the financial and non-financial information in the annual report to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my report.

Opinion on financial statements

In my opinion the pension fund's financial statements:

- give a true and fair view of the financial transactions of the pension fund during the year ended 31 March 2012 and the amount and disposition of the fund's assets and liabilities as at 31 March 2012; and
- have been prepared properly in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2011/12.

Opinion on other matters

In my opinion, the information given in the annual report for the financial year for which the financial statements are prepared is consistent with the financial statements.

Michael Thomas
District Auditor

Aspinall House
Aspinall Close
Horwich
Bolton
BL6 6QQ

September 2012

Appendix 3 – Corrected errors

I identified the following errors during the audit which management have addressed in the revised financial statements.

Item of account	Nature of error	Fund Account		Net Assets Statement	
		Dr £'000s	Cr £'000s	Dr £'000s	Cr £'000s
Net assets statement - Unquoted investments	Overstatement of unquoted investments through use of incorrect currency conversion rates.	3,279			3,279
Fund manager expenses	Understatement of Fund manager expenses.	188			188
Fund account (& note 6) - Contributions receivable	Overstatement of employee's contributions, understatement of employer's contributions.	743	743		
Note 11 - Investment income	Dividend income incorrectly classified as interest on short term cash deposits.	553			553
Note 11 - Investment income	Investment management fee credit incorrectly classified as investment income.	3,687	3,687		
Note 13 (a)	Reclassification of UK quoted equities to overseas quoted equities.			12,183	12,183
Accounting policies	Revision and enhancement of accounting policies in a number of				

	Fund Account	Net Assets Statement
<p>areas. Specifically:</p> <ul style="list-style-type: none"> ■ Inclusion of an accounting policy for treatment of income for pooled investments; ■ Inclusion of policy on movement in the net market value of investments; ■ Inclusion of policy relating to tax on fund expense items; ■ Inclusion of policy on financial liabilities; ■ Enhanced narrative of policy for transfers to and from other schemes; ■ Enhancement of the basis for estimates to disclosure inherent uncertainties and judgement used in the basis of the valuation estimates for unquoted investments; ■ Enhanced policy for costs related to pooled investment vehicles; and ■ Enhanced policy for property valuation. 		
Accounting policies	Removal of a note on prior period adjustments from within accounting policies. No prior period adjustments have been applied in 2011/12.	

	Fund Account	Net Assets Statement
Fund account - Contributions receivable	Overstatement of £922K of contributions income has been recorded in respect of 2011-12 which relates to 2010-11.	
Note 13 - Investments	Removal of purchases and sales of short term cash deposits.	
Note 10 – Administration expenses	Addition of an explanatory note.	
Note 6 contribution income	Deficit funding relating to magistrates courts disclosed as £6.4 million. Should be £1.4 million.	
Statement of the consulting actuary	Fund deficit was incorrectly recorded as £1400 million. Actuary to provide a note stating £1310 million.	
Note 14a – classification of financial instruments	£12,251K financial liabilities at amortised cost incorrectly recorded as loans and receivables.	
Note 21 - Related Party Transactions	Revision to the key management personnel table following updated guidance. Enhancement and revision of some existing text within the note.	

Appendix 4 – Draft letter of management representation

Merseyside Pension Fund - Audit for the year ended 31/03/2012

I confirm to the best of my knowledge and belief, having made appropriate enquiries of other directors and officers of Merseyside Pension Fund and Wirral Borough Council, the following representations given to you in connection with your audit of the Pension Fund's financial statements for the year ended 31/03/2012.

Compliance with the statutory authorities

I have fulfilled my responsibility under the relevant statutory authorities for preparing the financial statements in accordance with the Accounts and Audit (England) Regulations 2011 and the Code of Practice on Local Authority Accounting in the United Kingdom which give a true and fair view of the financial position and financial performance of the Pension Fund, for the completeness of the information provided to you, and for making accurate representations to you.

Supporting records

I have made available all relevant information and access to persons within the Pension Fund and Wirral Borough Council for the purpose of your audit. I have properly reflected and recorded in the financial statements all the transactions undertaken by the Pension Fund.

Internal control

I have communicated to you all deficiencies in internal control of which I am aware.

Irregularities

I acknowledge my responsibility for the design, implementation and maintenance of internal control to prevent and detect fraud or error.

I also confirm that I have disclosed:

- my knowledge of fraud, or suspected fraud, involving either management, employees who have significant roles in internal control or others where fraud could have a material effect on the financial statements;

- my knowledge of any allegations of fraud, or suspected fraud, affecting the entity's financial statements communicated by employees, former employees, analysts, regulators or others; and
- the results of our assessment of the risk the financial statements may be materially misstated as a result of fraud.

Law, regulations, contractual arrangements and codes of practice

I have disclosed to you all known instances of non-compliance, or suspected non-compliance with laws, regulations and codes of practice, whose effects should be considered when preparing financial statements.

Other than the breach of regulations identified and reported in Table 3, transactions and events have been carried out in accordance with law, regulation or other authority. The Pension Fund has complied with all aspects of contractual arrangements that could have a material effect on the financial statements in the event of non-compliance.

All known actual or possible litigation and claims, whose effects should be considered when preparing the financial statements, have been disclosed to the auditor and accounted for and disclosed in accordance with the applicable financial reporting framework.

Accounting estimates including fair values

I confirm the reasonableness of the significant assumptions used in making the accounting estimates, including those measured at fair value.

For accounting estimates relating to Private Equity, Hedge Funds and Investment Property valuations, I confirm:

- the appropriateness of the measurement method, including related assumptions and models, and the consistency in application of the method;
- the assumptions appropriately reflect management's intent and ability to carry out specific courses of action on behalf of the Pension Fund, where relevant to the accounting estimates and disclosures;
- the disclosures relating to the accounting estimate are complete and appropriate under the Code; and
- that no subsequent event requires the Pension Fund to adjust the accounting estimate and related disclosures included in the financial statements.

Related party transactions

I confirm that I have disclosed the identity of the Pension Fund's related parties and all the related party relationships and transactions of which I am aware. I have appropriately accounted for and disclosed such relationships and transactions in accordance with the requirements of the Code.

Subsequent events

I have adjusted for or disclosed in the financial statements all relevant events subsequent to the date of the financial statements.

Signed on behalf of Merseyside Pension Fund

I confirm that this letter has been discussed and agreed by the Audit and Risk Management Committee on 19 September 2012.

Signed

Name

Position

Date

Appendix 5 – Glossary

Annual Audit Letter

Letter issued by the auditor to the Pension Fund after the completion of the audit that summarises the audit work carried out in the period and significant issues arising from auditors' work.

Annual Governance Report

The auditor's report on matters arising from the audit of the financial statements presented to those charged with governance before the auditor issues their opinion.

Audit of the accounts

The audit of the accounts of an audited body comprises all work carried out by an auditor under the Code to meet their statutory responsibilities under the Audit Commission Act 1998.

Audited body

A body to which the Audit Commission is responsible for appointing the external auditor.

Auditing Practices Board (APB)

The body responsible in the UK for issuing auditing standards, ethical standards and associated guidance to auditors. Its objectives are to establish high standards of auditing that meet the developing needs of users of financial information and to ensure public confidence in the auditing process.

Auditing standards

Pronouncements of the APB that contain basic principles and essential procedures with which auditors must comply, except where otherwise stated in the auditing standard concerned.

Auditor(s)

Auditors appointed by the Audit Commission.

Audit Commission

Annual governance report

Code (the)

The Code of Audit Practice for local government bodies issued by the Audit Commission and approved by Parliament.

Commission (the)

The Audit Commission for Local Authorities and the National Health Service in England.

Ethical Standards

Pronouncements of the APB that contain basic principles relating to independence, integrity and objectivity that apply to the conduct of audits and with which auditors must comply, except where otherwise stated in the standard concerned.

Financial statements

The annual statement of accounts that the Pension Fund is required to prepare, which report the financial performance and financial position of the Pension Fund in accordance with the Accounts and Audit (England) Regulations 2011 and the Code of Practice on Local Authority Accounting in the United Kingdom.

Internal control

The whole system of controls, financial and otherwise, that the Pension Fund establishes to provide reasonable assurance of effective and efficient operations, internal financial control and compliance with laws and regulations.

Materiality

The APB defines this concept as ‘an expression of the relative significance or importance of a particular matter in the context of the financial statements as a whole. A matter is material if its omission would reasonably influence the decisions of an addressee of the auditor’s report; likewise a misstatement is material if it would have a similar influence. Materiality may also be considered in the context of any individual primary statement within the financial statements or of individual items included in them. Materiality is not capable of general mathematical definition, as it has both qualitative and quantitative aspects’.

The term ‘materiality’ applies only to the financial statements. Auditors appointed by the Commission have responsibilities and duties under statute, as well as their responsibility to give an opinion on the financial statements, which do not necessarily affect their opinion on the financial statements.

Pension Fund Annual Report

The annual report, including financial statements, that the Pension Fund must publish under Regulation 34 of the Local Government Pension Scheme (Administration) Regulations 2008.

Significance

The concept of 'significance' applies to these wider responsibilities and auditors adopt a level of significance that may differ from the materiality level applied to their audit of the financial statements. Significance has both qualitative and quantitative aspects.

Those charged with governance

Those entrusted with the supervision, control and direction of the Pension Fund. This term includes the members of the Authority, the Pension's Committee and the Audit and Risk Management Committee.

Appendix 6 – Action plan

Recommendations	
Recommendation 1	Ensure that the Pension Fund's authorised contacts list is updated.
Responsibility	
Priority	
Date	
Comments	
Recommendation 2	Implement robust controls for monitoring and reporting against the investment limits set in the Statement of Investment Principals, to ensure that future breaches of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 do not occur.
Responsibility	
Priority	
Date	
Comments	
Recommendation 3	Review the current reporting arrangements for credit and liquidity risk, to enable fully compliant reporting in line with the Code of Practice on Local Authority Accounting in the United Kingdom.
Responsibility	
Priority	
Audit Commission	

Date

Comments

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0844 798 7070

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The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors, members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.



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WIRRAL COUNCIL

CABINET

18 OCTOBER 2012

SUBJECT	REVENUE MONITORING 2012/13 MONTH 5 (AUGUST 2012)
WARD/S AFFECTED	ALL
REPORT OF	INTERIM DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER	COUNCILLOR PHIL DAVIES
KEY DECISION	YES

1 EXECUTIVE SUMMARY

- 1.1 This report continues the new format and sets out the revenue position for 2012/13 as at Month 5 (August 2012). It identifies the latest financial projections and prioritises the risks for ongoing management actions, to ensure the year-end position will result in spend remaining within the budget allocated.

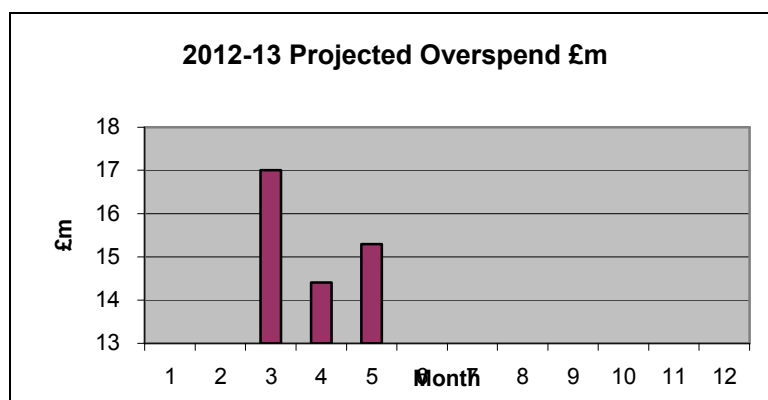
2 BACKGROUND

- 2.1 Cabinet on 6 September 2012, when considering the Month 3 monitor, instituted a spending freeze, in the light of a projected £17m overspend.
- 2.2 In the forthcoming months, the aim is to expand the report to include the cumulative information as the year progresses, being built-up by the monthly reporting. Appendix 1 sets out the timetable for reporting the revenue monitor during 2012/13. A monthly Capital Monitor is separately reported to Cabinet.

OVERALL POSITION AT MONTH 5 (AUGUST 2012)

- 2.3 The projected revenue forecast for the year, at Month 5 (to end August 2012), shows a potential General Fund **overspend of £15.3m**, up on the M4 projection of a £14.4m overspend.

Graph 1: Wirral Council – 2012/13 General Fund Variance, by month



CHANGES TO THE AGREED BUDGET AND VARIATIONS

- 2.4 The Budget for 2012/13 was agreed by Council on 1 March 2012 and is detailed in Appendix 2; any increase in the Budget has to be agreed by full Council. Changes to the budget have occurred since it was set and these are summarised in the table below. They presently comprise variations approved by Cabinet / Council and will in future include approved virements relating to the use of the Efficiency Investment Fund, reserves, any budget realignments to reflect any changes to the departmental structure and responsibilities, as well as any technical adjustments. These are detailed in Appendix 3.

Table 1: 2012/13 Original & Revised Net Budget analysed by Department

	Original Net Budget	Approved Budget Virements Month 1-4	Approved Budget Virements Month 5	Revised Net Budget
	£000	£000	£000	£000
Adult Social Services	66,660	-	-	66,660
Children & Young People	73,665	-	-	73,665
Finance	24,610	-50	77	24,637
Law, HR & Asset Management	13,901	300	-76	14,125
Regeneration, Hsg & Planning	25,764	-	34	25,798
Technical Services	59,478	427	-35	59,870
Net Cost of Services	264,078	677	0	264,755

Note: the month 5 virements reflect movement of posts between departments plus financing adjustments following the transfer of a Community asset.

- 2.5. The main report will only comment on large variations (Red and Yellow items). The 'variations' analysis distinguishes between overspends and underspends and the proposed 'risk band' classification is:
- Overspends - Red (over +£301k), Amber (+£141k to +£300k)
 - Acceptable - Green (range from +£140k to -£140k)
 - Underspends - Blue (-£141k to -£300k), Yellow (over -£301k)

Table 2: RAGBY Classification Of 2012/13 Departmental Projected General fund Budget variations

Department	Number of Budget Areas	Red	Amber	Green	Blue	Yellow
Adults	4	2		1		1
Children & YP	7	3		1	1	2
Finance	6			4		2
Law,HR & AM	7	2		4	1	
Reg, Hsg & Plan	5	1		3		1
Technical Servs	7	1	1	5		
TOTAL	36	9	1	18	2	6

- 2.6 The reporting process identifies over or underspends and classifies them into risk bands. The projection is for a total potential General Fund overspend of £15.3m across the six Directorates for 2012/13, as set out in the table below, which records

four departments on red and one on yellow.

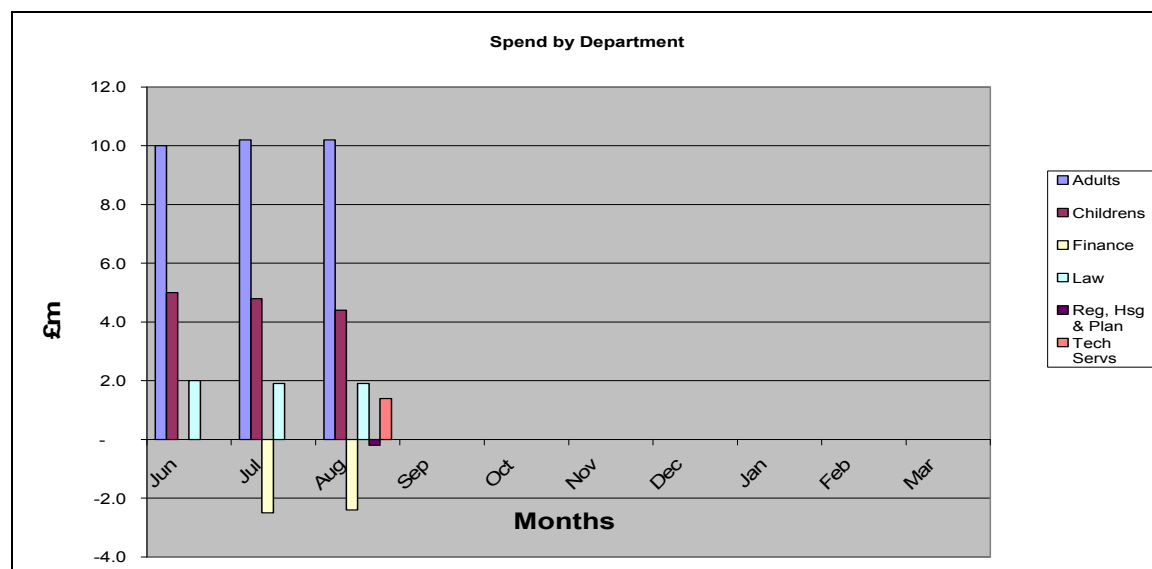
Table 3: 2012/13 Projected General Fund Budget variations by Department

Department	Revised Budget	Forecast Outturn	(Under) Overspend	RAGBY Classification	Month 4 (Under)/Overspend	Change
	£000	£000	£000		£000	£000
Adults	66,660	76,841	10,200	R	10,200	-
Children & YP	73,665	78,064	4,400	R	4,800	-400
Finance	24,637	22,202	-2,400	Y	-2,500	+100
Law,HR & AM	14,125	16,011	1,900	R	1,900	-
Reg, Hsg & Plan	25,798	25,586	-200	G	-	-200
Technical Servs	59,870	61,270	1,400	R	-	+1,400
TOTAL	264,755	279,309	15,300		14,400	+900

2.7 Within the various departments, there have been the following developments:

- **Adult Social Services** there is a potential overspend of £10.2m, unchanged since M4.
- **Children and Young People** there is a potential overspend of £4.4m, down £0.4m on M4.
- **Law, HR and Asset Management** there is a potential overspend of £1.9m, down £0.1m on M3.
- **Finance** is projecting a £2.4m underspend, £0.1m less than in M4.
- **Regeneration, Housing and Planning** are forecasting a £0.2m underspend (nil in M4)
- **Technical Services** are forecasting a £1.4m overspend (nil M4). This is due to projected shortfalls in car parking, cultural services (including golf, cemeteries and crematorium and theatre) and highways inspection income.

Graph 2: Department – 2012/13 General Fund Variance, by month



2.8 To complete the analysis, the table below sets out the position by category of spend/income. The main areas of variance are under employees and supplies & services, the latter incorporating the cost of care for adults and children.

	Reported Budget	Virements Month 5	Revised Budget	Forecast Outturn	Variance	RAG BY	Change from Month 4
Gross Expenditure							
Employees	140,936	1,026	141,962	144,962	3,000	R	-
Premises	22,180	-210	21,970	23,270	1,300	R	
Transport	8,556	5	8,561	10,061	1,500	R	
Supplies and Services	113,960	-1,180	112,780	123,930	11,150	R	-350
Third Party Payments	72,438	789	73,227	73,227	-	G	-
Transfer Payments	163,072	-	163,072	163,072	-	G	-
Support Services	79,115	-137	78,978	78,978	-	G	-
Financing Costs	72,167	-206	71,961	70,961	-1,000	Y	-
Schools Expenditure	442,596	-	442,596	442,596	-	G	-
Total Expenditure	1,115,020	87	1,115,107	1,131,057	15,950		-350
Gross Income							
Schools Income	439,851	-	439,851	439,851	-		
Government Grants	205,025	-	205,025	206,175	-1,150	Y	-150
Other Grants/Reimbursements	17,810	-	17,810	18,210	-400	Y	-
Customer and Client Receipts	45,751	87	45,838	44,438	1,400	R	1,400
Other	130	-	130	130	-	G	
Interest	875	-	875	1,375	-500	Y	
Recharge to Other Rev A/c	140,823	-	140,823	140,823	-	G	
Total Income	850,265	87	850,352	851,002	-650		1,250
Net Expenditure	264,755	-	264,755	280,055	15,300		900

2.9 Schools expenditure funded from the Dedicated Schools Grant. As this grant is ringfenced any over/underspend not impact on the General Fund financial position.

2.10 A number of virements have been made in the month. These reflect the allocation of departmental savings targets within the Technical Services budget and the movement of the Home Insulation budget within Regeneration, Housing and Planning between supplies and services to Third Party payments.

RAGBY REPORTING AND OTHER ISSUES

2.11 The Red and Yellow RAGBY issues that are the subject of corporate focus are detailed in the following sections by Business Area (by Department identifying the service) and then by Subjective Area (by the type of spend / income). The Business Areas are defined as the high level Objective Summary as per the Council Estimates (Blue Book).

2.12 Business Area Reds

Adult Social Services: Two of the Department's business areas are reported as red, Personnel Assessment and Planning and Personal Support. A forecast overspend of £10.2 million is forecast for the department. The issues involve

underlying pressures in Community Care, shortfall in 2011/12 reprovision and unachieved income which total £6.55 million. There is slippage across a number of savings targets including market review £1.6 million, corporate EVR/VS £1.35 million and £0.7 million relating to staff savings targets

Children and Young People: Three of the Department's Business Areas are flagged as red with a total £4.4 million overspend forecast for the department. The red areas are Children's Services, the Integrated Transport Unit and Capital and Support Services. Children's Services pressures relate in the main to social care costs and case numbers although the overspend within this area has reduced by £300,000 in the month as a result of reductions in agency staff costs. Transport is provided by the department on behalf of all departments and the projected overspend continues to be in the order of £1.2m reflecting both Special Education Needs and Adults transport. Capital and Support Services is overspending due to difficulties in achieving vacancy control targets which are held within this area.

Law, HR and Asset Management: Two areas are flagged red with a forecast overspend of £1.9m. The red areas are Asset Management and Human Resources. Both of these areas are reporting issues regarding the non-achievement of savings across a number of activities. These include business transformation and terms and conditions within Human Resources and facilities management, office rationalisation and asset disposal under Asset management.

Regeneration, Housing and Planning: One area is flagged as red although in overall terms the department is forecasting a £200,000 underspend. The red area is Strategic Development which is impacted by shortfalls on income within Planning and Building Control.

Technical Services: One Business area, Engineers is flagged a red within the department. This area includes car parking income which is well below target and whilst income relating to inspection and alteration of highways is similarly below target.

2.13 Business Area Yellows

Adult Social Services: one area Finance and Performance is flagged as yellow. Some of this budget is to be allocated across other service areas.

Children and Young People: Two areas are flagged as yellow LEA School Costs and Non-School Costs. LEA School Costs reflect the receipt of additional income from grants and fees in respect of Academies plus general savings within expenditure. Non school is due to savings relating to the Connexions and Troubled Families Grant.

Finance: Two areas are flagged as yellow. Financial Services reflects savings on Treasury Management; lower borrowing costs and higher than forecast investment returns will provide benefit of £1.5m. Benefits and Revenue Services are forecast to provide a further £1m of savings less other variations of £0.1million.

Regeneration, Housing and Planning: Housing and Regeneration Services are forecasted at yellow due to variances on Supporting people contracts and savings

on regeneration Implementation costs.

2.14 **Subjective Area Reds**

Employees. Departments have been allocated additional vacancy control targets for 2012/13 whilst for Adults there remain the achievement of savings expected from the Early Voluntary Retirement / Voluntary Severance Scheme. There are also savings targets under Employees Terms and Conditions and Business Transformation change projects which have yet to be progressed.

Premises. This relates to the delivery of savings under the rationalisation of office accommodation which is not progressing in accordance with the expected timetable.

Transport. The Integrated transport unit is managed by Children & Young People and the budget continues to be under pressure as a consequence of the demands in respect of Adults Services and Special Education Needs. There is also a projected overspend of £0.3m on the social workers car allowances budget.

Supplies and Services. The pressures within Adult Social Services and Children & Young People relate to care service costs and it is projected that the overspends will be in the order of £8.2m and £3.3m respectively.

Customer and Client Receipts. This mainly reflects likely income shortfalls within the Technical Services department. Areas forecasting to underachieve budget are car parking, Cultural Services and highways inspection and alteration fees.

2.15 **Subjective Area Yellows**

Government Grants. The Authority is forecasting an increased Housing and Council Tax Benefit grant receipts.

Other Grants and Reimbursements: This includes additional monies received in respect of Academy funding

Interest: This reflects additional investment income forecast to be earned in the year from treasury Management activities.

MANAGEMENT ACTIONS

2.16 The Departmental Directors and the Executive Team continue to seek to identify actions to keep spend within the Budget allocated – these actions are detailed in Appendix 4. Besides the normal Management actions to address the financial pressures, the spending freeze, was implemented by Cabinet on 6 September 2012. Administrative arrangements have been put in place to differentiate between critical expenditures, where the freeze will not apply, and non-critical expenditures, that will cease. The impact of freeze decisions will begin to be reflected from the month 6 monitor.

2.17 A number of items have been identified as recurring issues, such as the inability to

meet income targets in cultural services and car parking. There is an exercise being undertaken to review the accuracy of budgets, in order to:

- Identify short-term funding for 2012/13, if there is a net increase in cost; and,
- As part of compiling next year's budget, propose growth or savings to ensure that the budget inaccuracies are corrected and budgets are soundly based,

and a parallel review of Earmarked Reserves is being undertaken.

3 RELEVANT RISKS

3.1 The possible failure to deliver the Revenue Budget will be mitigated by the monthly review by Chief Officers, charged with improving performance. There are a number of risks that may impact adversely on the forecast expenditure for the remaining months of the year including:-

- Individual budgets may turn out to be unsound, for the excess of codes has given scope to behaviors that have spread expenditure over inappropriate budgets;
- Increased demand for services, particularly within Adult and Children's Social Care Services, where greater than forecast numbers coming into care services can impact significantly on financial forecasts.
- The impact of the economic downturn significantly affects both the demand for services and also levels of income, such as fees and charges and arrears collection. This report already forecasts a potential under recovery of fees and charges which may need to be revised if the economic downturn was to worsen.
- The Council's arrangements for the implementation of a new pay and grade structure under Single Status are progressing and an earmarked reserve for the costs of implementation has been established. There remains uncertainty as to the likely final costs.
- There are budget saving options still to be delivered and these are detailed in Appendix 6. Those yet to be delivered are reflected in the forecast overspends of the Departments.

4 OTHER OPTIONS CONSIDERED

4.1 Options are included for Cabinet to consider on increasing the level of the General Fund balance.

5 CONSULTATION

5.1 No consultation has been carried out in relation to this report.

6 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 As yet there are no implications for voluntary, community or faith groups.

7 RESOURCE IMPLICATIONS: FINANCIAL, IT, STAFFING AND ASSETS

- 7.1 The agreed level of General Fund balance was set at £6m, as part of the March budget decision. The increase in the overspend this month means that the balance has now fallen below this policy level, despite the release of an earmarked reserve.

Table 5 : SUMMARY OF THE PROJECTED GENERAL FUND BALANCES

Details	£m	£m
Projected balance 31 March 2013 when setting the Budget 2012/13		8.8
Add : Increase following completion of 2011/12 accounts	+2.0	
Add : Council Tax re-imburement met in 2011/12 rather than budgeted 2012/13	+3.9	
		14.7
Less : Cabinet decisions since the 2012/13 Budget was agreed	-0.7	
Add : Cabinet decision September 6 to release Earmarked Reserve	+7.0	+6.3
Less : Potential overspends, at M5		-15.3
Projected balance 31 March 2013		5.7

- 7.2 The current levels of Earmarked Reserves are shown in Table 6 with a full listing included at Appendix 6.

Table 6: Earmarked Reserves 2012/13

	Balance at 1 April 2012 £000s	Movement in year £000s	Current Balance 30 June 2012 £000s
Housing Benefit Reserve	11,155	-	11,155
Insurance Fund	9,635	-	9,635
Working Neighbourhoods Fund	7,959	(7,000)	959
Debt Restructuring Fund	7,941	-	7,941
Grant Reserves	1,884	-	1,884
Management of other risks	32,530	(40)-	32,490
School Balances and Schools Related	15,144	-	15,144
Total Reserves	86,248	(7,040)	79,208

Note: Cabinet on 6 September 2012 agreed to release £7m of an Earmarked Reserve (Working Neighbourhood Fund).

8 LEGAL IMPLICATIONS

- 8.1 There are no legal implications arising directly from this report.

9 EQUALITIES IMPLICATIONS

- 9.1 This is essentially a monitoring report which reports on financial performance.

10 CARBON REDUCTION IMPLICATIONS

- 10.1 There are no implications arising directly from this report.

11 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 11.1 There are no implications arising directly from this report.

12 RECOMMENDATIONS

12.1 Cabinet is asked to note that:

- a) At Month 5, (August 2012), the full year forecast projects a potential General Fund overspend of £15.3m;
- b) The virements in respect of the internal allocation of savings targets within Technical Services and the reclassification of Home Insulation works within Regeneration, Housing and Planning which have no bottom line impact on the net revenue budget and involve no change of purpose of funding.
- c) The review of over/underspends and Earmarked Reserves being undertaken will be reported to a forthcoming Cabinet.
- d) The M4 monitor will be presented with this M5 monitor.

13 REASONS FOR THE RECOMMENDATIONS

13.1 The Council having set a Budget at the start of the financial year needs to ensure that the delivery of this Budget is achieved. This has to be within the allocated and available resources to ensure the ongoing financial stability of the Council. Consequently there is a requirement to regularly monitor progress so that corrective action can be taken when required which is enhanced with the monthly reporting of the financial position.

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APPENDICES

- Appendix 1 Revenue Monitoring and Reporting Timetable 2012/13.
- Appendix 2 General Fund Revenue Budget for 2012/13 agreed by Council.
- Appendix 3 Changes to the Budget 2012/13 since it was set.
- Appendix 4 Management actions
- Appendix 5 Progress on delivering agreed savings 2012/13.
- Appendix 6 Earmarked Reserves – General Fund.
- Appendix 7 Month 4 Monitor

SUBJECT HISTORY

Council Meeting	Date
Revenue monitoring reports have previously been submitted as part of the Performance & Financial Review presented to Cabinet on a quarterly basis and from September 2012 are being submitted monthly.	

WIRRAL COUNCIL

CABINET

18 OCTOBER 2012

SUBJECT	REVENUE MONITORING 2012/13 MONTH 4 (JULY 2012)
WARD/S AFFECTED	ALL
REPORT OF	INTERIM DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER	COUNCILLOR PHIL DAVIES
KEY DECISION	YES

1 EXECUTIVE SUMMARY

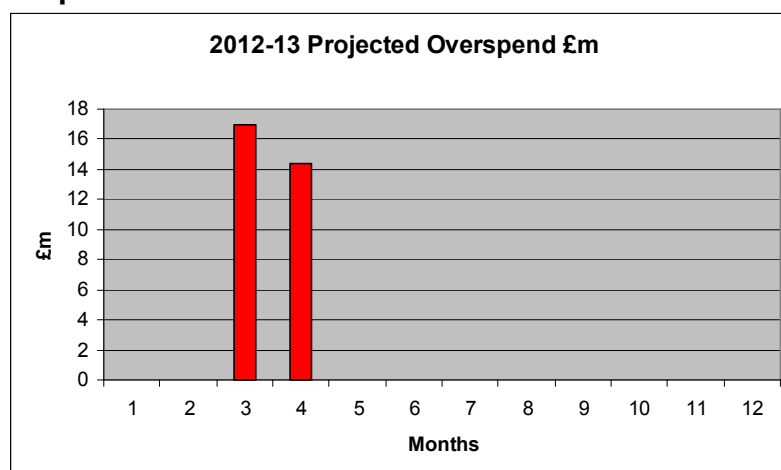
- 1.1 This report continues the new format and sets out the revenue position for 2012/13 as at Month 4 (July 2012). It identifies the latest financial projections and prioritises the risks for ongoing management actions, to ensure the year-end position will result in spend remaining within the budget allocated.

2 BACKGROUND

- 2.1 Cabinet on 6 September 2012, when considering the Month 3 monitor, instituted a spending freeze, in the light of a projected £17m overspend.
- 2.2 In the forthcoming months, the aim is to expand the report to include the cumulative information as the year progresses, being built-up by the monthly reporting. Appendix 1 sets out the timetable for reporting the revenue monitor during 2012/13. A monthly Capital Monitor is separately reported to Cabinet.

OVERALL POSITION AT MONTH 4 (JULY 2012)

- 2.3 The projected revenue forecast for the year, at Month 4 (to end July 2012), shows a potential General Fund **overspend of £14.4m**, down on the M3 projection of a £17m overspend.

Graph 1: Wirral Council – 2012/13 General Fund Variance, by month

CHANGES TO THE AGREED BUDGET AND VARIATIONS

- 2.4 The Budget for 2012/13 was agreed by Council on 1 March 2012 and is detailed in Appendix 2; any increase in the Budget has to be agreed by full Council. Changes to the budget have occurred since it was set and these are summarised in the table below. They presently comprise variations approved by Cabinet / Council and will in future include approved virements relating to the use of the Efficiency Investment Fund, reserves, any budget realignments to reflect any changes to the departmental structure and responsibilities, as well as any technical adjustments. These are detailed in Appendix 3.

Table 1: 2012/13 Original & Revised Net Budget analysed by Department

	Original Net Budget	Approved Budget Virements Month 1-3	Approved Budget Virements Month 4	Revised Net Budget
	£000	£000	£000	£000
Adult Social Services	66,660	-	-	66,660
Children & Young People	73,665	-	-	73,665
Finance	24,610	-50	-	24,560
Law, HR & Asset Management	13,901	300	-	14,201
Regeneration, Hsg & Planning	25,764	-	-	25,764
Technical Services	59,478	427	-	59,905
Net Cost of Services	264,078	677	-	264,755

- 2.5. The main report will only comment on large variations (Red and Yellow items), which methodology will be introduced in full in the next iteration of this report. The 'variations' analysis distinguishes between overspends and underspends and the proposed 'risk band' classification is:

- Overspends - Red (over +£301k), Amber (+£141k to +£300k)
- Acceptable - Green (range from +£140k to -£140k)
- Underspends - Blue (-£141k to -£300k), Yellow (over -£301k)

- 2.6 The reporting process identifies over or underspends and classifies them into risk bands. The projection is for a total potential General Fund overspend of £14.4m across the six Directorates for 2012/13, as set out in the table below, which records 50% of the departments on red and one on yellow. Further information is contained within Appendix 4.

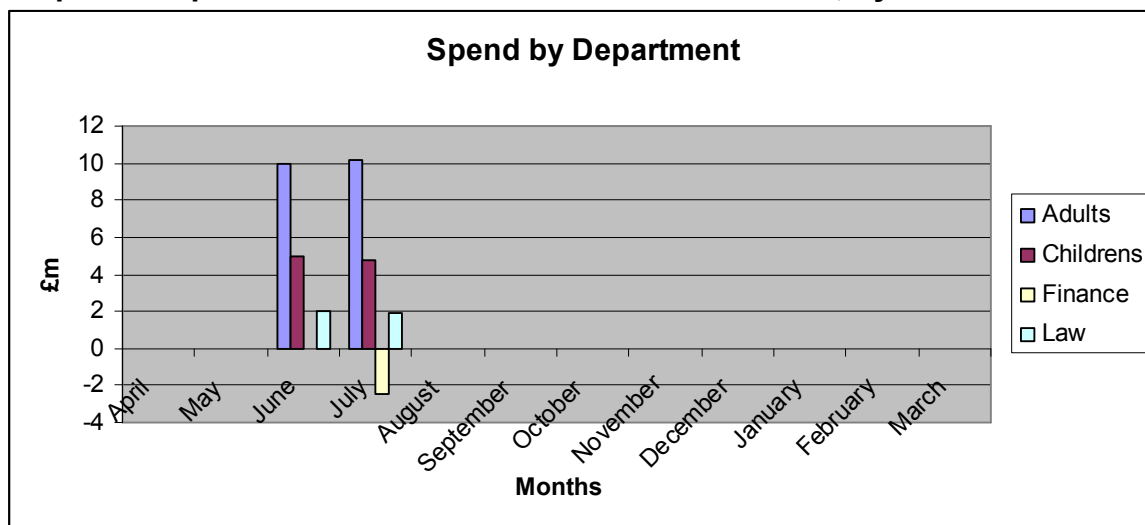
Table 2: 2012/13 Projected General Fund Budget variations by Department

Department	Revised Budget	Forecast Outturn	(Under) Overspend	RAGBY Classification	Month 3 (Under)/Overspend	Change
	£000	£000	£000		£000	£000
Adults	66,660	76,860	10,200	R	10,000	+200
Children & YP	73,665	78,465	4,800	R	5,000	-200
Finance	24,560	22,060	-2,500	Y	-	-2,500
Law,HR & AM	14,201	16,101	1,900	R	2,000	-100
Reg, Hsg & Plan	25,764	25,764	-	G	-	-
Technica	59,905	59,905	-	G	-	-
TOTAL	264,755	279,155	14,400		17,000	-2,600

2.7 Within the various departments, there have been the following developments:

- **Adult Social Services** there is a potential overspend of £10.2m, up £0.2m on M3.
- **Children and Young People** there is a potential overspend of £4.8m, down £0.2m on M3.
- **Law, HR and Asset Management** there is a potential overspend of £1.9m, down £0.1m on M3.
- **Finance** is projecting a £2.5m underspend, arising from improvements in Housing Benefit processing (£1m) and reduced capital financing (£1.5m), arising from programme slippage in 2011/12..

