

# Appendix A – Annual Governance Statement

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## 1. Scope of Responsibility

Rutland County Council (“the 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. The Council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

In discharging this overall responsibility, the Council is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, which includes the arrangements for the management of risk.

The elements of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government are embedded throughout the Council’s Constitution and other strategies. This statement explains how the Council has complied with the framework and also meets the requirements of regulation 4(3) of the Accounts and Audit (England) Regulations 2011 in relation to the publication of an Annual Governance Statement.

## 2. The Purpose of the Governance Framework

The governance framework comprises the systems, processes, culture and values by which the Council is managed and controlled and its activities through which it accounts to, engages with and leads the community. It enables the Council to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost-effective services.

The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not 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 the Council’s 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 by identifying and implementing measures to reduce the likelihood of the risks being realised and to negate or mitigate their potential impact.

The governance framework has been in place at Rutland County Council for the year ended 31 March 2015 and up to the date of approval of the statement of accounts.

## 3. The Governance Framework

### *Vision, Aims and Objectives*

A clear statement of the Council’s purpose and vision is set out in its Sustainable Community Strategy, the most recent revision of which was approved in July 2010. The Strategy was developed with Rutland Together, the local strategic partnership, and involved consultation with key stakeholders and the wider community.

The Council’s strategic aims, which are reviewed and refreshed by Cabinet and Council generally on an annual basis, provide a clear set of priorities against which the Council can

allocate resources and are supported by clear accountability for delivery. A revised set of strategic aims and objectives was approved by the Council in April 2012. The financial implications of implementing the agreed priorities were incorporated in the Medium Term Financial Plan (“MTFP”) approved in February 2013 and then kept under review. The MTFP was updated in February 2015. Appropriate provision for continuing to implement the Council’s priorities has been included in the budget for 2015/16.

The key priorities for 2014/15 included:

- Delivering a balanced MTFP;
- Undertaking a comprehensive review of the People Directorate with a view to resetting priorities and reshaping service provision in light of continued financial challenges;
- Planning for the implementation of the Care Act from 1 April 2015;
- Working with East Leicestershire and Rutland Clinical Commissioning Group (ELRCCG) through the Health and Well Being Board to develop a Better Care Fund plan for integrating social and health care services;
- Targeting steps to achieve local economic growth;
- Developing a Learning Strategy for the new Education environment; and
- Continuing to implement capital projects, in particular Oakham Enterprise Park and Digital Rutland.

These priorities have been addressed against a backdrop of other significant changes affecting the Council and the county.

### ***Constitutional Arrangements***

The Constitution defines the roles and responsibilities of the Council, Cabinet, Committees and Scrutiny Panels and provides for extensive delegation to officers. Policy and decision making are facilitated by a clear framework of delegation set out in the Council’s Constitution. Delegation arrangements were renewed at the Annual Council Meeting in May 2013. The exercising of delegated powers is regulated by Financial Procedure Rules, Contract Procedure Rules and other policies and procedures.

The Constitution is kept under review by a working group of members appointed by the Council. The working group recommends amendments to the Constitution to the Council as and when it considers it appropriate.

During 2014/15 the work included:

- A rewrite of the Financial Procedure Rules which were approved by Full Council in March 2015;
- Amendments to planning delegations which were approved in October 2014;
- Amending the constitution so that only the members of the Strategic Management Team are subject to appointment by the Chief Officer Appointment Committee;
- Revisions to the model planning code which were approved in February 2015; and
- Recommending an increase to the quorum of Development Control and Licensing Committee from three members to five members which was approved in February 2015.

The working group also contributed to the Community Governance Review regarding the future of the Parish of Horn. The Terms of Reference were produced and presented to the Group in December 2014 and formal consultation then began. The key recommendation of

the community governance review was to amalgamate both parishes into a new parish called Exton and Horn.

The Audit and Risk Committee undertakes the core functions of an audit committee, in accordance with CIPFA's Audit Committees – Practical Guidance for Local Authorities and this is set out in the Committee's terms of reference, which include the Council to act as those charged with governance on behalf of the Council.

### ***Decision Making Arrangements***

The officer structure of the Council operates with a Chief Executive and three Directorates, titled People, Places and Resources.

The usual course taken by a matter which requires a decision to be made by members is that it is considered by the relevant Directorate Management Team which will make a recommendation to the Strategic Management Team, which comprises the Chief Executive, Directors and Assistant Directors, and before the matter is reported, with a recommendation, to the Cabinet or other appropriate body.

The Director of Resources is designated as the Council's Monitoring Officer under the Local Government and Housing Act 1989. All reports to a decision making body must be considered by the Head of Legal (under a shared service arrangement with Peterborough City Council) before they are submitted. This is to ensure compliance with relevant laws and regulations, internal policies and procedures and that expenditure is lawful.

In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, decisions made by officers following express delegation by the Cabinet are recorded in writing.

### ***Governance***

In 2014/15, the Council established a Governance Group to provide a forum for officers of the Council to discuss and develop a coordinated approach to:

1. Risk management;
2. Corporate governance;
3. Statutory and constitutional compliance;
4. Decision-making and accountability;
5. Audit, inspection and control systems; and
6. Corporate policy and procedures

The focus of the Group is upon the Council and also the partnership bodies on which it serves as a member. The group works under the broad direction of the Strategic Management Team and comprises officers from across the Council. To date, the Group has focused on raising awareness of changes in legislation affecting governance matters and promoting compliance with existing policies and procedures in areas like data management, changes to the transparency code etc.

