

**Wirral Council's response to critical reports
2010-13**

Foreword by Leader of Wirral Council Councillor Phil Davies and Chief Executive Graham Burgess

Wirral Council is emerging from one of the most difficult periods in its history; a period in which we have critically evaluated everything we do, and invited others to do the same.

Our past failures have made this work necessary. We have invited challenge, and made ourselves open to criticism.

Wirral Council, like all local authorities, is heading into uncharted territory in which the entire notion of local government is being discussed, evaluated and transformed. We are ready to make this progression.

As an authority, we are learning to have confidence in our own work again. We are able to trust the work of our colleagues.

A number of independent external reports have raised concerns and made specific recommendations about how we needed to change our processes and our constitution. We have listened, and we have changed.

We were also told we needed to change our culture. We have made substantial progress in identifying and fixing what was wrong, and we are resolute in continuing this work.

External experts have overseen these changes, and have endorsed them. Now we need to embed these learnings.

Since 2011, immense efforts have been made to review our processes, our attitudes and our preconceptions about how we can best serve Wirral people. Wirral's officers and councillors have been challenged to learn and to develop.

This report represents an analysis of the major concerns raised with the Council in recent years, our response and how we are continuing to respond to the matters raised.

As is the case with every local authority in the country, we cannot promise that nothing will go wrong at Wirral Council ever again. However, what we do promise is that all issues that we are told about or discover ourselves will be dealt with quickly, fairly and effectively so that they cannot be repeated in the future.

This report represents the watershed moment in Wirral's transformation.

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1. Introduction

- 1.1 Between 2010 and 2013 a series of independent reports made serious criticisms of Corporate Governance practices within the Council. This report summarises the work that has been completed since the publication of, in particular, the AKA and Martin Smith reports.
- 1.2 In order for Wirral Council to be able to serve Wirral residents effectively it is important that the authority, its staff and councillors can focus its full attention on its learnings and on the required transformation of services without returning to the failures of the past. This report draws to a conclusion some of the most challenging issues faced by Wirral Council and provides reassurance of the lessons learned and of the implementation of rigorous new procedures.
- 1.3 In the interests of transparency, this report has been shared with the District Auditor, the Wirral Improvement Board and other key figures. It is a comprehensive record of the Council's response to serious challenges.

Background

2. The Anna Klonowski Associates Report

- 2.1 In September 2010 Wirral Council commissioned Anna Klonowski Associates (AKA) to undertake an independent review of the whistle-blowing complaints raised by Martin Morton, relating to claims of overcharging of vulnerable adults in Supported Living Accommodation between 1997 and 2011¹.
- 2.2 On the 12th January 2012 Wirral Council's Cabinet met to consider the findings of the AKA report.
- 2.3 The AKA report was highly critical of aspects of the work of Wirral Council's Department of Adult Social Services and of the Council's Corporate Governance as a whole, and recommended the strengthening of several of the Council's corporate functions and of its culture.
- 2.4 AKA recommended the reimbursement of those residents of Bermuda Road, Curlew Way and Edgehill Road that had been overcharged since 1997. Consideration would need to be made of the effect reimbursements of these charges might have on any benefits received by the residents.
- 2.5 AKA reported that time constraints had prevented them from concluding on all matters, including the issue of overcharging at Balls Road².
- 2.6 AKA reported that a failure of process had meant that Mr Morton's allegations were not always properly articulated and documented by council officers³,

¹ Anna Klonowski Associates 'Independent Review of Claims Made by Mr Martin Morton (and others)' reported to Cabinet 12/01/12 'Introduction' p4-5.

² AKA report p5 paragraph 1.6

leading to a failure to understand the seriousness of the allegations being made and to act upon them in a timely and appropriate manner.

- 2.7 AKA criticised some areas of DASS for being either unable or unwilling to accept serious failings and address them. AKA also criticised DASS record-keeping, including the keeping of audit trails in relation to meeting minutes⁴. The later failure to respond in a timely manner to Freedom of Information requests relating to these areas (and corporately) has also been linked to these problems⁵.
- 2.8 AKA questioned Wirral's culture in regards to whistle-blowing⁶, saying that 'the Council has not yet learned how to embed a culture whereby whistle-blowing concerns are investigated in a robust manner without fear of reprisal for the whistle-blower'.
- 2.9 In the report's Further Conclusions, when referring to the Council's Legal and Committee Services function, AKA said that a culture needed to be created 'of accountability and responsibility with consequences where things go wrong.'
- 2.10 Prior to the publication of the full AKA report, the report's author delivered a preliminary report, 'Wirral Metropolitan Borough Council's Corporate Governance Arrangements: Refresh and Renew' A Supplementary Report to the Independent Review of Wirral Metropolitan Borough Council's Response to Claims Made by Mr Martin Morton (and others)⁷.
- 2.11 Following publication of the final AKA report in January 2012, the Chief Executive was asked to prepare an action plan to implement all of AKA's recommendations⁸. The Chief Executive presented this action plan to 2nd February 2012's meeting of Cabinet, which was subsequently approved.

3. The Martin Smith Report

- 3.1 In September 2009 Wirral Council commissioned Martin Smith to investigate allegations of Bullying and Abuse of Power in relation to Martin Morton.
- 3.2 Martin Smith's report was presented to Cabinet on 14 April 2011. The report was not released into the public domain until January 2012 for legal reasons⁹.
- 3.3 AKA supported Martin Smith's conclusion that there was a failure by council officers in relation to its grievance and whistle-blowing procedures.

³ AKA report p6 paragraph 1.12

⁴ AKA report 'Further Conclusions' p234 paragraph 7.12

⁵ AKA Report 'Further Conclusions' p234-235 paragraph 7.14

⁶ AKA report p231 paragraph 7.3

⁷ Reported to Cabinet 22/09/11

⁸ Reported to Cabinet 02/02/12

⁹ Martin Smith of Northwest Employers 'Report of an investigation into the treatment of Martin Morton in relation to his allegations of abuse of power / bullying' Reported to Cabinet 12/01/12

- 3.4 Martin Smith made particular mention of Human Resources' role in supporting employees who are going through grievance proceedings¹⁰, and highlighted three instances in which Martin Morton was bullied and seven instances in which collective behaviour resulted in him receiving detrimental treatment¹¹.
- 3.5 Importantly, concerns were raised that the process around concluding Martin Morton's grievance processes were confused with issues that he had raised to do with service failures through his whistle-blowing case.
- 3.6 The report stated: 'It was Council's consideration of (Mr Morton's) Grievance / Whistle-blowing claims which let Martin Morton down¹².'