Graph 2: Department – 2012/13 General Fund Variance, by month



2.8 To complete the analysis, the table below sets out the position by category of spend/income. The main areas of variance are under employees and supplies & services, the latter incorporating the cost of care for adults and children.

Table 3: 2012/13 Projected Departmental Variations by Spend

	Revised Budget	Forecast Outturn	Variance	RAGBY	Change from Month 3
	£000	£000	£000		£000
Gross Expenditure					
Employees	140,936	143,936	3,000	R	-500
Premises	22,180	23,480	1,300	R	-200
Transport	8,556	10,056	1,500	R	+200
Supplies and Services	113,960	125,460	11,500	R	+1,500
Third Party Payments	72,438	72,438	-	G	-
Transfer Payments	163,072	163,072	-	G	-
Support Services	79,115	79,115	-	G	-
Financing Costs	72,167	71,167	-1,000	B	-1,000
Schools Expenditure	442,596	442,596	-	G	-
Total Expenditure	1,115,020	1,131,320	16,300		-

Table 3 (con)’: 2012/13 Projected Departmental Variations by Income

	Revised Budget	Forecast Outturn	Variance	RAGBY	Change from Month 3
Gross Income					-
Schools Income	439,851	439,851	-	G	-
Government Grants	205,025	206,025	-1,000	B	-1,700
Other Grants/Reimbursements	17,810	18,210	-400	B	-400
Customer and Client Receipts	45,751	45,751	-	G	-
Other	130	130	-	G	-
Interest	875	1,375	-500	G	-500
Recharge to Other Rev A/c	140,823	140,823	-	G	-
Total Income	850,265	852,165	-1,900		-2,600
Net Expenditure	264,755	279,155	14,400		-2,600

- 2.9 Schools expenditure funded from the Dedicated Schools Grant. As this grant is ringfenced any over/underspend not impact on the General Fund financial position.

RAGBY REPORTING AND OTHER ISSUES

- 2.10 The Red and Yellow RAGBY issues that are the subject of corporate focus are detailed in the following sections by Business Area (by Department identifying the service) and then by Subjective Area (by the type of spend / income).

2.11 Business Area Reds

Adult Social Services: Pressures remain at £10.2m. These arise from underlying and further demand pressures on the care services budgets which account for £8.2m of the potential overspend. There is additional pressure from an increase to the turnover target and in the delivery of savings under the Early Voluntary Retirement / Voluntary Severance Scheme which total £2m.. Consultation with care home providers in respect of fee rates for 2012/13 is ongoing and may add to pressures already identified.

Children and Young People: Of the total of £4.8m the main pressures are in Social Care and Transport. In the former are looked after children and residential care where numbers continue to exceed target levels and account for £3.5m of the potential overspend. Transport is provided by the department on behalf of all departments and the projected overspend continues to be in the order of £1.2m reflecting both Special Education Needs and Adults transport.

Law, HR and Asset Management: Pressures of £1.9m relate to savings not yet achieved with approximately £0.8m of these savings to be allocated against other departmental budgets leaving the remainder to be allocated against LHRAM.

2.12 Business Area Yellows

Finance: There is a predicted underspend of £2.5m. Arising from Treasury Management; lower borrowing costs and higher than forecast investment returns will provide benefit of £1.5m. Housing benefit is forecast to provide a further £1m of savings.

2.13 Subjective Area Reds

Employees. Departments have been allocated additional vacancy control targets for 2012/13 whilst for Adults there remain the achievement of savings expected from the Early Voluntary Retirement / Voluntary Severance Scheme. There are also savings targets under Employees Terms and Conditions and Business Transformation change projects which have yet to be progressed.

Premises. This relates to the delivery of savings under the rationalisation of office accommodation which is not progressing in accordance with the expected timetable.

Transport. The Integrated transport unit is managed by Children & Young People and the budget continues to be under pressure as a consequence of the demands in respect of Adults Services and Special Education Needs. There is also a projected overspend of £0.3m on the social workers car allowances budget.

Supplies and Services. The pressures within Adult Social Services and Children & Young People relate to care service costs and it is projected that the overspends will be in the order of £8.2m and £3.5m respectively.

MANAGEMENT ACTIONS

2.14 The Departmental Directors and the Executive Team continue to seek to identify actions to keep spend within the Budget allocated – these actions are detailed in Appendix 5. Besides the normal Management actions to address the financial pressures, the spending freeze, was implemented by Cabinet on 6 September 2012. Administrative arrangements have been put in place to differentiate between critical expenditures, where the freeze will not apply, and non-critical expenditures, that will cease.

2.15 A number of items have been identified as recurring issues, such as the inability to meet income targets in cultural services and car parking. There is an exercise being undertaken to review the accuracy of budgets, in order to:

- Identify short-term funding for 2012/13, if there is a net increase in cost; and,
- As part of compiling next year's budget, propose growth or savings to ensure that the budget inaccuracies are corrected and budgets are soundly based,

and a parallel review of Earmarked Reserves is being undertaken.

3 RELEVANT RISKS

3.1 The possible failure to deliver the Revenue Budget will be mitigated by the monthly review by Chief Officers, charged with improving performance. There are a number of risks that may impact adversely on the forecast expenditure for the remaining months of the year including:-

- Individual budgets may turn out to be unsound, for the excess of codes has given scope to behaviors that have spread expenditure over inappropriate budgets;
- Increased demand for services, particularly within Adult and Children's Social Care Services, where greater than forecast numbers coming into care services can impact significantly on financial forecasts.
- The impact of the economic downturn significantly affects both the demand for services and also levels of income, such as fees and charges and arrears collection. This report already forecasts a potential under recovery of fees and charges which may need to be revised if the economic downturn was to worsen.
- The Council's arrangements for the implementation of a new pay and grade structure under Single Status are progressing and an earmarked reserve for the costs of implementation has been established. There remains uncertainty as to the likely final costs.
- There are budget saving options still to be delivered and these are detailed in Appendix 6. Those yet to be delivered are reflected in the forecast overspends of the Departments.

4 OTHER OPTIONS CONSIDERED

4.1 Options are included for Cabinet to consider on increasing the level of the General Fund balance.

5 CONSULTATION

5.1 No consultation has been carried out in relation to this report.

6 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 As yet there are no implications for voluntary, community or faith groups.

7 RESOURCE IMPLICATIONS: FINANCIAL, IT, STAFFING AND ASSETS

7.1 The agreed level of General Fund balance was set at £6m, as part of the March budget decision. It remains at the policy level, in the main, due to the release of an earmarked reserve.

Table 4 : SUMMARY OF THE PROJECTED GENERAL FUND BALANCES

Details	£m	£m
Projected balance 31 March 2013 when setting the Budget 2012/13		8.8
Add : Increase following completion of 2011/12 accounts	+2.0	
Add : Council Tax re-imburement met in 2011/12 rather than budgeted 2012/13	+3.9	
		14.7
Less : Cabinet decisions since the 2012/13 Budget was agreed	-0.7	
Add : Cabinet decision September 6 to release Earmarked Reserve	+7.0	+6.3
Less : Potential overspends, at M4		-14.4
Projected balance 31 March 2013		6.6

- 7.2 The current levels of Earmarked Reserves are shown in Table 5 with a full listing included at Appendix 7.

Table 5: Earmarked Reserves 2012/13

	Balance at 1 April 2012 £000s	Movement in year £000s	Current Balance 30 June 2012 £000s
Housing Benefit Reserve	11,155	-	11,155
Insurance Fund	9,635	-	9,635
Working Neighbourhoods Fund	7,959	-	7,959
Debt Restructuring Fund	7,941	-	7,941
Grant Reserves	1,884	-	1,884
Management of other risks	32,530	-	32,530
School Balances and Schools Related	15,144	-	15,144
Total Reserves	86,248	-	86,248

Note : Cabinet on 6 September 2012 agreed to release £7m of an Earmarked Reserve (Working Neighbourhood Fund).

8 LEGAL IMPLICATIONS

- 8.1 There are no legal implications arising directly from this report.

9 EQUALITIES IMPLICATIONS

- 9.1 This is essentially a monitoring report which reports on financial performance.

10 CARBON REDUCTION IMPLICATIONS

- 10.1 There are no implications arising directly from this report.

11 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 11.1 There are no implications arising directly from this report.

12 RECOMMENDATIONS

12.1 Cabinet is asked to note that :

- a) At Month 5, (August 2012), the full year forecast projects a potential General Fund overspend of £15.3m;
- b) A review of over/underspends and Earmarked Reserves is being undertaken.
- c) The M4 monitor will be presented with this M5 monitor.

13 REASONS FOR THE RECOMMENDATIONS

13.2 The Council having set a Budget at the start of the financial year needs to ensure that the delivery of this Budget is achieved. This has to be within the allocated and available resources to ensure the ongoing financial stability of the Council. Consequently there is a requirement to regularly monitor progress so that corrective action can be taken when required which is enhanced with the monthly reporting of the financial position.

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APPENDICES

- Appendix 1 Revenue Monitoring and Reporting Timetable 2012/13.
- Appendix 2 General Fund Revenue Budget for 2012/13 agreed by Council.
- Appendix 3 Changes to the Budget 2012/13 since it was set.
- Appendix 4 Financial Monitoring Statement Position as at 31 July 2012.
- Appendix 5 Management actions
- Appendix 6 Progress on delivering agreed savings 2012/13.
- Appendix 7 Earmarked Reserves – General Fund.

SUBJECT HISTORY

Council Meeting	Date
Revenue monitoring reports have previously been submitted as part of the Performance & Financial Review presented to Cabinet on a quarterly basis and from September 2012 are being submitted monthly.	

REVENUE MONITORING AND REPORTING TIMETABLE 2012/13

Budget Monitoring Timetable 2012/13

Period Number	Month	General Ledger Updated and Reports Available To Be Produced	Review by Departmental Teams	Reports Available For The Executive Team	Reports Available For Cabinet	Reports Available For Council Excellence Overview & Scrutiny Committee
			Monthly	Monthly	Monthly	Quarterly
1	April	06-May	-		-	-
2.	May	11-Jun	-		-	04-Jul
3	June	06-Jul	-	23-Aug	06-Sep	01-Oct
4	July	07-Aug	-	04-Oct	18-Oct	-
5	August	07-Sep	tbc	04-Oct	18-Oct	-
6	September	05-Oct	tbc	25-Oct	08-Nov	27-Nov
7	October	07-Nov	tbc	29-Nov	13-Dec	-
8	November	07-Dec	tbc	03-Jan	17-Jan	-
9.	December	08-Dec	tbc	24-Jan	07-Feb	26-Mar
10	January	07-Feb	tbc	28-Feb	14-Mar	-
11	February	07-Mar	tbc	tbc	tbc	Tbc
12	Outturn (Provisional)	tbc	tbc	tbc	tbc	Tbc

GENERAL FUND REVENUE BUDGET 2012/13

AGREED BY COUNCIL ON 1 MARCH 2012

Department	Current Budget
Expenditure	£000
Adult Social Services	66,660
Children & YP (plus Schools)	73,665
Finance	24,610
Law, HR and Asset Mgt	14,151
Regeneration, Housing and Planning	25,764
Technical Services	59,905
Merseytravel	29,060
Local Pay Review + Low Pay	248
EVR/VS Scheme	(290)
Council Tax Reimbursement	3,990
Contribution from Balances	(10,282)
Budget Requirement	287,481
Income	
Government Grant	144,737
C/Tax Freeze Grant	6,573
Local Services Grant	1,805
Council Tax	132,911
Collection Fund	1,455
Total Income	287,481
Statement of Balances	
As at 1 April	18,405
Contributions from Balances	(9,605)
Balances	8,800

**CHANGES TO THE BUDGET AGREED SINCE THE 2012/13 BUDGET WAS SET
RELATING TO THE COMPLETION OF THE 2011/12 ACCOUNTS**

Cabinet	Items	£m
21 Jun 12	2011/12 Financial Outturn report resulted in an improvement in balances due to a net underspend in the year	-5.9
	OVERALL IMPACT OF THESE DECISIONS	-5.9

VARIATIONS TO THE APPROVED BUDGETS 2012/13

Cabinet	Items	£m
29 Mar 12	Pacific Road Theatre – Law/Technical Services Increase budget	+0.6
12 Apr 12	Streetscene Contract Review - Increase budget	+0.1
	OVERALL IMPACT OF THESE DECISIONS	-0.7

WIRRAL COUNCIL

FINANCIAL MONITORING STATEMENT 2012/13

POSITION AS AT 31 JULY 2012

APPENDIX 4

Department	ORIGINAL BUDGET			MONITORING			COMMENTS (INCLUDING Red/Amber/Green RATING)	
	Policy Option	Saving Target	Agreed Budget	Changes Agreed	Changes Not agreed	Forecast	Rate	Comments
Expenditure	£000	£000	£000	£000	£000	£000		
Adult Social Services	500	2,567	66,660	-	£10.2 m pressures	66,660	A	Main pressure areas are within Community care services including additional 2012/13 pressures and underlying 2011/12 overspend and reduced health funding.
Children & YP (plus Schools)	1,378	2,899	73,665	-	£4.9 m pressures	73,665	A	Child care costs, particularly residential, as a result of rising demand remain the volatile area whilst transport costs represent a challenge.
Finance	100	5,310	24,610	-	Predicting -£2.5 m underspend	24,610	G	Treasury Management through higher investment returns and lower borrowing costs and increased Housing Benefit grant are likely to produce a predicted underspend of £2.5 million in the year.
Law, HR and Asset Mgt	(220)	1,759	13,901	250	£1.9 million pressures	14,151	A	The progression of the accommodation strategy (disposals and rationalisation) is a key area. Achievement of savings including those to reallocate to other departments a pressure area.
Regen, Housing and Planning	3,000	2,456	25,764	-	-	25,764	G	The income budgets for planning / building control are the main issue. A review of income is currently underway. No other variations as yet.
Technical Services	185	1,467	59,478	427	-	59,905	G	Income targets for car parking and cultural services activities remain the most significant challenge..
Merseytravel	-	-	29,060	-	-	29,060	G	Fixed amount - no change.
Local Pay Review + Low Pay	-	-	248	-	-	248	G	Available to meet the implementation of Job Evaluation / Low Pay.
NEVR/VS Scheme	-	-	(290)	-	-	(290)	G	Balance for CYP employees.
Council Tax Reimbursement	-	-	3,990	-	-	3,990	G	Amount of grant confirmed by Government in April.
Contribution from Balances	-	-	(9,605)	(677)	-	(10,282)	G	£9.605m before any changes agreed by Cabinet.
Budget Requirement	4,943	16,458	287,481	-	-	287,481		
Income								
Government Grant	-	-	144,737	-	-	144,737	G	Fixed amount - no change
C/Tax Freeze Grant	-	-	6,573	-	-	6,573	G	Fixed amount - but note £3.3m of this is for 2012/13 only.
Local Services Grant	-	-	1,805	-	-	1,805	G	Amount of grant confirmed by Government in April.
Council Tax	-	-	132,911	-	-	132,911	G	Fixed amount - no change
Collection Fund	-	-	1,455	-	-	1,455	G	Fixed amount - no change.
Total Income	-	-	287,481	-	-	287,481		
Statement of Balances								
As at 1 April	-	-	18,405	-	-	18,405		Opening balance with forecast for 31 March 2013 of £8.8 million.
Contributions from Balances	-	-	(9,605)	-	-	(9,605)		Before any changes agreed by Cabinet.
Cabinet decisions								
Changes – Agreed Cabinet	-	-	-	5,223	-	5,223		29 Mar Pacific Road £0.6m, 12 Apr Streetscene contract £0.1m, 2011/12 Financial Outturn report £5.9m increase
Changes – Not Agreed	-	-	-	-	-	-		Based upon departmental projections and not yet agreed.
BALANCES	-	-	8,800	5,223	-	14,023		Projected balance at start / end of year

MANAGEMENT ACTIONS**ACTIONS TAKEN BY THE EXECUTIVE TEAM / DEPARTMENTAL DIRECTORS TO REDUCE SPEND / INCREASE INCOME**

Department	Items	£000
Children	Connexions – Further reductions in the contract costs (in excess of the agreed savings target)	500
	Troubled Families –Successful submission for Government Grant which will help meet some of the existing costs.	250
	Academies – Increased income being achieved through a review of charges to academies for services provided.	100
	Total savings from these actions	850

PROGRESS ON DELIVERING THE AGREED SAVINGS 2012/13

ADULT SOCIAL SERVICES	£000	Comments / progress on implementation
Commissioning Of Services	1,600	The Department is currently reviewing how services are commissioned to deliver savings of £1.6m. An overarching commissioning strategy has been developed and was presented to 21 June Cabinet
Prevention Services	500	The Department is currently undertaking a review of all voluntary sector contracts and is seeking to re-commission this activity at a more efficient cost.
Employee Budgets 2%	400	This saving is in addition to the Department's existing staff turnover target of £496,100. The shortfall against the total target of £896,100 is estimated at £700,000.
Procurement	26	It is anticipated that this saving will be achieved
Austerity – Supplies	24	It is anticipated that this saving will be achieved
EVR Scheme	17	Saving have been achieved in full
CHILDREN & YOUNG PEOPLE	£000	Comments / progress on implementation
Early Intervention Grant	1,000	Has been achieved
Employee Budgets 2%	750	Progress remains difficult, with pressures on Social work.
EVR Scheme	386	Staff who left were from self funded areas, so no budget saving possible.
Connexions contract	250	Achieved, with a further £500k contract saving.
Schools Intervention Funding	250	Achieved
Procurement	246	Allocated across Social Care
Austerity – Supplies	16	Will be achieved within expenditure controls
FINANCE	£000	Comments / progress on implementation
Efficiency Investment Budget	2,500	The Efficiency Investment Budget has been reduced
Housing Benefit	1,200	This has been built into HB budgets
IT and Printing Services	550	This is part of the departments strategic savings target
Employees Budget 2%	520	This is part of the departments strategic savings target
EVR Scheme	343	This is part of the departments strategic savings target
Procurement	189	This is part of the departments strategic savings target
Austerity – Supplies	8	This saving has been built into departmental budgets
LAW,HR,ASSET MGT	£000	Comments / progress on implementation
Facilities Management	500	£250k achieved through the reduction in Maintenance budgets, the balance remaining is to be identified.
Business Transformation	300	Identification of how this saving can be achieved has been identified & a decision is awaited with regards to the allocation.
Employee Terms & Conditions	300	Identification of how this saving can be achieved has been identified & a decision is awaited with regards to the allocation.
Employee Budgets 2%	260	Currently on target to be achieved in year.
Office Rationalisation	260	Achieved
Disposal of Assets	100	Achieved.
Procurement	33	Budgets reduced to reflect these savings.
Austerity – Supplies	6	Budgets reduced to reflect these savings.

REG,HSG & PLANNING	£000	Comments / progress on implementation
Broadband Facility	1,075	Achieved
Home Insulation Programme	1,000	Achieved
Employee Budgets 2%	160	On target to achieve
Supporting People Contracts	150	Achieved
Merseyside Info Service	50	Achieved
EVR Scheme	13	Achieved
Austerity – Supplies	8	Achieved
TECHNICAL SERVICES	£000	Comments / progress on implementation
Procurement	745	Currently anticipated to be achieved. Biffa contract part of this
Employee Budgets 2%	380	Currently anticipated to be achieved.
EVR Scheme	150	Currently anticipated to be achieved.
Street Lighting	100	Currently anticipated to be achieved.
Highways Administration	80	Currently anticipated to be achieved.
Austerity – Supplies	12	Currently anticipated to be achieved.

EARMARKED RESERVES - GENERAL FUND

Earmarked Reserves	Balance at 1 April 2012 £000	Movement In Year	Current Balance 31 July 2012 £000
Schools Balances	11,767	-	11,767
Housing Benefit	11,155	-	11,155
Insurance Fund	9,635	-	9,635
Working Neighbourhood Fund	7,959	-	7,959
Debt Restructuring	7,941	-	7,941
Minimum Revenue Provision	4,400	-	4,400
Community Fund Asset Transfer	3,301	-	3,301
Intranet Development	3,161	-	3,161
Local Pay review	2,641	-	2,641
One Stop Shop/Libraries IT Networks	2,119	-	2,119
Supporting People Programme	1,505	-	1,505
Cosyhomes Insulation	1,244	-	1,244
School Harmonisation	1,241	-	1,241
Stay, Work, Learn Wise	908	-	908
Schools Capital Schemes	777	-	777
Matching Fund	558	-	558
20 MPH Zones	550	-	550
Home Adaptations	537	-	537
West Wirral Schemes	530	-	530
Merseyside Information Service	500	-	500
ERDF Match Funding	500	-	500
Strategic Asset Review	495	-	495
Planned Preventative Maintenance	483	-	483
Heritage Fund	420	-	420
Schools Automatic Meter Readers	415	-	415
Children's Workforce Development Council	399	-	399
Schools Contingency	370	-	370
Business Improvement Grant	342	-	342
Local Area Agreement Reward	322	-	322
Primary Care Trust Physical Activities	300	-	300
Schools Service IT	294	-	294
Schools Summer Term	280	-	280
Homeless Prevention	271	-	271
Other Reserves	<u>8,928</u>	-	<u>8,928</u>
	86,248		86,248

Note : Cabinet on 6 September 2012 agreed to release £7m of an Earmarked Reserve (Working Neighbourhood Fund).

REVENUE MONITORING AND REPORTING TIMETABLE 2012/13

Budget Monitoring Timetable 2012/13

Period Number	Month	General Ledger Updated and Reports Available To Be Produced	Review by Departmental Teams	Reports Available For The Executive Team	Reports Available For Cabinet	Reports Available For Council Excellence Overview & Scrutiny Committee
			Monthly	Monthly	Monthly	Quarterly
1	April	06-May	-		-	-
2.	May	11-Jun	-		-	04-Jul
3	June	06-Jul	-	23-Aug	06-Sep	01-Oct
4	July	07-Aug	-	04-Oct	18-Oct	-
5	August	07-Sep	tbc	04-Oct	18-Oct	-
6	September	05-Oct	tbc	25-Oct	08-Nov	27-Nov
7	October	07-Nov	tbc	29-Nov	13-Dec	-
8	November	07-Dec	tbc	03-Jan	17-Jan	-
9.	December	08-Dec	tbc	24-Jan	07-Feb	26-Mar
10	January	07-Feb	tbc	28-Feb	14-Mar	-
11	February	07-Mar	tbc	tbc	tbc	Tbc
12	Outturn (Provisional)	tbc	tbc	tbc	tbc	Tbc

GENERAL FUND REVENUE BUDGET 2012/13

AGREED BY COUNCIL ON 1 MARCH 2012

Department	Current Budget
Expenditure	£000
Adult Social Services	66,660
Children & YP (plus Schools)	73,665
Finance	24,610
Law, HR and Asset Mgt	14,151
Regeneration, Housing and Planning	25,764
Technical Services	59,905
Merseytravel	29,060
Local Pay Review + Low Pay	248
EVR/VS Scheme	(290)
Council Tax Reimbursement	3,990
Contribution from Balances	(10,282)
Budget Requirement	287,481
Income	
Government Grant	144,737
C/Tax Freeze Grant	6,573
Local Services Grant	1,805
Council Tax	132,911
Collection Fund	1,455
Total Income	287,481
Statement of Balances	
As at 1 April	18,405
Contributions from Balances	(9,605)
Balances	8,800

**CHANGES TO THE BUDGET AGREED SINCE THE 2012/13 BUDGET WAS SET
RELATING TO THE COMPLETION OF THE 2011/12 ACCOUNTS**

Cabinet	Items	£m
21 Jun 12	2011/12 Financial Outturn report resulted in an improvement in balances due to a net underspend in the year	-5.9
	OVERALL IMPACT OF THESE DECISIONS	-5.9

VARIATIONS TO THE APPROVED BUDGETS 2012/13

Cabinet	Items	£m
29 Mar 12	Pacific Road Theatre – Law/Technical Services Increase budget	+0.6
12 Apr 12	Streetscene Contract Review - Increase budget	+0.1
	OVERALL IMPACT OF THESE DECISIONS	-0.7

VIREMENTS BELOW LEVEL REQUIRING CABINET APPROVAL

Cabinet	Items	£m
The following adjustments have no bottom line impact on the authority budget:		
n/a	Adjustment of Community Asset Transfer capital financing budget from LawHRAM to Finance	0.077
n/a	Employee budget transferred from LawHRAM to HRP	0.034
n/a	Employee budget transferred from Technical Services to LawHRAM	0.035
n/a	Technical Services reallocation of Internal Savings Targets within budget lines	1.4
n/a	Reallocation of Home Insulation Works within Regeneration, Housing and Planning between Supplies and Services category and Third Party payments	1.1

MANAGEMENT ACTIONS**ACTIONS TAKEN BY THE EXECUTIVE TEAM / DEPARTMENTAL DIRECTORS TO REDUCE SPEND / INCREASE INCOME**

Department	Items	£000
Children	Connexions – Further reductions in the contract costs (in excess of the agreed savings target)	500
	Troubled Families –Successful submission for Government Grant which will help meet some of the existing costs.	250
	Academies – Increased income being achieved through a review of charges to academies for services provided.	100
	Academies – additional monies received from refund of 'top slice from Department for Education	150
All	Reviews of on going expenditure across all departments	
	Total savings from these actions	1,000

PROGRESS ON DELIVERING THE AGREED SAVINGS 2012/13

ADULT SOCIAL SERVICES	£000	Comments / progress on implementation	RAGBY
Commissioning Of Services	1,600	The Department is currently reviewing how services are commissioned to deliver savings of £1.6m. An overarching commissioning strategy has been developed and was presented to 21 June Cabinet	R
Prevention Services	500	The Department is currently undertaking a review of all voluntary sector contracts and is seeking to re-commission this activity at a more efficient cost.	R
Employee Budgets 2%	400	This saving is in addition to the Department's existing staff turnover target of £496,100. The shortfall against the total target of £896,100 is estimated at £700,000.	R
Procurement	26	It is anticipated that this saving will be achieved	G
Austerity – Supplies	24	It is anticipated that this saving will be achieved	G
EVR Scheme	17	Saving have been achieved in full	G
CHILDREN & YOUNG PEOPLE	£000	Comments / progress on implementation	
Early Intervention Grant	1,000	Has been achieved	G
Employee Budgets 2%	750	Progress remains difficult, with pressures on Social work.	R
EVR Scheme	386	Staff who left were from self funded areas, so no budget saving possible.	R
Connexions contract	250	Achieved, with a further £500k contract saving.	Y
Schools Intervention Funding	250	Achieved	G
Procurement	246	Allocated across Social Care	R
Austerity – Supplies	16	Will be achieved within expenditure controls	G
FINANCE	£000	Comments / progress on implementation	
Efficiency Investment Budget	2,500	The Efficiency Investment Budget has been reduced	G
Housing Benefit	1,200	This has been built into HB budgets	G
IT and Printing Services	550	This is part of the departments strategic savings target	A
Employees Budget 2%	520	This is part of the departments strategic savings target	A
EVR Scheme	343	This is part of the departments strategic savings target	G
Procurement	189	This is part of the departments strategic savings target	A
Austerity – Supplies	8	This saving has been built into departmental budgets	G
LAW,HR,ASSET MGT	£000	Comments / progress on implementation	
Facilities Management	500	£250k achieved through the reduction in Maintenance budgets, the balance remaining is to be identified.	R
Business Transformation	300	Target will not be achieved in 2012/13	R
Employee Terms & Conditions	300	. Target will not be achieved in 2012/13	R
Employee Budgets 2%	260	Currently on target to be achieved in year.	A
Office Rationalisation	260	Achieved	G
Disposal of Assets	100	Achieved.	G

Procurement	33	Budgets reduced to reflect these savings.	G
Austerity – Supplies	6	Budgets reduced to reflect these savings.	G

REG,HSG & PLANNING	£000	Comments / progress on implementation	
Broadband Facility	1,075	Achieved	G
Home Insulation Programme	1,000	Achieved	G
Employee Budgets 2%	160	On target to achieve	G
Supporting People Contracts	150	Achieved	G
Merseyside Info Service	50	Achieved	G
EVR Scheme	13	Achieved	G
Austerity – Supplies	8	Achieved	G
TECHNICAL SERVICES	£000	Comments / progress on implementation	
Procurement	745	Currently anticipated to be achieved. Biffa contract part of this	G
Employee Budgets 2%	380	Currently anticipated to be achieved.	G
EVR Scheme	150	Currently anticipated to be achieved.	G
Street Lighting	100	Currently anticipated to be achieved.	G
Highways Administration	80	Currently anticipated to be achieved.	G
Austerity – Supplies	12	Currently anticipated to be achieved.	G

EARMARKED RESERVES - GENERAL FUND

Earmarked Reserves	Balance at 1 April 2012 £000	Movement In Year	Current Balance 31 July 2012 £000
Schools Balances	11,767	-	11,767
Housing Benefit	11,155	-	11,155
Insurance Fund	9,635	-	9,635
Working Neighbourhood Fund	7,959	(7,000)	959
Debt Restructuring	7,941	-	7,941
Minimum Revenue Provision	4,400	-	4,400
Community Fund Asset Transfer	3,301	-	3,301
Intranet Development	3,161	-	3,161
Local Pay review	2,641	-	2,641
One Stop Shop/Libraries IT Networks	2,119	-	2,119
Supporting People Programme	1,505	-	1,505
Cosyhomes Insulation	1,244	-	1,244
School Harmonisation	1,241	-	1,241
Stay, Work, Learn Wise	908	-	908
Schools Capital Schemes	777	-	777
Matching Fund	558	-	558
20 MPH Zones	550	-	550
Home Adaptations	537	-	537
West Wirral Schemes	530	-	530
Merseyside Information Service	500	-	500
ERDF Match Funding	500	-	500
Strategic Asset Review	495	-	495
Planned Preventative Maintenance	483	-	483
Heritage Fund	420	-	420
Schools Automatic Meter Readers	415	-	415
Children's Workforce Development Council	399	-	399
Schools Contingency	370	-	370
Business Improvement Grant	342	-	342
Local Area Agreement Reward	322	-	322
Primary Care Trust Physical Activities	300	-	300
Schools Service IT	294	(16)	278
Schools Summer Term	280	-	280
Homeless Prevention	271	-	271
Other Reserves	<u>8,928</u>	<u>(24)</u>	<u>8,904</u>
	86,248	(7,040)	79,208

Note : Cabinet on 6 September 2012 agreed to release £7m of an Earmarked Reserve (Working Neighbourhood Fund).

WIRRAL COUNCIL

CABINET

18 OCTOBER 2012

SUBJECT	CAPITAL MONITORING 2012/13– PERIOD 5 (AUGUST)
WARD/S AFFECTED	ALL
REPORT OF	INTERIM DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER	COUNCILLOR PHIL DAVIES
KEY DECISION	YES

1. EXECUTIVE SUMMARY

1.1 This purpose of this report is to inform Members of the current position regarding the Council's 2012-13 to 2014-15 capital programme. The report reflects:

- The re-profiled 2012-13 capital programme budget;
- The expenditure to date, which continues to be less than it should be;
- The projected outturn figures for 2012-13, which suggest slippage of at least £11m and,
- The current funding of the programme and its future affordability, which in the light of the Revenue monitor requires review.

1.2 The report also seeks Member approval for a proposed increase in the programme of £676,000 per annum between 2012/13 and 2014/15. This is to deliver a number of sustainable transport measures which will be financed from a specific capital grant.

2. BACKGROUND AND KEY ISSUES

2.1 To improve transparency and the completeness of information the capital programme monitor will be produced each month of the financial year. This will enable decisions to be taken quickly to lessen delays which cause slippage. A capital programme outturn report will be produced in June 2013.

2.2 The 'Capital Strategy 2012-13 to 2014-15' report was approved by Council March 1st 2012. This included indicative allocations of capital grants for 2012-13 to 2014-15.

2.3 The Council's capital programme will be subject to monthly review by a senior group of officers which is currently being established. Under a banner of the Capital Programme Group, each project will be scrutinised as follows:

- Project approvals for financing, delivering corporate outcomes and delivery timetable;
- Financial appraisals for funding and ongoing revenue costs
- Spend profiles against delivery timetable;
- End of project reviews;
- Delivery of Asset Management Plans and overall strategy.

2.4 Original and latest proposed capital programme for 2012-13

2.4.1 The capital budget for 2012-13 is subject to change. The Period 4 monitor detailed slippage of £34 million carried forward from 2011/12 plus an additional overall in year reduction of £2.2 million reflecting changes to slippage and revised programme approvals. Table 1 summarises the overall movement, between that already approved, and changes to Period 5 that require approval – there was an increase of just under £0.7 million.

Table 1: Revised Capital Programme 2012-13 Period 5 (August) £000's

	Capital Strategy	Changes Approved by Cabinet	Budget changes to be approved By Cabinet	Revised 2012-13 Capital Programme
Adult Social Care	2,750	0	0	2,750
Children's & Young People	21,481	6,516	0	27,997
Finance	0	3,507	0	3,507
Law, HR & Asst Management	4,000	5,703	0	9,703
Regeneration, Housing & Planning	6,079	10,564	0	16,643
Technical Services	7,668	5,529	676	13,873
Grand Total Expenditure	41,978	31,819	676	74,473

2.5 A summary of the significant changes to be approved by Cabinet for Period 5 are provided below:

- Technical Services - Changes to the programme in period 5 include the proposed addition of £676,000 from a successful funding bid made by the Merseyside Transport Partnership (MTP) to the Department for Transport (DfT) to deliver a programme of sustainable transport measures. In total Wirral will receive funding of £2.027 million of capital monies over three years, with a further £1.149 million of supporting revenue funding over the same period. The monies will be used for a variety of schemes aimed at improving the walking and cycling links and the Highways network, mainly, in East Wirral. Appendix 2 contains a report containing further detail and requesting Cabinet approval for these schemes.

2.6 Actual Expenditure to Date – is the programme being delivered to plan?

2.6.1 The actual Capital expenditure at Period 5 is £12m, which represents 16.1% of the revised capital budget, with 42% of the financial year having elapsed.

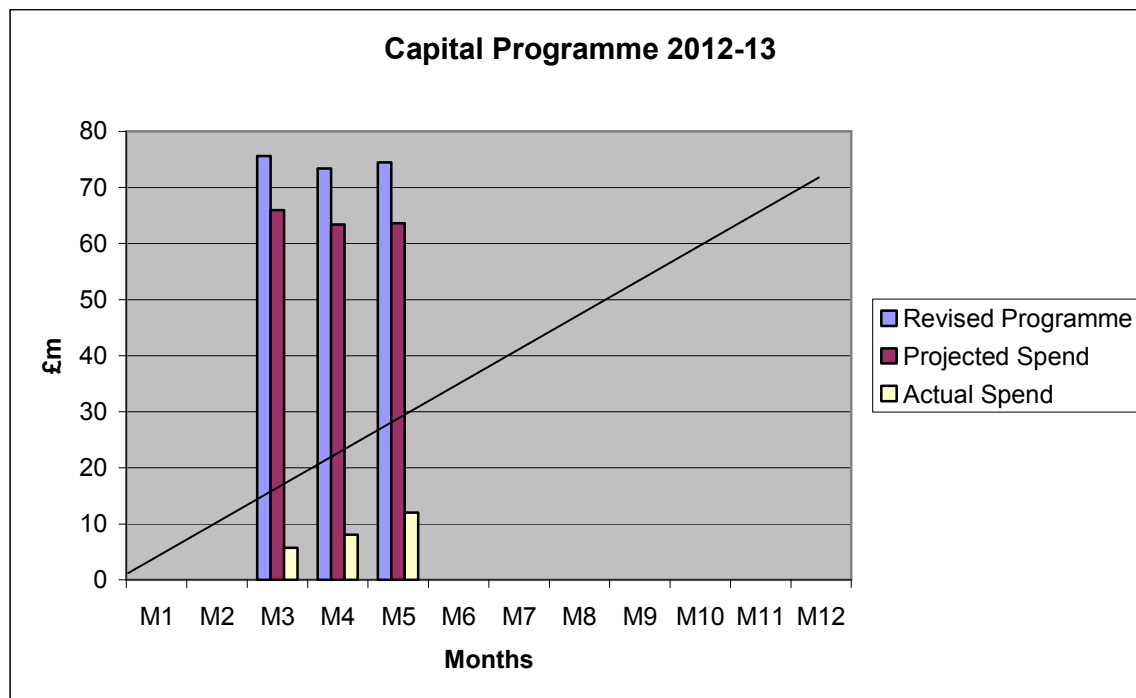
Table 2: Spend to date April to August (5/12 = 42%)

	Spend to date	
	£,000's	Per cent
Adult Social Care	0	0.0
Children's & Young People	5,689	20.3
Finance	20	0.6
Law, HR & Asset Management	948	9.8
Regeneration, Housing & Planning	3,027	18.2
Technical Services	2,341	16.9
Grand Total Expenditure	12,025	16.1

2.7 The Period 5 figures include an additional £4 million of expenditure incurred during the month. This comprises an additional £2 million of expenditure within CYP and a

further £1 million each incurred on RHP and Technical Services schemes. The level of expenditure however continues to be less than anticipated with only 16% of the programme expended after 5 months. An element of this can be explained by the time lag between work being completed and invoices then being raised by contractors and then paid by the authority. However there is likely to be a substantial underspend within the 2012/13 capital programme. Future delivery programmes will be subject to a detailed review, so that 2012-13 forecasts are more robust in delivery and timescales.

Chart 1: Capital Programme spend below line of best fit



- 2.8 There is a financial risk regarding costs and delays with the Pensby/Stanley School build within the Children and Young People’s capital programme. Regular meetings are taking place with the contractor to discuss the financial issues. A future report to Cabinet will provide further detail regarding any financial implications once these are quantified.
- 2.9 Unless spend performance improves the likely outturn would be in the region of £63.6m, not the £74.5m planned. Table 3 sets out the variations; these are derived from returns submitted from Departments. A revision to the planned programme will be considered as part of a future monitor.

Table 3: Projected Outturn compared to Revised Budget £000’s

	Revised Budget	Projected Outturn	Variation
Adult Social Care	2,750	2,125	-625
Children's & Young People	27,997	27,997	0
Finance	3,507	3,507	0
Law, HR & Asst Management	9,703	5,663	-4,040
Regeneration, Housing & Planning	16,643	10,956	-5,687
Technical Services	13,873	13,361	-512
Grand Total Expenditure	74,473	63,609	-10,864

2.10 Financing of the capital programme

2.10.1 Table 4 summarises the financing sources and changes made to Period 5. The major changes since the capital programme was approved in March are slippages of funding following closure of the 2011-12 programme, changes in grant funding as reported in previous Cabinet reports, and re-profiling of financing to 2012/13. The amendment to grant in period 4 reflects adjustments to reflect that grant from 2011/12 will fund part of the 2012/13 programme.

Table 4: Revised Capital Programme Financing 2012-13 £000's

Capital Programme Financing	Capital Strategy	Changes approved by Cabinet	Budget changes To be approved by Cabinet	Revised 2012-13 Capital Programme
Supported Borrowing				
Grant – Education	20,181	5,200	0	25,381
Grant – Transport Integrated	1,155	5	0	1,160
Grant – Transport Local	2,958	0	0	2,958
Grant – Local Sustainable Transport Fund	0	0	676	676
Grants – Other	5,349	5,038	0	10,387
Private Contributions	0	0	0	0
Capital Receipts brought forward	3,000	0	0	3,000
Revenue Contributions	300	1,360	0	1,660
Unsupported Borrowing	9,035	20,216	0	29,251
Total Financing	41,978	31,819	676	74,473

2.10.2 Where there is a “cocktail” of funding to a scheme, the Council maximises the use of grant and other external resources before using its own receipts and borrowing. Capital receipts are used to minimise the impact on the revenue budget by being applied to schemes which would require a relatively significant minimum revenue provision to be made.

2.11 Projected Longer Term Capital Programme

2.11.1 The current forecast capital programme for 2012/13 to 2014-15 is shown in Table 5 below by year and means of financing. It should be noted that this has been updated since the completion of the 2012/13 to 2014-15 Capital Programme Report to Council to reflect the further slippage and approval of additional grant resources. The table below includes £676,000 per year in 2012/13 to 2014/15 relating to Local Sustainable Transport schemes. These are to be funded from a Department of Transport grant following a successful bid made by the Merseyside Transport Partnership. Inclusion of these schemes within the capital programme is subject to this Cabinet’s approval.

Table 5: Capital Programme Financing 2012-13 to 2014-15 £000's

Capital Programme Financing	2012/13	2013/14	2014/15	
	R Estimate	Estimate	Estimate	Total
Grant – Education	25,381	0	0	25,381
Grant – Transport Integrated	1,160	1,155	1,155	3,470
Grant – Transport Local	2,958	2,864	2,699	8,521
Grant – Local Sustainable Transport Fund	676	676	676	2,028
Grants – Other	10,387	4,844	2,165	17,396
Private Contributions				
Capital Receipts brought forward	3,000	3,000	3,000	9,000
Revenue Contributions	1,660	300	0	1,960
Unsupported Borrowing	29,251	16,110	3,405	48,766
Total Financing	74,473	28,273	12,424	114,494

2.11.2 The Capital Strategy needs to be made more affordable by delivering the planned capital receipts and reducing the element of unsupported borrowing and the associated ongoing revenue costs.

2.12 Supported and unsupported borrowing and the revenue consequences of Unsupported Borrowing

2.12.1 The cost of £1m of Prudential Borrowing would result in additional revenue financing costs of £100,000 per annum. As part of the Capital Strategy 2012-13 to 2014/15 the Council has included an element of prudential borrowing. At Period 5, there is a sum of £48.8m of new unsupported borrowing included over the next three years, which will result in approximately £4.9m of additional revenue costs detailed at Table 6, if there is no change in strategy.

Table 6: Revised Unsupported Borrowing Forecasts & Revenue costs £000's

	2012-13	2013/14	2014/15	2015-16	Total
	Estimate				
New Unsupported borrowing	29,251	16,110	3,405		48,766
Cumulative Revenue repayment costs over 25 years		2,925	1,611	341	4,877

2.12.2 Given the predicted revenue overspend previously reported, it is important to reduce the revenue costs of capital. A pause of two months in the start to new unsupported capital schemes was agreed by Cabinet on September 6.

2.13 Capital Receipts Position

2.13.1 The current capital programme is reliant on the Council generating a limited amount of capital receipts to finance the capital programme. Table 7 below, summarises the current allocated and projected capital receipted position across 2012-13 to 2014/15. The schedule of supporting sites that are to be sold is to be worked up for a future report.

Table 7: Projected capital receipts position – funding requirement £000's

	2012-13	2013/14	2014/15	Total
Funding assumption	3,000	3,000	3,000	9,000

2.13.2 These receipts are being reviewed in future periods, along with other strategic site availability, to maximise the offset of unsupported borrowing, and so reduce future revenue growth.

2.13.3 There is a high level of risk in these projections as they are subject to changes in legislation, property and land values, the actions of potential buyers and being granted planning permission on sites.

3.0 RELEVANT RISKS

3.1 The possible failure to deliver the Capital Programme will be mitigated by the monthly review by a senior group of officers, charged with improving performance. They will also be able to improve the affordability of the programme.

4.0 OTHER OPTIONS CONSIDERED

4.1 None.

5.0 CONSULTATION

5.1 No consultation has been carried out in relation to this report.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 As yet, there are no implications for voluntary, community or faith groups.

7.0 RESOURCE IMPLICATIONS

7.1 The whole report is about significant resource implications.

8.0 LEGAL IMPLICATIONS

8.1 There are no legal implications.

9.0 EQUALITIES IMPLICATIONS

9.1 An Equality impact assessment is attached at Appendix 2 to this report. This covers issues relating to the Sustainable Transport scheme proposals. The remainder of this report provides monitoring information relating to previously approved capital schemes. The impact of delays to the programme will be considered in a future report.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 None.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 None.

12.0 RECOMMENDATIONS

12.1 That Cabinet:

- a) Agree the Period 5 increase of £676,000 to the programme relating to the Local Sustainable Transport Fund and the recommendations as outlined in paragraph 13 of appendix 2
- b) Agree the Period 4 net decrease of £1.789 million to the latest 2012-13 Capital Programme (Appendix 1),
- c) Agree the revised Capital Programme of £74.473m;
- d) Note the spend to date of £12m, which represents 16.1% of the revised capital budget, with 42% of the financial year having elapsed;
- e) Note the £48.8m of new unsupported borrowing included over the next three years, which will result in approximately a £4.9m additional revenue costs;
- f) Note the work to detail the schedule of sites to validate the estimate of capital receipts.
- g) Note that a future report will include proposals to cease or reduce schemes arising from a review of the current capital programme

13.0 REASONS FOR RECOMMENDATIONS

13.1 Regular monitoring and reporting of the capital programme will enable decisions to be taken quicker which may produce revenue benefits and will improve financial control of the programme.

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APPENDIX: Appendix 1 Capital Monitor Period 4
Appendix 2 Equality Impact Assessment Form

REFERENCE MATERIAL

SUBJECT HISTORY

Council Meeting	Date
Capital monitoring reports have previously been submitted as part of the Performance & Financial Review presented to Cabinet on a quarterly basis and from September 2012 are being submitted monthly	

WIRRAL COUNCIL

CABINET

18 OCTOBER 2012

SUBJECT	CAPITAL MONITORING 2012/13– PERIOD 4 (JULY)
WARD/S AFFECTED	ALL
REPORT OF	INTERIM DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER	COUNCILLOR PHIL DAVIES
KEY DECISION	YES

1. EXECUTIVE SUMMARY

1.2 This purpose of this report is to inform Members of the current position regarding the Council's 2012-13 to 2014-15 capital programme taking into account the latest monitoring information on the progress of the schemes, any budget increases/decreases and the re-profiling of budgets between 2012-13 and future years. The report reflects:

- The re-profiled 2012-13 capital programme budget;
- The expenditure to date, which continues to be less than it should be;
- The projected outturn figures for 2012-13, which suggest increased slippage to £10m; and
- The current funding of the programme and its future affordability, which in the light of the Revenue monitor requires review.

2. BACKGROUND AND KEY ISSUES

2.1 To improve transparency and the completeness of information the capital programme monitor will be produced each month of the financial year. This will enable decisions to be taken quickly to lessen delays which cause slippage. A capital programme outturn report will be produced in June 2013.

2.2 The 'Capital Strategy 2012-13 to 2014-15' report was approved by Council March 1st 2012. This included indicative allocations of capital grants for 2012-13 to 2014-15.

2.3 The Council's capital programme will be subject to monthly review by a senior group of officers. Under a banner of the Capital Programme Group, each project will be scrutinised as follows:

- Project approvals for financing, delivering corporate outcomes and delivery timetable;
- Financial appraisals for funding and ongoing revenue costs
- Spend profiles against delivery timetable;
- End of project reviews;
- Delivery of Asset Management Plans and overall strategy.

2.4 Original and latest proposed capital programme for 2012-13

2.4.1 The capital budget for 2012-13 is subject to change. The period 3 monitor detailed slippage of £34 million carried forward from 2011/12 plus an additional overall in year reduction of £400,000 reflecting changes to slippage and revised programme approvals. Table 1 summarises the overall movement, between that already approved, and changes to Period 4 that require approval – there was a reduction of just under £1.8 million.

Table 1: Revised Capital Programme 2012-13 Period 4 (July) £000's

	Capital Strategy	Changes Approved by Cabinet	Budget changes to be approved By Cabinet	Revised 2012-13 Capital Programme
Adult Social Care	2,750	2,015	-2,015	2,750
Children's & Young People	21,481	6,516	0	27,997
Finance	0	3,507	0	3,507
Law, HR & Asst Management	4,000	5,703	0	9,703
Regeneration, Housing & Planning	6,079	10,564	0	16,643
Technical Services	7,668	5,303	226	13,197
Grand Total Expenditure	41,978	33,608	-1,789	73,797

2.5 A summary of the significant changes to be approved by Cabinet for Period 4 are provided below:

- Adult Social Services - This is an amendment to the slippage report, (Cabinet 21/6/12). The slippage carried forward from 2011/12 is to fund the 2012/13 capital strategy approved amount. This meant less slippage was required than had been identified.
- Technical Services -. Changes to the Technical Services capital programme in period 4 included, a £75,000 contribution from Asda towards improved signage around their new Birkenhead development and £151,000 towards junction improvements at Greasby Road funded from existing revenue reserves.

2.6 Actual Expenditure to Date – is the programme being delivered to plan?

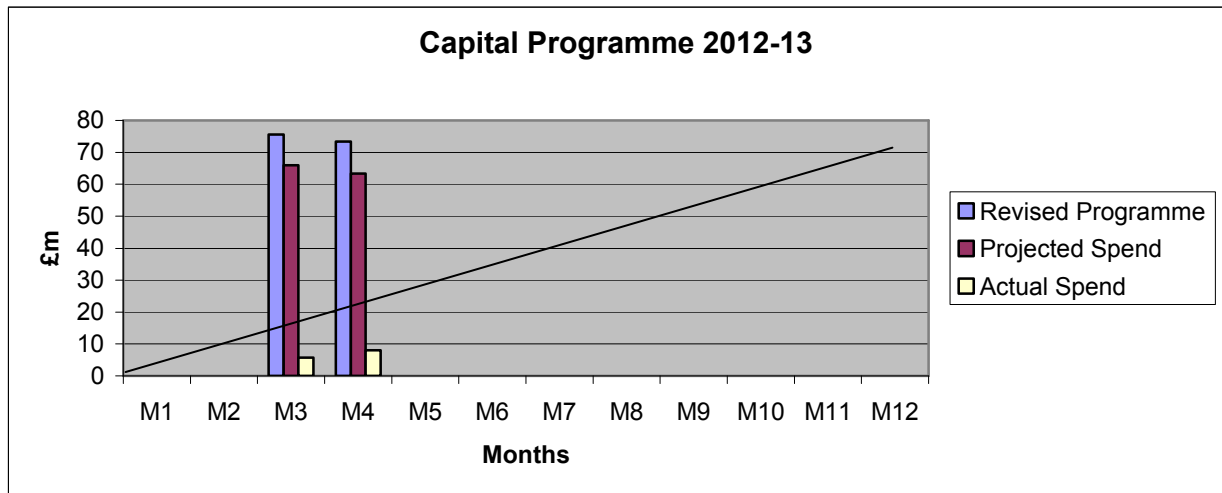
2.6.1 The actual Capital expenditure at Period 4 is £8.1m, which represents 10.9% of the revised capital budget, with 33% of the financial year having elapsed.

Table 2: Spend to date April to July 33%

	Spend to date	
	£,000's	Per cent
Adult Social Care	0	0.0
Children's & Young People	3,572	12.8
Finance	9	0.3
Law, HR & Asst Management	948	9.8
Regeneration, Housing & Planning	2,212	13.3
Technical Services	1,324	10.0
Grand Total Expenditure	8,065	10.9

2.7 The level of expenditure is less than anticipated. Future delivery programmes will be subject to a detailed review, so that 2012-13 forecasts are more robust in delivery and timescales.

Chart 1: Capital Programme spend below line of best fit



2.8 There is a financial risk regarding costs and delays with the Pensby/Stanley School build within the Children and Young People’s capital programme. Regular meetings are taking place with the contractor to discuss the financial issues. A future report to Cabinet will provide further detail regarding any financial implications once these are quantified.

2.9 Unless spend performance improves the likely outturn would be in the region of £60.4m, not the £73.4m planned. Table 3 sets out the variations; these are derived from returns submitted from Departments. A revision to the planned programme will be considered as part of a future monitor.

Table 3: Projected Outturn compared to Revised Budget £000’s

	Revised Budget	Projected Outturn	Variation
Adult Social Care	2,750	2,125	-625
Children’s & Young People	27,997	27,997	0
Finance	3,507	3,507	0
Law, HR & Asst Management	9,703	5,663	-4,040
Regeneration, Housing & Planning	16,643	10,956	-5,687
Technical Services	13,197	13,134	-63
Grand Total Expenditure	73,797	63,382	-10,415

2.10 Financing of the capital programme

2.10.1 Table 4 summarises the financing sources and changes made to Period 4. The major changes since the capital programme was approved in March are slippages of funding following closure of the 2011-12 programme, changes in grant funding as reported in previous Cabinet reports, and re-profiling of financing to 2012/13. The amendment to grant in period 4 reflects adjustments to reflect that grant from 2011/12 will fund part of the 2012/13 programme.

Table 4: Revised Capital Programme Financing 2012-13 £000's

Capital Programme Financing	Capital Strategy	Changes approved by Cabinet	Budget changes To be approved by Cabinet	Revised 2012-13 Capital Programme
Supported Borrowing				
Grant - Education	20,181	5,200	0	25,381
Grant – Transport Integrated	1,155	5	0	1,160
Grant – Transport Local	2,958	0	0	2,958
Grants - Other	5,349	7,053	-2,015	10,387
Private Contributions	0	0	0	0
Capital Receipts brought forward	3,000	0	0	3,000
Revenue Contributions	300	1,134	226	1,660
Unsupported Borrowing	9,035	20,216	0	29,251
Total Financing	41,978	33,608	-1,789	73,797

2.10.2 Where there is a “cocktail” of funding to a scheme, the Council maximises the use of grant and other external resources before using its own receipts and borrowing. Capital receipts are used to minimise the impact on the revenue budget by being applied to schemes which would require a relatively significant minimum revenue provision to be made.

2.11 Projected Longer Term Capital Programme

2.11.1 The current forecast capital programme for 2012/13 to 2014-15 is shown in Table 5 below by year and means of financing. It should be noted that this has been updated since the completion of the 2012/13 to 2014-15 Capital Programme Report to Council to reflect the further slippage and approval of additional grant resources.

Table 5: Capital Programme Financing 2012-13 to 2014-15 £000's

Capital Programme Financing	2012/13	2013/14	2014/15	
	R Estimate	Estimate	Estimate	Total
Grant - Education	25,381	0	0	25,381
Grant – Transport Integrated	1,160	1,155	1,155	3,470
Grant – Transport Local	2,958	2,864	2,699	8,521
Grants - Other	10,387	4,844	2,165	17,396
Private Contributions				
Capital Receipts brought forward	3,000	3,000	3,000	9,000
Revenue Contributions	1,660	300	0	1,960
Unsupported Borrowing	29,251	16,110	3,405	48,766
Total Financing	73,797	28,273	12,424	114,494

2.11.2 The Capital Strategy needs to be made more affordable by delivering the planned capital receipts and reducing the element of unsupported borrowing and the associated ongoing revenue costs.

2.12 Supported and unsupported borrowing and the revenue consequences of Unsupported Borrowing

2.12.1 The cost of £1m of Prudential Borrowing would result in additional revenue financing costs of £100,000 per annum. As part of the Capital Strategy 2012-13 to 2014/15 the Council has included an element of prudential borrowing. At Period 3, there was a sum of £48.8m of new unsupported borrowing included over the next three years,

which will result in approximately £3.5m of additional revenue costs detailed at Table 6, if there is no change in strategy.

Table 6: Revised Unsupported Borrowing Forecasts & Revenue costs £000's

	2012-13	2013/14	2014/15	2015-16	Total
	Estimate				
New Unsupported borrowing	29,251	16,110	3,405		48,766
Cumulative Revenue repayment costs over 25 years		2,925	1,611	341	4,877

2.12.2 Given the predicted revenue overspend previously reported, it is important to reduce the revenue costs of capital. A pause of two months in the start to new unsupported capital schemes is recommended, until there is a clear view on revenue.

2.13 Capital Receipts Position

2.13.1 The current capital programme is reliant on the Council generating a limited amount of capital receipts to finance the capital programme. Table 7 below, summarises the current allocated and projected capital receipted position across 2012-13 to 2014/15. The schedule of supporting sites that are to be sold is to be worked up for the next report.

Table 7: Projected capital receipts position – funding requirement £000's

	2012-13	2013/14	2014/15	Total
Funding assumption	3,000	3,000	3,000	9,000

2.13.2 These receipts are being reviewed in future periods, along with other strategic site availability, to maximise the offset of unsupported borrowing, and so reduce future revenue growth.

2.13.3 There is a high level of risk in these projections as they are subject to changes in legislation, property and land values, the actions of potential buyers and being granted planning permission on sites.

3.0 RELEVANT RISKS

3.1 The possible failure to deliver the Capital Programme will be mitigated by the monthly review by a senior group of officers, charged with improving performance. They will also be able to improve the affordability of the programme.

4.0 OTHER OPTIONS CONSIDERED

4.1 None.

5.0 CONSULTATION

5.1 No consultation has been carried out in relation to this report.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 As yet, there are no implications for voluntary, community or faith groups.

7.0 RESOURCE IMPLICATIONS

7.1 The whole report is about significant resource implications.

8.0 LEGAL IMPLICATIONS

8.1 There are no legal implications.

9.0 EQUALITIES IMPLICATIONS

9.1 The impact of delays will be considered in the next report.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 None.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 None.

12.0 RECOMMENDATIONS

12.1 That Cabinet:

- h) Agree the Period 4 net decrease of £1.789 million to the latest 2012-13 Capital Programme, to produce a revised Capital Programme of £73.797m;
- i) Note the spend to date of £8.1m, which represents 10.9% of the revised capital budget, with 33% of the financial year having elapsed;
- j) Note the £48.8m of new unsupported borrowing included over the next three years, which will result in approximately a £4.9m additional revenue costs;
- k) Note the work to detail the schedule of sites to validate the estimate of capital receipts.
- l) Note that a future report will include proposals to cease or reduce schemes arising from a review of the current capital programme

13.0 REASONS FOR RECOMMENDATIONS

13.1 Regular monitoring and reporting of the capital programme will enable decisions to be taken quicker which may produce revenue benefits and will improve financial control of the programme.

REPORT AUTHOR: PETER MOLYNEUX
 Chief Accountant
 telephone: 0151 666 3389
 email: petemolyneux@wirral.gov.uk

APPENDIX:

REFERENCE MATERIAL

SUBJECT HISTORY

Council Meeting	Date



Equality Impact Assessment Toolkit (from May 2012)

Section 1: Julie Barnes

EIA lead Officer: Steve Talbot

Email address: juliebarnes@wirral.gov.uk

Head of Section: Mark Smith

Chief Officer: Chris McCarthy

Department: Technical Services

Date: 6th September 2012

Section 2: What Council proposal is being assessed?

- a. The acceptance of Local Sustainable Transport Major Bid Funding and the proposed future delivery programme.

Section 2b: Will this EIA be submitted to a Cabinet or Overview & Scrutiny Committee?

Yes / ~~No~~ If 'yes' please state which meeting and what date

Cabinet 18th October 2012

Please add hyperlink to where your EIA is/will be published on the Council's website
[Technical Services Equality Impact Assessments](#)

Section 3: Does the proposal have the potential to affect..... (please tick relevant boxes)

- ✓ **Services**
- ✓ **The workforce**
- ✓ **Communities**
- ✓ **Other** (please state eg: Partners, Private Sector, Voluntary & Community Sector)

If you have ticked one or more of above, please go to section 4.

- None** (please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 4: Does the proposal have the potential to maintain or enhance the way the Council (please tick relevant boxes)

- Eliminates unlawful discrimination, harassment and victimisation
- ✓ Advances equality of opportunity
- ✓ Fosters good relations between groups of people

If you have ticked one or more of above, please go to section 5.

- No** (please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 5:

Could the proposal have a positive or negative impact on any of the protected groups (race, gender, disability, gender reassignment, age, pregnancy and maternity, religion and belief, sexual orientation, marriage and civil partnership)?

You may also want to consider socio-economic status of individuals.

Please list in the table below and include actions required to mitigate any potential negative impact.

Which group(s) of people could be affected	Potential positive or negative impact	Action required to mitigate any potential negative impact	Lead person	Timescale	Resource implications
All	<p>Positive – accessibility to employment will be improved which will have a positive impact on the socio-economic status of residents.</p> <p>Infrastructure improvements will benefit all residents.</p>	None	Julie Barnes	N/A	N/A
Gender	Negative – although the Travel Solutions Scheme is open to male and females we are aware that a significantly lower number of females are interested in taking advantage of the Scooter Scheme.	Additional promotion and support of the Scooters to females / provision of alternative solutions	Julie Barnes	On-going	As part of overall project promotion and delivery

Maternity / Pregnancy	Negative – although the Travel Solutions Scheme is open to all we are aware that pregnancy /maternity may be a barrier to the Cycle/ Scooter Scheme.	Additional promotion and support of the Scooters to females / provision of alternative solutions	Julie Barnes	On-going	As part of overall project promotion and delivery
Disability	Negative – some people will not be able to take advantage of all the solutions offered i.e. scooters or cycles	None – alternative solutions will be offered where appropriate	Julie Barnes	On-going	As part of overall project promotion and delivery
Disability	Positive - all infrastructure schemes are designed to meet requirements of disabled users and consultations take place with appropriate groups. Travel Training assists people with low confidence or who have particular barriers to using public transport.	None – alternative solutions will be offered where appropriate	Julie Barnes	N/A	N/A
Age	Negative – the Travel Solutions schemes are only available to people of working age (with the exception of the travel training)	None – the criteria for the funding dictates this.	Julie Barnes	N/A	N/A
Age	Positive – travel solutions is available for any resident over the age of 14 with no upper age limit	None	Julie Barnes	N/A	N/A

Section 5a: Where and how will the above actions be monitored?

Measures will be monitored through the Merseyside Transport Partnership in respect of the required monitoring/reporting mechanisms to the Department for Transport as part of the funding agreement between Wirral and Merseytravel.

Section 5b: If you think there is no negative impact, what is your reasoning behind this?

The LSTF programme has been developed to help build local economies and to address climate change. The programme supports individuals who may be socially excluded by improving their accessibility to employment. Health inequalities are addressed, especially through the promotion of healthier modes of transport such as walking and cycling. Sustainable transport assists in the reduction of carbon emissions and therefore improves air quality. Increased use of public transport can reduce the number of single occupancy vehicle trips. Travel training can greatly assist an individual to build confidence and become more independent.

Section 6: What research / data / information have you used in support of this process?

The project aims are clearly set out in the DfT guidance however as part of the bidding process we drew upon numerous examples and case studies of similar projects, both in Merseyside and throughout the UK. The project aims to assist local communities and is very much focussed on building the economy through assisting individuals and local businesses.

Section 7: Are you intending to carry out any consultation with regard to this Council proposal?

Yes / ~~No~~ (please delete as appropriate)

If 'yes' please continue to section 8.

If 'no' please state your reason(s) why:

(please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 8: How will consultation take place and by when?

Consultation will take place with local residents for infrastructure schemes and through appropriate forums e.g. cycling and pedestrian forums. Consultation will also take place with clients/beneficiaries of the scheme interventions to monitor the impact of the scheme.

All beneficiaries of the Travel Hub will be asked to participate in a 3 and 6 month review. Forum members and residents will be contacted as per the usual consultation procedures i.e. emails, letter drops etc

Before you complete your consultation, please email your preliminary EIA to equalitywatch@wirral.gov.uk via your Chief Officer in order for the Council to ensure it is meeting it's legal requirements. The EIA will be published with a note saying we are awaiting outcomes from a consultation exercise.

Once you have completed your consultation, please review your actions in section 5. Then email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for re-publishing.

Section 9: Have you remembered to:

- a) **Add appropriate departmental hyperlink to where your EIA is/will be published (section 2b)**
- b) **Include any potential positive impacts as well as negative impacts? (section 5)**
- c) **Send this EIA to equalitywatch@wirral.gov.uk via your Chief Officer?**
- d) **Review section 5 once consultation has taken place and sent your completed EIA to equalitywatch@wirral.gov.uk via your Chief Officer for re-publishing?**

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WIRRAL COUNCIL

CABINET

18 OCTOBER 2012

SUBJECT	BANK SIGNATORIES
WARD/S AFFECTED	ALL
REPORT OF	DIRECTOR OF FINANCE
RESPONSIBLE PORTFOLIO HOLDER	COUNCILLOR PHIL DAVIES
KEY DECISION	NO

1.0 EXECUTIVE SUMMARY

- 1.1. This report seeks approval to amend the nominated personnel on the existing bank mandates.

2.0. BACKGROUND AND KEY ISSUES

- 2.1. The Council currently operates bank accounts with:-

- National Westminster, Birkenhead (main accounts)
- Royal Bank of Scotland, Liverpool (Merseyside Pension Fund)
- Santander (income collection through Girobank)
- State Street (Merseyside Pension Fund international transactions).
- Northern Trust (Merseyside Pension Fund international transactions).
- Lloyds TSB Bank, Birkenhead (Council and Merseyside Pension Fund)

Notes :

- a) The National Westminster and Royal Bank of Scotland accounts are in the process of being closed as part of the transition to the Lloyds TSB Bank who were awarded the Council (including Merseyside Pension Fund) banking services contract (see Cabinet 12 April 2012).
- b) The State Street account is similarly subject to change as the Merseyside Pension Fund custody arrangements are transferring to Northern Trust.
- 2.2. Transactions on these accounts have to be authorised by an approved signatory, and in the main this is satisfied by cheques bearing the pre-printed signature of the Director. Payments over £10,000 require a second signature on the cheque. Other instructions to the Banks generally require two signatures.
- 2.3. Copies of the list of bank and cheque signatories are usually required by all counterparties to money market transactions and often by counterparties to leasing transactions.

2.4. For the National Westminster and Santander accounts approval is requested for the following signatories:-

Director of Finance	Ian E. Coleman
Interim Director of Finance	Peter E. Timmins
Deputy Director of Finance	David L.H. Taylor-Smith
Head of Financial Services	Thomas W. Sault
Head of Benefits, Revenues And Customer Services	Malcolm J. Flanagan
Head of IT Services	Geoffrey W. Paterson
Chief Accountant	Peter J. Molyneux
Chief Accountant	Jenny Spick

2.5. For the Royal Bank of Scotland, State Street and Northern Trust accounts approval is requested for the following signatories:-

Director of Finance	Ian E. Coleman
Interim Director of Finance	Peter E. Timmins
Deputy Director of Finance	David L.H. Taylor-Smith
Head of Financial Services	Thomas W. Sault
Head of Benefits, Revenues And Customer Services	Malcolm J. Flanagan
Head of IT Services	Geoffrey W. Paterson
Principal Pensions Officer	Yvonne M. Caddock
MPF Operations Manager	Guy W. Hayton
MPF Group Accountant	Donna S. Smith
MPF Members Services Manager	Margaret M. Rourke
MPF Members Services Manager	Susan J. Roberts

2.6 For the Lloyds TSB Bank account approval is requested for the following signatories:-

For Council and Merseyside Pension Fund transactions:-

Director of Finance	Ian E. Coleman
Interim Director of Finance	Peter E. Timmins
Deputy Director of Finance	David L.H. Taylor-Smith
Head of Financial Services	Thomas W. Sault
Head of Benefits, Revenues And Customer Services	Malcolm J. Flanagan
Head of IT Services	Geoffrey W. Paterson

In respect of Council, but not Merseyside Pension Fund, transactions add:-i

Chief Accountant	Peter J. Molyneux
Chief Accountant	Jenny Spick

In respect of the Merseyside Pension Fund transactions only add:-i

Principal Pensions Officer	Yvonne M. Caddock
MPF Operations Manager	Guy W. Hayton
MPF Group Accountant	Donna S. Smith
MPF Members Services Manager	Margaret M. Rourke
MPF Members Services Manager	Susan J. Roberts

- 2.7 Within the Merseyside Pension Fund additional clarification in respect of officer roles was agreed by Pensions Committee in that the following have powers to make and authorise investment decisions and the related documentation, and in respect of due diligence verification are designated authorised officers. For reasons of internal control, they do not authorise the processing through the banking system of financial transactions.

Head of Pension Fund	Peter J Wallach
MPF Investment Manager	Leyland K Otter
MPF Investment Manager	Patrick G Dowdall

3.0 RELEVANT RISKS

- 3.1 There are none arising directly from this report. The additional clarification outlined in section 2.7 ensures the mitigation of risks in the Merseyside Pension Fund.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 No other options were considered.

5.0 CONSULTATION

- 5.1 No consultation has been undertaken in respect of this report.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 6.1 There are no direct implications arising from this report.

7.0 RESOURCE IMPLICATIONS

- 7.1 There are no implications arising directly from this report.

8.0 LEGAL IMPLICATIONS

- 8.1 There are no implications arising directly from this report.

9.0 EQUALITIES IMPLICATIONS

- 9.1 This report relates to authorised signatories. There are no equalities implications arising directly from this report and an Equality Impact Assessment (EIA) is not required.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 There are no implications arising directly from this report.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are no implications arising directly from this report.

12.0. RECOMMENDATIONS

12.1. That National Westminster and Santander be authorised to accept cheques and other instructions on behalf of the Council signed in accordance with existing mandates by the following:-

Director of Finance	Ian E. Coleman
Interim Director of Finance	Peter E. Timmins
Deputy Director of Finance	David L.H. Taylor-Smith
Head of Financial Services	Thomas W. Sault
Head of Benefits, Revenues and Customer Services	Malcolm J. Flanagan
Head of IT Services	Geoffrey W. Paterson
Chief Accountant	Peter J. Molyneux
Chief Accountant	Jenny Spick

12.2. That the Royal Bank of Scotland, State Street and Northern Trust be authorised to accept cheques and other instructions on behalf of the Council signed in accordance with existing mandates by the following:-

Director of Finance	Ian E. Coleman
Interim Director of Finance	Peter E. Timmins
Deputy Director of Finance	David L.H. Taylor-Smith
Head of Financial Services	Thomas W. Sault
Head of Benefits, Revenues And Customer Services	Malcolm J. Flanagan
Head of IT Services	Geoffrey W. Paterson
Principal Pensions Officer	Yvonne M. Caddock
MPF Operations Manager	Guy W. Hayton
MPF Group Accountant	Donna S. Smith
MPF Members Services Manager	Margaret M. Rourke
MPF Members Services Manager	Susan J. Roberts

12.2. That the Lloyds TSB Bank be authorised to accept cheques and other instructions on behalf of the Council signed in accordance with existing mandates by the following:-

Director of Finance	Ian E. Coleman
Interim Director of Finance	Peter E. Timmins
Deputy Director of Finance	David L.H. Taylor-Smith
Head of Financial Services	Thomas W. Sault
Head of Benefits, Revenues And Customer Services	Malcolm J. Flanagan
Head of IT Services	Geoffrey W. Paterson

Plus in respect of Council, but not Merseyside Pension Fund, transactions:-i

Chief Accountant	Peter J. Molyneux
Chief Accountant	Jenny Spick

Plus in respect of the Merseyside Pension Fund transactions only:-

Principal Pensions Officer	Yvonne M. Caddock
MPF Operations Manager	Guy W. Hayton
MPF Group Accountant	Donna S. Smith
MPF Members Services Manager	Margaret M. Rourke
MPF Members Services Manager	Susan J. Roberts

13.0. REASON FOR RECOMMENDATIONS

13.1. Approval is sought to amend the bank signatories with the inclusion of the interim Director of Finance and also to take account of the change in the banking services provider which sees the Council (including Merseyside Pension Fund) with Lloyds TSB Bank.

REPORT AUTHOR: Tom Sault
Acting Director of Finance
Telephone: 0151 666 3407
Email: tomsault@wirral.gov.uk

SUBJECT HISTORY

Council Meeting	Date
Cabinet	15 April 2010
Cabinet	17 March 2011
Cabinet	15 March 2012

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COMMITTEE REFERRAL

AUDIT AND RISK MANAGEMENT COMMITTEE

19 September 2012

29 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

The Acting Director of Law, HR and Asset Management presented a summary of the use of covert surveillance by the Council between 11 June 2012 and 1 September 2012, in accordance with the Regulation of Investigatory Powers Act 2000 (RIPA). He outlined the key issues associated with RIPA and indicated that during the monitoring period, four authorisations had been granted, one to obtain evidence of a possible arson attack and three to obtain evidence of alleged anti-social behaviour.

The Protection of Freedoms Act 2012 had now been enacted and training had been provided to officers on the new legislation by one of the leading authorities on RIPA. He indicated that when it came into force on 1 November 2012, the following changes in the law would affect local authorities –

- Magistrate's approval would be required for a local authority's use of RIPA and would be in addition to the authorisation needed from a senior officer and the more general oversight by elected councillors.
- Use of RIPA to authorise directed surveillance would be confined to cases where the offence under investigation carried a maximum custodial sentence of six months or more, except in relation to underage sales of alcohol and tobacco, where the threshold would not apply.

The Acting Director also provided a summary of the outcome of an inspection of the Council's use of covert surveillance, carried out on 8 June 2012 by Sir David Clarke, Assistant Surveillance Commissioner. The inspection had found that the authorisations granted to detect anti-social behaviour were "well articulated by the applicant and the authorising officer and were a model of their kind". The Council's training programme was commended; the central record of authorisations was accurate and up to date and the Inspector was satisfied that proper arrangements were in place and being implemented to ensure that there was no unauthorised use of the Council's covert CCTV equipment.

There were some criticisms of the content of the Council's Policy and Procedure on the use of covert surveillance and a number of non-controversial amendments were proposed to ensure compliance with recommendations. In response to a comment from a Member, he also confirmed that sufficient designated authorising officers had been trained and been given delegated authority to ensure adequate coverage for absence.

The Acting Director also referred to concerns that had been expressed about the authorisation of directed covert surveillance granted in the Trading Standards Section for the detection of under aged sales of alcohol, tobacco and fireworks.

Consequently, future authorisations would be required to address issues of necessity and proportionality and, in addition, from 1 November 2012, the requirement for magistrate's approval before any covert surveillance could be authorised by the Council. In response to a request from a Member for information in respect of the use of children making test purchases, the Acting Director agreed to request the Council's Trading Standards Strategic Manager to respond direct to all Members of the Committee.