4 The Four Week Delay

- 4.1 Allegations about a four week delay in providing community care packages, said to have been in existence between October 2008 and August 2010, were made by two whistle-blowers, one a member of staff, the other, a former member of staff, who spoke to the media in September 2011¹³.
- 4.2 These allegations have been the subject of two separate, independent reports.
- 4.3 When the allegations first came to light, a media statement (dated September 22, 2011), was issued. This was approved by, and attributed to, the Interim Director of Adult Social Services.
- 4.4 It said: "We have carefully considered all the allegations. Internal and external legal advice has confirmed that our arrangements absolutely comply with the law. Since 2008, as is common practice, people have been assessed using what is effectively a triage system, prioritising people according to their needs. Care referrals have been dealt with much more quickly since implementing this system, waiting times have reduced and data shows that we are in line with the North West average. Between April and September this year, 74% of care packages were processed within two weeks and we are now one of the quickest local authorities in the region for arranging care packages for people discharged from hospital. The small proportion of cases where more than 4 weeks are taken to complete assessments arise only when people have complex needs. They may require an input from several different agencies such as the Health Service or the Police. In these instances, risk assessments are done and interim support is provided until the necessary assessments are completed to ensure that a person's final care package is appropriate to what they need. Our new approach to offering personal budgets has given people more opportunities to access services that meet their requirements and we now have more accredited providers to deliver a wider range of services."

¹⁰ Martin Smith report p15 paragraph 6.16

¹¹ Martin Smith report p16 paragraph 6.22

¹² Martin Smith report p239 paragraph 7.39

¹³ First reported by Liverpool Daily Post journalist Liam Murphy 30/09/11

- 4.5 In March 2012, minutes emerged of a budget meeting held in 2008 which referred to the implementation of a four week delay in implementing care packages to save money¹⁴.
- 4.6 In response to this, on March 19, 2012, the then Leader of the Council Cllr Jeff Green announced that a helpline was being set up for residents to raise concerns about delays in providing community care packages between October 2008 and August 2010. The findings of this helpline were the subject of one of two reports carried out into the four week delay.

5. Highways and Engineering Services Procurement Exercise

- 5.1 In March 2009 concerns were taken to the District Auditor as a Public Interest Disclosure Act (PIDA) referral relating to the awarding of the Highways and Engineering Services Contract¹⁵.
- 5.2 The District Auditor subsequently prepared a report, presented to Audit and Risk Management Committee in September 2010, describing weaknesses with the procurement process which it said 'left the Council open to external challenge¹⁶'.
- 5.3 The report also stated: 'The Council needs to continually consider the adequacy of its whistle-blowing procedures and how well they are complied with to ensure that individuals have confidence that issues will be fully investigated and lessons learnt¹⁷'.
- 5.4 On 6 June, 2012, the Council received a letter from the District Auditor outlining his decision to write a report in the public interest regarding the Highways and Engineering Services Contract¹⁸.
- 5.5 On 8 June, 2012, the District Auditor issued a public interest report on the awarding and management of the Highways and Engineering Services Contract, under Section 8 of the Audit Commission Act 1998. The report was presented to Council on 16 July 2012 by the Acting Chief Executive¹⁹.
- 5.6 The public interest report identified a number of weaknesses in the Council's arrangements to award and manage the Highways and Engineering Services Contract. Whilst the report did not identify any specific loss to public funds, the Audit Commission did not consider that the Council's arrangements demonstrated good governance and value for money²⁰.

¹⁴ Reported in Wirral Globe 13/03/12

¹⁵ Report of Audit Commission 'Procurement – follow up of PIDA disclosure' reported to meeting of Audit and Risk Management Committee 28/09/10.

¹⁶ 'Procurement – follow up of PIDA disclosure' p7 paragraph 16.

¹⁷ 'Procurement – follow up of PIDA disclosure' p7 paragraph 19.

¹⁸ Report of Acting Chief Executive 'Report in the Public Interest Highways and Engineering Services Contract Award and Management Audit 2012' p1 paragraph 2.1. Reported to meeting of Council 16 July 2012.

¹⁹ <http://democracy.wirral.gov.uk/ieListDocuments.aspx?CID=123&MID=3858>

²⁰ 'Highways and engineering services contract award and management'. 'Main Conclusions' p3 paragraph 10.

5.7 The report recommended that Wirral Council needed to take action to secure improvement in a number of areas, in particular:

- improving the reporting and managing of risk
- declaring interests
- reviewing and complying with contract procedure rules
- delivering internal audit
- reporting to elected members
- responding to whistle-blowing
- demonstrating value for money²¹

6. Business Investment Grant (BIG) and Intensive Start-Up Support (ISUS) Reports

- 6.1 Concerns regarding the transparency and accuracy of grant applications relating to the Business Investment Grant (BIG) and Intensive Start-Up Support (ISUS) funds were raised by two whistle-blowers in July 2011.
- 6.2 In September 2011 these concerns were referred to Wirral Council's Internal Audit who were asked to prepare two reports on the funds. However, given the concerns, that are well documented, regarding the robustness of the Council's audit procedures in the past, the Leader of the Council and Chief Executive ordered a review by the Interim Director of Finance into the draft reports.
- 6.3 The review recommended that Wirral engage an independent auditor to produce external, independent reports into the funds. Grant Thornton UK LLP was engaged by Wirral Council in October 2012 to review all the evidence, interview interested parties and produce reports. Grant Thornton was given free rein to carry out its investigation, interviewing anyone they thought appropriate and not simply relying on evidence previously obtained by the earlier Internal Audit investigation.
- 6.4 Grant Thornton's reports were received by Wirral Council in March 2013. A process of fact-checking was begun into the BIG report. The ISUS report was subsequently passed to the Department of Business, Innovation and Skills and to the Police to investigate other parties further.
- 6.5 An executive summary to the BIG report was published by Wirral Council in July 2013²².