Risks identified related to the less effective prosecution of instances of anti social behaviour when the use of covert surveillance by local authorities was curtailed by the new legislation. From 1 November 2012, persistent anti-social behaviour may only be detected by the use of covert surveillance if it had the prior approval of a magistrate and if it consisted of criminal offences attracting a maximum term of imprisonment of 6 months or more. Shouting, swearing, playing loud music, banging on walls and doors, and intimidating behaviour would no longer be capable of being detected by covert surveillance unless they formed part of a campaign of harassment targeted at a particular individual, which amounted to an offence under the Protection from Harassment Act 1997. Consequently, the perpetrators of such persistent behaviour may go unpunished through the Courts and malicious complaints of such behaviour could also go undetected.

Some Members expressed their concern that some anti-social behaviour could go unpunished as a result of the new legislation, which was seen as a retrograde step for Wirral, where RIPA had always been used responsibly. Members commented also that the powers conferred by RIPA may have been used inappropriately in some areas.

Resolved –

- (1) That the report be noted.**
- (2) That the amendments and additions to the Council's Policy and Procedure on RIPA as advised by the OSC be approved.**
- (3) That the OSC's recommendations on the use of RIPA to detect under age sales of alcohol and tobacco be approved.**
- (4) That the Cabinet be recommend to adopt on behalf of the Council the recommendations in (2) and (3) above.**

WIRRAL COUNCIL

AUDIT AND RISK MANAGEMENT COMMITTEE

19 SEPTEMBER 2012

SUBJECT:	REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)
WARD/S AFFECTED:	ALL
REPORT OF:	DIRECTOR OF LAW, HR AND ASSET MANAGEMENT
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report summarises the use of covert surveillance by the Council between 11 June 2012 and 1 September 2012.
- 1.2 This report was requested in the work plan for the Committee.
- 1.3 The report also summarises the outcome of the inspection carried out on 8 June 2012 by Sir David Clarke, Assistant Surveillance Commissioner and recommends some consequential amendments to the existing Policy and Procedure on covert surveillance.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 The Regulation of Investigatory Powers Act 2000 (RIPA) governs how public bodies use surveillance methods: The Council may use covert surveillance for the purpose of preventing or detecting crime or preventing disorder.
- 2.2 The origin of RIPA lies in the Human Rights Act 1998 which places restrictions on the extent to which public bodies may interfere with a person's right to respect for his or her home and private life and correspondence during the course of an investigation into suspected criminal activities. The provisions of RIPA ensure (in summary) that any such interferences are in accordance with the law and are necessary and proportionate (i.e. the seriousness of the suspected crime or disorder must outweigh any possible interferences with the personal privacy of the persons being investigated and of persons who associate with them).
- 2.3 The Council's Constitution authorises Directors to designate Heads of Service and Service Managers to authorise the use of covert surveillance in accordance with the procedures prescribed by RIPA.
- 2.4 The Office of Surveillance Commissioners (OSC) is responsible for overseeing the operation of RIPA. The OSC inspected the Council on 1 July 2009. The outcome of that inspection was reported to the Committee on 23 September 2009. The Committee approved amendments to the Council's Policy and Guidance Document made in response to the Report.
- 2.5 New Codes of Practice on covert surveillance have been published by the Home Office. As from 1 April 2010 every Council should report quarterly to its Audit and Risk Management Committee on its use of RIPA. The last such report was made to the Committee on 14 June 2012.

2.6 The OSC inspected the Council again on 8 June 2012 Sir David Clarke's report is contained in Appendix 1.

3.0 THE USE OF RIPA BY THE COUNCIL

3.1 Between 11 June 2012 and 1 September 2012 the Council granted 4 authorisations for directed covert surveillance.

3.2 One authorisation was granted to obtain evidence of a possible arson attack on some unoccupied premises.

3.3 Three authorisations were granted to obtain evidence of alleged anti-social behaviour. Anti-social behaviour has included alleged harassment.

4.0 CHANGES IN LEGISLATION

4.1 The Protection of Freedoms Act 2012 has now been enacted. When it comes into force on 1 November 2012 the following changes in the law will affect local authorities.

- Magistrate's approval will be required for a local authority's use of RIPA and will be in addition to the authorisation needed from a senior officer and the more general oversight by elected councillors.
- Use of RIPA to authorise directed surveillance will be confined to cases where the offence under investigation carries a maximum custodial sentence of six months or more except in relation to underage sales of alcohol and tobacco, where the threshold will not apply.

5.0 TRAINING

5.1 Ibrahim Hasan has provided on 4 September 2012 a full days training to officers on the new legislation in Wallasey Town Hall. He is one of the leading authorities on RIPA.

6. INSPECTION BY THE OFFICE OF SURVEILLANCE COMMISSIONER (OSC)

6.1 Sir David Clarke, Assistant Surveillance Commissioner, visited the Council on 8 June 2012 in order to conduct an inspection of the Council's use of covert surveillance.

6.2 Between 1 July 2009 and 8 June 2012 the Council had authorised 55 instances of directed surveillance of which 35 were for anti-social behaviour, 15 for trading standards prosecutions primarily under-age sales of alcohol, tobacco and fireworks and 5 were to detect flytipping.

6.3 Sir David found that the authorisations granted to detect anti-social behaviour were "well articulated by the applicant and the authorising officer and are a model of their kind". They covered covert surveillance to detect households who were under threat from neighbours of assault and criminal damage. They also included covert surveillance of public areas of housing estates where groups of young people were causing nuisances from noise and rowdiness through to dangerous driving, excessive drinking and alleged drug taking and drug dealing. The covert surveillance was necessary because of the culture of non-cooperation on the housing estates with the

authorities and of witness intimidation and reprisals. Without the covert surveillance evidence of criminal behaviour would not be available for presentation to the Courts in applications for ant-social behaviour orders or proceedings for possession brought by social landlords.

- 6.4 Flytipping authorisations were also of high quality. They may indeed not have been necessary where there were warning notices of CCTV surveillance posted on the approaches to the sites where illegal tipping had occurred.
- 6.5 The Council's training programme was praised as being "particularly commendable". A clear and accessible training register was maintained which was a good practice not always followed in other local authorities.
- 6.6 The central record of authorisations of covert surveillance was being kept accurately and up to date by the Director of Law, HR and Asset Management and in accordance with the recommendations of the Home Office Code of Practice.
- 6.7 All the recommendations made by the previous Inspector in 2009 had been implemented including improvements to the Policy and Procedure, and regular quarterly meetings with the RIPA co-ordinators from each relevant Department to review the authorisations granted in that quarter.
- 6.8 There were regular quarterly reports on authorisations of covert surveillance to the Audit and Risk Management Committee.
- 6.9 Sir David had visited the control room for the CCTV cameras in Wirral and had been satisfied that proper arrangements were in place and being implemented to ensure that there was no unauthorised covert use of the Council's covert CCTV equipment.

7. PROPOSED IMPROVEMENTS AND UPDATING OF THE POLICY AND PROCEDURE ON THE USE OF POWERS UNDER THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

- 7.1 Sir David made some criticisms of the content of the Council's Policy and Procedure on the use of covert surveillance. In Appendix 2 are some proposed amendments to paragraphs 3.6, 3.13(h), 3.19.1, 4.3, 4.6.3 and 7.1. They are intended to comply with the first recommendation made in Sir David's report. The amendments and additions are not controversial. In addition some amendments have been made to paragraphs 1.3, 1.4 and 3.9 to bring the document up to date.

8. AUTHORISATIONS FOR JUVENILE TEST PURCHASE OPERATIONS

- 8.1 Concerns were expressed by Sir David about the authorisation of directed covert surveillance granted in the Trading Standards Section for the detection of under aged sales of alcohol, tobacco and fireworks. He drew attention to the need to specify in the authorisation the evidence which led the Trading Standards Section to suspect offences were being committed in a particular retail outlet. Only if such evidence were set out and evaluated would it be possible for the use of covert surveillance to be necessary and proportionate. Blanket test purchases from retail outlets by children under the direction of Trading Standards Officers could not be justified and could be regarded as "fishing expeditions" which were neither necessary nor proportionate.

- 8.2 Future authorisations for juvenile test purchase operations must therefore be more restricted in scope and care must be taken to address the issues of necessity and proportionality in relation to targeted premises as recommended by Sir David in his second recommendation.
- 8.3 Future authorisations will be monitored to ensure that Sir David's recommendations are carried out. In addition as from 1 November 2012 there will be a requirement for magistrates approval before any covert surveillance can be authorised by the Council.

9.0 RELEVANT RISKS

- 9.1 Less effective prosecution of instances of anti social behaviour when the use of covert surveillance by local authorities is curtailed by the new legislation.
- 9.2 Persistent anti-social behaviour may from 1 November 2012 only be detected by the use of covert surveillance if it has the prior approval of a magistrate and if it consists of criminal offences attracting a maximum term of imprisonment of 6 months or more. Shouting, swearing, playing loud music, banging on walls and doors, and intimidating behaviour will no longer be capable of being detected by covert surveillance unless they form part of a campaign of harassment targeted at a particular individual which may amount to an offence under the Protection from Harassment Act 1997. The perpetrators of such persistent behaviour may therefore go unpunished through the Courts. Malicious complaints of such behaviour may also go undetected.

10.0 OTHER OPTIONS CONSIDERED

10,1 None.

11.0 CONSULTATION

11.1 None.

12.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

12.1 None.

13.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

13.1 None at present.

14.0 LEGAL IMPLICATIONS

14.1 The Protection of Freedoms Act 2012 which restricts local authorities use of covert surveillance comes into force on 1 November 2012 and may require the Council to review further its policy and procedure as the new law is applied by the courts.

15.0 EQUALITIES IMPLICATIONS

15.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because there is no relevance to equality.

16.0 CARBON REDUCTION IMPLICATIONS

16.1 None.

17.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

17.1 See paragraph 4.

18.0 RECOMMENDATION/S

18.1 That the Committee note the contents of the report on the use of covert surveillance.

18.2 That the Committee approve the amendments and additions to the Council's Policy and Procedure on RIPA as advised by the OSC and as contained in Appendix 2.

18.3 That the Committee approve the OSC's recommendations on the use of RIPA to detect under age sales of alcohol and tobacco.

18.4 That the Committee recommend to the Cabinet that it adopts on behalf of the Council the recommendations in 18.2 and 18.3 above.

19.0 REASON/S FOR RECOMMENDATION/S

19.1 The Home Office Code of Practice on covert surveillance requires every Council to report quarterly on its use of RIPA.

19.2 It is necessary for the Council to amend its Policy and Procedure on the use of RIPA in order to comply with the recommendations of the OSC arising from their inspection on 8 June 2012 and with the change in the law which comes into effect on 1 November 2012.

REPORT AUTHOR: **Colin Hughes**
Group Solicitor
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email: colinhughes@wirral.gov.uk

APPENDICES

Appendix 1 Report of the Assistant Surveillance Commissioner on his inspection carried out on 8 June 2012.

Appendix 2 Proposed amendments to the Council's Policy and Procedure on RIPA.

REFERENCE MATERIAL

Authorisations for directed surveillance - exempt from publication because they relate to individuals and are the subject of continuing investigations into alleged criminal behaviour.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Reports to the Audit & Risk Management Committee	23 September 2009
	30 June 2010
	28 September 2010
	22 November 2010
	28 March 2011
	30 June 2011
	28 September 2011
	1 February 2012
	14 June 2012
	26 November 2010
Report to the Cabinet	

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APPENDIX 1
REPORT OF SIR DAVID CLARKE
ASSISTANT SURVEILLANCE COMMISSIONER
26 JUNE 2012



Office of Surveillance
Commissioners

28 JUN 2012



Chief
Surveillance
Commissioner

Restricted

26 June 2012

Ian M. Coleman

Covert Surveillance

On 8 June 2012, an Assistant Surveillance Commissioner, Sir David Clarke, visited your Council on my behalf to review your management of covert activities. I am grateful to you for the facilities afforded for the inspection.

I enclose a copy of Sir David's report which I endorse. I am pleased to see that your Council shows a strong commitment to maintaining high standards of RIPA compliance and you have a particularly commendable training programme. The defects found in trading standards authorisations can be readily addressed in accordance with the second recommendation.

The two recommendations are that your policy document be further amended in the light of paras 12 and 14 of the report and that authorisations for juvenile test purchase operations be more restricted in scope with care taken in addressing necessity and proportionality in relation to particular premises targeted.

I shall be glad to learn that your Council accepts the recommendations and will see that they are implemented.

One of the main functions of review is to enable public authorities to improve their understanding and conduct of covert activities. I hope your Council finds this process constructive. Please let this Office know if it can help at any time.

*Yours sincerely,
Christopher Rose*

Mr Ian Coleman
Acting Chief Executive
Wirral Council
Town Hall,
Brighton Street
Wallasey
Wirral
Merseyside, CH44 8ED

RESTRICTED



**Office of Surveillance
Commissioners**

OFFICE OF SURVEILLANCE COMMISSIONERS

INSPECTION REPORT

Metropolitan Borough of Wirral

8th June 2012

**Assistant Surveillance Commissioner:
Sir David Clarke**

RESTRICTED

RESTRICTED covering CONFIDENTIAL

DISCLAIMER

This report contains the observations and recommendations identified by an individual surveillance inspector, or team of surveillance inspectors, during an inspection of the specified public authority conducted on behalf of the Chief Surveillance Commissioner.

The inspection was limited by time and could only sample a small proportion of covert activity in order to make a subjective assessment of compliance. Failure to raise issues in this report should not automatically be construed as endorsement of the unreported practices.

The advice and guidance provided by the inspector(s) during the inspection could only reflect the inspectors' subjective opinion and does not constitute an endorsed judicial interpretation of the legislation. Fundamental changes to practices or procedures should not be implemented unless and until the recommendations in this report are endorsed by the Chief Surveillance Commissioner.

The report is sent only to the recipient of the Chief Surveillance Commissioner's letter (normally the Chief Officer of the authority inspected). Copies of the report, or extracts of it, may be distributed at the recipient's discretion but the version received under the covering letter should remain intact as the master version.

The Office of Surveillance Commissioners is not a public body listed under the Freedom of Information Act 2000, however, requests for the disclosure of the report, or any part of it, or any distribution of the report beyond the recipients own authority is permissible at the discretion of the Chief Officer of the relevant public authority without the permission of the Chief Surveillance Commissioner. Any references to the report, or extracts from it, must be placed in the correct context.

RESTRICTED



Office of Surveillance
Commissioners

Office of Surveillance Commissioners,
PO Box 29105,
London,
SW1V 1ZU.

10th June 2012

METROPOLITAN BOROUGH OF WIRRAL

INSPECTION REPORT

Inspection date 8th June 2012

Inspector Sir David Clarke
Assistant Surveillance Commissioner

Wirral Borough Council

1. The Council (WBC) is a unitary authority serving a mainly urban population of about 310,000 in Merseyside.
2. The Senior Corporate Management structure is headed by the Chief Executive, supported by six Service Directors. The Acting Chief Executive is Ian Coleman, whose address is Wirral Council, Wallasey Town Hall, Brighton Street, Wallasey, Wirral CH44 8ED.
3. The Director of Law, Human Resources and Asset Management is Bill Norman, who is designated Senior Responsible Officer (SRO) for RIPA matters.
4. The most recent OSC inspection of WBC was conducted by Graham Wright, Surveillance Inspector, accompanied by Kevin Davis, on 1st July 2009. In his report dated 10th July 2009, Mr Wright reported that all previous recommendations were discharged but made three fresh recommendations of his own.
5. WBC is a frequent user of its RIPA powers, having granted 55 directed surveillance authorisations since the last inspection.
6. None of these applications had used the urgency provisions, none was concerned with the likely acquisition of confidential information, and none concerned Covert Human Intelligence Sources (CHIS).

Inspection

7. I carried out the inspection on 8th June 2012 at Wallasey Town Hall. I met the following council officers:
 - Ian Coleman, Acting Chief Executive;
 - Bill Norman, Director of Law, Human Resources and Asset Management;
 - Colin Hughes, Group Solicitor, Legal and Member Services¹;
 - Caroline Laing, a Service Manager in the Children and Young Persons Department, an Authorising Officer;
 - Derek Payet, Trading Standards Strategic Manager, an Authorising Officer.
8. The inspection started with a discussion, primarily with Mr Norman and Mr Hughes, of WBC's RIPA management, policy and procedures, the designated authorising officers (AOs), training, and the actions taken on the recommendations in the last OSC report. I then inspected the Central Record and a sample of the RIPA authorisations themselves. I then met Mr Norman, Miss Laing and Mr Payet for a feedback discussion before departing the Town Hall.
9. I then visited WBC's CCTV control room at Cheshire Lines Building, Canning Street, Birkenhead, where I met the following:
 - Robert Henderson, Head of Regulation Division;
 - Tom Almond, the CCTV operator on duty.
10. I am grateful to all concerned, particularly Mr Hughes who made the arrangements and provided the pre-inspection reading materials, for their helpful cooperation which greatly eased my task.

RIPA Structure

11. WBC has a concise and clear *Policy and Procedure on the use of powers under RIPA* in place. In his 2009 report, Mr Wright recommended a number of improvements, which were duly made and approved formally by the appropriate committee of the council. *His first recommendation is therefore discharged.*
12. In discussion I made a number of suggestions for further improvement, as follows:
 - (a) In paragraph 3.6, it should be made clear that *private information* is not limited to *a person's private or family life* (as presently stated), but includes the way in which he conducts himself in his working life²;
 - (b) In paragraph 3.13 (or in an Appendix), the designated AOs should be listed;
 - (c) In paragraph 3.19.1, it should be made clear that any audio recording device must not be capable of picking up conversations within the home targeted (rather than *should not normally*, as presently stated).

¹ The Head of Legal and Democratic Services, Surjit Tour, was on leave on the day of my inspection

² Code of Practice on Covert Surveillance etc., paragraph 2.4

13. Mr Wright commented in 2009 that the *Policy* included little guidance in respect of CHIS. In response to this, the CHIS section (paragraphs 4.1-4.6) was usefully expanded. It accurately describes two scenarios in which the issue of CHIS may arise – a private detective posing as a tenant to obtain information about antisocial behaviour, and a trading standards test purchaser who goes beyond the basic transaction and engages the trader in further discussion to obtain further information.
14. These are both situations in which the source is tasked to obtain information. In discussion, however, I drew attention to paragraph 2.22 of the CHIS Code of Practice, pointing out that a CHIS problem may arise without any tasking. When an informant gives repeat information about a suspect or about a family, and it becomes apparent that the informant may be obtaining that information in the course of a family or neighbourhood relationship, alarm bells should begin to ring. It probably means that the informant is in reality a CHIS, to whom a duty of care is owed if the information is then used, even though he or she has not been tasked by the public authority to obtain information on its behalf. This needs to be made clear in the *Policy* document, perhaps with an exhortation to refer any such instance for legal advice before acting on the information received from such an informant.

See recommendation I

15. WBC has never made a CHIS authorisation, and remains unlikely to do so. The *Policy* provides that any CHIS authorisation may only be made by the Chief Executive³. I was told that this provision arose from the concerns of an elected member.
16. Mr Norman is SRO for RIPA. Mr Tour is formally keeper of the Central Record, but the task is delegated to Mr Hughes who has day-to-day control. The Record complies fully with paragraph 8.1 of the Covert Surveillance Code of Practice, and I found no discrepancies between it and the authorisations themselves.
17. Mr Hughes holds a quarterly meeting with RIPA coordinators from each relevant department of WBC, reviewing the authorisations granted in that quarter, thus providing the quality assurance found by Mr Wright to be lacking in 2009. *Mr Wright's second recommendation is therefore discharged.*
18. A quarterly report of RIPA usage and issues is made to the Audit and Risk Management Committee of WBC, which therefore complies with the best practice recommended in paragraph 3.30 of the Code of Practice.
19. Following a number of retirements and other departures, there are only three designated AOs in WBC. One of these is presently suspended from his post awaiting disciplinary proceedings. It is accepted that two is an insufficient number of AOs in an authority of this size making substantial use of its RIPA powers. WBC has already arranged that the new Head of the Antisocial

³ It is conventional, and indeed a requirement of the CHIS Code of Practice (paragraphs 4.22-4.23 and Annex A), that only the Chief Executive may authorise a vulnerable or juvenile CHIS, but this restriction does not apply to CHIS authorisations in general

Behaviour Team, a Service Manager of appropriate status, will attend the next training session and will then be designated as an AO; accordingly no formal recommendation is required.

Training

20. An annual training day is held for all AOs and RIPA applicants, the training being delivered by Ibrahim Hassan of Act Now Training. This year's training day was delayed in the expectation that section 38 of the Protection of Freedoms Act 2012 would come into force, but it is to proceed in September in any event.
21. A clear and accessible training register is maintained, which is a good practice not always followed elsewhere.

Examination of Records

22. The 55 directed surveillance authorisations in the three-year period under review can be subdivided as follows:
 - 35 for antisocial behaviour, of which I examined the most recent five;
 - 15 for trading standards (primarily under-age sales), of which I examined three;
 - 5 for fly-tipping, of which I examined two.
23. I found that the RIPA1 authorisation form in use was not the current version, in that the paragraph references to the Codes of Practice relate to the earlier Codes preceding the 2010 revisions. In particular, the important box for "collateral intrusion" has a wrong reference and is therefore misleading. This has been immediately remedied by downloading the full set of current forms from the Home Office website, so that no formal recommendation is required.
24. In the antisocial behaviour and fly-tipping cases, correct expiry dates and proper reviews were consistently set, and in all cases cancellations were timely and appropriate.
25. The antisocial behaviour cases can be further subdivided. Some were for surveillance of public areas of housing estates, where groups of young people habitually congregated and caused nuisances ranging from noise and rowdiness, through dangerous driving, excessive drinking and drug taking, to brazen drug dealing. In some cases the targeted individuals were already subject to ASBOs and believed to be in persistent breach. These housing estates are areas in which there is a culture of non-cooperation with the authorities and of witness intimidation and reprisals. The authorisations were well articulated by the applicant and the AO and are a model of their kind. One in particular, concerning a 12-year-old boy already under an ASBO, was very carefully considered by the AO, referring to:

... the negative impact the target's behaviour has had on the local community and that he is getting away with the order on a regular basis ... undermining the justice system and public confidence ... if

there had only been one or two breaches it could be argued the surveillance is not proportionate, but there have been numerous breaches and efforts by the ASBO team and the police to catch him have failed”.

26. The other category concerns feuding neighbours, where a household is targeted by a near neighbour's family with threats, assaults and criminal damage. The authorised surveillance involved the installation of covert CCTV (with audio) in the targeted house, trained on the front and roadway outside. Again, these were well argued and appropriate.
27. The fly-tipping authorisations were likewise of high quality, though they were all cases in which the CCTV surveillance was not (or may not have been) truly covert in that warning notices of CCTV surveillance were posted on the approach to the sites where illegal tipping had occurred. WBC were clearly adopting a belt-and-braces approach, and may feel that they can safely proceed without RIPA authorisation when section 38 of the 2012 Act (adding sections 32A and 32B to RIPA) is brought into force.
28. The trading standards authorisations were for juvenile test purchase operations, each one planned to take place on a single evening. One, on 4th November 2011, was for the sale of fireworks; the remainder for alcohol and tobacco. Perhaps understandably, the AO set very short expiry dates, each authorisation to expire within a day or two after the planned operation was completed. Accordingly, no review dates were set.
29. This is an incorrect method of achieving a proper objective. All directed surveillance authorisations must be set to expire at 2359 hrs on the last day of the three month period from the date of authorisation, in accordance with the prompt on the form itself. The correct way to achieve the objective is to set an early review date and to cancel on review. It is right to add, however, that these authorisations were not left to lapse; all were properly and formally cancelled.
30. More importantly, I am a little troubled that the authorisations were for test purchases at a large number of shop premises, some 20 in number. Different considerations of necessity and proportionality may have affected different shops in the list; some may have been previously visited and warned, or been the subject of specific intelligence; others merely situated in the vicinity of juvenile drinking locations⁴.
31. The fireworks authorisation did not list the shops encompassed within it. It named two shops, plus *“the list of premises provided by the Fire Brigade (attached)”*. No such list is attached to the retained RIPA forms, so it is impossible to see how many test purchase visits were authorised.
32. In the case of each of these authorisations, the cancellation form showed that eight tests were made and that one sale took place. So it seems that many of the shops were not tested, despite the applicant's assertion, and the AO's

⁴ See OSC Procedures and Guidance, December 2011 revision, paragraph 262

David Clarke
Assistant Surveillance Commissioner

agreement, that to test each of them was necessary. This might render the entire authorisation susceptible to challenge.

33. For the future, the remedy is to seek authorisation only in relation to those retail outlets which there is specific reason to test, and then to follow it through in relation to each: A single authorisation, not so tightly limited in time, can properly cover a multiple test purchase operation which is not limited to a single day, so long as the issues of necessity and proportionality are sufficiently addressed in relation to each of the premises to be visited.

See recommendation II

CCTV

34. WBC operates a network of some 100 CCTV cameras in locations throughout the borough, monitored by WBC operators from a control room at Cheshire Lines. These are operated under a protocol between WBC and Merseyside Police which I was shown. Most of the cameras incorporate a 28-day automatic recording facility.
35. I was shown the Control Room handbook, the daily log and the CCTV viewing book. The viewing book primarily records instances of the police attending to view recorded material, i.e. evidence-gathering as opposed to real-time surveillance. But it also contains some (highlighted) instances of police attendance to carry out real-time surveillance, in which case the serial number of the police RIPA authorisation is recorded. I was shown the retained copy of the police notification of RIPA authorisation.
36. My visit was made without prior warning to the operator on duty. I am satisfied that the arrangements in place provide suitable safeguards against any unauthorised covert use of WBC's overt CCTV equipment.

Conclusion

37. WBC exhibits a strong commitment to maintaining high standards of RIPA compliance. Their training programme is particularly commendable. The defects which I found in the authorisations emanating from one department can be readily addressed in the light of this report.
38. I make the following

Recommendations

- I. *That WBC's RIPA policy document be further amended in the light of paragraphs 12 and 14 of this report;*
- II. *That future authorisations for juvenile test purchase operations be more restricted in scope, care being taken to address the issues of necessity and proportionality in relation to the targeted premises.*

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REPORT TO THE AUDIT AND RISK COMMITTEE ON 19 SEPTEMBER 2012

APPENDIX 2

PROPOSED AMENDMENTS AND ADDITIONS TO THE POLICY AND PROCEDURE

Paragraph 1.3

Delete the last sentence and replace with:

"In 2011/2012 twenty authorisations for directed surveillance were granted by the Council's authorising officers."

Paragraph 1.4

Replace the second sentence with the following:

"The Council has been inspected four times by the Office of the Surveillance Commissioner in 2003, 2007, 2009 and 2012."

Paragraph 3.6

Add the following final sentence:

"It includes the way in which a person conducts himself in his working life."

New Paragraph 3.9

"From 1 November 2012 a magistrates approval will also be required for the Council's use of RIPA and will be in addition to the authorisation needed from an authorising officer. Magistrates may only grant approval for the use of covert surveillance where the criminal offence under investigation carries a maximum custodial sentence of six months or more except in relation to the offences of under age sales of alcohol and tobacco where this threshold will not apply."

New Paragraph 3.14(h)

"The designated authorising officers are currently David Green (Director of Technical Services), Derek Payet (Trading Standards Strategic Manager), Caroline Laing (Deputy Head of Wirral Youth and Play Service), Celine Gafos (Deputy Head Targeted Youth Support Services), Robert Clifford (Service Manager, Technical Services Department) and Mark Smith (Head of Service, Streetscene and Waste).

They have delegated authority to apply to the magistrates for approval of covert surveillance and to authorise named officers to make such applications on behalf of the Council.”

Paragraph 3.19.1 (new paragraph 3.20.1)

Replace the second sentence of the second paragraph with the following:

“The recording device must not be capable of picking up conversations at a normal level within the home targeted (and consequently is not intrusive).”

New Paragraph 4.3

“It should be borne in mind that a person can become a covert human intelligence source if he regularly supplies information to the Council without being asked to do so provided he obtains the information by virtue of his personal relationship with the suspect or his associates and not for example by merely noting down passively evidence of crime or disorder as a member of the public. In such circumstances legal advice should be sought before acting on the information received from the informant.”

Paragraph 4.6.3

Add the following paragraph:

“The Anti-Social Behaviour Team regularly receives information from a member of the family of a suspected perpetrator who volunteers to provide evidence without being requested to do so. The informant is performing the function of a CHIS if the information has been obtained as a result of the family relationship.”

Paragraph 7.1

Delete the last sentence and replace with the following:

“The departmental co-ordinators and authorising officers are listed in paragraph 3.14(h). That list may be amended from time to time as new Directors and Heads of Service are appointed. The current list can be obtained from the Head of Legal and Member Services.”

Paragraph 7.2

Delete the third sentence and replace by:

“A copy of the register can be obtained from the Head of Legal and Member Services.”

POLICY AND PROCEDURE ON THE USE OF POWERS UNDER THE REGULATION OF INVESTIGATORY POWERS ACT

1. INTRODUCTION

- 1.1 *"Surveillance plays a necessary part in modern life. It is used not just in the ~ targeting of criminals but as a means of protecting the public from harm and ~ preventing crime."*

From the Foreword to the Home Office's Code of Practice on Covert Surveillance

- 1.2 The use of covert surveillance by public authorities, particularly local authorities has been the subject of much recent debate. The use of covert surveillance is properly a matter of public concern. The purpose of this policy is to set out exactly how the Council will use its surveillance powers and comply with best practice.
- 1.3 **Councils may only use covert surveillance for the purpose of preventing or detecting crime or preventing disorder and where doing so is in the public interest.** The Council uses covert surveillance to support its enforcement activities. It has been used principally by the Regeneration Department in dealing with anti-social behaviour and trading standards cases. This has resulted in many successful cases being brought which might otherwise not have been possible bringing rogue traders to account and improving the lives of Wirral residents suffering from severe anti-social behaviour. In 2009/10 twelve authorisations for directed surveillance were granted by the Council's authorising officers.
- 1.4 The Council approved a policy and procedure for the use of covert surveillance in 2004. The Council has been inspected three times by the Office of the Surveillance Commissioner in 2003, 2007 and 2009. The use of surveillance was also the subject of a review by the Council's Internal Audit Team in 2008. The need to revise and update the Council's Policy and Procedure was identified as part of that review.

2. RELEVANT LEGISLATION

2.1 The Human Rights Act 1998 (HRA)

2.1.2 The HRA gives effect to the rights and freedoms guaranteed under the European Convention on Human Rights and Fundamental Freedoms ("the Convention"). Article 8 of the Convention is relevant in the context of covert surveillance in that everyone has the right to respect for his/her private and family life, home and correspondence. It is now clear from decided cases that this right extends to activities of a professional or business nature and so includes employees. Article 6 of the Convention is relevant in the context of covert surveillance in that everyone has the right to a fair trial, including internal procedures or hearings, and fairness extends to the way in which evidence is obtained.

2.1.3 Consequently, there is to be no interference with the exercise of these rights by any public authority, except where:

Such interference is in accordance with the law and is necessary in a democratic society in the interests of:

- national security
- public safety
- the economic well-being of the country
- for the prevention of disorder or crime
- for the protection of health or morals
- the protection of the rights and freedoms of others.

The Council is a public authority. However, as mentioned above (and explained in more detail in section 3 below), local authorities may **only** undertake covert surveillance for the purpose of preventing or detecting crime or preventing disorder.

2.1.4 The HRA can be found at:

www.opsi.gov.uk/ACTS/acts1998/19980042.htm

2.2 **The Regulation of Investigatory Powers Act 2000 ("RIPA")** (and associated Regulations)

2.2.1 RIPA was introduced shortly after the HRA to ensure that the use by public bodies of surveillance was codified. Prior to RIPA there was only limited regulation of the use by public bodies of surveillance. RIPA was passed to ensure a consistency of approach and to set in place safeguards to ensure that the use of surveillance is proportionate.

2.2.2 RIPA was passed well before the terrorism attacks on September 11 and was not introduced to deal with terrorism. RIPA and its associated regulations also follow the philosophy of recent legislation in trying to strike a balance between community responsibilities, including effective law enforcement, and individual rights and freedoms.

3.0 COVERT SURVEILLANCE

3.1 The term surveillance includes

- Monitoring, observing or listening to people, their movements, their conversations or their other activity or communication;
- Recording anything monitored, observed or listened to in the course of surveillance;
- Surveillance by or with the assistance of a surveillance device.

3.2 **Covert** surveillance is surveillance that is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place. This needs to be contrasted with the deployment of **overt** surveillance. The use of such surveillance in places to which the public has access is increasingly commonplace. The Council has employed it in the form of CCTV monitoring of its offices, car parks and the town centres. CCTV monitoring is undertaken in accordance with the Council's Code of Practice for the operation of CCTV. CCTV is usually clearly marked through the use of signage.

3.3 RIPA applies where any covert surveillance of an identifiable or named person is carried out by a public authority carrying out an investigatory function. RIPA includes a local authority within the description of public authority.

3.4 Covert surveillance can be either

- (a) **intrusive**, that is, carried out in relation to anything that is taking place on any residential premises or in any private vehicle by an individual or a surveillance device on the premises or in the vehicle; or
- (b) **directed**, that is, undertaken for the purposes of a specific investigation or operation and involving the observation of a person or persons in order to gather information about them.

3.5 **Local authorities are not authorised to conduct intrusive surveillance.**

3.6 **Directed** covert surveillance that is likely to result in obtaining private information about a person is permitted by RIPA and its associated regulations if such surveillance has been authorised in the manner provided by the Act, the Home Office Code of Practice and the prescribed standard forms. Private information is any information relating to a person's private or family life.

3.7 An authorising officer for a public authority may only grant authorisation to carry out directed surveillance if it is necessary in the interests of:

- national security (**not** applicable to local authorities);
- preventing or detecting crime or of preventing disorder;
- public safety (**not** applicable to local authorities);
- protecting public health (**not** applicable to local authorities);
- assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department (**not** applicable to local authorities); or
- is specified by regulations.

3.8 Local authorities may only authorise use of covert directed surveillance on the ground that it is necessary in the interests of preventing or detecting crime or of preventing disorder. The use of surveillance must also be proportionate to what is being sought to achieve.

3.9 Authorisation is not required to record things which are not planned but arise in the course of an investigation. For example if an enforcement officer is attending a property to visit a witness and observes a neighbour causing criminal damage he/she can record what they saw without authorisation.

3.10 Particular care needs to be taken when the surveillance may give rise to the obtaining of **confidential information**. In this context confidential information means:

- Where legal professional privilege applies;
- Confidential personal information; or
- Confidential journalistic material

Legal professional privilege will apply to oral and written communications between a professional legal adviser and his/her client made in connection with the giving of legal advice or in connection with or contemplation of legal proceedings.

Confidential personal information is information held in confidence about a person's physical or mental health or to spiritual counselling or assistance. The information must have been created or acquired in the course of a trade, business or profession or for the purpose of any paid or unpaid office.

Confidential journalistic material includes material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence.

If the purpose of the surveillance is to obtain confidential information then this will need to be approved by the Head of Legal and Member Services and the Chief Executive. If in the course of an operation confidential material is obtained through surveillance this must be notified immediately to the Head of Legal and Member services. It must be retained and provided to the inspector from the Office of the Surveillance Commissioner at the next inspection.

- 3.11 An applying officer wishing to use directed surveillance must complete **FORM RIPADS1** (all forms are attached to this policy). The applying officer must fully complete all parts of the form. The officer should refer as necessary to the Home Office Code of Practice, available as set out in paragraph 3.18 below.
- 3.12 The applying officer must consider the proportionality of the use of surveillance. The officer must consider the seriousness of the matter being investigated, the impact that any evidence obtained through the surveillance will have on the investigation and the level of intrusion which will be caused. The officer must take steps to ensure that any intrusion is kept to the minimum level necessary. Any intrusion in to the private life of persons not the subject of the investigation (e.g. family or visitors) should be minimised.
- 3.13 The completed form should be referred to an **authorising officer**. All Chief Officers may designate officers within their department as authorising officers for the purposes of RIPA. On receipt of the form the authorising officer will contact the Head of Legal and Member Services to obtain a unique reference number. The authorising officer must be a Director or a Head of Service or Service Manager. The authorising officer will place the form on the central register. The register is an electronic folder with access rights limited to authorising officers (for their area only) and the Head of Legal and Member Services or his/her nominated representatives (to all contents). When an authorising officer places a form on the register he/she will also separately notify the Head of Legal and Member Services by e-mail that this has been done. If the authorising officer does not have access to the register he or she will e-mail the form to the Head of Legal and Member Services who will arrange for it to be placed on the register. All forms for authorised applications shall be placed on the register immediately. All applications shall remain on the register for at least 3 years. Officers should ensure that when they complete the authorisation forms they comply with the following requirements:
- (a) the information on which an investigation is based must be clearly identified
 - (b) applications should state clearly why the covert activity is believed to be necessary and proportionate.
 - (c) Authorising Officers should clearly state why they consider the covert activity is necessary and proportionate (including the steps to be taken to minimise intrusions into privacy, particularly of those persons not suspected of crime or disorder). They must never be granted retrospectively.