²¹ 'Highways and engineering services contract award and management'. 'Main Conclusions' p3 paragraph 11.

²² Website link:

<http://democracy.wirral.gov.uk/documents/s50013454/Grant%20Thornton%20Abbreviated%20Summary%20-%20BIG.pdf>

- 6.6 The executive summary stated that Grant Thornton reviewed six BIG applications which had been brought to their attention, referred to in the report as BIG1 – BIG6²³.
- 6.7 The report found ‘anomalies within each BIG application’ which ‘may have arisen because of ambiguities and inconsistencies in the documentation given to both WBC’s Cabinet and a panel of people (including representatives of the local business community) who were asked to review BIG applications²⁴.’
- 6.8 The report recommends that Wirral Council:
- consider whether it can, or should, claw back the BIG given to BIG6
 - refer BIG6 to the Police²⁵
- 6.9 The report also recommends that Wirral Council:
- reviews the criteria it uses to review grant and similar applications to avoid ambiguities in the corresponding criteria wherever possible; and
 - ensures that where panels are used to review applications, the panellists are given written terms of reference²⁶.

7. Individual Accountability

- 7.1 Throughout the AKA and Martin Smith reports, individual actions and failings are attributed to employees whose names have been anonymised.
- 7.2 AKA states that employees’ names have been anonymised because ‘in order for people to be prepared to speak with the consultant she often had to agree that their involvement would remain anonymous, even if the information obtained was used in the report²⁷.’
- 7.3 Both the AKA and Martin Smith reports recognise that the over-arching failures were failures of process, and particularly of corporate governance.
- 7.4 Upon publication of the AKA and Martin Smith reports, a Freedom of Information request was received by Wirral Council from a Wirral resident.
- 7.5 The resident requested details of two senior Wirral Council officers who had left the authority around the time of publication of the reports. Wirral Council refused this request on the basis that it considered that the information was the personal data of third parties.

²³ ‘Grant Thornton - Business Investment Grants’ p5 paragraph 2.3

²⁴ p5 paragraph 2.5

²⁵ P13 paragraph 2.40

²⁶ P13 paragraph 2.43

²⁷ AKA Report p6 paragraph 1.15

- 7.6 In March 2012 the resident appealed this decision to the Information Commissioner's Office (ICO). The ICO decision notice subsequently said that it did not consider 'that disclosure of this information would meet any pressing social need of establishing what active action had been taken to respond to the findings of the AKA report... public accountability for failing... rests with the Council as a whole rather than with individual officers²⁸.'
- 7.7 In March 2013 the resident appealed the Information Commissioner's Office (ICO) decision of 29 November 2012 to first tier tribunal.
- 7.8 The tribunal unanimously upheld the ICO's decision²⁹, stating that 'the tribunal is satisfied that (their) speculation has failed to demonstrate any pressing social need which would justify over-reaching the rights of the individuals concerned'.

²⁸ ICO Decision Notice FS50438500 dated 29/11/12

²⁹ First Tier Tribunal Appeal No: EA/2012/0264

The Council's Response – Adult Social Services

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8. Reimbursement – Overcharging

- 8.1 The former Chief Executive presented his action plan, setting out his recommendations in response to the AKA report, to 2nd February 2012's meeting of Cabinet. The plan was subsequently approved.
- 8.2 The action plan contained actions which were assigned to the Department of Adult Social Services.
- 8.3 On 10th September 2012 the Director of Adult Social Services presented an update on his department's work to implement the findings of the AKA action plan to Health and Wellbeing Overview and Scrutiny Committee.
- 8.4 The report had been approved under delegated authority by the Leader of the Council on 16th July 2012. A copy of the delegated decision was included alongside the Director's report³⁰.
- 8.5 Prior to the Director of Adult Social Services' report of September 2012 reimbursements had been made of £243,460.07 to 16 Clients (from Curlew Way, Bermuda Road & Edgehill Rd).
- 8.6 The Director's report included details of further reimbursements to be made³¹:
- to 17 residents of Curlew Way, Bermuda Road and Edgehill Road of £320,889.68 based upon the recommendation to reimburse all charges going back to 1997.
 - to 22 residents of Balls Road and North Road, totalling £120,000³².
- 8.7 The process of repaying vulnerable service users was complicated by the so-called 'benefits trap' – the fact that many users were in receipt of benefit payments which might be affected by the sudden repayment of a large sum of money.
- 8.8 Consideration was also given to providing appropriate advocacy and support to service users, enabling them to understand the implications of receiving the reimbursements. A parallel was drawn in the report to previous reimbursements that had been made from December 2000 and March 2003, and which had taken over 12 months to complete³³.
- 8.9 The situation in May 2013 was that the Council had identified all of the service users and the amounts owed to each, and was ready to begin reimbursing them, or in the cases in which the service user is now deceased, their families. One additional client was identified.

³⁰ Appendix 1 to 'Update – AKA – Implementation of Recommendations' presented to Health and Well Being Overview and Scrutiny Committee, 10/09/12

³¹ 'Update – AKA – Implementation of Recommendations' p4 action points 9-11

³² Estimated figure, backdated to April 1998. Figure subsequently calculated at £128,361.45.

³³ 'Update – AKA – Implementation of Recommendations' p4 action points 10-11

- 8.10 The total further amount to be reimbursed, including interest, stood at £493,296.90. This comprises:
- £322,224.97 (including £177,134.82 interest) to 18 clients (from Curlew Way, Bermuda Road & Edgehill Rd)
 - £122,012.79 (including £32,307.07 interest) to 9 clients (North Road)
 - £49,059.14 (including £10,403.41 interest) to 13 clients (Balls Road)
- 8.11 Independent advocates are working with and advising people who are eligible, and, where appropriate, their families and carers.
- 8.12 Reimbursement for each individual will take varying lengths of time to conclude, involving as it does complex issues around financial and individual capability, receipt of benefits, and family and individual circumstances.
- 8.13 The people involved have varying levels of disability. Wirral Council is committed to making sure the process of reimbursement is carried out in the most sensitive, sensible, and inclusive way. To this end, a programme of advocacy and communication with clients and their families is underway.
- 8.14 This matter is still a high priority and is being progressed as such. As of 1st November 2013 £320,271 or 65% of all further reimbursements had been made, to 24 individuals.

9 Reimbursement – Undercharging

- 9.1 An important element of Martin Morton's allegations in relation to the Council's failure to roll out its 1997 charging policy was his assertion that, by failing to do so, the Council had foregone or lost a significant level of income.
- 9.2 AKA commissioned an exercise via a Council employee described in the AKA report as Employee 7 to estimate this foregone income. The estimated figure, as reported to AKA, is described as being 'almost £3.3 million'³⁴.
- 9.3 The Director of Adult Social Services' September 2012 update to Health and Wellbeing Scrutiny Committee on his department's implementation of the AKA report includes a recommendation that no further action be taken where service users have been identified as undercharged³⁵.
- 9.4 In recommending not to pursue repayment of monies for people who were undercharged the Department took into consideration the likelihood of being able to recover charges dating back to 1997 and also the appropriateness of doing so from service users who were not informed at the time that a charge was due.

10 Adult Social Services Improvement

³⁴ AKA Report p27 paragraph 6.4.4

³⁵ 'Update – AKA – Implementation of Recommendations' p4 action point 9

- 10.1 Wirral's Department of Adult Social Services was tasked with 15 actions as part of the AKA action plan. Progress was reported on completion of these actions to the Leader of the Council and Cabinet Member with responsibility for the portfolio in July 2012³⁶, and to the meeting of the Health and Wellbeing Overview and Scrutiny Committee in September 2012.
- 10.2 Alongside an update on the progress made on the AKA recommendations relating to reimbursements, the Committee was presented with a report by the Director of Adult Social Services into the independent Safeguarding Peer Challenge and Adult Social Care Peer Review undertaken in May 2012 and June 2012 respectively.
- 10.3 The Safeguarding Peer Challenge exercise focused on issues stemming from the Care Quality Commission inspection of 2010³⁷, which found performance in relation to safeguarding 'poor with uncertain capacity for improvement'.
- 10.4 The Peer Challenge report praised the structure and accountability of the Safeguarding Adults Board³⁸, which has been cited as an example of good practice by the national Improvement and Development Agency.
- 10.5 The appointment of a new Director of Adult Social Services and changes in the senior management team were described as having had a positive effect on the ability of leadership to set a clear agenda for safeguarding adults³⁹.
- 10.6 The report also considered that 'a programme was required for Members which sets out the training and development work plan in adult safeguarding work as well as developing the interface between the Health and Wellbeing Board and Community Safety Partnership'⁴⁰.
- 10.7 The Committee agreed the actions and requested a further report on the Director's presentation to the Towards Excellence In Adult Social Care Board, which is made up of representatives from the Local Government Associations, the Association of Directors of Adult Social Services (ADASS), the Care Quality Commission, the Department of Health, the Social Care Institute for Excellence, the Society of Local Authority Chief Executives and Think Local Act Personal partnership.
- 10.8 **The Adult Social Care Peer Review reported that there was a new Departmental culture with a clearer sense of direction and increased communication with staff. A clear link was observed between the**

³⁶ Decision Notice - Appendix 1 to 'Update – AKA – Implementation of Recommendations' presented to Health and Well Being Overview and Scrutiny Committee, 10/09/12

³⁷ Care Quality Commission Inspection Report 'Service Inspection of adult social care: Wirral Borough Council' reported to Audit and Risk Management Committee 28/09/10. p4

³⁸ Report of DASS Director 'Adult Social Services – Safeguarding Peer Challenge and Adult Social Care Peer Review' p2 paragraph 3.3

³⁹ p3 paragraph 3.4

⁴⁰ P3 paragraph 3.5

corporate priorities and those of the department, with Adult Social Care central to achieving corporate priorities⁴¹.

10.9 The review also praised the quality of self awareness, self assessment and a new openness to external challenges.

10.10 On 24th January 2013 the Director of Adult Social Services presented a report to the Towards Excellence in Adult Social Care Board, outlining the progress made since 2011. A letter from Peter Hay, the Chair of the Board (and then national President of ADASS), endorsed the Director's appraisal of the progress made so far and his recognition of the challenges still to be faced⁴².

11 Independent Reports – Four Week Delay

11.1 Two independent reports have been produced on the four week delay.

11.2 Both were made available on the 'Adult Safeguarding: Policies, Procedures, Guidance and Protocols' area of the council website.

11.3 'Adult Social Services Helpline: 4 weeks delay to Community Care packages of support⁴³' looked at issues revealed by the helpline that was launched on March 19, 2012, inviting residents to raise their concerns about the four week delay. The report concluded that:

- A total of 17 complaints were recorded on the helpline, but only one was found to relate to the four week delay following investigation.
- Although the 16 other calls did not relate to the four week delay, they were reviewed, and subsequent investigations indicated that the department had responded appropriately, and had either concluded matters, or was progressing the complaint in line with usual complaints procedures.
- The report found that the four week delay measure was no longer applicable, and that the department had responded appropriately to the complaints that were received on the other matters.

11.4 The second report '4 Week Delay to Community Care Packages of Support⁴⁴' was tasked with building on the previous 'helpline' report, and to confirm 'that the operation of a four week delay, in certain domiciliary care packages, was not disputed, but was part of a raft of in-year budgetary actions to strive to correct a projected overspend in relation to the Access and Assessment Branch of Adult Social Services from 2008 and 2010.'