- (d) Authorising Officers must describe accurately all the covert activity which they are authorising so as to ensure that the limits are not infringed.
- (e) Technical feasibility studies should be presented to the Authorising Officer along with the application for authorisation. They should be attached to the authorisation. If the authorisation is granted, the person carrying out technical installations (e.g. of cameras and sound recording equipment) must see the relevant parts of the authorisation prior to the installation of any surveillance equipment.
- (f) Review dates should be stipulated by Authorising Officers at the time they authorise the covert surveillance for any extended period. This is to ensure that the need for continuation of the surveillance is regularly assessed and recorded on Form RIPAD52 and that (where appropriate) authorisations are either renewed (before they expire) on Form RIPAD54 or cancelled on Form RIPAD53.
- (g) Cancellations of authorisations should be made promptly when the need for covert surveillance has ceased. The cancellation should contain a full description of the activity which has been authorised, what the results of the surveillance were, and how and when any products of the surveillance will be stored, retained or destroyed.

3.14 Urgent Oral Applications

3.14.1 It is possible to grant urgent oral authorisations. It is envisaged that this will be done very rarely, if ever. No authorisations have been granted in this way in the past 3 years. The Code of Practice states that this should not be done:

unless the time that would elapse before the authorising officer was available to grant the authorisation would, in the judgement of the person giving the authorisation, be likely to endanger life or jeopardise the investigation or operation for which the authorisation was being given. An authorisation is not to be regarded as urgent where the need for an authorisation has been neglected or the urgency is of the authorising officer's own making.

3.14.2 Where an urgent authorisation is granted the authorising officer must record as soon as is practicable the reasons for granting the authorisation urgently. An urgent authorisation will lapse after **seventy two hours**.

3.14 Review/Cancellation

3.15.1 Written authorisations will lapse automatically unless they are renewed after **3 months**. However, authorisations should be reviewed on a regular basis and cancelled when they are no longer required for the purpose for which they were granted. In each case the authorising officer within each public authority should determine how often a review should take place. This should be as frequently as is considered necessary and practicable. On carrying out a review the authorising officer should complete a **Form RIPADS2**. Once

completed the form should be placed on the central register immediately either by the authorising officer directly or via the Head of Legal and Member services. If the form is placed directly on the register the authorising officer must notify the Head of Legal and Member Services that this has been done by e-mail.

3.15.2 If upon review the need for directed surveillance no longer exists then the authorisation will be cancelled immediately. On cancellation the authorising officer shall complete **Form RIPADS3**. The completed form shall be placed on the central register either by the authorising officer directly or via the Head of Legal and Member services. If the form is placed directly on the register the authorising officer must notify the Head of Legal and Member Services that this has been done by e-mail.

3.16 Renewal

If the authorisation is due to lapse it may be renewed for a period of a further 3 months provided the need for the surveillance continues. If a renewal is required a **Form RIPADS4** shall be completed. If an authorisation is renewed for a further period of 3 months it should be reviewed during that period.

3.17 Audit Checks

The Head of Legal and Member Services shall carry out a regular audit of authorisations contained on the central register at least once every 3 months.

3.18 Code of Practice

The Home Office Code of Practice on the Use of Covert Surveillance can be viewed at: <http://security.homeoffice.gov.uk/ripa/publication-search/general-publications/ripa-cop/index.html>

3.19 The following examples illustrate the circumstances in which it is necessary and appropriate to obtain authorisation for covert surveillance:

3.19.1 Residents report to the Anti-social Behaviour Team that the occupants of a neighbouring property are disturbing them at night by engaging in noisy parties or quarrels fuelled by the consumption of alcohol and threaten them with violence when they protest.

In such circumstances covert surveillance (e.g. by means of a camera and sound recording devices unobtrusively fitted to an adjoining property) would be necessary to prevent crime and disorder (because witnesses are likely to be intimidated) and proportionate (the disturbance is frequent and at a high level). The recording device should not normally be capable of picking up conversations at a normal level within the home targeted (and consequently is not intrusive). The Authorising Officer must therefore have available a technical feasibility study.

The amount of collateral intrusion on the privacy of the persons should be low (if the device is directed only at the targeted property) and if the need for continual surveillance is regularly reviewed by the Authorising Officer to ensure that the recording device is removed (when, for example it becomes apparent that the antisocial behaviour has ceased or significantly diminished) Those fitting the recording device must be shown that part of the authorisation which defines the permitted coverage of the camera so that the limits of the authorisation are not infringed.

3.19.2 The police approach the operators of the Council's CCTV cameras and ask them to train their cameras on a particular part of a public place where they suspect drug dealers are doing business. Council staff may only comply with the request of the police if they are satisfied that the police officers have obtained the necessary authorisation for directed surveillance from their superiors. Whilst the cameras are overt, they would be used for the purposes of a specific investigation or specific operation and therefore that use would require authorisation. Members of the public would not normally expect public cameras to be trained on specific individuals or on specific public places for protracted periods and therefore their use in that instance would be covert. The same principles would apply if Trading Standards Officers requested the use of CCTV cameras to monitor the activities of suspected illegal traders in a prohibited street. Authorisation for directed surveillance would be required before the CCTV cameras could be used for that purpose.

3.20 The Head of Legal and Member Services will compile and maintain electronically a central record of authorisations granted by authorising Officers. That central record shall contain the following information about the authorisation:

- (a) Whether it is for Directed Surveillance or Covert use of Human Intelligence Source.
- (b) Its unique reference number.
- (c) Applicant's name and title.
- (d) Department and Section.
- (e) Identity of Target and the title of the investigation.
- (f) Date of authorisation.
- (g) Renewal Date and name and/or title of Authorising Officer.
- (h) Review Date.
- (i) Whether the urgency provisions were used and, if so, why?
- (j) Whether the investigation is likely to result in obtaining confidential information.

(k) Cancellation Date.

The information contained in the Central Record will be used by the Head of Legal and Member Services to monitor the use by departments of RIPA. It will be a standing item on the agenda of the quarterly meetings of the Coordinators Group referred to in paragraph 7.1.

- 3.21 The Director of Law, HR and Asset Management has been appointed the Senior Responsible Officer to perform the duties of that office set out in the Home Office Codes of Practice. These include liaising with OSC Inspectors and taking steps to ensure compliance with RIPA and the Codes by authorising officers.

4.0 COVERT HUMAN INTELLIGENCE SOURCES (CHIS)

- 4.1 The use of CHISs is also regulated by RIPA. A CHIS is a person who establishes or maintains a relationship with someone in order to obtain information, to provide another person with access to information or to disclose information as a consequence of that relationship. Should an officer consider the use of a CHIS as necessary, they must liaise with the Head of Legal and Member Services. If the use of a CHIS is deemed necessary, special arrangements will be made for their use in accordance with the Home Office Code of Guidance on Covert Human Intelligence Sources (see paragraph 4.5 below). It is not anticipated that CHISs will be used often by the Council. However, if professional witnesses are used they may fall within the definition of CHISs. Only the Chief Executive can authorise the use of a CHIS.

- 4.2 If an investigating officer does believe that the use of a CHIS is necessary in the course of an investigation he/she should complete **FORM RIPACHIS1**. The officer must consider the safety and welfare of a person acting as a source and must carry out a risk assessment before authorisation is granted. The use must be proportionate to what is intended to be achieved. The authorisation will lapse automatically if not renewed after a period of **12 months**.

- 4.3 Special considerations apply if the person to be used as a source is **vulnerable** or a **juvenile**. In such circumstances advice should be sought from the Head of Legal and Member Services. Authorisation may only be granted by the Chief Executive, as Head of Paid Service.

- 4.4 The same procedures outlined above in respect of directed surveillance of:

- Maintenance of a central register
- Confidential information
- Review
- Cancellation
- Renewal; and
- Audit checks

Shall also apply to the use of CHISs. The following forms shall be used **FORM RIPACHIS2** (review), **FORM RIPACHIS3** (cancellation) and **FORM RIPACHIS4** (renewal)

- 4.5 The following examples illustrate the circumstances in which it is necessary and proportionate to obtain authorisation for the use of a CHIS (Covert Human Intelligence Source).
- 4.5.1 The Anti-Social Behaviour Team engage a private detective to pose as a tenant of Wirral Partnership Homes in order to form a relationship with a group of tenants suspected of committing acts of serious anti-social behaviour, including criminal damage to property, drug dealing and intimidation of other tenants. The purpose of establishing a relationship is to obtain information admissible in possession proceedings (e.g. by covert tape recordings of conversations) or to assist the police or the Anti-Social Behaviour Team to anticipate the future criminal behaviour of the tenants under suspicion. No potential witnesses are willing to co-operate with the Anti-Social Behaviour Team by installing cameras in the properties. Authorisation would be required in such circumstances since the private detective will be establishing a personal relationship with the subjects to obtain and disclose information to the Anti-Social Behaviour Team in a manner that is calculated to ensure that the subjects are unaware of the purpose of the personal relationship. This example also illustrates the difficulties, dangers (and expense) of using a CHIS in the circumstances where evidence cannot be obtained by other methods.
- 4.5.2 A trading standards officer enters a shop and makes a "test purchase" from a retailer suspected of selling "counterfeit goods". No authorisation would be required for a CHIS because he would not be establishing a personal relationship with the retailer (although if he had attached to his person a concealed camera it would be necessary for him to obtain authorisation for directed surveillance). If on the other hand, the trading standards officer struck up a conversation with the retailer whilst posing as a member of the public in order to ascertain whether the retailer (without any encouragement from the Trading Standards Officer) would offer to sell him (or another customer) counterfeit goods, then he would be acting as a CHIS and authorisation would be required. The essence of a CHIS is that he obtained information by winning someone's confidence on a false basis

4.6 Code of Practice

The Code of Practice relating to the use of CHISs can be found at: <http://security.homeoffice.gov.uk/ripa/publication-search/general-publications/ripa-cop/index.html>

5.0 COMMUNICATIONS DATA

- 5.1 Requests for communications data will be dealt with by **designated persons**. Those persons who are authorising officers for the purposes of directed surveillance and CHISs shall also be designated persons for the purposes of

obtaining communications data. Each local authority must have its own **Single Point of Contact (SPOC)**, to whom applicants can submit their requests for communications data. This is to ensure there is a specific point of accountability in each authority requesting data for reasons connected with RIPA and the HRA etc. The SPOC for Wirral Council is the Trading Standards Manager

- 5.2 It is important to note that we are not referring here to the interception of communications or the **content** of communications. The Council does not have power to intercept communications or acquire content.
- 5.3 There are 3 types of communications data;
- traffic data;
 - service use data; and
 - subscriber data.
- 5.4 More information on what constitutes these types of communication data is set out in the Home Office Code of Practice (see paragraph 5.9 below). Advice can also be sought from the Head of Legal and Member Services. Local authorities are only able to seek disclosure under RIPA of service use data and subscriber data **not** of traffic data.
- 5.5 Applications may be made for service use data e.g. itemised bills or subscriber data e.g. whether a person uses a particular network, who is the user of a particular number. A request for such information can only be made where it is necessary for the purpose of preventing or detecting crime or preventing disorder. The request must be proportionate. The form for completion for disclosure of communications data including guidance on completion is attached as **FORM RIPACD 1**. An authorisation or notice remains valid for **one month**. A valid authorisation or notice may be renewed for a further period of one month.
- 5.6 An authorisation or notice must be cancelled as soon as it is no longer necessary for the service provider to comply with the notice or the conduct required by the notice is no longer proportionate to what was sought to be achieved.
- 5.7 The **Senior Responsible Officer** must be responsible for:
- the integrity of the process in place within the public authority to acquire communications data;
 - compliance with Chapter II of Part I of the Act and with this code;
 - oversight of the reporting of errors to the Interception of Communications Commissioners Office (IOCCO) and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;

- engagement with the IOCCO inspectors when they conduct their inspections; and
- where necessary, overseeing the implementation of post-inspection action plans approved by the Commissioner.

In Wirral the Senior Responsible Officer is the Head of Legal and Member Services.

5.8 In Wirral there has been very limited use of these powers. In the year 01/01/08 – 31/12/08 there were only 2 requests made for subscriber data by the Council.

5.9 The Home Office Code of Practice on the use of Communications Data can be viewed at: <http://security.homeoffice.gov.uk/ripa/publication-search/ripa-cop/acquisition-disclosure-cop.pdf>

6.0 REPORTING AND REVIEW

6.1 The Council recognises the public interest in the use by it of these powers. It is essential that it regularly monitors and reviews the use of these powers. Therefore, this policy and procedure shall be subject to a review on at least an annual basis. The Head of Legal and Member Services shall report annually to the Chief Officers Management Team on the use of these powers and the Director of Law, HR and Asset Management shall report annually to the Cabinet and quarterly to the Audit and Risk Management Committee in accordance with the Codes of Practice.

7.0 COORDINATION AND TRAINING

7.1 All Departments that use or may use the Council's powers under RIPA shall nominate a Departmental Coordinator under this Policy. The Departmental Coordinators shall meet at least once a quarter to review the operation of this policy, share best practice and consider training needs. Those meetings shall be chaired by the Head of Legal and Member Services or his/her nominated representative. Appendix 1 shows the list of Departmental coordinators.

7.2 The Council shall ensure that adequate training is provided to officers in the use of the powers. A training register shall be maintained and all authorising/designated officers will receive training at least every 2 years. A copy of the register is attached as Appendix 2. If an authorising/designated officer has not attended any training for a period of 2 years they shall **automatically cease** to be a responsible/authorised officer.

WIRRAL COUNCIL

CABINET

18 OCTOBER 2012

SUBJECT:	LOCAL SUSTAINABLE TRANSPORT FUND (LSTF) – ACCEPTANCE OF MAJOR BID FUNDING
WARD/S AFFECTED:	ALL
REPORT OF:	INTERIM DIRECTOR OF TECHNICAL SERVICES
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR HARRY SMITH STREETSCENE AND TRANSPORT SERVICES
KEY DECISION	YES

1.0 EXECUTIVE SUMMARY

- 1.1 This report explains the successful funding bid made by the Merseyside Transport Partnership (MTP) to the Department for Transport (DfT) to deliver a programme of sustainable transport measures.
- 1.2 This funding will assist the Council to support Wirral residents to access employment opportunities, as well as encouraging the use of sustainable transport and contributing to reducing carbon emissions in the Borough.
- 1.3 This report seeks authority from Cabinet to accept and commit the funding from Merseytravel, and to give delegated authority to the Interim Director of Technical Services, in conjunction with the Acting Director of Law, HR and Asset Management, to enter into a funding agreement with Merseytravel.
- 1.4 This report sets out the projects included in the bid and details how the programme will be delivered and developed and also seeks delegated authority for the Interim Director of Technical Services to approve the identified scheme(s) for delivery in 2012/13.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 On the 19th January 2011 the Government, as part of the Local Transport White Paper, issued guidance regarding the creation of a £560 million Local Sustainable Transport Fund (LSTF). The purpose of this fund was to enable the delivery of sustainable transport solutions that support economic growth whilst reducing carbon. The LSTF guidance stated that “solutions should be geared to support jobs and businesses by tackling congestion, improving reliability and predictability of journey times, enabling economic investment, revitalising town centres and enhancing access to employment”. The guidance also stated that “the solutions should also bring about changing patterns of travel behaviour and greater use of more sustainable modes and so deliver a

reduction in carbon and other harmful emissions”. The guidance also noted that the fund also provided an opportunity to take an integrated approach to meeting local challenges and to delivering additional wider social, environmental, health and safety benefits for local communities.

- 2.2 Authorities were invited to bid to secure funding via the Department for Transport (DfT). Metropolitan areas were required to bid through their respective Integrated Transport Authority (ITA). The funding, both revenue and capital, was available over four financial years 2011/12 to 2014/15.
- 2.3 Applications were invited for small scale projects (up to £5 million) or large projects (up to £50 million). The Merseyside Transport Partnership (MTP) agreed to submit an application for the large project category and in order to do this a two stage application process was required to be undertaken. The first stage was to submit an application for “Key Component” funding which was for up to £5 million of the larger bid.
- 2.4 On the 18th April 2011, Merseytravel as the ITA, submitted an early smaller bid known as the “Key Component” bid, for £4.877m. The project was to “Facilitate Sustainable Access to Employment in Merseyside”. The overall project was composed of three themes. These were:-
- Working with Employers
 - Travel Solutions
 - Sustainable Transport Infrastructure
- 2.5 £810k of the total Merseyside Key Component bid was for the delivery of projects in East Wirral over a four year period from 2011/12 – 2014/15. Previous reports to Cabinet on 24 November 2011 and 12 April 2012 considered acceptance of this funding and an update on the delivery of the programme respectively.
- 2.6 The application to the DfT for the major bid was for £21.72 million (Merseyside wide). On the 4th July 2012 the DfT wrote to Merseytravel to announce that the Merseyside Transport Partnership Major Bid was successful and Merseytravel, on behalf of the MTP were awarded £19.9 million. The reason for the reduction in the value of the award from the original bid amount was associated with the removal by the DfT of a project for the St Helens Electric Bus Scheme.
- 2.7 Tables 1 and 2 illustrate the breakdown of the funding.

Table 1: Merseyside LSTF Major Funding - £19.9 million

£k	Revenue	Capital	Total
2012/13	2974.5	2803	5777.5
2013/14	3783.5	3193	6976.5
2014/15	3524	3712	7236
Total	10,282	9708	19,990

Table 2: Wirral LSTF Major Funding - £3.2 million

£	Revenue	Capital	Maintenance	Total
2012/13	398,389	675,890	13,117	1,087,396
2013/14*	395,830	675,830	13,200	1,084,860
2014/15*	354,830	674,830	13,200	1,042,860
Total	1,149,049	2,026,550	39,517	3,215,116

*indicative spend profile for future years will be confirmed by Merseytravel at a later date

- 2.8 As with the Key Component Bid, Merseytravel are the lead authority and the accountable body for the Major Bid. The project will be administered by Merseytravel in accordance with the terms and conditions specified by the DfT. As with the Key Component Bid, Merseytravel have prepared a funding agreement for the Local Authorities and other partners. This agreement covers the management, delivery and monitoring of the project and sets out the arrangements for the partner authorities to claim back expenditure against the project on a quarterly basis in arrears. Officers are currently seeking advice from colleagues in Legal with regard to this agreement and, subject to any negotiations regarding the content of this agreement, delegated authority is requested for the Interim Director of Technical Services in conjunction with the Acting Director of Law, HR and Asset Management to enter into a funding agreement with Merseytravel with regard to the LSTF Major Bid.

3.0. WIRRAL MAJOR BID DELIVERY AND PROGRAMME

- 3.1. In order that the full allocation of grant allocated to Wirral is spent within the required timescales, it is essential that delivery of the projects commences without delay. It is important to note that the DfT have indicated that any unclaimed funds cannot be carried forward to subsequent financial years. A “programme management” arrangement will be set up to drive and monitor projects and spend profile.
- 3.2. Tables 3 and 4 below illustrate the breakdown of Wirral’s allocation of the major bid as per the approved bid.

Table 3: Wirral LSTF Major CAPITAL Funding - £2.027 Million

	2012/13 (k)	2013/14 (k)	2014/15 (k)	Total (k)
Walking and Cycling Infrastructure –General	416	416	415	1247
Walking and Cycling – Visitor Economy	104	104	104	312
Highway Network Improvements	155	156	156	468
Total	676	676	675	2027

Figures rounded to nearest £k

Table 4: Wirral LSTF Major REVENUE Funding - £1.149 Million

	2012/13 (k)	2013/14 (k)	2014/15 (k)	Total (k)
Business Travel Support	118	96	75	289
Community Travel Hub	242	257	237	736
Maxi Taxi	32	32	32	96
Walking and Cycling Infrastructure	3	5	5	14
Walking and Cycling – Visitor Economy	3	5	5	14
Total	398	396	355	1149

Figures rounded to nearest £k

3.3. The following sub-sections outline the projects/schemes supported under the different elements of the funding, and detail the planned expenditure for 2012/13.

(i) Walking and Cycling Infrastructure – General

2012/13 Walking and Cycling Infrastructure – General (£K)			
	Revenue	Capital	Total
Scheme delivery (inc. staff costs)		416	416
Promotion/Marketing	3		3
Total	3	416	419

This element of LSTF will provide improved walking and cycling links to and within East Wirral to provide access to employment areas, and to public transport. The aim is to increase the number of people that can access employment areas and public transport through relatively inexpensive travel, with the aim of increasing access to jobs.

Several example schemes were included in the approved bid and officers are currently identifying which of these schemes is appropriate to take forward in the current financial year, giving consideration to the timescales for delivering the scheme/s prior to the end of this financial year. It is requested that the Interim Director of Technical Services is given delegated authority, following discussions with the Cabinet Member to approve the identified scheme for delivery in 2012/13. Schemes identified for delivery in future years will be referred to Cabinet at a later date.

(ii) Walking and Cycling – Visitor Economy

2012/13 Walking and Cycling Infrastructure – Visitor Economy (£K)			
	Revenue	Capital	Total
Scheme delivery (inc. staff costs)		104	104
Promotion/Marketing	3		3
Total	3	104	107

This element of the funding is to provide improved walking and cycling links to Tourism Sites. Several schemes have been identified that will assist the existing Wirral Circular Trail Walking and Cycling route. This route is an existing 35 mile signposted trail around the coast of Wirral. Additional improvements to this route will not only provide access to tourism sites, which will benefit the local economy but will also provide health and environmental benefits to the local communities.

(iii) Highway Network Improvements

2012/13 Highway Network Improvements (£K)			
	Revenue	Capital	Total
Scheme delivery (inc. staff costs)		155	155
Total	-	155	155

This project will provide highway network improvements in East Wirral which will reduce the journey time of bus users to key employment destinations. Junction improvements will bring about improvements to air quality through more efficient traffic management techniques. Increasing occupancy levels on the buses, through more reduced journey times, will also have additional environmental benefits. The efficient movement of people and goods can also benefit businesses and help them operate more effectively.

Several example schemes were included in the approved bid and at the present time Officers are working to identify which scheme is appropriate to take forward in the current financial year, giving consideration to the timescales for delivering the scheme/s prior to the end of this financial year. It is requested that the Interim Director of Technical Services is given delegated authority, following discussions with the Cabinet Member and Party Spokespersons, to approve the identified scheme for delivery in 2012/13. Schemes identified for delivery in future years will be referred to Cabinet at a later date.

(iv) Business Travel Support

2012/13 Business Travel Support (£K)			
	Revenue	Capital	Total
Scheme delivery (staffing / promotion / employer support)	118		118
Total	118		118

The aim of the Business Travel Support project is to employ Travel Advisors to deliver bespoke Business Travel Support packages to raise awareness of sustainable travel choices and seek to encourage behaviour change. The package will be focussed on Wirral International Business Park (WIBP), Croft Retail Park, Neptune and will work to assist with any aspects of Wirral Waters that progress during the life of the LSTF project. The aim is to embed sustainable travel behaviour in workplace business practices with the aim of reducing single occupancy vehicle travel to key employment sites.

This project will build on the work already being delivered under the “Working with Employers” element of the Key Component Bid.

(v) Community Travel Hub

The aim of the Travel Hub is to remove or lower transport barriers for individuals and support them back into employment. The project will offer advice and guidance on different travel solutions available and offer solutions to help individuals complete their journeys to new employment. There will be five solutions on offer;

- Personalised journey planning
- Travel cards
- Cycle to work scheme
- Scooter commuter scheme
- Travel Training

This scheme will be open to any resident travelling to East Wirral, or any resident of East Wirral.

This project will build on the work already being delivered under the “Travel Solutions” element of the Key Component Bid.

2012/13 Community Travel Hub (£K)			
	Revenue	Capital	Total
Staff costs/ Promotion & Marketing/ Travel Solutions	242		242
Total	242		242

(vi) Maxi Taxi

The “maxi taxi” project is based around the idea of sharing a taxi to work. This solution would assist members of the public to access employment destinations where no public transport exists, or where shift patterns make transport difficult for those without access to a car.

Officers are currently in discussion with Merseytravel in order to ascertain the best way to take this project forward. This project would rely on IT support from Merseytravel’s existing journey/route planning systems and therefore Officers will be working closely with Merseytravel over the coming months to develop and progress this element of the bid.

This scheme will link to the Community Travel Hub to provide a solution for members of the public who would not benefit from any of the interventions provided by the Hub.

2012/13 Maxi Taxi			
	Revenue	Capital	Total
Scheme delivery	32		32
Total	32		32

(vii) Maintenance

DfT have awarded an element of Maintenance funding for each financial year of the Major bid. Merseytravel are still in discussions with the DfT to confirm how this money will be awarded.

2012/13 Maintenance (£K)
13

4.0 RELEVANT RISKS

- 4.1. The principal risks for the Council are attached to the failure to deliver all or part of the project and therefore not satisfy the requirements of the funding agreement with Merseytravel. In theory this may result in the Council not being able to claim all or part of the £3.2 million.

5.0 OTHER OPTIONS CONSIDERED

- 5.1 No other options have been considered, as this report sets out a response to proposals that have been developed as part of a successful bid made by MTP to the DfT.

6.0 CONSULTATION

- 6.1. This project has been developed with the MTP and funding has been allocated by the DfT through the LSTF. As individual projects are being developed various other partners, including private sector and third sector organisations will be consulted as appropriate. Officers in Technical Services are also working closely with Officers in Regeneration, Housing & Planning, Finance and Procurement and Legal regarding the delivery of the project.

7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 7.1. The DfT is keen that the LSTF provides benefits for community and voluntary organisations in the delivery of the programme. The project offers opportunities for the voluntary and community sectors to benefit from the funding available through support packages that are proposed to be delivered.

8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 8.1. The project will be fully funded through LSTF and there will be no additional financial implications for the Council. The Council will be able to submit quarterly claims to Merseytravel for expenditure incurred to that date.
- 8.2. An assessment has been made of the resources to deliver the revenue funded parts of the programme and existing resources will be utilised to deliver the programme in 2012/13. As the project progresses the Programme Board will undertake a further review to determine whether the future programmes can be delivered with existing resources.
- 8.3. An initial assessment has been undertaken of the staffing resource required to successfully manage and implement the capital programme of the LSTF Major Bid in 2012/13 and existing resources can be utilised to deliver this part of the programme. However, it is likely that this could have an impact on the delivery of the approved Transportation Capital Programme and this will need further consideration.
- 8.4. The funding, if accepted, will secure an additional £3.215 million (revenue and capital) for Wirral from 2012/13 to 2014/15. It is unlikely that there will be ongoing funding for projects past this date.
- 8.5. Infrastructure schemes will be implemented and will become a quantified Council highway asset and, as such, be subject to ongoing maintenance within existing resources as required. £39.5k of the LSTF grant for Wirral has been allocated by the

DfT for maintenance although at present clarification is still being sought from the DfT by Merseytravel as to how this will be allocated.

- 8.6. Additional IT equipment may be required to support the delivery of the project but the cost of this would be met from within the capital element of the funding.

9.0. LEGAL IMPLICATIONS

- 9.1. In order to receive the funding Wirral Council are required to sign up to a legal funding agreement with Merseytravel. Merseytravel, as the Integrated Transport Authority (ITA) are the accountable body for this project with the DfT.
- 9.2. In order for Merseytravel to accept the funding they have signed a legal agreement with the DfT under Section 31 of the Local Government Act 2003.
- 9.3. Merseytravel have prepared a similar funding agreement for all the districts. A similar agreement was prepared by Merseytravel and signed up to by the Council as part of the Key Component Funding. The purpose of the funding agreement is to ensure that all terms and conditions of the grant are met and will ensure that Merseytravel will authorise claims that the districts make quarterly in arrears for project implementation.

10.0 EQUALITIES IMPLICATIONS

- 10.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(a) Yes and impact review is attached – <http://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-2010/technical-services-0>

11.0 CARBON REDUCTION IMPLICATIONS

- 11.1 The development of the cycling and walking infrastructure schemes and the promotion of sustainable transport modes such as walking, cycling and car share will reduce the number of single occupancy car trips. Encouraging and supporting the use of public transport through the Community Travel Hub and the Business Travel Support Projects will also assist in reducing carbon emissions.

12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 12.1 There are no planning or community safety implications.

13.0 RECOMMENDATION/S

- 13.1 Cabinet is requested to:

- (1) Note the success of Wirral Council Officers and other partners in securing Local Sustainable Transport Major Bid Funding;
- (2) Approve the acceptance of £3,215,116 of Major Bid funding from Merseytravel over the three financial years 2012/13 to 2014/15 of which £1,149,049 is revenue funding, £2,026,550 is capital funding and £39,517 for maintenance;

- (3) Authorise the Interim Director of Technical Services in conjunction with the Acting Director of Law, HR and Asset Management to finalise the funding agreement between Wirral Council and Merseytravel (ITA) as the lead authority and accountable body.
- (4) Approve the delivery of the programme for 2012/13 as set out in Section 3 of this report including delegated authority to the Interim Director of Technical Services following discussions with the Cabinet Member for Streetscene & Transport Services and Party Spokespersons to approve the identified scheme(s) for delivery in 2012/13.
- (5) Request Officers to report to a future meeting on the progress in delivering Local Sustainable Transport Major Bid Funding and provide detailed plans for delivery for 2013/14 onwards.

14.0 REASON/S FOR RECOMMENDATION/S

14.1 Cabinet is aware of the significant reductions in funding for transport through the Local Transport Plan settlements in recent years. The funding available through LSTF provides the opportunity to deliver additional projects and schemes in Wirral which will assist in the removal of transport as a barrier for people seeking employment, as well as supporting and delivering projects which will secure carbon reduction.

14.2 2012/13 is the first year of the three year major LSTF programme and the DfT have indicated that any unspent allocations cannot be carried forward into subsequent years. £1,087,396 has been allocated to Wirral for 12/13 and therefore the Interim Director of Technical Services seeks approval to accept this funding in order that the funding can be spent within the current financial year as required.

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APPENDICES

Appendix 1 – East Wirral Boundary for LSTF Purposes

REFERENCE MATERIAL

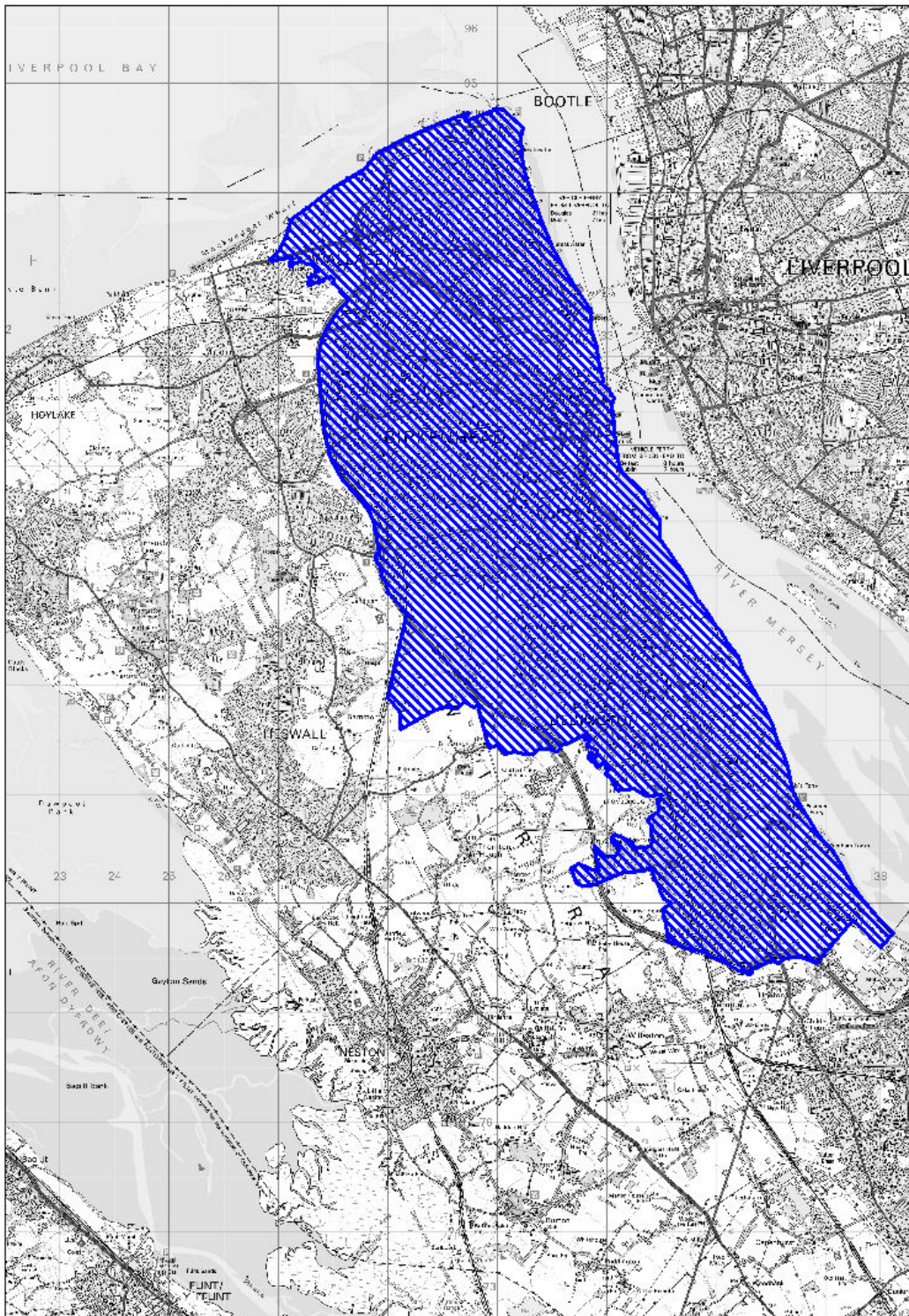
None

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet Agenda Item 9	24 November 2011
Cabinet Agenda Item 39	12 April 2012

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Appendix 1 – East Wirral (Area of LSTF bid)



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WIRRAL COUNCIL

CABINET

18 OCTOBER 2012

SUBJECT:	HIGHWAYS AND ENGINEERING SERVICES CONTRACT MANAGEMENT AND AWARD – ACTION PLAN
WARD/S AFFECTED:	ALL
REPORT OF:	CHIEF EXECUTIVE
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR PHIL DAVIES
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

1.1 The purpose of this report is for Cabinet to consider and approve the Action Plan prepared in response to the recommendations made in the Audit Commission’s Public Interest Report: Highways and Engineering Services Contract Management and Award dated 8 June 2012 . The PIR is set out at Appendix 1 to this report.

2.0 BACKGROUND AND KEY ISSUES

2.1 The Audit Commission on 8 June 2012 published its Public Interest Report: Highways and Engineering Services Contract Management and Award (‘PIR’). The PIR contains 21 Audit Commission recommendations that seek to address the issues and concerns raised within the PIR.

2.2 Council, at its meeting on 16 July, considered the Public Interest: Highways and Engineering Services Contract Management and Award (albeit this report did not include two contextual changes made by the District Auditor) and resolved that it:

- (1) acknowledges and accepts the findings and recommendations set out in the Report in the Public Interest: Highways and Engineering Services Contract (in respect of the report that it considered);
- (2) refers the PIR [the report it considered] for further consideration to the Executive and appropriate committees and sub-committees of the Council and to the Council’s Improvement Board (or any other relevant body/group considered appropriate by the Executive);
- (3) agrees to the amendment of the terms of reference of the Improvement Board to include consideration of the PIR [the report it considered] as part of the Improvement Plan, and assist the Council (as necessary) address/deal with the findings and recommendations set out in the PIR [the report it considered];
- (4) notes the actions already taken by the Council in relation to the PIR [the report it considered]; and the commitment of the Council to take all necessary steps to improve its corporate governance arrangements.

- 2.3 PIR and the recommendations have been carefully considered and relevant Officers have prepared a detailed Action Plan (set out at Appendix 2 to this report) ('PIR - Action Plan') in response to the 21 recommendations made for consideration and approval by Cabinet.
- 2.4 The PIR - Action Plan was considered by the Council's Improvement Board on 21 September 2012. The Improvement Board endorsed the PIR - Action Plan.
- 2.5 Cabinet is asked to consider and approve the PIR Action Plan as set out at Appendix 2.
- 2.6 The Council is required under the Audit Commission Act 1998 to publish a Notice in a local newspaper in relation to the PIR, Council's resolution of 16 July and the PIR-Action Plan specifically setting out where such documents can be inspected by the public. Subject to the Cabinet approving the PIR – Action Plan, the aforementioned Notice will be published in a local newspaper as soon as practicably possible after the Cabinet meeting.

3.0 RELEVANT RISKS

- 3.1 The PIR identifies a number of issues and concerns in relation to the Council's corporate governance arrangements. The Council exposes itself to risk and challenge should it fail to address the risks identified fully and promptly.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 No other options were considered.

5.0 CONSULTATION

- 5.1 The draft PIR – Action Plan has been shared with the District Auditor and considered by the Council's Improvement Board.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 6.1 There are no such implications arising.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 7.1 The resource implications arising in relation to implementing the actions detailed within the Action Plan shall be considered as necessary and relevant and necessary resources provided to ensure the effective and timely implementation of the PIR – Action plan.

8.0 LEGAL IMPLICATIONS

- 8.1 The Council must address the issues raised in the PIR and take all appropriate and necessary action to address/mitigate against the concerns identified.