⁴¹ 'Report of DASS Director Graham Hodgkinson to Towards Excellence in Social Care Board' p3 paragraph 4

⁴² Letter from Peter Hay, Chair of Towards Excellence in Adult Social Care Board 06/02/13

⁴³ Available online at: <http://www.wirral.gov.uk/my-services/social-care-and-health/im-worried-about-someone/policies-procedures-guidance-protocols>

⁴⁴ Available online at: <http://www.wirral.gov.uk/my-services/social-care-and-health/im-worried-about-someone/policies-procedures-guidance-protocols>

- 11.5 The report supported claims that a four week delay had existed but said that there had not been a blanket ban on providing care⁴⁵. The delay could be removed if it was deemed detrimental to the individual concerned, 'all such requests were acceded to by principal managers.' The report concluded that:
- 'The four week delay was clearly seated within the overall budget setting process for the council...'
 - '...it was one of a raft of in year budget actions to seek to correct a projected in year budget overspend. As such the action was an appropriate and proportionate management initiative endorsed at branch and senior leadership team levels.'
 - 'In effect, the four week delay introduced a managed process of managing demand for domiciliary care from independent sector providers.'
 - 'The four week delay was openly acknowledged and endorsed by the senior leadership team'
 - The process of financial authorisations cascaded to staff confirmed that practitioners and team managers could seek removal of the four week delay if this was deemed detrimental to the individual concerned. All such requests were met by principal managers.
- 11.6 The following figures for assessment of care packages between 2008 and 2012 were not included in either report, but are given below for information:
- 2008/2009 1891 people assessed 96.2% package under 4 weeks
 - 2009/2010 1793 people assessed 93.6% package under 4 weeks
 - 2010/2011 2221 people assessed 88.29% package under 4 weeks
 - 2011/2012 1452 people assessed 93.9% package under 4 weeks
 - 2012/2013 1828 people assessed 93.27% package under 4 weeks

12 Martin Morton

- 12.1 The AKA report recommended that Wirral undertake several specific actions involving redress for Martin Morton.
- 12.2 The AKA report recommended that Wirral Council apologise to Martin Morton in writing for 'errors in making the payment as a result of him signing his Compromise Agreement⁴⁶' and this was done.
- 12.3 The report also recommended that Wirral Council's Director of Law, HR and Asset Management write to Her Majesty's Revenue and Customs with a copy to Martin Morton outlining what went wrong 'in an attempt to assist him with their ongoing enquiries⁴⁷'.

⁴⁵ 'Independent Review Report – Four week delay to domiciliary care packages' p8 paragraph 7.2

⁴⁶ AKA Report 'Recommendations' p248 paragraph 8.25

⁴⁷ AKA Report 'Recommendations' p248 paragraph 8.26

- 12.4 These two recommendations were included in the Action Plan report, presented to Cabinet on 2nd February 2012, with targeted completion dates of the end of January 2012⁴⁸. The letters were sent out on 3rd February 2012.
- 12.5 The Action Plan also included a recommendation that Council officers take ‘all steps necessary to bring to a proper conclusion their discussions with Mr Morton on appropriate remedy, including possible re-engagement with the Council, and report the outcome to Cabinet⁴⁹.’
- 12.6 Wirral Council has received a claim from Martin Morton, and aims to bring the matter to a resolution as quickly as possible.
- 12.7 The solicitor appointed for both the Council and its insurer is currently engaged in discussions with Mr Morton’s appointed solicitor concerning his claim.

⁴⁸ ‘AKA report and Martin Smith Report – Recommendations Action Plan’ reported to Cabinet 02/02/12

⁴⁹ ‘AKA report and Martin Smith Report – Recommendations Action Plan’ point 38.

**The Council's Response – Corporate
Governance, Culture and Workforce Policy
Improvement**

13 Corporate Governance, Culture and Workforce Policy Improvement

- 13.1 The former Chief Executive presented a report⁵⁰ to Cabinet on 22nd September 2011, prior to publication of the AKA and Martin Smith reports. The Report summarised the organisational weaknesses that had allowed the issues raised by Mr Morton to occur; and which the Council had failed to address.
- 13.2 The former Chief Executive stated that he regarded the issues highlighted in the report as the most significant challenge facing the Council⁵¹ and that he would personally lead and drive the corporate changes that were urgently required.
- 13.3 The report recommended that a Cabinet Committee be established to oversee the assessment, design and delivery of improvements in the Council's corporate governance arrangements⁵². The Corporate Governance Committee was subsequently established, with its first meeting being held on 26th October 2011.
- 13.4 The Corporate Governance Committee consisted of five Cabinet members, including the Leader and Deputy Leader of the Council. The Committee agreed a Comprehensive Work Programme to address the areas highlighted in the report, which became known as the Key Lines Of Enquiry 1- 10⁵³.
- 13.5 The Director of Law, HR and Asset Management presented a report to Cabinet on 29th March 2012 entitled 'Addressing Employee Concerns', recommending 9 areas for action in response to the Martin Smith and AKA reports⁵⁴:
- Independent External Ombudsman
 - Revised whistle-blowing policy
 - Public Concern At Work
 - Grievance policy
 - Dignity at work (Bullying and Harassment)
 - Corporate Casework System
 - Further development of HR policies
 - Culture
 - Training and Communication

⁵⁰ Reported to Cabinet 020212, minutes to item 272.

⁵¹ Website link: <http://democracy.wirral.gov.uk/ieListDocuments.aspx?Cid=121&Mid=3506>

⁵² AKA 'Independent Review – Supplementary Report' presented to Cabinet 22/09/11. Pg14 'Work Stream 1'

⁵³ Approved Corporate Governance Committee 16/11/11

⁵⁴ Reported to Additional Meeting of Cabinet, 29/03/12 pg 1 item 1.1

14 Workforce Policy

- 14.1 A revised Whistle-blowing policy was agreed at a meeting of Employment and Appointments Committee in September 2011⁵⁵, in the wake of the recommendations of the Martin Smith Report. The draft policy was reviewed by independent experts from Public Concern at Work, whose suggestions were incorporated into the revised policy.
- 14.2 A new Grievance policy was approved by Employment and Appointments Committee on 15th November 2012, which included a programme of training for managers and a period of consultation with trade unions, who agreed the revised policy⁵⁶.
- 14.3 A report into the newly developed corporate casework system was first presented to Employment and Appointments Committee in November 2012. The new system records all formal cases in relation to discipline, grievance, whistle-blowing, attendance management and capability. The casework system ensures progress and timescales on all cases is monitored⁵⁷.
- 14.4 Wirral took out a bespoke subscription for Public Concern at Work to provide support including a helpline subscription, free phone number, bespoke email facility and consultation. Public Concern at Work also advised on the drafting of the authority's new whistle-blowing policy and provided additional training for elected members in July 2012⁵⁸.
- 14.5 The Council's Anti-Bullying, Harassment and Victimisation policy has been reviewed and is due to be published by December 2013 subject to council approval processes.