9.0 EQUALITIES IMPLICATIONS

- 9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because there is no relevance to equality.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 There are no such implications arising.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are no such implications arising.

12.0 RECOMMENDATION/S

12.1 That Cabinet approves the PIR – Action Plan set out at Appendix 2 to this report.

13.0 REASON/S FOR RECOMMENDATION/S

13.1 The Council is required to consider and take action to address the concerns raised in the PIR.

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APPENDICES

Appendix 1 – Public Interest Report: Highways and Engineering Services Contract Management and Award dated 8 June 2012

Appendix 2 - Highways and Engineering Services Contract Management and Award – Action Plan

REFERENCE MATERIAL

N/a

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Council	16 July 2012

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Highways and engineering services contract award and management

Wirral Council

Report in the Public Interest

Audit 2010/11

8 June 2012

The Audit Commission is a public corporation set up in 1983 to protect the public purse.

The Commission appoints auditors to councils, NHS bodies (excluding NHS foundation trusts), local police bodies and other local public services in England, and oversees their work. The auditors we appoint currently are either Audit Commission employees (our in-house Audit Practice) or one of the private audit firms. Our Audit Practice also audits NHS foundation trusts under separate arrangements.

We also help public bodies manage the financial challenges they face by providing authoritative, unbiased, evidence-based analysis and advice.

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Summary report

Introduction

1 This report is made under section 8 of the Audit Commission Act 1998 (the Act). This allows me to issue a report in the public interest where a matter comes to my notice to allow it to be considered by the Council or brought to the attention of the public.

2 During 2008, Wirral Council (the Council) carried out a competitive tendering process for the provision of highway and engineering services (HES) aimed at bringing together several previous contracts in order to rationalise the services and provide better value for money. Six of the seven shortlisted tenderers submitted a bid, including the Council's in-house Operational Services Department (OSD).

3 The contract was awarded on 16 October 2008, with effect from 1 April 2009. Staff within OSD transferred to the successful bidder on 1 April 2009 under the Transfer of Undertakings (Protection of Employment) Regulations 2006.

4 In November 2008, a group of OSD staff raised concerns about the procurement process with the Council's Chief Executive and an internal investigation was carried out. The group was not satisfied that their concerns had been dealt with appropriately by that investigation and, in March 2009, they raised their concerns with me.

My responsibilities

5 External audit is an essential part of the process of accountability for public money. Appointed external auditors operate within the duties, powers and discretions given under the Audit Commission Act 1998 and the Code of Audit Practice (the Code) approved by Parliament. The Code determines the nature, level and scope of external audit work. Under the Code, the external auditor provides:

- an independent opinion on a public body's accounts; and
- an independent value for money conclusion as to whether a public body has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

6 Appointed auditors have certain other powers, including reporting in the public interest under section 8 of the Act. They consider matters brought to their attention by members of the public in undertaking their work.

7 Appointed auditors are prescribed persons for disclosures relating to ‘the proper conduct of public business, value for money, fraud and corruption in local government and health service bodies’. The obligation of appointed auditors to a whistleblower under the Public Interest Disclosure Act 1998 (PIDA) is confined to the receipt of disclosures. PIDA neither requires nor empowers appointed auditors to carry out an investigation into the subject matter of any disclosure made or to report the results of any investigation undertaken. However, appointed auditors will consider any information received as a result of a disclosure and determine what action, if any, to take in the context of their existing statutory and professional powers and duties.

Audit approach

8 I carried out an initial review of aspects of the HES contract award in the course of my 2009/10 audit, focused on the tendering stage. I reported the outcome of my review in September 2010. My report was also considered by the Council’s Audit and Risk Management Committee in September 2010. I undertook, however, to follow up that work when the Council’s assessment of the benefits realised from, and hence the value for money of, the contract was available.

9 In undertaking this follow-up work, I have:

- followed up the recommendations and actions agreed in my previous report;
- assessed the arrangements for achieving value for money, including benefits realisation and governance; and
- considered further information from the whistleblowers in the context of my responsibilities.

Main conclusions

10 I have identified a number of weaknesses in the Council’s arrangements to award and manage the HES contract. Whilst I have not identified any specific loss to public funds, the Council’s arrangements do not, in my view, demonstrate good governance and value for money are being secured from this contract. As a result, the Council has exposed itself to significant risks. The weaknesses identified are, in my view, indicative of similar failings identified in other recent reports issued to the Council. They highlight the need for the Council to strengthen its arrangements for demonstrating good governance and securing value for money in its use of public funds.

11 The Council needs to take action to secure improvements in a number of areas, in particular:

- to demonstrate good governance, by improving the Council’s arrangements for managing and reporting risks, declaring interests, reviewing and complying with contract procedure rules, delivering internal audit, reporting to elected members and responding to whistleblowing; and

- to demonstrate value for money, by improving the Council's arrangements for tender evaluation and contract management, including contract variation, record keeping and performance management.

12 The Council has begun to respond to the messages from my ongoing work. Improved procedures and systems for recording, managing and reporting contract variations, for example, have already been established. I have also noted the work undertaken on the Council's arrangements for demonstrating ongoing value for money, based on the Audit Commission's report 'Going the Distance'. Nevertheless, much is still to be done to mitigate a number of the risks identified by my work, for this contract, for other Council contracts and for the Council's overall arrangements for securing good governance and value for money. My recommendations are set out in the attached action plan.

The way forward

13 The Council has a duty to respond to this report in accordance with sections 11 and 12 of the Audit Commission Act 1998. I will monitor the Council's response as part of my 2011/12 audit.

Detailed report

Pre-tender stage (before 5 September 2008)

14 In the administration of public funds, it is important not only that the highest standards of conduct are observed, but also that they are seen to be observed. For that reason, public bodies should put in place robust arrangements to combat corruption and avoid suspicions of corruption. Amongst those arrangements are clear policies and processes for dealing with contractors and potential contractors, including arrangements for declaring personal and family relationships with contractors and potential contractors, and managing the threats that arise from such relationships.

15 In my report to the Council in September 2010, I raised concerns about:

- a meeting between the Director of Technical Services, another senior Council officer and a representative from the winning contractor in the pre-tender period for the HES contract (whilst recognising that I had found no evidence that the meeting influenced the outcome of the tendering exercise or constituted 'canvassing'); and
- the failure of the Director of Technical Services to declare a personal relationship with the representative from the winning contractor until 11 November 2008, after the contract had been awarded.

16 As a result of the work I have subsequently undertaken, I have now concluded that:

- the purpose of the meeting held between the Director of Technical Services, another Council officer and a contractor representative in the pre-tender period was to discuss the contract and sub-contract arrangements. This is in contravention of the Council's procedures;
- as the contractor was providing services to the Council prior to the letting of the HES contract, the Director of Technical Services should have made a declaration of his relationship with the contractor's representative before he did so in November 2008; and
- the declaration of interest made by the Director of Technical Services in November 2008 was:
 - incomplete (in that it did not record any discussions held with the Council's Chief Executive or agreed actions to mitigate risk); and
 - inconsistent with other evidence (in that it indicated that the Director considered there was no conflict of interest because he believed that the representative of the contractor was responsible for new products/ product development whereas he had in fact met with the representative specifically to discuss the contract).

17 Management considered this matter in March 2009 and concluded at that time, and again, following my 2010 report, that on the basis of the information then available, no further action was required.

18 The Invitation to Tender specifically prohibits any 'canvassing' on the part of tenderers. Meeting with one potential bidder and no other during the pre-tender period to discuss contract arrangements is also likely to have placed the Council in breach of the general EU Treaty principles of fairness and equal treatment which are applicable to procurement. I have not seen any evidence that, during its initial investigation, management considered whether the meeting between the contractor and Council officers in the pre-tender period amounted to canvassing or resulted in a breach of EU requirements.

19 The Council should:

Recommendations

R1 Reconsider the issue of the declaration of interests for the HES contract having regard to the information now available.

R2 Reinforce to all staff their responsibilities for accurate, complete and timely declarations of interests.

R3 Provide training to all staff involved in procurement on communication with tenderers during the pre-tender and tender evaluation periods.

Tender evaluation

20 Thorough and robust evaluation of tenders in accordance with the published evaluation methodology is necessary so that a public body can make a fully informed decision on tender award. The process includes scrutiny of the rates tendered:

- to ensure that they are complete and internally consistent; and
- to identify abnormally low rates and consider whether they cast doubt on the ability of the contractor to deliver the contract at the rates tendered.

21 The successful contractor quoted and confirmed rates for some elements of electrical work for street lighting and traffic signs that were only 2 per cent of the average of those of other tenderers. The Council's Contract Evaluation Team queried these rates but subsequently accepted that the rates were genuine. The issue was not reported to senior officers or elected members prior to the award of the contract.

22 After the award of the contract, officers considered the very low rates for electrical work were the result of an ambiguity in the contract, a view not shared by the winning contractor. It uniquely tendered on the assumption that the Council was responsible for making payments directly to the electrical sub-contractor over and above the rates tendered. As a result, the Council:

- paid an estimated additional £640k directly to the sub-contractor in the period to October 2010 which was not taken into account in the tender evaluation; and
- agreed a contract variation from October 2010 to increase the rates to include the costs of the sub-contractor, increasing the estimated tender price by £855,000 over the remaining life of the five-year contract.

23 Whilst Officers have accepted that this issue has had a significant consequential financial impact they also have pointed to non-financial benefits from the changes made.

24 The estimated additional £1.495m would not have increased the tender price above that of the next lowest tenderer. However, the subsequent variation to the rates for electrical works casts doubt on the robustness of the tender evaluation process. Officers have accepted that procedures need to be amended for future contracts in this respect.

25 A number of other rates have also subsequently been amended to reflect ambiguities in the tender specification, most notably for milling and planing. These also had a financial impact, although neither the Council nor I have quantified the impact.

26 In addition, there is evidence that the contractor has from the inception of the contract struggled to secure a financial return on the contract. Information provided to me, and an external independent review report in June 2010, confirmed that this was the case. This calls into question the effectiveness of the Council's assessment of unusually low rates.

27 The Council should:

Recommendations

R4 Review arrangements for ensuring that tender specifications are robust and do not contain ambiguities that limit future benefit realisation.

R5 Quantify and report to elected members the additional cost of using the electrical sub-contractor during the period April 2009 to October 2010.

R6 Review procedures for challenging individual rates and the overall impact of rates tendered during the tender evaluation process.

Contract award (16 October 2008)

Signing a written contract

28 The Council's Contract Procedures Rules require a signed contract to be in place for all contracts awarded. If work commences before a written contract is in place, there is an increased risk of dispute as to the contractual terms governing the work.

29 The HES contract was not signed until 17 March 2010, some 12 months after the contract commencement date. In the interim, the Council reduced but did not eliminate the risk by writing to the contractor to confirm that it could commence work before the formal contract was signed on the basis of the contract terms contained in its tender.

30 Whilst the Legal and Technical Services Departments were aware of the risk, it was not entered in either the departmental or Council-wide risk register. Furthermore, elected members were not adequately advised of the risks. The report to the Sustainable Communities Overview and Scrutiny Committee in November 2009 did not advise elected members that the contract remained unsigned and the risks of proceeding on this basis.

31 The Council should:

Recommendation

R7 Ensure that any decision to commence significant contracts prior to contract signature is recorded in risk registers, appropriately approved and reported to elected members.

Form of contract

32 Various standard forms of contract are available that have different provisions about the sharing of risks and rewards between the parties. The Council engaged specialist consultants during the development of the Invitation to Tender who advised the Council to consider migrating over time from the initial contract form to one that would allow a greater sharing of risk and reward with the contractor, while retaining an appropriate level of control for the Council.

33 Best practice for major projects involves a series of independent 'Gateway' reviews at key stages of the project to provide assurance that the project can progress successfully to the next stage. The Council has commissioned a series of Gateway reviews of the HES contract. The Gateway reports issued in February 2009 and June 2010 identified a continued mutual desire of the Council and the contractor to migrate the form of the contract and recommended a supporting risk and benefits options appraisal.

34 Despite considering changing the form of contract for some elements of the work, the Council has so far decided not to migrate the contract. The Gateway recommendation, however, remains important should the Council proceed with such migration in future. The Council will also need to consider and take legal advice on whether any proposed migration represents a material change which would result in a breach of procurement regulations before making a decision.

35 The Council should:

Recommendations

R8 Undertake an option appraisal to evaluate the risk and benefits of HES contract form migration, and evaluate and consider the findings, in advance of any such migration.

R9 If migration of the contract is considered, determine whether this represents a material change which would result in a breach of procurement regulations before making a decision.

Contract mobilisation (16 October 2008 to 31 March 2009)

36 The necessary work to underpin the benefits realisation and performance management framework was not completed in advance of the commencement of the contract. The benefits realisation plan itself was approved by the Council in May 2009, a month after the 1 April 2009 date of contract commencement. The performance management framework was not approved until July 2009. The delay in implementation of an effective performance management framework during the contract mobilisation stage exposed the Council to the risk of inadequate contract management on commencement of the contract. The practical consequences of this weakness in the Council's arrangements are considered further in the next section of this report.

37 The Council should:

Recommendation

R10 Provide and consider reports on departures from contract mobilisation plans and the associated risks.

Contract management and monitoring (from 1 April 2009)

Authorisation of contract variations

38 It is inevitable that circumstances will arise that were not envisaged when a contract was tendered. Variations to contracts are therefore necessary, but these need to be properly controlled so that the Council can ensure that any variations do not breach EU procurement requirements and demonstrate that it continues to secure value for money.

39 The Council's Contract Procedure Rules require:

- the reporting of any variation over £50,000 to the Director of Finance; and
- the approval of the relevant Cabinet member or Committee to any variation increasing the contract price by more than £20,000, except where the variation is necessary for technical reasons.

40 The Council has now identified that there were four variations to the contract of more than £50,000 in the period from April 2009 to May 2011, with an aggregate estimated value of over £1.14m. These variations were not reported in line with the Contract Procedure Rules to the Director of Finance. I note in this context that the Interim Director of Technical Services discussed the largest variation (for £855,000 relating to electrical works) with Internal Audit in email exchanges in April 2010. Despite advice from Internal Audit for the Interim Director to report the variation to elected members this did not happen until I raised the issue.

41 The required approval for the variations from the relevant Cabinet member or Committee was also not obtained.

42 The Council has not to date evaluated the number or value of variations between £20,000 and £50,000 within this contract to assess the overall impact.

43 The Council has contended that there was ambiguity in the application of the Contract Procedure Rules to long-term contracts. Whilst I accept that the rules were not fit for purpose, officers should have sought clarification as to whether the rules applied and, if not, what rules did apply. I raised this ambiguity with officers in May 2011. The Council has adopted revised Contract Procedure Rules on variations (from October 2011) in response.

44 The Council should:

Recommendations

R11 Provide a clear summary to elected members of variations and new rates, the reasons for these and the financial impact (quantifying it against the original tender or the latest activity information) in order to inform the value for money assessment and ensure compliance with Contract Procedure Rules.

R12 Monitor compliance with the revised Contract Procedure Rules for variations.

Record keeping

45 The contract provides for important contract management procedures, such as those relating to 'early warnings' (raised by either party where there are matters that could impact on price, delivery or performance), 'compensation events' (a payment to or from the contractor possibly following an early warning or a project manager assessment) and 'project manager assessments' (an assessment of an issue that is usually raised as part of an early warning and may or may not lead to a compensation event). For the period April 2009 to May 2011, there were 294 early warnings, 92 compensation events and 17 project manager assessments.

46 Effective contract management requires good record keeping of multiple contract management procedures. In the absence of such record-keeping, it is:

- difficult to assess the ongoing financial impact of changes to the contract; and
- more difficult to defend claims made against the Council or to hold the contractor to account; although, for this contract, the Council has successfully defended a significant arbitration claim brought against it by the contractor (embodied in three early warnings the first of which was raised in June 2008 but not adjudicated upon until March 2011).

47 Internal Audit reviews during 2010 concluded that record keeping with regard to contract management was inadequate. Based on my own work, I support that conclusion:

- the potential impact of early warnings was often not quantified, sometimes not recorded and did not inform the departmental risk register;
- many compensation events and project manager assessments were completed without reference to the related early warning;

- for many compensation events, the financial impact was not quantified and, indeed, it was often difficult to establish whether they had been finalised. In the case of one early warning instigated by the Council on 20 May 2009, the compensation event documentation was not started until March 2011 when I raised questions; and
- the overall impact of compensation events and project manager assessments is difficult to identify and quantify.

48 I raised my concerns over record keeping with the Council in May 2011. I have been provided with evidence that indicates that improvements have been made in record-keeping.

49 The Council should:

Recommendation

R13 Establish clear standards for documentation of contract management procedures and monitor compliance.

Performance management

50 Effective management of a contract is necessary to demonstrate that the anticipated benefits are being secured. The Invitation to Tender and contract set out key performance measures, reporting and audit arrangements against which the contractor's performance could be evaluated.

51 In the first year of the contract, there was very limited monitoring of performance. The report to the Sustainable Communities Overview and Scrutiny Committee in June 2010 advised elected members that only one class of planned works – 'priority 2' – was being monitored. The baseline for performance was not established until the start of the second year of the contract. At that stage, an external 'Gateway 5' report also identified that there was no performance information on reactive requests, customer feedback, resolution of issues reported by the public and non-adherence to statutory practices on street works.

52 The report to the Sustainable Communities Overview and Scrutiny Committee in December 2010 contained no information on achievement against the planned maintenance protocol, compliance with contractual requirements on health and safety, recycling or customer satisfaction targets.

53 Despite the weaknesses in performance measurement and monitoring, identified in June 2010, the Director of Technical Services presented an annual report on the contract to the Sustainable Communities Overview and Scrutiny Committee in September 2011 that indicated that all performance measures had been achieved in the second year of the contract.

54 The Council should:

Recommendations

R14 Introduce an effective performance management system from the start of a contract.

R15 Undertake regular tests on the accuracy of performance information reported.

Governance arrangements

55 The Council should put in place proper arrangements to ensure stewardship and governance, and should regularly review the adequacy and effectiveness of them. In the course of my work on the HES contract, I have identified weaknesses in the Council's arrangements in a number of areas, as evidenced in my consideration of the contract arrangements elsewhere in this report. There are, in addition, however, some wider themes that I also wish to raise with regard to the Council's arrangements for:

- managing risks, including reporting to elected members;
- understanding costs and performance and achieving efficiencies in activities;
- maintaining a sound system of internal control, incorporating an effective internal audit function; and
- promoting and demonstrating the principles and values of good governance.

Risk management

56 The Council has from the outset identified a number of significant risks from the HES contract. My review shows that whilst a number of key risks identified were well managed, there are areas where acknowledged risks have not been adequately mitigated. Examples highlighted in this report include those arising from:

- ambiguity in elements of the tender documents;
- poor documentation of early warnings;
- the absence of performance monitoring from the contract start date;
- the absence of clear performance targets or requirements in some areas; and
- concerns raised in external independent Gateway reports about the potential for breakdown in communication and partnership working due to lack of delivery against work schedules.

57 I have also identified a number of examples where risks have not been properly identified and as a consequence have not always been clearly reported to elected members in a timely manner. These include:

- the response to an anonymous whistleblower regarding a significant claim against the Council by the contractor;
- variations to the contract;

- the delay in contract signing, and
- non-compliance with Contract Procedure Rules.

58 In addition, independent external reviewers undertook a series of formal ‘Gateway’ reviews at key stages in the process. The first four of these were reported in full to Cabinet. But for the fifth, prepared in June 2010, the Cabinet received only a summary that omitted some significant risks that should, in my view, have been reported to elected members. For example, risks concerning:

- the performance of the contractor in delivering during the mobilisation stage;
- ongoing improvements in value for money, requiring a modern asset register IT system; and
- the need to complete a log of lessons learnt for future contracts.

59 The Council should:

Recommendations

R16 Establish and implement clear procedures for identifying risks and escalating them through departmental and corporate risk registers.

R17 Ensure significant risks are reported promptly to elected members.

R18 Ensure elected members receive and consider the full reports for all ‘Gateway’ reviews to enable them to understand fully the risks facing the Council and agree corrective action.

Understanding costs and performance

60 Maintaining robust financial information underpins the Council’s ability to deliver its fiduciary responsibilities and to challenge how it secures economy, efficiency and effectiveness in its use of public funds. In March 2011, I asked senior Council officers for baseline financial and activity data for the HES contract. The financial data provided by the Council in response, received some five months after my request, could not be reconciled to publicly available data reported to elected members. This undermines the Council’s ability to demonstrate that it is securing ongoing value for money from this contract and, indeed, the robustness of the Council’s overall arrangements in this regard. I qualified my 2010/11 value for money conclusion accordingly.

61 The Council should:

Recommendation

R19 Agree for all procurements the arrangements for collating on a routine basis the financial and performance information needed to evaluate the effectiveness of the procurement exercise.

Internal Audit

62 Under the Accounts and Audit (England) Regulations 2011, the Council is required to maintain an adequate and effective system of Internal Audit of its accounting records and control systems. As a tool of management, Internal Audit plays a key role in monitoring compliance with standards of governance, codes of conduct, standing orders and financial regulations. It also has a role in investigating breaches of standards of financial conduct and allegations of fraud and corruption. Its role is set out in Financial Regulations.

63 Internal Audit carried out a review of the HES contract in February 2010. It provided a 3-star (good) level of assurance despite identifying a number of high-priority risks and recommendations in key areas of the contract management and monitoring systems.

64 A follow-up review in August 2010 reported that:

- only one of the four recommendations in high-risk areas from the original review had been implemented;
- the other three recommendations in high risk areas had been partly implemented; and
- a new medium risk issue had been identified.

65 Despite these weaknesses, Internal Audit confirmed the level of assurance as 3-star (good).

66 The conclusions drawn by Internal Audit are not, in my view, supported by their findings and, as a result:

- the Council has been placed at increased risk that contract payment arrangements and the checking of the quality of work remained inadequate; and
- insufficient attention has been drawn to weaknesses in systems and procedures to reduce ongoing risks to the Council.

67 I have previously raised areas for improvement regarding aspects of Internal Audit's compliance with required CIPFA standards, most notably in my report to the Audit and Risk Management Committee in January 2010. My concerns remain, reinforced by my findings from my review of Internal Audit's work on the HES contract. I note, and welcome, in this regard the recent public commitment from the Deputy Chief Executive and Director of Finance to undertake a fundamental review of the Internal Audit section.

68 The Council should:

Recommendation

R20 Consider the results of the fundamental review of Internal Audit at elected member level and agree corrective action.

Whistleblowing

69 The arrangements for staff and contractors to raise relevant concerns with the Council are an important part of the Council's arrangements for promoting and demonstrating the principles and values of good governance. These include 'whistleblowing' arrangements that provide protection for staff and contractors who raise issues in good faith.

70 I have previously been critical of the Council's whistleblowing arrangements:

- in my 2007/08 report into issues identified in the Directorate of Adult Social Services;
- in my 2008/09 ethical governance diagnostic; and
- in my 2009/10 report on the HES contract.

71 I remain concerned that required changes to the Council's culture regarding whistleblowing and improvements to its whistleblowing arrangements have not been implemented with sufficient rigour or speed to give confidence to current employees that concerns will be treated seriously and fairly. Senior officers have acknowledged that more could, and should, have been done in this regard.

72 It is important that the Council deals appropriately with allegations of inappropriate behaviour and ensures that the arrangements and culture within the Council enable individuals to have the confidence that they can report concerns without fear of reprisal. The Council has publicly stated on a number of occasions its desire to rectify its performance and reputation on matters of this nature. I commend the significant changes and resources the Council has put in place to respond to concerns of this nature, but much still needs to be done.

73 The council should:

Recommendation

R21 Review at elected member level the adequacy of existing arrangements for receiving and considering concerns from whistleblowers and for agreeing corrective action.

Appendix 1 Recommendations

Recommendations

Recommendation 1

Reconsider the issue of the declaration of interests for the HES contract having regard to the information now available.

Responsibility

Priority

Date

Comments

Recommendation 2

Reinforce to all staff their responsibilities for accurate, complete and timely declarations of interests.

Responsibility

Priority

Date

Comments

Recommendation 3

Provide training to all staff involved in procurement on communication with tenderers during the pre-tender and tender evaluation periods.

Responsibility

Priority

Date

Comments

Recommendation 4

Review arrangements for ensuring that tender specifications are robust and do not contain ambiguities that limit future benefit realisation.

Responsibility

Priority

Date

Comments

Recommendations

Recommendation 5

Quantify and report to elected members the additional cost of using the electrical sub-contractor during the period April 2009 to October 2010.

Responsibility

Priority

Date

Comments

Recommendation 6

Review procedures for challenging individual rates and the overall impact of rates tendered during the tender evaluation process.

Responsibility

Priority

Date

Comments

Recommendation 7

Ensure that any decision to commence significant contracts prior to contract signature is recorded in risk registers, appropriately approved and reported to elected members.

Responsibility

Priority

Date

Comments

Recommendation 8

Undertake an option appraisal to evaluate the risk and benefits of HES contract form migration, and evaluate and consider the findings, in advance of any such migration.

Responsibility

Priority

Date

Comments

Recommendations

Recommendation 9

If migration of the contract is considered, determine whether this represents a material change which would result in a breach of procurement regulations before making a decision.

Responsibility

Priority

Date

Comments

Recommendation 10

Provide and consider reports on departures from contract mobilisation plans and the associated risks.

Responsibility

Priority

Date

Comments

Recommendation 11

Provide a clear summary to elected members of variations and new rates, the reasons for these and the financial impact (quantifying it against the original tender or the latest activity information) in order to inform the value for money assessment and ensure compliance with Contract Procedure Rules.

Responsibility

Priority

Date

Comments

Recommendation 12

Monitor compliance with the revised Contract Procedure Rules for variations.

Responsibility

Priority

Date

Comments

Recommendations

Recommendation 13

Establish clear standards for documentation of contract management procedures and monitor compliance.

Responsibility

Priority

Date

Comments

Recommendation 14

Introduce an effective performance management system from the start of a contract.

Responsibility

Priority

Date

Comments

Recommendation 15

Undertake regular tests on the accuracy of performance information reported.

Responsibility

Priority

Date

Comments

Recommendation 16

Establish and implement clear procedures for identifying risks and escalating them through departmental and corporate risk registers.

Responsibility

Priority

Date

Comments

Recommendation 17

Ensure significant risks are reported promptly to elected members.

Responsibility

Priority

Date

Comments

Recommendations

Recommendation 18

Ensure elected members receive and consider the full reports for all 'Gateway' reviews to enable them to understand fully the risks facing the Council and agree corrective action.

Responsibility

Priority

Date

Comments

Recommendation 19

Agree for all procurements the arrangements for collating on a routine basis the financial and performance information needed to evaluate the effectiveness of the procurement exercise.

Responsibility

Priority

Date

Comments

Recommendation 20

Consider the results of the fundamental review of Internal Audit at elected member level and agree corrective action.

Responsibility

Priority

Date

Comments

Recommendation 21

Review at elected member level the adequacy of existing arrangements for receiving and considering concerns from whistleblowers and for agreeing corrective action.

Responsibility

Priority

Date

Comments

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June 2012

**AUDIT COMMISSION PUBLIC INTEREST REPORT:
HIGHWAYS AND ENGINEERING SERVICES CONTRACT MANAGEMENT AND AWARD**

ACTION PLAN

RECOMMENDATION	PRIORITY	AGREED ACTION	DATE FOR ACTION	RESPONSIBLE OFFICER
Recommendation 1 Reconsider the issue of the declaration of interests for the HES contract having regard to the information now available.	High	Declaration of Interest issue has been reconsidered and an investigation commenced.	March 2012	Chief Executive
		Independent investigator has been appointed to carry out the investigation.	April 2012	Chief Executive
		To consider investigator's final report once received.	Within month of receipt	Chief Executive
Recommendation 2 Reinforce to all staff their responsibilities for accurate, complete and timely declarations of interests.	High	Existing Policy and obligations reinforced to officers of the Executive Team.	Completed (August 2012)	Chief Executive
		Revise and issue guidance on Declarations of Interests (including the revision of the Declaration of Interests Form).	Mid Oct 2012	Acting Director of Law, HR and Asset Management
		All staff to be reminded of Policy and obligations in relation to making declarations of interests through management briefings/team meetings and the Council's 'OneBrief' communication.	End Oct 2012	Chief Executive/ Directors

<p>Recommendation 3 Provide training to all staff involved in procurement on communication with tenderers during the pre-tender and tender evaluation periods.</p>	High	<p>Training - Annually train Responsible Officers (as defined in the Contract Procedure Rules ('CPR')), as set out at R14</p> <p>Establish an Officer Contract Monitoring Group to share best practice.</p>	<p>See R14</p> <p>See R12</p>	<p>See R14</p> <p>See R12</p>
<p>Recommendation 4 Review arrangements for ensuring that tender specifications are robust and do not contain ambiguities that limit future benefit realisation.</p>	High	<p>See Recommendation 14 for process and reporting</p> <p>Review and re-organise the Procurement function, to have access to category managers and a strategic approach to Procurement.</p> <p>Resolve the relationship of Procurement and Commissioning.</p>	<p>See R14</p> <p>Dec 2012</p> <p>Oct 2012</p>	<p>See R14</p> <p>Interim Director of Finance</p> <p>Interim Director of Finance</p>
<p>Recommendation 5 Quantify and report to elected members the additional cost of using the electrical sub-contractor during the period April 2009 to October 2010.</p>	Low	<p>Specific report to be presented to Cabinet.</p>	<p>27 September 2012 (Cabinet Meeting)</p>	<p>Interim Director of Technical Services</p>
<p>Recommendation 6 Review procedures for challenging individual rates and the overall impact of rates tendered during the tender evaluation process</p>	High	<p>Training - Annually train Responsible Officers, as set out at R14</p> <p>As part of the Procurement/Commissioning process, both in design and award, establish the challenge process, as an integral feature, to be policed by the Procurement section.</p> <p>Analysis of tender submissions to include identification of outlying prices and seek appropriate and specific clarification.</p>	<p>See R14</p> <p>Dec 2012 Undertake annually every March</p> <p>See R14 (1st action)</p>	<p>See R14</p> <p>Interim Director of Finance (with the Responsible officer for each contract)</p> <p>Responsible Officer for each contract</p>

<p>Recommendation 7 Ensure that any decision to commence contracts prior to contract signature is recorded in risk registers, appropriately approved and reported to elected members.</p>	High	<p>Review Procurement Toolkit and update to ensure obligation to update the risk register, seek prior approval and Members are informed is included.</p> <p>Ensure that the Risk Register is maintained and completed for each major procurement exercise.</p> <p>Responsible Officer must ensure that all relevant parties including the Directors of Law, HR and Asset Management and Finance have been consulted, prior to any decision to start the contract and that Members are aware of any significant risks when agreeing a start date.</p>	<p>Oct 2012</p> <p>Ongoing</p> <p>Ongoing</p>	<p>Interim Director of Finance</p> <p>Responsible Officer for each contract</p> <p>Responsible Officer for each contract</p>
<p>Recommendation 8 Undertake an option appraisal to evaluate the risk and benefits of HES contract form migration, and evaluate and consider the findings, in advance of any such migration.</p>	Medium	<p>Appraisal to be undertaken to evaluate risks and benefits of the HESPE contract form migration having regard to Cabinet's decision whether to extend the HESPE contract.</p>	Dec 2012	Interim Director of Technical Services
<p>Recommendation 9 If migration of the contract is considered then the Council will need to consider whether this represents a material change which would result in a breach of procurement requirements before making a decision.</p>	Medium	<p>Action linked to Recommendation 8 and will be included as part of the report.</p>	Dec 2012	Interim Director of Technical Services
<p>Recommendation 10 Provide and consider reports on departures from contract mobilisation plans and the associated risks.</p>	High	<p>See Recommendation 14</p> <p>Implement on a RAG basis, with Red flags reported strategically.</p>	<p>See R14</p> <p>Dec 2012</p>	<p>See R14</p> <p>Interim Director of Finance and Responsible officer for each contract</p>

<p>Recommendation 11 Provide a clear summary to elected members on variations and new rates, the reasons for these and the financial impact (quantifying it against the original tender or the latest activity information) in order to inform the value for money assessment and ensure compliance with Contract Procedure Rules.</p>	High	<p>CPR's to be reviewed and enhanced, particularly regarding value for money.</p> <p>Ensure that tender documentation is clear about the reporting arrangements – see R14</p> <p>Responsible Officers to be clear in reports to Members on cost, quality and/or quantities (as applicable) on the award of the contract and any variations and new rates which shall include relevant market benchmarking.</p> <p>Note : Link to Recommendation 5 on reporting any subsequent changes to Cabinet.</p>	<p>Jan 2012</p> <p>Oct 2012</p> <p>Ongoing</p>	<p>Acting Director of Law, HR and Asset Management</p> <p>Interim Director of Finance</p> <p>Responsible Officer for each contract</p>
<p>Recommendation 12 Monitor compliance with the revised Contract Procedure Rules for variations.</p>	High	<p>See R14</p> <p>Implement on a RAG basis, with Red flags reported strategically.</p>	<p>See R14</p> <p>Dec 2012</p>	<p>See R14</p> <p>Interim Director of Finance and Responsible officer for each contract</p>
<p>Recommendation 13 Establish clear standards for documentation of contract management procedures and monitor.</p>	High	<p>See R14</p> <p>CPRs to be enhanced regarding the principles of contract management.</p> <p>Procurement Toolkit to include clear standards for documentation contract management procedure.</p>	<p>See R14</p> <p>Jan 2012</p> <p>Dec 2012</p>	<p>See R14</p> <p>Acting Director of Law, HR and Asset Management</p> <p>Interim Director of Finance</p>

<p>Recommendation 14 Introduce an effective performance management system from the start of a contract.</p>	High	<p>As part of the Procurement/Commissioning process, both in design and award, establish contract monitoring and compliance, as an integral feature, to be policed by the Procurement section.</p> <p>Procurement Toolkit to set out obligations and requirements and provide relevant advice and guidance in relation to:</p> <ul style="list-style-type: none"> • procurement processes • contract monitoring • contract variation • identification of risk • escalation of identified risk • performance management; and • compliance. <p>Annually train Responsible Officers in the contract life cycle, which will cover:</p> <ul style="list-style-type: none"> • Design • Award • Monitoring • Exit • Dispute process <p>Report variations to contracts as part of the monthly monitors, for capital and revenue.</p> <p>Revise the governance of report production, to ensure relevant officers contribute to reports, as a matter of system design.</p>	<p>Oct 2012</p> <p>Nov 2012</p> <p>Initially Dec 2012</p> <p>Thereafter annually every March</p> <p>Dec 12 on</p> <p>Dec 2012</p>	<p>Interim Director of Finance</p> <p>Interim Director of Finance</p> <p>Interim Director of Finance</p> <p>Interim Director of Finance/Responsible officer for each contract</p> <p>Acting Director of Law, HR and Asset Management</p>
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<p>Recommendation 15 Undertake regular tests on the accuracy of performance information reported.</p>	Medium	<p>Corporate Performance Team and Corporate Procurement Unit ('CPU') set out and promulgate the data standards.</p> <p>Train Responsible Officers in new standards.</p> <p>Ensure compliance following training of Responsible Officers.</p> <p>Internal Audit, to ensure that the systems and controls are appropriate and effective, by revising the three year Audit Plan to ensure coverage.</p>	<p>Dec 2012</p> <p>Jan 2012 - Feb 2013</p> <p>Mar 2013</p> <p>Oct 2012</p>	<p>Director of Public Health and Interim Director of Finance</p> <p>Interim Director of Finance</p> <p>Director of Public Health</p> <p>Chief Internal Auditor</p>
<p>Recommendation 16 Establish and implement clear procedures for identifying risks and escalating them through departmental and corporate risk registers.</p>	High	<p>Revised Risk Management Framework agreed by Executive Team</p> <p>Framework to be presented to Members for approval.</p> <p>Capital Programme risk review imbedded in Gateway process for scheme monitoring.</p> <p>Ensure that for projects, Risk Registers exist from procurement to implementation.</p> <p>Risks considered weekly at Executive Team and advised to Administration of the Council</p>	<p>Completed (Sept 2012)</p> <p>Nov 2012</p> <p>Oct 2012 & Ongoing</p> <p>Post Oct 12 and Ongoing</p> <p>Completed (July 2012)</p>	<p>Interim Director of Finance</p> <p>Interim Director of Finance</p> <p>Interim Director of Finance and then Responsible officer for each contract</p> <p>Chief Executive and Responsible officer for each contract</p> <p>Chief Executive and Executive Team</p>

		<p>Institution of monthly financial monitoring reports to Cabinet, which includes risk reporting, through with Portfolio-Holders and Ward Members are advised of issues.</p> <p>Corporate Risk Register agreed by Executive Team and reported quarterly to Audit & Risk Overview Committee.</p>	<p>Sept 2012 and Ongoing</p> <p>Nov 2012</p>	<p>Chief Executive and Executive Team</p> <p>Interim Director of Finance</p>
<p>Recommendation 17 Ensure significant risks are reported promptly to elected members</p>	High	<p>Risks considered weekly at Executive Team and advised to the Administration of the Council.</p> <p>Institution of monthly financial monitoring reports to Cabinet, which includes risk reporting, through with Portfolio-Holders and Ward Members are advised of issues.</p> <p>Revised Risk Management Framework agreed by Executive Team and to be presented to Members for approval.</p>	<p>Completed (July 2012) and Ongoing</p> <p>Sept 2012 and Ongoing</p> <p>Sept/Nov 2012</p>	<p>Chief Executive</p> <p>Interim Director of Finance and Responsible Officer for each contract</p> <p>Chief Executive and Interim Director of Finance</p>
<p>Recommendation 18 Ensure elected members receive and consider the full reports for all 'Gateway' reviews, to enable them to understand fully the risks facing the Council and agree corrective action.</p>	Medium	<p>Procurements involving the use of Gateway Reviews - all Gateway Review reports to be appended to relevant Cabinet reports for Members consideration. This is included within the Procurement Toolkit.</p>	<p>As and when Reviews are received</p>	<p>Responsible Officer for each contract</p>
<p>Recommendation 19 Agree for all procurements the arrangements for collating on a routine basis the financial and performance information needed to evaluate the effectiveness of the procurement exercise.</p>	Medium	<p>Ensure all pre-award and baseline information is included in the report on awarding the contract.</p> <p>Framework to be established by Corporate Procurement Unit. This is to be included in the Procurement Toolkit.</p>	<p>Sept 2012</p> <p>Sept 2012</p>	<p>Responsible Officer for each contract</p> <p>Interim Director of Finance</p>

		Effectiveness of any procurement exercise should be evaluated by the Responsible Officer and the Corporate Procurement Unit as part of the Council's standard procurement process.	Oct 2012	Responsible officer for each contract with the Interim Director Finance
Recommendation 20 Consider the results of the fundamental review of Internal Audit at elected member level and agree corrective action.	High	Review of Internal Audit to be undertaken to include issues raised in respect of Internal Audit. Report review and recommendations to the Improvement Board and the Council's Audit and Risk Management Committee. Implement agreed recommendations.	Dec 2012 January 2012 As soon as practicably possible.	Interim Director of Finance Interim Director of Finance Interim Director of Finance
Recommendation 21 Review at elected member level the adequacy of existing arrangements for receiving and considering concerns from whistleblowers and for agreeing corrective action.	Medium	Council's Whistleblowing Policy reviewed and approved by Cabinet. Ongoing awareness raising through internal communications is in place. Raise further the awareness of revised Whistleblowing Policy through management briefings/team meetings and the Council's 'OneBrief' communication.	Completed (April 2012) Nov 2012	Director of Law, HR and Asset Management Chief Executive and Directors

WIRRAL COUNCIL

CABINET

18 OCTOBER 2012

SUBJECT:	PROPOSALS FOR CHANGES TO THE LOCAL FUNDING FORMULA FOR SCHOOLS
WARD/S AFFECTED:	
REPORT OF:	REPORT OF THE ACTING DIRECTOR OF CHILDREN'S SERVICES
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR TONY SMITH
KEY DECISION?	