15 Culture

- 15.1 An updated Code of Corporate Governance⁵⁹ was presented at Audit and Risk Management Committee of 18th September 2013.
- 15.2 To date, over 200 members of staff have been consulted through focus groups exploring organisational values.

⁵⁵ Report 'Whistleblowing Policy' plus appendices reported to Employment and Appointments Committee 29/09/11

⁵⁶ Report 'Grievance Policy' plus appendices reported to Employment and Appointments Committee 15/11/12

⁵⁷ Report 'Employee Relations Performance' plus appendices reported to Employment and Appointments Committee 15/11/12

⁵⁸ Wirral Council continues to subscribe to Public Concern at Work for HR support.

⁵⁹ Website link: <http://democracy.wirral.gov.uk/ieListDocuments.aspx?CIId=119&MIId=4346>

- 15.3 A full staff survey was completed in 2012. Ipsos Mori have been appointed to repeat the 2012 Employee Survey. Specific measures will be included to evaluate the level of engagement and motivation staff attach to both the key priorities of the organisation and their opinion of the leadership of the Council.
- 15.4 The Council's cultural change programme encompasses a new performance management and appraisal framework which is linked to corporate priorities and values. This programme will also involve embedding a clearly defined set of behaviours and principles throughout the workforce.

16 The Improvement Board

- 16.1 The Improvement Board is an independently chaired partnership between Wirral Metropolitan Borough Council and the Local Government Association.
- 16.2 The Board's membership has included external auditors, officers from the Local Government Association, Labour, Conservative and Liberal Democrat Member Peers and the Chief Executive of Northwest Employers.
- 16.3 It was established to provide oversight, support and challenge to Wirral's improvement and transformation journey. The Wirral Improvement Board met for the first time on 3rd February 2012⁶⁰.
- 16.4 The Board has regular public Q & A sessions which allow the public to ask questions and raise specific concerns – minutes of these meetings are published on the Council website.
- 16.5 The public are asked to supply questions in advance of the meeting, and the Chair is responsible for answering these questions. Any questions relating to issues that are not the business of the Improvement Board are forwarded to the correct officer for them to respond directly.
- 16.6 At the 3rd February 2012 meeting the Board received an update on the authority's response to the AKA report and agreed that the authority needed a single, integrated and overarching improvement plan to focus and drive the improvement of both its corporate governance and key services over the next couple of years.
- 16.7 It was agreed that the Improvement Board would be the vehicle to drive the next stage improvement plan moving on from the work carried out by the Corporate Governance Committee. The Committee was therefore disbanded to avoid overlap of roles.
- 16.8 At subsequent meetings the Board agreed that the Council should undertake a Corporate Peer Challenge in June 2012 to be delivered by the LGA. This was deferred until October 2012, with a follow up review undertaken in May 2013.

⁶⁰ Minutes and Agendas for Wirral Improvement Board available at <http://www.wirral.gov.uk/my-services/council-and-democracy/wirral-improvement-board>

- 16.9 At the April 2012 Board meeting Michael Frater was welcomed as senior interim support to the Acting Chief Executive, with the June 2012 meeting welcoming the Council's decision to employ a full-time Chief Executive from outside the Council.
- 16.10 The 22nd July 2012 meeting⁶¹ endorsed the Council's Improvement Plan, which superseded the Key Lines Of Enquiry methodology agreed in October 2011. The plan was formally approved by Cabinet in September 2012⁶².
- 16.11 The July Board also reflected on the initial findings of the Peer Review work with the Adult Social Care Directorate. They welcomed the positive signs of improvement and the realism of knowing that there were still further improvements to be made⁶³.
- 16.12 January 2013's Improvement Board welcomed the appointment of three new Strategic Directors and the senior management restructure, to strengthen leadership and drive transformation across the Council.
- 16.13 The March 2013 Board meeting focused primarily on the Council's challenge in achieving budget savings and financial stability. The Board were also presented with an analysis of the historic budget process including the bad debt position.
- 16.14 In November 2013 the Improvement Board will report on the progress made by Wirral Council since the creation of the Board.

17 Bad Debt

- 17.1 In December 2012 Wirral Council commissioned the former Chief Executive of the Audit Commission Eugene Sullivan to investigate issues of historic bad debt.
- 17.2 This followed the Interim Director of Finance's report⁶⁴ to Cabinet on 20th December 2012 in which he identified a failure by the Department of Adult Social Services 'to actively recover Social Services debt over a number of years⁶⁵'. Cabinet subsequently requested that the Chief Executive commission an urgent external independent investigation.
- 17.3 For the purposes of transparency, the Council published the full text of Eugene Sullivan's Independent Review of Sundry Debt⁶⁶ in May 2013.

⁶¹ Notes of Improvement Board Meeting 22/07/12

⁶² Report 'Council's Improvement Plan' reported to Cabinet 06/09/12

⁶³ Notes of Improvement Board Meeting 22/07/12

⁶⁴ Report 'Revenue Monitoring 2012/13 Month 7 (October 2012) reported to Cabinet 20/12/12 item 146.

⁶⁵ Cabinet Resolution (2), meeting of Cabinet 20/12/12 item 146.

⁶⁶ Report 'Independent Review of Sundry Debt' reported to Special Meeting of Cabinet 23/05/13 item 4.