1.0 EXECUTIVE SUMMARY

1.1 This report summarises the responses from a consultation on changes that will be made to the Local Funding Formula for Schools and Academies from April 2013. The proposals are supported by the Schools Forum and must be submitted to the Education Funding Agency by 31st October, 2012.

2.0 BACKGROUND AND KEY ISSUES

2.1 The DFE require Local Authorities to make changes and remodel their local funding formula for schools with effect from 1.4.2013. The aim is to produce a national funding system that is "fair, simple, and more consistent".

The formula changes to be introduced next year are:

- To simplify and reduce the number of allowable factors that allocate funding to schools (these factors include data on pupil numbers, free school meals and pupil attainment).
- To have single lump sum payment for primary and secondary schools (set at a level that is below £200,000).
- To remove the grant distribution element within the formula and replace with other allowable elements.
- To delegate funding for additional services to schools such as Maternity costs.
- To introduce "Place plus" as the basis for funding Special Schools and Bases.

Remodelling the formula will change the current distribution of funding between schools. There will be some schools that gain compared to the current formula and others that will lose. In addition, the impact of further delegation may either exacerbate or moderate the impact of changes. However, the Minimum Funding Guarantee will continue to be the safeguard against excessive turbulence over the next few years.

3.0 CONSULTATION

3.1 All maintained primary, secondary, special and academy schools have been consulted on changes with the following responses received

Primary	30
Secondary	4
Special	11

In addition briefings have been held with all Headteacher groups and with governors, and all recommendations were discussed at the Schools' Forum, Wallasey Town Hall on Tuesday, 25 September 2012.

4.0 MAINSTREAM FORMULA CHANGES

4.1 Formula Factors

A number of formula factors will no longer be allowed and therefore need to be changed next year. These include:

Admissions	-	Change to pupil numbers
School Meals	-	Change to Free School Meals
SEN Lump Sum	-	Change to SEN Prior Attainment
Index of Multiple Deprivation	-	Change to Income Deprivation Affecting Children Index (IDACI)

Nearly all schools agreed with the changes proposed.

4.2 Lump Sums

Only one single lump sum will be permitted. Within the current formula there are two – Primary £77,876 and Secondary £142,275. All schools acknowledged the importance of the lump sum and the protection it gives to small school. Whilst secondary schools responding supported a higher lump sum, as did a number of primary schools (11 in total), most primary schools were in favour of the current lump sum (17 in total).

4.3 Historic Grants

The current formula has an element for historic school grants. This distributes about £30m (16%) of the total schools funding. This element will no longer be permitted. It is proposed to allocate this funding in a way that is broadly in line with the new formula.

The responses from schools frequently took account of individual school circumstances, quite a few commented on the amount of losses and the fairness of allocations, some suggested a greater amount of this funding should be targeted towards deprivation.

This change has been acknowledged as one of the most difficult areas to reflect current allocations. Comments from schools range from "There are anomalies caused by historic allocations which need to be addressed", to "How is this fair?". The proposed changes are supported by the Schools Forum.

4.4 Additional Delegation

A number of services can be delegated to all schools from April 2013, these include:

	Basis of delegation
Advanced Skills Teachers	Pupil Entitlement
City Learning Centres	✓
Schools Library Service	✓
Minority Ethnic Achievement Service	New EAL Element
Special Staff Costs	Pupil Entitlement
School Contingency	✓
Behaviour Support	SEN prior attainment
Insurance (VA governors liability)	Pupil entitlement
School Milk and Meals	✓
Free School Meals eligibility	Deprivation FSM
Licences and Subscriptions	Pupil entitlement

Final decisions will be taken as part of the Schools Budget. The elements chosen to delegate costs were supported by schools and the Schools Forum.

4.5 6th Form Element

A 6th form element can be included in mainstream formula funding. This would change the distribution of secondary school funding, giving some funding for 6th form students (from existing 11- 15 allocations). The total amounts would reflect previous historic grant allocations. Other secondary elements within the formula would reduce as a result of this change.

Of the 23 secondary schools and academies 8 would be unaffected by this proposal (because of the MFG), 8 would lose (of which 6 have a 6th form) and 5 would gain. This change was not supported by the Schools Forum. Their view was that 6th forms should be funded through the National Funding Formula and should be part funded from resources for pupils aged 11 – 15.

4.6 Capping

It is intended that the new formula will include a cap on schools who gain from the proposed changes. With a fixed overall amount of funding for schools, some gains will have to be limited in order to fund the Minimum Funding Guarantee for schools where budgets are reducing. When budgets are capped, increases (above the Minimum Funding Guarantee) are reduced to cover losses elsewhere. The cap increases stability at most but not all schools. However it also means that changes intended by the new formula take longer to take effect.

5.0 CABINET PROPOSALS FOR MAINSTREAM FORMULA CHANGES

5.1 The changes that are being proposed to the funding formula are:

- To use 6 IDACI bands to allocate funding that was previously based on IMD data.
- To transfer equivalent funding for scores below 0.2 into Pupil Entitlement.
- To use the existing primary lump sum within the formula for all schools.
- To redistribute the remaining secondary lump sum funding over secondary pupil entitlement.

- To allocate the historic grant funding in a way that is broadly in line with the new formula, whilst maintaining primary/secondary totals.
- To add to the lump sum an amount of £22,124 to reflect historic grant lump sums.
- To set the MFG for 2013-14 at minus 1.5%.
- To include additional funding in the formula using the elements outlined for Advanced Skills Teachers, School Library Service, Insurances, School Milk and Meals, FSM Eligibility, Special Staff Costs (Maternity etc), Schools Contingency, Licences and Subscriptions, Minority Ethnic Achievement, Behaviour Support.
- Not to delegate funding for City Learning Centres.
- To include a rents element for a specific primary school (Church Drive).
- To have a reception uplift and take account of reception children who arrive in school between the October and January school census.
- To cap formula gains above the MFG to cover formula losses elsewhere.

6.0 SPECIAL SCHOOL AND INCLUSION BASE FORMULA CHANGES

6.1 The reform of Special Schools and High Need Funding will result in more pupil-led funding together with an element that is place-led. Under this Place-Plus system funding in special schools and other specialist pre-16 SEN settings, such as resourced provision as units and bases, will be determined partly on the number of places, and partly on the number of pupils attending the special school or provision.

Currently, special schools are funded for a number of places and receive a budget based on the number of places whether or not places are filled. From April 2013 all places in all specialist provision will receive a base level of funding at £10,000 per place (£8,000 for Alternative Provision).

In addition schools will receive an additional amount of “top up” funding. Top-up funding in the new system is not provided on the basis of planned places, but on a per-pupil basis. It is a matter for local determination how top-up rates are set and when they are paid, guidance suggests payment could be monthly or termly.

Like many authorities Wirral currently uses a banded framework to generate special schools budgets and guidance suggests that we build on such a framework. There will not be a national framework of top up funding.

Wirral’s framework was designed eleven years ago. It was initially based on assessed need but over time it has largely become a financial tool not related to current assessed need except, that is, in the cases of Hayfield and Clare Mount where pupils are admitted on the basis of one of the two funding bands applicable to the school.

Guidance suggests that we review our local funding arrangements and consider a banded approach. Clearly this will have implications for admissions because pupils needs and proposed funding will be at the centre of dialogue between the commissioner and provider and not historic models of funding and admissions.

The implication of the place-plus approach for specialist provision is that schools and providers will experience budget changes depending on the number and needs of pupils attending the provision as this will affect the amount of top-up funding they receive.

6.2 Resourced provision

Resourced provision in mainstream schools is funded from a mixture of a single lump amount and the AWPU for the pupil attending. Funding of Wirral's various resourced provisions is historic. Place-plus funding will apply to these provisions in the future. In the future they will receive a base budget of £10,000 per place and a top-up that is determined locally.

6.3 Minimum Funding Guarantee

In the first year the government has set as condition of grant that the level of top-up funding or specialist provision should be such that, were all the high needs pupils in the setting places by the LA, the school's total funding for 2013-14 would not be more than 1.5% below the funding that the school received in 2012-13.

The DfE has clarified that this means total budget funding will not be more than 1.5% below the funding received in 2012-13 if all the places were full as the MFG for special provision is attached to the pupil top-up funding rather than the places. This means that a school with empty places in its specialist provision can expect less funding if it does not fill its places.

Schools were asked if Wirral should use the MFG to construct budgets for the transitional year. The overwhelming majority agreed. In addition there was support for additional local protection if needed given the timescales for implementation of the new system. However in the longer term changes may have implications on the overall level of provision.

6.4 Banding

In future years it is likely that a banding model approach will be needed for top-ups. Most school responses agreed that this was the right way forward in order to provide clear, equivalent funding based on individual pupils and students needs.

6.5 Excess Pupils

Wirral currently has a locally agreed mechanism that gives extra money to special schools that take pupils over their place number. The mechanism is triggered when a school has more than five pupils over its place number.

It is proposed in future to use the top-up to fund each pupil over numbers, rather than the current mechanism.

6.6 Place Changes

The Education Funding Agency (EFA) is proposing a two year reviewing cycle to determine future changes to the number of planned places in special schools and specialist provision. Since the Autumn term 2010 the LA has been involved with the Schools Forum, governing bodies and headteachers of all Wirral special schools in developing a process of managing surplus places in special schools that involves reducing surplus places or using the money to re-commission the school with surplus places to provide something different. It is proposed to integrate with EFA arrangements. In considering surplus and excess places, Cabinet are asked to approve the following changes, which are supported by Schools Forum:

- To reduce the number of place by 5 at Foxfield Secondary Special School and the Lyndale Primary Special School.
- To increase the number of places at Gilbrook Primary Special School from 50 to 55 by April 2013.
- To close the Education Inclusion base at Rock Ferry Primary School at the end of the academic year 2013.
- To increase the place number at Elleray Park to 80 from April 2013.

6.7 Delegation of SEN Support in Mainstream Schools

Schools receive funding for additional SEN support in the form of units of resource. The first 5 units are included in the delegated budget. From 2013-14 the sum that schools will be expected to contribute as a notional minimum will be £6,000 (Post 16 this is directed through National Funding Formula).

For pupils with statements it is proposed to delegate a further £250,000 so that the additional support schools are deemed to contribute from their delegated budget is £6,000. That means Wirral's five units of resource will be increased in value from £5,665 to £6,000. It will also result in a corresponding reduction in the value of support in excess of £6,000.

7.0 CABINET PROPOSALS FOR PUPILS WITH HIGH NEEDS (SPECIALIST PROVISION)

- To fund specialist provision on the basis of 'place-plus' from April 2013.
- To use the MFG to construct budgets for the transitional year 2013-14.
- To provide local protection for individual special schools affected by significant turbulence because of funding changes.
- To fund excess places on the basis of the high needs top-up.
- To review surplus places in line with EFA arrangements.
- To make the following changes to the number of places in special schools/bases:
Foxfield and Lyndale reduce by 5 places each from April 2013.
Gilbrook to increase by 5 places from April 2013.
Close Rock Ferry Primary Base August 2013.
Elleray Park increase by 5 places from April 2013.
- To increase the value of the first 5 units of individually assigned support in schools from £5,665 to £6,000 from April 2013.

8.0 OTHER OPTIONS CONSIDERED

As part of the consultation with schools options were considered where possible. These were modelled so schools could see the impact on funding.

9.0 CONSULTATION

All schools and academies have been consulted during the summer term. Briefings have been held with Headteacher and Governor Groups and the Schools Forum.

10.0 IMPLICATIONS OR VOLUNTARY COMMUNITY FAITH GROUPS

- 10.1 The report has implications for maintained schools, academies and independent special school providers.

11.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

11.1 The Funding Formula distributes £200m to Wirral Schools and Academies. With a fixed amount of funding for schools, changes to the formula will result in some schools gaining additional resources, whilst others will have fewer. Transitional protection will be provided both in the form of a cap on overall gains and the continuation of Minimum Funding Guarantee.

12.0 LEGAL IMPLICATIONS

12.1 The changes described in this report are consistent with those directed by the Department for Education and are included in the Draft School Finance Regulations 2013 and additional grants conditions for the Dedicated Schools Grant.

13.0 EQUALITIES IMPLICATIONS

13.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(a) Yes and impact review is attached – *(insert appropriate hyperlink)*.

14.0 CARBON REDUCTION IMPLICATIONS

14.1 There are none arising out of this report.

15.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

15.1 There are none arising from this report.

16.0 RECOMMENDATION/S

1. Cabinet agree to proceed with the proposals described in this report for the mainstream School Funding and High Needs Provision.
2. Cabinet agrees to the place changes in maintained specialist provision detailed in this report.

17.0 REASON/S FOR RECOMMENDATION/S

17.1 To make changes to the Local Funding Formula in accordance with DFE timescales.

REPORT AUTHOR: Andrew Roberts
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APPENDICES - None

REFERENCE MATERIAL

DFE School Funding Return: Next Steps Towards a Fairer System.

DFE 2013-14 Revenue Funding Arrangements Operational Guidance for Local Authorities.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Schools Forum Mainstream School Funding Consultation and Funding Pupils with High Needs	25th September, 2012
Consultation Papers – Changes to the Local Funding Formula and Funding High Needs Pupils	3 rd July, 2012
Analysis from Consultation on School Funding Return	28 th March, 2012

Equality Impact Assessment Toolkit (from May 2012)**Section 1: Your details**

EIA lead Officer: Andrew Roberts
Email address: andrewroberts@wirral.gov.uk
Head of Section: Andrew Roberts
Chief Officer: Julia Hassall
Department: Children and Young People's Department
Date: 18 October 2012

Section 2: What Council proposal is being assessed?

Changes to Mainstream School Funding and Funding for Pupils with High Needs

Section 2b: Will this EIA be submitted to a Cabinet or Overview & Scrutiny Committee?

Yes If 'yes' please state which meeting and what date

Cabinet 18 October 2012

<http://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-2010/children-young-people>

Section 3: Does the proposal have the potential to affect..... (please tick relevant boxes)

- Services**
- The workforce**
- Communities**
- Other** (please state eg: Partners, Private Sector, Voluntary & Community Sector)

If you have ticked one or more of above, please go to section 4.

- None** (please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 4: Does the proposal have the potential to maintain or enhance the way the Council (please tick relevant boxes)

- Eliminates unlawful discrimination, harassment and victimisation
- Advances equality of opportunity
- Fosters good relations between groups of people

If you have ticked one or more of above, please go to section 5.

- No** (please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 5:

Could the proposal have a positive or negative impact on any of the protected groups (race, gender, disability, gender reassignment, age, pregnancy and maternity, religion and belief, sexual orientation, marriage and civil partnership)?

You may also want to consider socio-economic status of individuals.

Please list in the table below and include actions required to mitigate any potential negative impact.

Which group(s) of people could be affected	Potential positive or negative impact	Action required to mitigate any potential negative impact	Lead person	Timescale	Resource implications
Disability	The formula funding changes may increase or decrease the overall funding for schools.	Transitional arrangements will be put in place through the Minimum Funding Guarantee	Paul Ashcroft	2013-14	Existing School Resources
	Changes to Special School Funding will be closer to the way mainstream schools are funded.	This may enable greater movement and flexibility between mainstream and special provision.			
	Special Schools with surplus places will receive less funding. This will make it more difficult to plan the delivery of services and give less flexibility to respond to additional needs.	Additional local protection will be available if needed, bespoke to the child.			
		Partner agencies will need to work in a more joined up way through joint Social Care funding pathways.			

Section 5a: Where and how will the above actions be monitored?

There will be a Schools Forum Working Party looking at the funding implications for High Cost Pupils.

Section 5b: If you think there is no negative impact, what is your reasoning behind this?

Section 6: What research / data / information have you used in support of this process?

There has been some financial modelling of changes to School Funding.

Section 7: Are you intending to carry out any consultation with regard to this Council proposal?

No – (please delete as appropriate)

If 'yes' please continue to section 8.

If 'no' please state your reason(s) why:

Schools have been consulted during the Summer Term

(please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 8: How will consultation take place and by when?

N/A

Before you complete your consultation, please email your preliminary EIA to equalitywatch@wirral.gov.uk via your Chief Officer in order for the Council to ensure it is meeting it's legal requirements. The EIA will be published with a note saying we are awaiting outcomes from a consultation exercise.

Once you have completed your consultation, please review your actions in section 5. Then email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for re-publishing.

Section 9: Have you remembered to:

- a) **Include any potential positive impacts as well as negative impacts? (section 5)**
- b) **Send this EIA to your Head of Service for approval.**
- c) **Review section 5 once consultation has taken place and sent your completed EIA to your Head of Service for approval then to your Chief Officer for re-publishing?**

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WIRRAL COUNCIL

CABINET

18 OCTOBER 2012

SUBJECT:	<i>FEES FOR RESIDENTIAL AND NURSING HOMES CARE</i>
WARD/S AFFECTED:	<i>ALL</i>
REPORT OF:	<i>GRAHAM HODKINSON</i>
RESPONSIBLE PORTFOLIO HOLDER:	<i>COUNCILLOR ANNE MCARDLE</i>
KEY DECISION?	YES

1.0 PURPOSE OF REPORT

- 1.1 To report the outcome and process of consultation with independent residential and nursing home care providers regarding cost modelling for the sector.
- 1.2 To present options and recommendations with regard to fees paid by the Council to independent sector residential and nursing homes.
- 1.3 To authorise the approved fee proposal to be consulted on.
- 1.4 The proposals will contribute to the Council priority to safeguard vulnerable adults and promote choice and control.

2.0 BACKGROUND

- 2.1 The Council has statutory responsibilities under Community Care Act legislation to assess the needs of individuals and to purchase services to meet those needs as appropriate.
- 2.2 Following an assessment of need, made in accordance with the General Principles of Assessment in LAC (2002)13 Fair Access to Care Services, should the Council decide to provide residential accommodation under Section 21 of the National Assistance Act 1948 either permanently or temporarily for example, short term break or intermediate care or by interim care arrangement, it will make a placement on behalf of the individual in suitable accommodation.

- 2.3 Residential care services offer essential services to some of our most vulnerable older people; for those that require it, the quality of care is critical. Providers must be able to provide care cost effectively, and to an acceptable standard. Care delivery standards are monitored through social care contracts and the Care Quality Commission (CQC). The problem of balancing cost and quality is particularly acute for both commissioners and providers of residential care. The consultation exercise with providers has been undertaken in the context of growing national and local concern, as reflected in the media regarding both the viability and quality of provision.
- 2.4 In comparison with other Local Authorities in the region Wirral is spending a larger share of its social care budget on residential services, this position reflects lower levels of investment in community based services designed to keep people at home.
- 2.5 The Wirral residential and nursing home market consists of 111 homes, the majority of which provide support to Older People; presently there is an oversupply in the market of approximately 200 beds. It is envisaged that the number of places purchased in residential care can be reduced through expanding the range and capacity of community based services.
- 2.6 Residential and nursing homes are currently populated by:
- People already placed and funded by the Council under the current contract
 - People already placed and funded by the Council at the 2010/2011 fee level under the old contract
 - People funding themselves
 - People already placed in nursing homes paid for at the Council's rates in receipt of continuing health care funding (reclaimed by the Council from the NHS).
 - People placed on a temporary basis pending a more permanent care arrangement
 - People in receipt of short term care respite, paid in accordance with the contract in place with the home
- 2.7 In relation to the market a defining principal is the "Choice Directive": individuals must be offered choice in relation to accommodation. Where an individual expresses a preference for a particular care home ("preferred accommodation") the Council must arrange care in that accommodation, provided;
- The Preferred Accommodation is suitable in relation to the individual's assessed needs
 - To do so would not cost the Council more than what it would usually expect to pay for accommodation for someone with the individual's assessed needs. This is known as the "Usual Cost".
 - The Preferred Accommodation is available
 - The provider of the Preferred Accommodation is willing to provide accommodation subject to the Council's usual terms and conditions for such accommodation.

- 2.8 If an individual requests it the Council must also arrange for care in accommodation more expensive than it would usually fund, provided that a third party is willing to pay the difference between the cost the council would usually expect to pay and the actual cost of the accommodation (i.e. to “top up” the payment). Residents that are subject to the 12 week property disregard or have a deferred payments agreement with the Council may make top ups from specific resources on their own behalf. These are the only situations where the resident may personally top up.
- 2.9 Guidance published in October 2004 under a Local Authority Circular regarding Choice of Accommodation states that:
When setting its usual cost a council should be able to demonstrate that this cost is sufficient to allow it to meet assessed care needs and to provide residents with the level of care services that they could reasonably expect to receive if the possibility of resident or third party contributions did not exist.
- 2.10 The Council has a statutory duty to set a fee level that enables efficiently run care homes to provide care that is compliant with the CQC Essential Standards of Quality and Regulations Safety 2010. There is also a responsibility to be able to ensure that there is adequate supply to meet the assessed need.
- 2.11 Council fee levels for independent sector residential and nursing home care were reduced by 9.5% with effect from 1 April 2011 following the Wirral Task Force Consultation exercise; this resulted in a saving of £4.5m to the Council in this area. Fee proposals are made as part of the budget setting exercise in November each year. It was anticipated in the 2012/13 budget for social care that the Council would be able to realise further savings from contracted rates, including an efficiency of £1.6m based on the assumption that greater value could be gained from changes to commissioned services. During 2011 there were, however, a number of high profile court cases against local authorities, most notably the Judicial Review Judgements from Pembrokeshire, Sefton and Leicestershire ruled that fees had been set without **due regard** to the actual costs of care and in the Sefton that the Council had failed to consult with home owners.
- 2.12 No provision was made in the 2012/13 budget to implement an increase in fees for residential based care in Wirral; additional resources of £1.5m were identified to improve the range and variety of alternative services to meet identified need. Wirral Council was, however, aware when it set its budget for 2012/13 that it would be necessary to increase the indicative allocation made for Adult Social Care Services, through use of revenue reserves, in order to meet the obligations to set fees taking into account actual costs of care. The Council is acutely aware that it should not transgress the Birmingham Judicial Review judgment where fees were set retrospectively to fit the budget available thereby predetermining the outcome of the consultation.
- 2.13 Discussions began in January 2012 when home owners were advised that the timetable for setting the Council’s budget for 2012/13 was 1 March 2012 and that the planned consultation would result in the fees being set after this date. Reassurance was given consistently throughout the consultation process that the final fees would be effective from 9 April 2012 and payments would be adjusted accordingly. Home owners were further advised that the budget had been set in the knowledge that the Council’s fee proposals were subject to consultation and may increase and that an allowance would be made for this contingency.

- 2.14 During 2012 extensive work has been undertaken with the local residential and nursing home care market to develop an Efficient Wirral Care Home cost model that has due regard to actual costs and determines a fair and reasonable contract rate. The economies of residential homes vary according to how they are financed, their lay out and their capacity. The Wirral Market contains a mix of purpose built homes and large former private houses that have been adapted and in many cases extended.
- 2.15 Developing the Efficient Wirral Care Home Model has involved deconstruction of provider costs and market returns. Provider assumptions have been challenged from a commissioning perspective and potential fee levels have been developed in order to ensure that, in accordance with the Local Government Act 1999, the Council achieves 'best value'. A chronology of communication and consultations with home owners has been included in Appendix 1. Home owners have been consulted in a number ways including;
- A questionnaire about Quality Premiums and developing a fee model.
 - Home Owner Forum Meeting discussions
 - Formal responses to an initial proposal using the Efficient Wirral Care Home Model
 - Feedback from the Wirral Care Homes Association to proposals
 - A data collection exercise for summarised actual cost information.
 - Wider Consultation issues relating to choice of residential care with an Older Peoples Group
- 2.16 All residential and nursing care contracts were terminated at the end of 2010/11 so that a new contract could be introduced in April 2011 via a tender based process. Some homes signed up to the new contract immediately and therefore receive the current rate, whilst others refused to accept the fee level offered. In order to facilitate a contractual relationship with homes that already supported people funded by the Council, home owners that refused to accept the new fees, were invited to sign a contract that secured the 2010/11 fees for those people until their residency ended.
- 2.17 At present 36% of homes have confirmed to the Council that they currently charge a top up in addition to the Council's usual fee. There is, however, evidence that some homes that claim not to charge a top up have entered into such arrangements suggesting that the actual percentage is higher. Separate arrangements are in place for intermediate care.

3.0 OPTIONS

- 3.1 Detail with regard to fee modelling, reflecting key issues and viewpoints is provided in Appendix 2. The appendix highlights issues in respect of the Wirral Quality Premium Model 2005 to 2011, the Laing and Buisson model and the Efficient Wirral Care Home Model.

3.2 It should be noted that as part of the consultation exercise Wirral Care Homes Association (WCHA) provided some data to assist the Council in calculating fees with reference to actual costs. The information available through the data collection exercise was limited; however it did provide a useful insight into the actual capital values of homes in Wirral and the staffing levels per bed used by homes. Using the information gathered throughout the consultation the following changes have been applied to the Wirral model;

- The inclusion of a separate Nursing Elderly Mentally Inform (EMI) Fee Rate
- Updated wage rates to take account of changes to the National Minimum Wage
- Updated Lifecycle Costs
- The use of average market value for land and buildings as a means of calculating capital value for the purpose of providing a level of return on capital.

3.3 The Council has identified three main options relating to the fees

i) Option 1

This proposal would involve the Council offering no increase to home owners for 2012/13, terminating the current contract for all placements and putting in place a revised contract with effect from 1 April 2013 with fees reflecting the actual cost of care. The legal implications are highlighted in section 10 of this report; in particular, there is a high risk that this approach would result in the Council being taken to Judicial Review should this option be taken.

ii) Option 2 - this is the recommended Option

This proposal would involve implementing the increase from April 2012 with all fees being adjusted accordingly. The basis of this model is:

- Revised Capital values taking into account the Data collection exercise
- Return on Capital based on 7%, which is supported by the work undertaken nationally by Laing and Buisson on their calculation of a Fair Price for care and work with Sefton Council. The rationale being that this is the amount an operator would have to pay to rent a care home or the price a care home owner would charge when letting it to an operator. The figure comes from the current rate at which a sale and lease back deal would be agreed.
- Business Return is 3% this represents the Profit Element to the home provider; Wirral's primary aim is not to entice further providers into the market at this time due to the excess capacity already available. The level has been proposed at 3% taking into account risk free saving investments. Laing and Buisson suggest that the rate applied to return on business activity lies between 0 and 13% and that Councils will be influenced by their need to attract new investment or maintain stability.
- This equates to an aggregated return of between 14.8% and 20.2%

- It should, however, be noted, that the Council has received feedback during the consultation that Nursing EMI would be adversely affected if further cuts were imposed. The Wirral Model suggests that the Nursing EMI rate should be paid at £542 per place per week, which would reduce the current rate by approximately £10. It is envisaged that although alternatives to residential based care are the development priority of the department, residential dementia services will continue to be a growth area of the market. There is at present limited Nursing EMI capacity in the market and it is therefore proposed to maintain the current rate to provide stability and encourage homes to consider diversification into this area. All Nursing EMI homes have achieved 3 stars under the Wirral Quality Premium Model.
- The efficiency level within the model is based on 50 beds which is the industry standard for a new build home; with an assumed 90% occupancy level
- A single rate is proposed.

Cost to the Council at current bed levels £757,473

iii) Option 3

This proposal would involve implementing the increase from April 2012 with all fees being adjusted accordingly. The basis of this model is:

- Return on Capital based on 7% which is supported by the work undertaken nationally by Laing and Buisson on their calculation of a Fair Price for care and work with Sefton Council. The rationale being that this is the amount an operator would have to pay to rent a care home or the price a care home owner would charge when letting it to an operator. The figure comes from the current rate at which a sale and lease back deal would be agreed.
- Business Return is 3% this represents the Profit Element to the home provider; Wirral's primary aim is not to entice further providers into the market at this time due to excess capacity already available but to maintain stability within the market and provide quality care
- The efficiency level within the model is based on 37 beds which reflects the average number of beds in Wirral Homes; with a 90% occupancy level. Using the average number of beds subsidises inefficient homes and creates increased profit for homes that do have economies of scale.
- Payments are made on a single payment basis

Cost to the Council at current bed levels £1,401,942

- 3.4 The actual fee rates that would be payable to home owners under each option, together with the overall return to home owners under each option, is shown in Appendix 3.
- 3.5 In order to make comparison to recent fee levels the changes in fees since April 2009 and the recommended option above are provided in Appendix 4.

3.6 A regional comparison of residential and nursing home rates has been provided at Appendix 5 to demonstrate how the Wirral Rates would compare. It is important to note that this information has been included in this report by way of context and that regional comparators have not been used to determine the rates proposed which are based on the Efficient Wirral Care Home model.

4. OTHER ISSUES TO CONSIDER

4.1 Appendix 6 sets out the rationale for discontinuing a premium based model in favour of basing the fees on actual costs. When surveyed only 13% of home owners felt the premiums were not out dated compared to 39% who felt that they were out dated. The predominant comment received from the balance of home owners was that if the fee set actually covered the cost of care then the premiums would be outdated.

4.2 During the consultation home owners suggested that quality premiums should be paid for external accreditations such as Investors in People and the Gold Standards Framework. Consequently a contribution towards external accreditation was built into the Efficient Wirral Care Home Model proposal to home owners on 17 April 2012.

4.3 As previously stated the Council has a statutory duty to set a rate that adequately funds care that meets the CQC Essential Standards of Quality and Regulations Safety 2010. Service offered over and above the essential standards that influence service user choice cannot be funded by the Council. Investors in People or the provision of a mini bus for example are not a requirements of the essential standards and do not form part of a compliant home. Consequently the contribution proposed initially has been removed from the proposals made in this report. External accreditations attracted premium payments under the previous model and home owners have stated that they are likely to stop external accreditations on cost grounds.

4.4 The Council has recently invested in the Quality Assurance function of the department which will be used to ensure that safe services are being delivered in accordance with the essential guidelines for care.

4.5 The Council funds approximately 50% of the residential and nursing home places in the market with 43% of places being privately funded. Research by Laing and Buisson suggest that privately funded people nationally pay more than service users funded by the Council. Service users qualify for Council funding when their funds fall below a level prescribed by the Government currently £23,250. The service users' ability to pay is defined within an individual financial assessment.

4.6 Due to this financial assessment, service users are not legally allowed to pay a top up premiums levied by a home. Any top up payment must be paid by a third party most commonly a relative of the service user. The Council has in recent years left all third party payment to be privately agreed between the home and the third party. Best practice clearly shows that the Council should facilitate the placement, ensure that the third party has sufficient funds to cover the commitment, pay the home accordingly and recover the additional top up premium from the third party.

- 4.7 These arrangements also ensure that the Council is clear what the additional third party payment is for. The financial risk associated with this arrangement arises where the third party defaults on the payment the Council may be liable for the third party payment. It is therefore essential that the Council negotiates a clear and transparent figure and where this is not paid on need, be clear that it will not be paid beyond a default by the third party. The Council has a clause in its contract that states where a third party falls into arrears of 4 weeks the payment to the home will default to the Council's standard rate.
- 4.8 An individual decision must therefore be made to review the needs of the service user and offer alternative accommodation or if there are grounds for the service user remaining in their home of choice then the Council would have to pay the top up inclusive rate. It would not be practical for the Council to take over all existing top up payments immediately as agreements between home owners and third parties are already in existence. It is therefore recommended that the Council takes responsibility for all new places that involve a third party payment from April 2013 including people relocating from one home to another where a third party payment is required, and look to review existing top up arrangements during 2013/14.
- 4.9 The fees paid by DASS are used to determine the charges that service users pay, with some paying the full cost. Service users should be notified when the fees are agreed and the charges revised to maximise the income to the Council. Due to the delay in setting fees only the charges for the last quarter of the financial year will be affected. It is estimated that 165 people will be affected by this adjustment.

5.0 RELEVANT RISKS

- 5.1 Risks of judicial review have been represented within the report reflecting strength of provider views in this matter. Should this happen the outcome would be either to uphold the approach taken or that the Council is asked to re-visit its calculation. It is hoped that this can be avoided and that the settlement of fees are not further delayed.
- 5.2 It is critical to obtain the correct balance between cost and quality to ensure quality standards can be maintained and Best Value obtained.
- 5.3 If Third Party Top Ups are not dealt with in a transparent manner according to Best Practice there is a danger that unforeseen financial obligations may accrue.

6.0 OTHER OPTIONS CONSIDERED

- 6.1 In helping people who need to use the services of the department, it is inevitable that some service users will require residential or nursing home care. All effort is made to assist service users to live independently in their own homes, but in order to ensure facilities are available for people who need residential and nursing home care the Council has a statutory duty to set an appropriate fee rate.

7. CONSULTATION

- 7.1 In order to demonstrate that due regard has been paid to the views of home owners an extensive consultation process began in January 2012; the chronology for which is shown at Appendix 1.

- 7.2 A questionnaire was used as part of the consultation in relation to quality criteria and a range of other issues. The value of this exercise was limited due to homes submitting common statements and void answers. This consultation exercise was extended at the request of home owners to allow the Wirral Care Homes Association to obtain a view on the Wirral model from Laing and Buisson and for discussions among providers to take place.
- 7.3 Care home fees cannot be based on actual costs because there are many variations in terms of size, financing and running costs. The Council must however demonstrate that it has given “due regard” to actual costs in setting its fees. To this end the Wirral model was revised and, at the request of home owners, consideration was given to the Fair Price for Care model commissioned by the Wirral Care Homes Association from Laing and Buisson and submitted to the Council in April 2011. However the Laing and Buisson exercise was based on a return of staffing information only and used running costs based on its national model thereby failing to give due regard to actual local costs.
- 7.4 At a meeting with WCHA and its legal representative on 14 June 2012 the Council was at the point of making a revised proposal based on the best information available. The WCHA provided some explanations surrounding the reluctance of its membership to provide business accounts and actual cost information. An alternative proposal was made by the WCHA to collect actual cost data in a summarised form.
- 7.5 The Data Collection exercise developed was completed on 4 August 2012 with only 23 homes out of over 111 making a return. Although the information produced by the data collection exercise was limited, as stated above, the results were considered and reflected in the Wirral Model.
- 7.6 A wider consultation exercise was also undertaken with a focus group of older people to look at the impact on setting fees, the factors that impact on the choice of a home and the decisions the Council needs to make in respect of self funders who subsequently apply for Council funding. The results were considered as part of the Equality Impact Assessment.