- 17.4 Overall, Wirral Council's collection of client charges was described as 'good'⁶⁷. However, the issue of historic 'bad debts' was linked to a reluctance 'of at least one Head of Service to take action... because it would harm the Department's budget'⁶⁸.
- 17.5 Mr Sullivan said 'Over the years the Chief Officers in DASS, Legal Department and the Finance Department were aware of the growing problem on aged debt. There has been a corporate failure to understand the scale and consequence of this issue'⁶⁹.
- 17.6 Mr Sullivan's report found that DASS had outstanding debts owed to it of £24.7 million. £10.9 million would most likely have to be written off, of which £4.8 million was already provided for in the financial accounts⁷⁰.
- 17.7 Mr Sullivan recognised in his report that there is now awareness of the need to take action and that DASS is making changes to its processes. Mr Sullivan has said he 'welcomes and supports' the DASS proposals⁷¹. These and further recommendations by Mr Sullivan form an Action Plan, progress of which is to be reported to Audit and Risk Management Committee in November 2013.
- 17.8 The Corporate Peer Challenge team reported in May 2013 that Wirral Council's response to the issue of outstanding debts 'shows an evolved style of responding to significant challenges... Action was swift and decisive, including seeking external independent support and expertise, and now looks to be resulting in a substantial reduction in outstanding debt'⁷².

18 Freedom of Information (FOI)

- 18.1 A number of reports, including those of AKA and Martin Smith, have highlighted concerns regarding the recording of information across the Council but in particular within the Department of Adult Social Services which has led to unacceptable delays in providing information and the answering of Freedom of Information (FOI) requests.
- 18.2 As early as March 2010 information on performance was reported to the Council Excellence Overview and Scrutiny Committee⁷³, which noted a large increase in the number of FOI requests being received by the Authority.
- 18.3 At Standards Committee of September 2010 a report⁷⁴ was presented by the former Director of Finance detailing some of the issues involved, which

⁶⁷ P4 'Summary of Key Issues'

⁶⁸ P8 'Detailed Findings'

⁶⁹ P9 'Detailed Findings'

⁷⁰ P2 'Context'

⁷¹ P12 'The Way Forward'

⁷² 'Corporate Peer Challenge Follow Up Visit to Wirral Council 8th – 9th May 2013 – Summary Report'

⁷³ Report 'Freedom of Information requests' reported to Council Excellence Overview and Scrutiny Committee 17/03/10.

included the lack of a robust system for recording FOI requests. The system at that time relied upon the use of Excel spreadsheets and the report indicated that 'due to the increasing numbers of requests staffing numbers may have to be reviewed'⁷⁵.

- 18.4 In December 2012 the Information Commissioner's Office (ICO) wrote to Wirral Council advising it that it would be subject to monitoring, for the period 1st January 2013 to 31st March 2013, due to the time taken to respond to FOI requests.
- 18.5 During the monitoring period, the Council:
- put in place extra support and staff in the Freedom of Information team
 - has been systematically and swiftly dealing with the backlog of Freedom of Information and Internal Review requests
 - implemented a new system for robustly monitoring all FOI requests through the Executive Team and Departmental Management Teams
 - ensured that information provided under the Freedom of Information Act is properly researched
 - developed an approach to ensure responses receive appropriate sign off
 - provided training to key personnel in March 2013 in relation to the Council's obligations under the Freedom of Information Act and how to deal with Freedom of Information requests and Internal Reviews.
- 18.6 The ICO monitored Wirral's FOI performance for this three month period. The final month of reviewed data was returned to the ICO by 7th June 2013.
- 18.7 On 9th August 2013 the ICO released a press statement⁷⁶ saying that it had required Wirral Council to sign an undertaking following the three month monitoring period.
- 18.8 The ICO statement said: "Despite making some improvements during the monitoring period, Wirral Borough Council was still responding to less than 75% of requests within 20 working days. The undertaking commits the authority to introduce further improvements to make sure they are providing timely responses to FOI requests."
- 18.9 The undertaking⁷⁷ said that, although the ICO believed that formal action 'at this stage would be disproportionate', it still had specific concerns around outstanding, overdue requests and internal reviews.

⁷⁴ Report 'Freedom of Information Requests, Processes and Performance' reported to Standards Committee 29/09/10.

⁷⁵ 'Financial and Staffing Implications' p2 paragraph 5.

⁷⁶ Web address: http://www.ico.org.uk/news/latest_news/2013/Home-Office-monitored-over-FOI-response-times-09082013

⁷⁷ Web address: <http://www.wirral.gov.uk/my-services/council-and-democracy/freedom-information-and-data-protection>

- 18.10 The undertaking expressed concern that Wirral ‘has not taken adequate steps to ensure it complies with its responsibilities under the FOIA and the EIR⁷⁸.’
- 18.11 The undertaking required Wirral to provide monthly updates about its request handling performance, accompanied by a list of any overdue requests, for a 3 month period, commencing with requests made on 1 July 2013 and ending with those made on 30 September 2013. The ICO required that all overdue responses identified in Wirral’s correspondence to the commissioner of 25 June 2013 would have received responses by the end of the monitoring period.
- 18.12 The undertaking also required that, by the end of the monitoring period, at least 85% of requests be handled within the statutory time limits.
- 18.13 The undertaking also required that appropriate resources were allocated and reviewed around request handling, and that all employees involved should be familiar with the requirements of FOIA and EIR legislation.
- 18.14 As of 1st November 2013, all overdue responses identified in Wirral’s correspondence to the Commissioner of 25 June 2013 have now been answered.
- 18.15 FOI response figures for the monitoring period are as follows:

Month	Total FOI’s received	Responded in time	Percentage
July 2013	131	114	87%
August 2013	107	94	87.8%
September 2013	96	82	85.4%
Total	334	290	86.8%

19 Member Training

- 19.1 Since February 2012 a rigorous programme of member training has been in place to develop councillors’ skills in key areas relevant to Wirral’s ongoing improvement including risk management, Code of Conduct, safeguarding, whistle-blowing, scrutiny and leadership.
- 19.2 The training programme is designed to strengthen the ability of councillors to oversee the authority’s improvement, and in particular to develop a consistent approach to addressing concerns highlighted in the AKA report.
- 19.3 Corporate Governance training is due to take place in November 2013, with Decision Making training to follow.

20 Highways and Engineering Services Procurement Exercise

⁷⁸ Environmental Information Regulations 2004

- 20.1 The HESPE Action Plan was drafted in response to the issues raised by the Audit Commission's report of June 2012.
- 20.2 On 27th September 2012 the Interim Director of Technical Services reported to Cabinet on Value For Money considerations in relation to the Highways and Engineering Services Contract. It was reported that the current contractor had formally advised that it did not wish to extend its contract past its current end date of 31 March 2014⁷⁹. The report also notes that the performance management framework reported to Sustainable Communities Overview and Scrutiny Committee on 26th June 2012 'has demonstrated that services have largely been maintained or improved'⁸⁰.
- 20.3 The HESPE Action Plan was endorsed by the Improvement Board at its September 2012 meeting⁸¹, which also welcomed comments from the District Auditor indicating that there were early signs of improvement in relation to the Annual Audit letter and that the Council 'had provided a good response to the HESPE report with a single action plan that links well to the improvement plan'⁸².
- 20.4 A detailed analysis of progress against each action within the plan was undertaken and an Action Plan submitted by the Assistant Chief Executive to Audit & Risk Management Committee on 10th June 2013⁸³.
- 20.5 The important recommendations regarding the reporting and managing of risk have led to contract procedure rules being revised, with a working draft being presented to Audit and Risk Management Committee in April 2013. Procurement workshops were held between October 2012 and January 2013, with over 150 staff from all departments attending with the aim of improving officers' working knowledge of procurement procedures⁸⁴.
- 20.6 Revisions have also been made to the Council's Constitution including a review of the Schemes of Delegation to Officers⁸⁵ which strengthen the reporting processes to members. The revisions to the Council's Constitution were approved in April 2013⁸⁶.
- 20.7 Revised policies and procedures for reporting Gifts and Hospitality and declaring Conflicts of Interest were approved by Employment and Appointments Committee on 14 February 2013⁸⁷.

⁷⁹ Report 'Highway and Engineering Services Contract – Value for Money and Annual Review' reported to Cabinet 27/09/12. Exec Summary, p1 paragraph 1.5.

⁸⁰ Benefits Realised, p6 paragraph 3.4.1

⁸¹ Notes to Improvement Board 21/09/12

⁸² Notes to Improvement Board 21/09/12

⁸³ Report 'HESPE Action Plan' reported to Audit and Risk Management Committee 10/06/13.

⁸⁴ HESPE Action Plan, Recommendations 3 + 6

⁸⁵ HESPE Action Plan, Recommendation 11.

⁸⁶ Website link: <http://democracy.wirral.gov.uk/ieListDocuments.aspx?CIId=121&MIId=4447>

⁸⁷ Minutes available on Wirral Council website:

<http://democracy.wirral.gov.uk/ieListDocuments.aspx?CIId=197&MIId=3926>

20.8 The action plan confirms that all of the recommendations arising from the Highways and Engineering Services Contract Award and Management report have either been completed or are in process of being implemented.

21 Business Investment Grant (BIG) and Intensive Start-Up Support (ISUS) Funds

21.1 Grant Thornton's reports were received by Wirral Council in March 2013. A process of fact-checking was begun into the BIG report. The ISUS report was subsequently passed to the Department of Business, Innovation and Skills and to the Police to investigate other parties further.

21.2 Grant Thornton's report into the BIG fund found no malpractice by council officers, however a number of recommendations were made including:

- Reviewing the criteria the Council uses to consider grant and similar applications to avoid ambiguities in the corresponding criteria where possible
- Ensuring that where panels are used to review applications, the panellists are given written terms of reference

Conclusion

This report deals comprehensively with the issues raised by historic critical reports and the transformation of Wirral Council. It is a comprehensive record of the Council's response to serious challenges.

This report demonstrates that the Council has welcomed challenge, accepted expert criticism and, as a result, made real improvements.

The Department of Adult Social Services has identified all former residents of Supported Living Accommodation that were overcharged, and is in process of reimbursing them. The Department's assessment of its development has received external endorsement.

The Council has new workforce policies that have been drafted with guidance from independent experts. Wirral's councillors are now more skilled and better informed. The Council has strengthened its senior management structure.

A clear sign of the Council's success in embedding best practice corporately comes in the form of the independent LGA-managed Corporate Peer Challenge.

In November 2012 the Council published the results of the LGA-managed Corporate Peer Challenge. The Peer Challenge team included the leaders of Wigan (Labour) and Havering (Conservative) Councils, Rob Vincent, former Chief Executive of Kirklees Council and Doncaster Council and senior officers from other authorities, as well as officers from the LGA.

The team⁸⁸ spoke to nearly 200 individuals, including frontline staff, service managers and senior management, councillors from all parties, external public and private sector partners and representatives of local businesses.

The Corporate Peer Challenge team concluded that the Council has the correct focus on immediate improvement in the following three areas:

- building corporate leadership capacity
- achieving financial stability
- improving governance and decision-making

A follow up Corporate Peer Challenge took place in May 2013. The team was again led by former Chief Executive of Kirklees and Doncaster Councils Rob Vincent with Lord Peter Smith, Leader of Wigan Council. The overall feedback judged that notable progress had been made⁸⁹.

In particular the team highlighted that:

⁸⁸ Wirral Corporate Peer Challenge feedback published on Council website 06/11/12

⁸⁹ 'Wirral Corporate Peer Challenge – follow up feedback presentation' available to download on Wirral website: www.wirral.gov.uk/downloads/5845

- **The organisation feels more confident and decisive about the issues it faces**
- **Significant headway has been made to identify savings and begin to stabilise the organisation's finances**
- **Key governance changes are being proposed and implemented and the new corporate plan has been brought in, with clear organisational priorities**

Wirral Council, its officers and councillors, are ready to meet the challenges we face. We have changed our processes and continue to change our culture to ensure that the mistakes of the past are not repeated.