8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 8.1 There are no direct implications for voluntary, community and faith organisations.

9.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

- 9.1 The financial implications of the options set out in this report can be summarised: -

	Cost in Full Year
Option 1	£0
Option 2	£757,473
Option 3	£1,401,942

9.2 It should be noted that no provision is available within the currently approved estimates of the Department of Adult Social Services to fund an increase in fees. If Cabinet agree to any increase it will be necessary to fund this in 2012/13 from the Revenue Reserves of the Council; with subsequent years' costs being a call against any resources that are made available for Growth.

10.0 LEGAL IMPLICATIONS

10.1 Under section 21 of the National Assistance Act 1948 ("the Act") and the Directions made under it and LAC 93 (10), the Council has a duty to arrange accommodation for adults who by reason of age, illness or disability or any other circumstance are in need of care and attention.

10.2 The National Assistance Act (Choice of Accommodation) Directions 1992 allows the Council to fix a maximum amount or "usual cost" that it is prepared to pay for particular types of residential care. Paragraph 3(b) states that that the individual should be accommodated at a place of his choice (known as preferred accommodation) provided making arrangements at the individual's preferred accommodation would not require the Council to pay more than they would usually expect to pay having regard to the individual's assessed needs.

10.3 The Council is required to pay the amount it usually costs to meet the individual's objectives set out in the needs assessment and care/support plan [less any means tested contribution]. The Council is not required to pay more than it would usually expect to pay, having due regard to assessed needs. More than one usual cost should be set where the cost of meeting specific needs is different.

10.4 The Government issued statutory guidance Local Authority Circular - LAC 2004 (20) on setting the usual cost of care under section 7A of the Local Authorities Social Services Act 1970. By section 7 of the Act 1970, the Council, in carrying its functions, must follow general guidance issued by the Government unless it has cogent reasons for departing from the guidance and if it does so, the Council must not take a "substantially different course" of action.

10.5 On the setting of care home fees, paragraph 2.5.4 of LAC 2004 (20) states: "One of the conditions associated with the provision of preferred accommodation is that such accommodation should not require the council to pay more than they would usually expect to pay, having regard to assessed needs (the 'usual cost'). This cost should be set by councils at the start of a financial or other planning period, or in response to significant changes in the cost of providing care, to be sufficient to meet the assessed care needs of supported residents in residential accommodation. A council should set more than one usual cost where the cost of providing residential accommodation to specific groups is different. In setting and reviewing their usual costs, councils should have due regard to the actual costs of providing care and other local factors. Councils should also have due regard to Best Value requirements under the Local Government Act 1999."

10.6 Should the Council fail to discharge its obligations then it risks being challenged through Judicial Review. The Council must be able to demonstrate how it has arrived at fees being proposed and the methodology and process must be capable of standing up to scrutiny.

- 10.7 An important aspect of this process is the need to ensure effective and informed consultation which ensures all relevant and potentially affected parties and stakeholders are afforded the opportunity to engage in the process and have their views and contributions taken into consideration before a decision is made in relation to the fees being proposed and set. Failure to do so risks a challenge by Judicial Review.
- 10.8 Recent Judicial Review cases have highlighted the need to ensure that due process is followed when dealing with setting such fees. The courts have demonstrated a willingness to find against Councils if they feel all appropriate and relevant steps have not been undertaken fully or correctly.

11.0 EQUALITIES IMPLICATIONS

- 11.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?
- (a) Yes - completed.
- (b) The response of the market to the proposals made cannot be forecast with any certainty. It is therefore proposed to provide a revised EIA on 29 November following the consultation period.

12.0 CARBON REDUCTION IMPLICATIONS

- 12.1 None.

13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 13.1 There are no planning implications arising directly from this report.

14.0 RECOMMENDATIONS

- 14.1 It is recommended that:
- i) the fee framework reflecting actual cost as set out in Option 2, is presented to providers for consultation with a further report presented to Cabinet on 29 November taking account of the views of providers prior to final agreement and implementation
 - ii) all old contracts based on 2010/2011 to be terminated by giving the required 3 months written termination notice and that all payments following this period are made at the fee level set for 2012/2013.
 - iii) the Council only contract for residential and nursing care using the current contract.
 - iv) once residential and nursing rates are agreed it is proposed that further work will be undertaken to establish variations to the model for specialist providers.
 - v) the revised fees are back dated to 9 April 2012 and that financial contingencies are explored to allow this to be achieved within the Council's budget; as a consequence of this work it is proposed to build the agreed fee levels into the budget 2013/2014.

- vi all new top ups are made to be part of the contract and are managed by the Council with effect from April 2013.
- vii Service users are advised of the new rates and charges are adjusted with effect from January 2013.

15.0 REASONS FOR RECOMMENDATION/S

- 15.1 The Council must set fees that enable homes to meet the CQC Essential Standards of Quality and Regulations Safety 2010. The proposed option has been constructed using local market information and taking into account home owners' views in relation to the return on capital and having a separate fee level for nursing EMI care.
- 15.2 The Council also has a duty to obtain value for money for public funds which it can do by basing them on an efficient size of operator. Some homes due to their size can never be efficient; the Council cannot fund this inefficiency.

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APPENDICES

<i>Appendix 1</i>	<i>Communications Chronology</i>
<i>Appendix 2</i>	<i>Fee Models</i>
<i>Appendix 3</i>	<i>Weekly Fees Payable Options</i>
<i>Appendix 4</i>	<i>Changes in Fees 2009 to 2012</i>
<i>Appendix 5</i>	<i>Regional Comparisons</i>
<i>Appendix 6</i>	<i>Quality Premium Payments</i>

REFERENCE MATERIAL

N/A

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet - Fees for Residential and Nursing Home Care	2 February 2012
Cabinet - Transformation of adult social services, contracts for residential and nursing home care and personal support	11 March 2011

Communication Chronology

Date	Details
17/01/2012	Provider Forum Wallasey Town Hall
19/01/2012	Provider Questionnaire issued
10/02/2012	Provider Questionnaire deadline
02/03/2012	Provider Forum – Feedback from Questionnaire and Initial Efficient Wirral Care Home Model initial proposal outlined
05/03/2012	Efficient Wirral Care Home Initial Proposal circulated including detailed working papers and rationale
23/03/2012	Wider consultation with Older Peoples representatives
02/04/2012	Deadline for feedback on initial proposal
16/04/2012	Extended deadline for initial proposal
17/04/2012	Provider Forum meeting cancelled
May 2012	Ongoing correspondence with Wirral Care Homes Association
14/06/2012	Meeting with the Directors of Wirral Care Homes Association and their legal representative
27/06/2012	Follow up meeting with Chair of Wirral Care Homes Association re: data collection exercise to collect summarised actual costs
11/07/2012	Agreed data collection format
27/07/2012	Data collection exercise launched
6/08/2012	Data collection deadline
25/09/2012	Meeting with Chair of the Wirral Care Home Association to share results of data collection exercise
1/10/2012	Report and proposals shared with all the home owners
18/10/2012	Report presented to Cabinet

Fee Models**Wirral Quality Premium Model 2005 – 2011**

Following work with Laing and Buisson in 2005 the amount each home receives per bed has been determined by the star rating the home has achieved against Wirral quality premium. This model set different payment levels for homes rated as 1, 2 or 3 stars in accordance with specific criteria and was originally designed to incentivise the market into meeting the National Minimum Standards for residential care (Care Standards Act 2000). In the main this model therefore rewarded homes for meeting standards that they had to meet anyway in order to provide compliant care in accordance with their registration.

The Laing and Buisson Model

The Wirral Care Homes Association (WCHA) commissioned Laing and Buisson to undertake a data collection exercise and produce a fee proposal based on their Fair Price for Care Model. The report was submitted to the Council in April 2011 after the fees for 2011/2012 had been set. During the initial consultation it was established that home owners wished the Council to take into consideration the Laing and Buisson Model and the commissioned report. This report was based on submissions from 58 homes but involved only the collection of staffing data with all non staffing data being pulled from Laing and Buisson's national model results produced in 2008 and inflated rather than actual costs for homes on Wirral in 2012.

The model is based on a notional 50 bedded home because this is considered to be a cost efficient size. Laing and Buisson state that they have found no evidence to suggest that care in smaller homes is of better quality and are clear that fees should not subsidise homes that are inefficient. The Occupancy level used in the model is 90% which compares favourable the Wirral Market figure of 93%.

The Laing and Buisson Model was developed when the national minimum standards were in place and identifies a fee level for a fully compliant new build home as a ceiling price and a base line fee for homes that do not reach this standard. This reflects the model introduced by Wirral in 2005. However whereas the Wirral Quality premium model was built around quality factors such as the number of qualified staff it is recommended that they should actually relate to the physical environment. The reason for this approach is to reflect the level of capital investment made to meet the new build standard defined under the National Minimum Standards 2000.

Developing the Efficient Wirral Care Home Model

An Efficient Wirral Care Home Model was developed using local information with consideration being given to the Laing and Buisson Fair Price for Care model. The Council's preference in developing this model was to adopt an open book approach and work in partnership with home owners to reflect actual cost information. However, in response to a questionnaire used during the consultation the 83% of home owners that took part said they were unwilling to provide actual cost information to the Council citing confidentiality and potential Freedom of information requests as the reasons for not wishing to take part.

The Council made a fee proposal using the Efficient Wirral Care Home Model on 17 April 2012 using the best information it had available from its own research. The room size requirements and the provision of en-suite bathrooms as specified in new build homes under the previous national minimum standards were used to differentiate payments between a floor and ceiling price.

Key areas of dispute

1. Environmental Cost differentials

Home Owners and the WCHA argue that it was inappropriate to use national standards that no longer apply to differentiate payments. Home owners have also highlighted that although en-suite rooms may be available in nursing homes; communal bathrooms are frequently used instead because of the level of support required during bathing. It is also acknowledged that some homes could never meet the physical requirements of a new build home and that their income would be disadvantaged by this approach. Some home owners believe it is unfair to pay different rates to different homes in a market that which is about service user choice. It is also recognised that the staffing is the major cost commitment in any care home provision and that smaller homes will be unable to invest in the quality of their service if they are paid lower fees based on the physical aspects of their home. Smaller homes that do not have economies of scale are more likely to charge top ups. These top ups are also likely to be larger where the home is also paid less due to the physical environment.

2. Nursing EMI

Home owners argued that a separate rate was required for nursing that support EMI needs. Although home owners preferred Laing and Buisson Model suggested that there were no additional costs for EMI and that nursing represented the dominant need that homes of this type needed to meet. Following a review of this position a separate rate for Nursing EMI has been built into latest proposal.

3. Efficiency

The Efficient Wirral Care Home Model is based on 50 beds in line with the home owners preferred Laing and Buisson Model. It is argued by the WCHA that this number should be reduced to the average number of beds that a Wirral Care Home has in order to be representative of the Wirral Market. The average number of beds for the Wirral Market is currently 37. However while the model aims to reflect actual costs in the market it has been based on 50 beds in recognition that this is an efficient home with economies of scale. Setting the rate at the average number of beds would mean that the Council would be subsidising inefficient homes and create excessive profits in homes with economies of scale. It is anticipated that this is an area where home owners will make further representations and therefore an option outlining the implications of adopting the market average have been included in this report for consideration.

4. Return on Capital

Home owners argue that the 6% return on Capital is too low and that it should be 13%. The Wirral proposal actually provides a 7% Return on Capital plus an additional 3% Business Activity Return; the composite return being between 14% and 20%.

5. Single rate payments

During the consultation home owners were asked if they felt a single rate would be preferable to a floor and ceiling model. The result was mixed with 28% of respondents saying they would prefer a single rate and 55% stating that it would depend on the rate offered.

Laing and Buisson point out that more Councils are adopting a flat rate and a move away from quality premiums in their annual market report dated June 2012.

The disadvantage of a single rate is that it does not recognise the Capital investment made by the home owner.

The benefits of a single rate are;

- Clearer to service users, homes and partner agencies what the Council rate is.
- Avoidance of disputes relating to premiums
- Potential reduction of top ups in smaller homes that lack the economies of scale but are popular and offer a good quality service.
- Quality Assurance time would be used to concentrate on the quality of care and the provision of safe services instead of premium reviews.

Weekly Fee Rates Payable Options

	Option 1 Current Levels	Option 2 50 Bedded Unit 90% Occupancy		Option 3 37 Bedded Unit 90% Occupancy	
Assumed levels of return		7% Return on Capital at Market Value	Overall % Return to Care Home Owner	7% Return on Capital at Market Value	Overall % Return to Care Home Owner
Type of Establishment		3% Return on Business Activity		3% Return on Business Activity	
Residential	£376.81	£389	20.2%	£399	19.7%
Residential EMI	£402.71	£419	18.8%	£429	18.4%
Nursing	£526.11	£529	15.1%	£539	14.9%
Nursing EMI	£552.01	£552	14.8%	£552	14.6%
Total Additional Annual Cost	£0	£757,473		£1,401,942	

Changes in Fees 2009 to 2012

The majority of homes on Wirral are rated as 3 Star under the Wirral Premium Model.

The overall reduction to residential and nursing care in 2011 was 9.5% but this was less in some case as the fees were brought in line with costs across the region in each category.

The recommended Option 2 is highlighted below.

			%
Residential	3 Star	+	-
2009/2010	£416.29		
2010/2011	£416.29	0.0%	
2011/2012	£376.81		9.5%
2012/2013 Option 1	£376.81	0.0%	
2012/2013 Option 2	£389.00	3.2%	
2012/2013 Option 3	£399.00	5.9%	
Residential EMI			
2009/2010	£444.99		
2010/2011	£444.99	0.0%	
2011/2012	£402.71		9.5%
2012/2013 Option 1	£402.71	0.0%	
2012/2013 Option 2	£419.00	4.0%	
2012/2013 Option 3	£429.00	6.5%	
Nursing			
2009/2010	£569.93		
2010/2011	£569.93	0.0%	
2011/2012	£526.11		7.7%
2012/2013 Option 2	£526.11	0.0%	
2012/2013 Option 2	£529.00	0.5%	
2012/2013 Option 3	£539.00	2.5%	
Nursing EMI			
2009/2010	£598.56		
2010/2011	£598.56	0.0%	
2011/2012	£552.01		7.8%
2012/2013 Option 2	£552.01	0.0%	
2012/2013 Option 2	£552.01	0.0%	
2012/2013 Option 3	£552.00	0.0%	

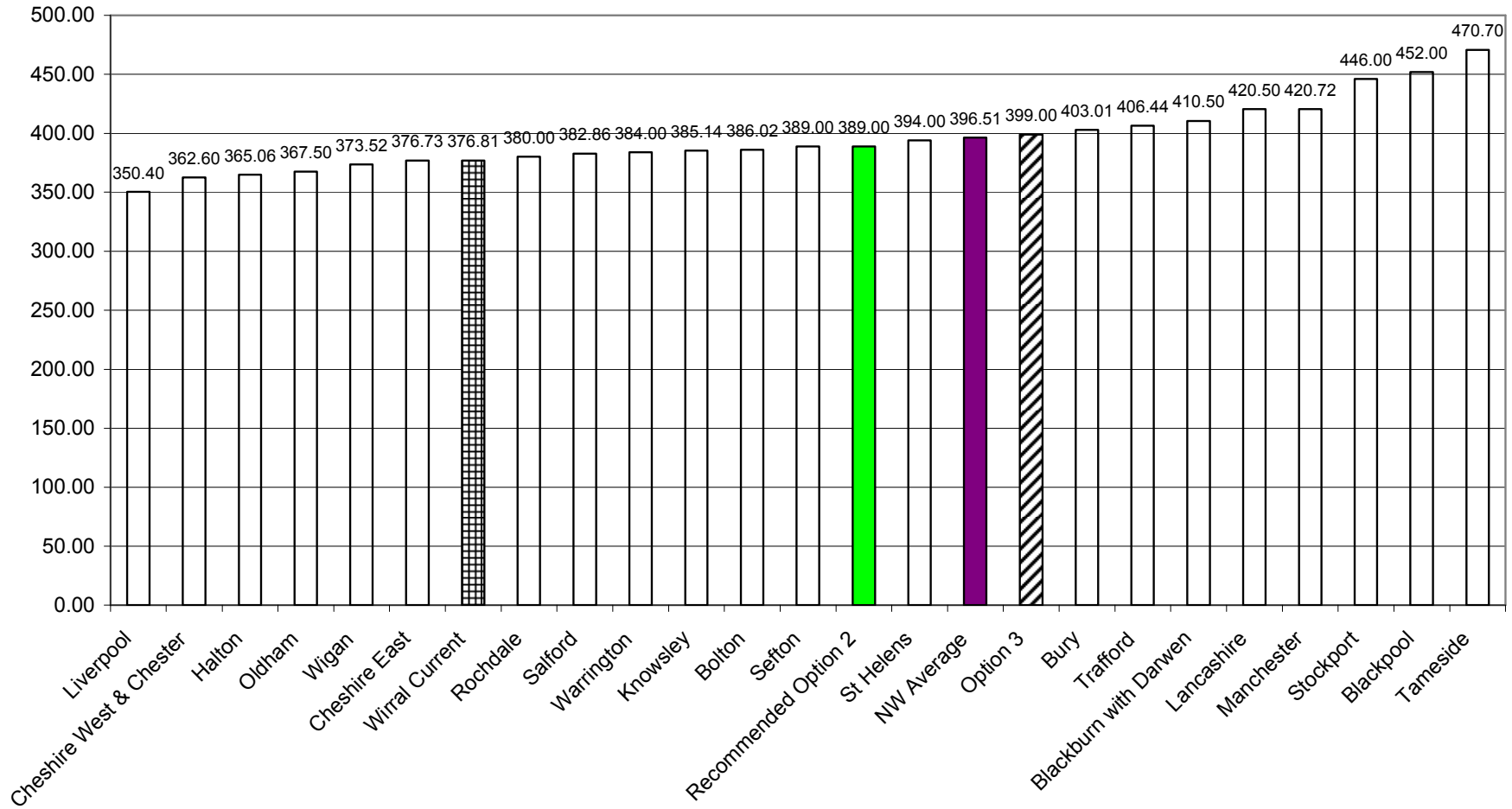
Both Option 2 and Option 3 are based on paying a single rate and therefore homes currently rated below 3 stars would receive larger increases as the inequities of the premium model are removed.

Regional Comparison.

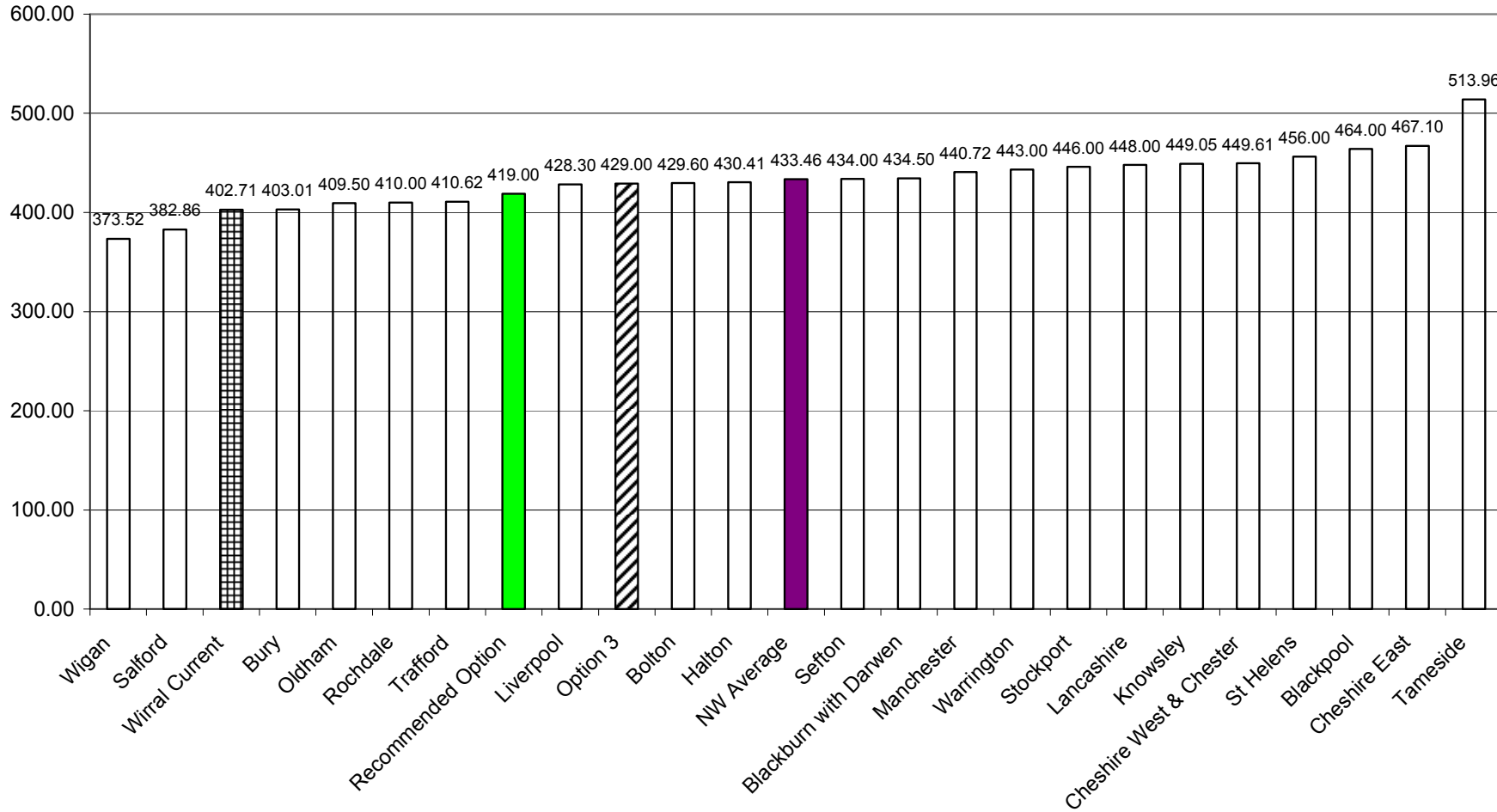
While the following information has not been used to determine fees it does provide some context as to how the proposed fees will compare with fees across the region.

All Wirral figures include the Registered Nursing Care Contribution (RNCC) element which is funded by the NHS at £108.70 per bed per week.

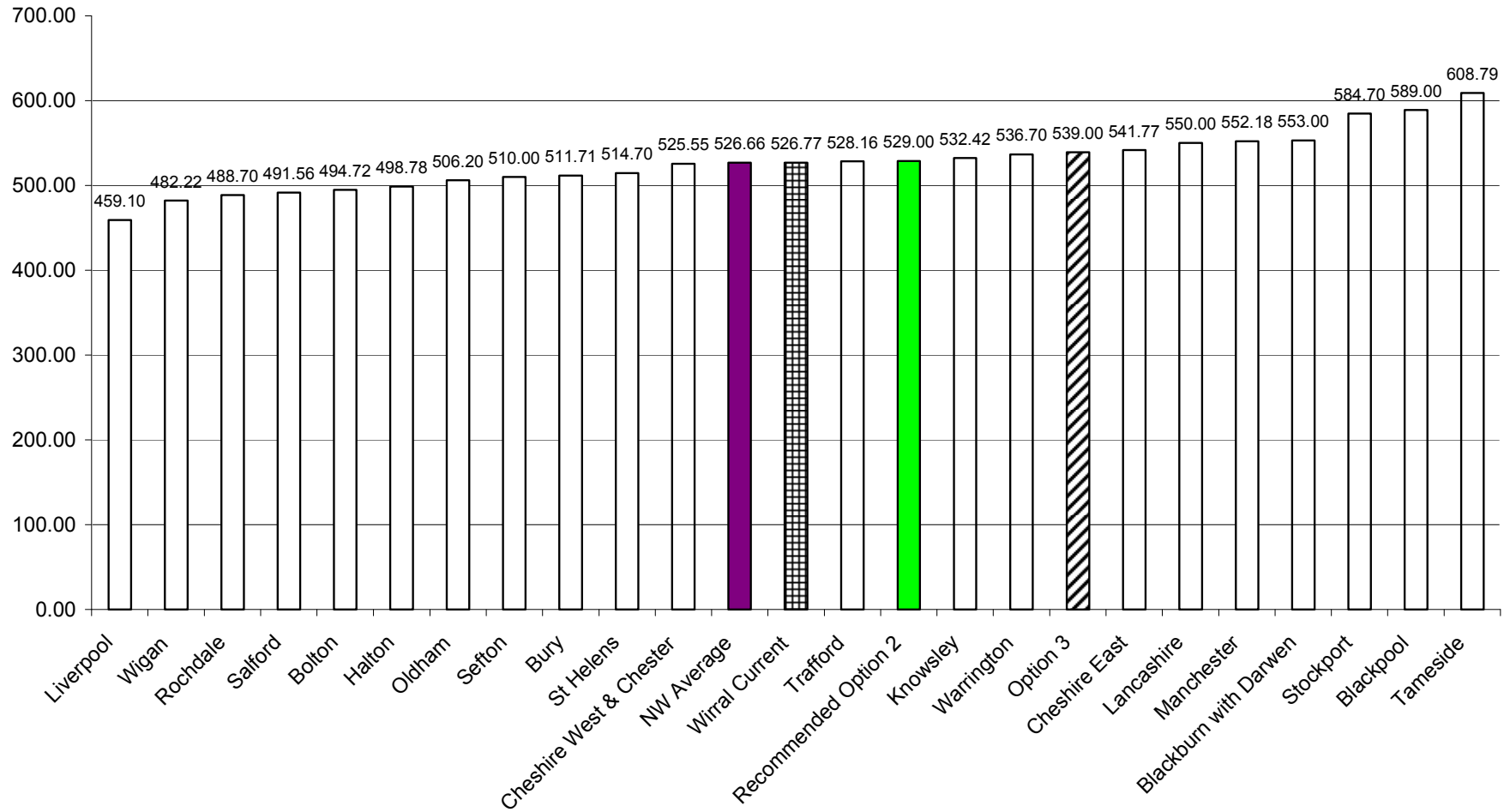
Residential Care - Maximum fee rates across the North West 2012/2013



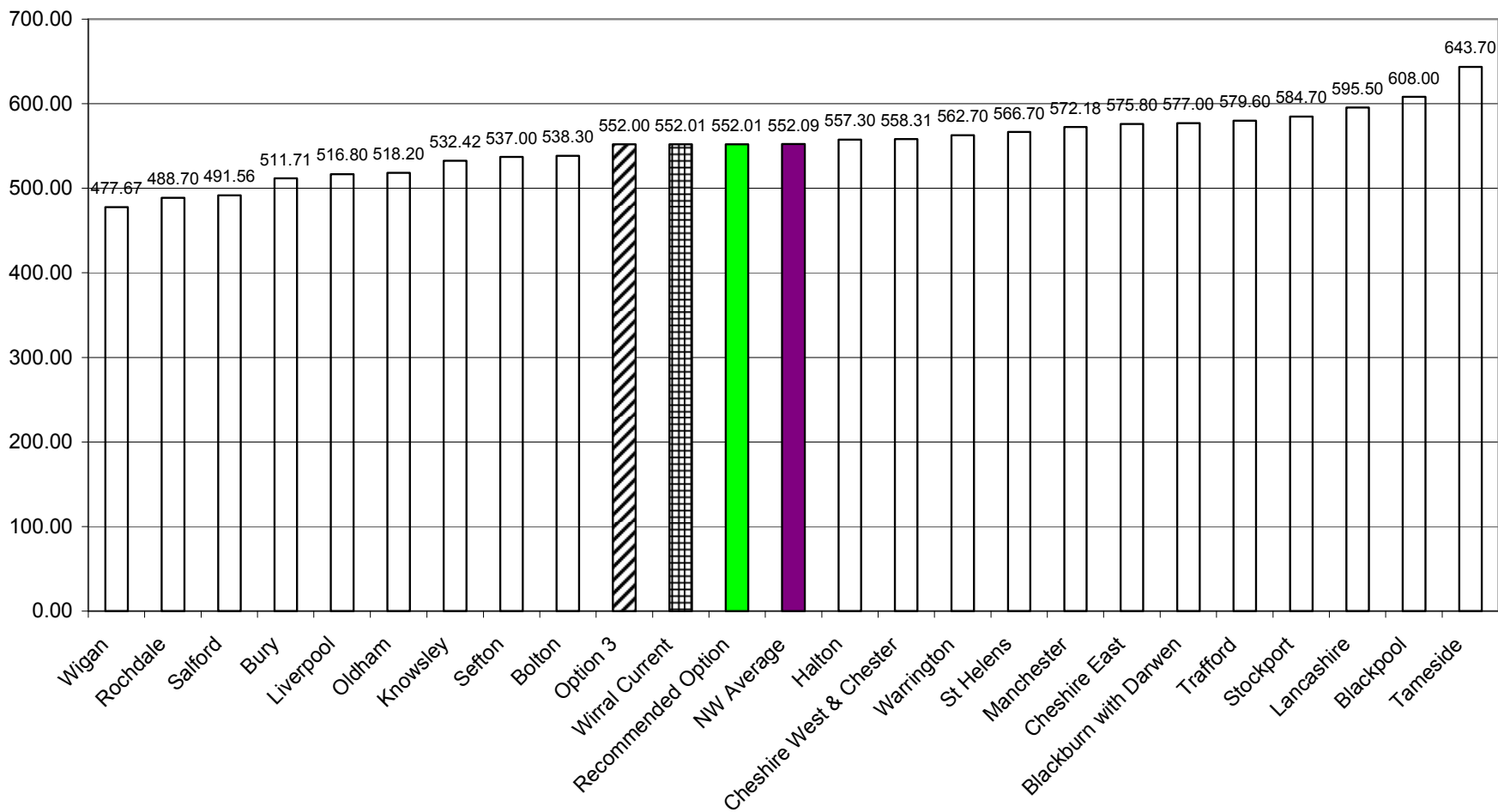
EMI Residential - Maximum fees rates paid across the North West



Nursing - Maximum fee rates paid across the North West (Includes RNCC)



EMI Nursing - Maximum fee rates across the North West



Quality Premium Payments

Wirral has since 2005 operated a three star quality premium model which rewarded homes for achieving national minimum standards. The new CQC Essential Standards of Quality and Regulations Safety 2010 which replaced the National Minimum standards in April 2010 and the need to pay due regard to actual costs have made this model redundant. The Council must now focus on compliant care by paying a fair rate.

Wirral Premiums

1 Star basis for payment at least 50% of its total employees are qualified to at least NVQ level 2 or an equivalent qualification

Issues: This is outdated because the CQC Essential Standards of Quality and Regulations Safety 2010 which replaced the national minimum standards in 2010 require homes to safeguard the health, safety and welfare of service users by taking appropriate steps to ensure that, at all times, there are sufficient numbers of suitably qualified, skilled and experienced persons employed for the purposes of carrying on the regulated activity. Regulation 22 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010.

It will be necessary for homes to demonstrate to CQC and the DASS Quality Assurance Team at inspection how the staffing level has been determined based on the current occupancy and their collective needs.

2 Star basis for payment evidence that residents are engaged in meaningful social activities in or out of the Home. For larger homes (of more than 20 residents) this shall be evidenced by the Provider employing for not less than 20 hours per week a dedicated member of staff for that purpose.

Issues: This is outdated because Under Outcome 4a of the Essential Guidelines the assessment, planning and delivery of people care, treatment and support must maintain their welfare and promote their wellbeing taking into account all their needs, including: -

- physical
- mental
- social
- personal relationships
- emotional
- **daytime activity**

Homes must demonstrate person centered positive outcomes. This means that individual service user files and care plans must evidence a personal choice in terms of activities which may not be part of a central programme.

3 Star basis for payment demonstrate it meets the Council's 2 Star criteria and have a current assessment by the Care Quality Commission as being an "excellent" Home.

Issues: This is outdated because the Care Quality Commission no longer publish their overall judgments for each home.

Equality Impact Assessment Toolkit (from May 2012)

Section 1: Your details

EIA lead Officer: M Price

Email address: malprice@wirral.gov.uk

Head of Section: Stephen Rowley

Chief Officer: Graham Hodkinson

Department: Adult Social Services

Date: 09.10.12

Section 2: What Council proposal is being assessed?

Options and recommendations with regard to fees paid by the Council to independent sector residential and nursing homes.

Section 2b: Will this EIA be submitted to a Cabinet or Overview & Scrutiny Committee?

Yes

If 'yes' please state which meeting and what date

Cabinet 18 October 2012.....

Please add hyperlink to where your EIA is/will be published on the Council's website

.....

Section 3: Does the proposal have the potential to affect..... (please tick relevant boxes)

- Services** ✓
- The workforce** ✓
- Communities** ✓
- Other** (please state eg: Partners, Private Sector, Voluntary & Community Sector)

If you have ticked one or more of above, please go to section 4.

- None** (please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 4: Does the proposal have the potential to maintain or enhance the way the Council (please tick relevant boxes)

- Eliminates unlawful discrimination, harassment and victimisation ✓
- Advances equality of opportunity ✓
- Fosters good relations between groups of people ✓

If you have ticked one or more of above, please go to section 5.

- No** (please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 5:

Could the proposal have a positive or negative impact on any of the protected groups (race, gender, disability, gender reassignment, age, pregnancy and maternity, religion and belief, sexual orientation, marriage and civil partnership)?

You may also want to consider socio-economic status of individuals.

Please list in the table below and include actions required to mitigate any potential negative impact.

Which group(s) of people could be affected	Potential positive or negative impact	Action required to mitigate any potential negative impact	Lead person	Timescale	Resource implications
Older People	Positive – The proposed increase in fees represents additional investment in market to ensure that that the demand for residential based care can be met by a stable Market.				
Older People	Positive – Establishes clearly the usual terms and conditions of the Council with a single set of fees so that service users, their families and home owners understand the market.				
Older People	Positive – Short Term and Respite Care The proposed increase in fees will make the provision of respite more attractive to home owners.				

Which group(s) of people could be affected	Potential positive or negative impact	Action required to mitigate any potential negative impact	Lead person	Timescale	Resource implications
Older People	<p>Positive - New Service users requiring Residential or Nursing home care</p> <p>At present 36% of homes have indicated that they charge a top up. However the increase in fees has the potential to increase the number of homes operating at the Councils standard rate.</p>				
Older People	<p>Negative – Existing DASS funded Service users that have been paid for under the old contract at the 2010/2011 fee level will be paid at the lower 2012/2013 after termination of the old contract. Based on current practice these homes are most likely to pass the difference in fees onto a third party. The risk of homes serving notice on service users is low due to the importance of keeping up occupancy levels.</p>	<p>Write directly to all the service users and families that have been supported under the old contract and provide advice.</p> <p>The increase in 2012/2013 fee levels will net off the impact of the old contract being terminated.</p> <p>Make available a list and map of all the homes where the standard rate is accepted and no third party payments are charged</p>	M Price	December 2012	
Older People	<p>Negative – Self funding Service Users that subsequently qualify for DASS funding may be adversely affected where the home involved does not accept the local authority fees. Funding arrangements are examined on an individual basis and may involve third party payments. The risk of needing to relocate to alternative accommodation is low.</p>	<p>Develop guidance for self funders and their families to explain the options available to them and the choices of accommodations legislation.</p>	M Price	December 2012	

Section 5a: Where and how will the above actions be monitored?

Capacity in the Market is monitored in the Quality Assurance Team
Homes are asked on a regular basis to confirm any additional charges they levy. Taking responsibility to pay and recover third party top ups from April 2013 will increase market intelligence in this area.

Section 5b: If you think there is no negative impact, what is your reasoning behind this?

Negative impacts have been identified

Section 6: What research / data / information have you used in support of this process?

Internal Market Intelligence re Top ups and market capacity.
Experience of current practice

Section 7: Are you intending to carry out any consultation with regard to this Council proposal?

No

If 'yes' please continue to section 8.

If 'no' please state your reason(s) why: A revised EIA will be submitted to Cabinet on 29 November giving further consideration to the likely response to the proposed fees.

We cannot consult the public on what fee levels should be.

(please stop here and email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for publishing)

Section 8: How will consultation take place and by when?

Before you complete your consultation, please email your preliminary EIA to equalitywatch@wirral.gov.uk via your Chief Officer in order for the Council to ensure it is meeting it's legal requirements. The EIA will be published with a note saying we are awaiting outcomes from a consultation exercise.

Once you have completed your consultation, please review your actions in section 5. Then email this form to your Chief Officer who needs to email it to equalitywatch@wirral.gov.uk for re-publishing.

Section 9: Have you remembered to:

- a) **Add appropriate departmental hyperlink to where your EIA is/will be published** (section 2b)
- b) **Include any potential positive impacts as well as negative impacts?** (section 5)
- c) **Send this EIA to equalitywatch@wirral.gov.uk via your Chief Officer?**
- d) **Review section 5 once consultation has taken place and sent your completed EIA to equalitywatch@wirral.gov.uk via your Chief Officer for re-publishing?**