### ***Performance Management***

The Council has a performance management framework through which quality of service and use of resources is measured. Financial and non-financial performance is monitored by Directorate Management Teams and Strategic Management Team on a regular basis and is formally reported to Scrutiny Panels and Cabinet on a quarterly basis. Progress against the strategic aims is measured in milestones and this is included in quarterly monitoring reports.

The performance management framework flows through the Council, down to an individual employee level. All officers have a Performance Development Review with their manager during each year. This process includes reviewing progress against objectives and targets.

Cabinet takes the lead role in improving the performance management framework and maintaining comprehensive quarterly reporting that includes financial performance, progress against non-financial targets and milestones, and risk management. The framework changed for 2014/15 in two aspects: a new key project list with progress updates was added to each report as was a public health performance dashboard.

### ***Financial Management***

The Assistant Director - Finance is designated as the responsible officer for the administration of the Council's financial affairs under section 151 of the Local Government Act 1972.

The CIPFA Statement on the Role of The Chief Financial Officer in Local Government sets out the five principles that need to be met to ensure that the Chief Financial Officer can carry out the role effectively. The principles are that the Chief Financial Officer:

- Is a key member of the leadership team;
- Must be actively involved in all material business decisions;
- Must lead the promotion and delivery of good financial management;
- Must lead and direct a finance function that is resourced to be fit for purpose; and
- Must be professionally qualified and suitably experienced.

The Assistant Director - Finance is a member the Council's Strategic Management Team and is actively involved in the key business decisions of the Council. The Assistant Director oversees the development and work of the financial management function at the Council and is the Council's proper officer for matters of financial administration. The post holder is professionally qualified as a CIPFA Accountant with suitable experience. It is therefore confirmed that the Council is fully compliant with the requirements set out in the CIPFA statement.

The Council's MTFP covers a five year period. Such an approach to financial planning provides the platform by which the Council can look to deliver public services in accordance with local priorities. Moreover, through 'scanning the horizon' and anticipating necessary change at the earliest opportunity, the Council can plan and react accordingly to not only secure its financial position but to protect services.

The MTFP was updated throughout 2014/15 and periodically reported to Cabinet. The updated MTFP, following the Local Government Settlement, was presented to each Scrutiny Panel by the Leader and to Council on 17 February 2014 as part of the budget setting process for 2014/15. Members have up-to-date financial information about not only the current but also the medium term outlook for decision making purposes.

In their Annual Governance report issued in September 2014, the external auditors concluded that the Council has made proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

The Council has a set of Financial Procedure Rules and Contract Procedure Rules within its Constitution which govern the way in which financial matters are conducted. The Contract Procedure Rules were reviewed during 2013/14 and the Financial Procedure Rules have been reviewed, updated and will be implemented from 1 April 2015. To support the new

rules and financial governance in general, the Council has run training sessions and developed an e-learning module for those involved in financial management.

### ***Risk Management***

Risk Management is embedded in the Council through the Risk Management Strategy. The Council maintains a Strategic Risk Register, linking risks to strategic aims and assigning ownership to each risk. The Deputy Leader is the lead member for risk management. The Strategic Management Team is responsible for maintaining an up-to-date register of strategic risks and monitoring the actions taken to mitigate them. Risk Management reports are occasionally presented to Audit and Risk Committee or Scrutiny Panels.

The key development in 2014/15 was the development of a new fraud risk register which was reported to Audit and Risk in January 2015. This set out a list of potential fraud risks and details of how the Council seeks to mitigate them. This will be kept up-to-date and reported to Audit and Risk Committee.

Risk Management is an integral part of the Council's decision making processes. All Council papers include reference to risk and set out an impact analysis that helps members and officers understand the impact of decision-making. In late March 2015, the Council developed a new reporting template which requires more explicit reference and commentary in relation to how specific risk issues related to decisions. This template was accompanied by a report writers guide for Officers.

In relation to overall risk management arrangements, the Council has been in dialogue with its insurance advisors to review existing arrangements, refresh its strategy and update undertake risk management awareness training.

### ***Standards of Conduct***

The behaviour of elected members is regulated through a Code of Conduct. The Code changed in July 2012 as a result of provisions in the Localism Act 2011. The previous ethical standards regime was set up by the Local Government Act 2000 and required all members to sign up to a model code of conduct upon election to the Council. This was a national code, approved by Parliament. The Localism Act required councils to adopt their own code of conduct and establish local arrangements for dealing with complaints of a member breaching the code.

The Council adopted a Code of Conduct and local arrangements which came into effect on 1 July 2012. A Conduct Committee has been set up in place of the former Standards Committee. Two Independent Persons have been appointed by the Council to provide independent support to members and the Monitoring Officer. Training is provided to members periodically to ensure that they are fully aware of their responsibilities. In particular, such training is included as a mandatory element in the induction programme for newly-elected members.

The Conduct Committee reviewed and made recommendations (which were agreed) to March Council to revise the Code of Conduct to ensure that it met the revised definitions of the general principles of conduct (the Nolan principles) provided by the Committee for Standards in Public Life.

A register of members' interests is maintained and published on the Council's website. The requirements in this regard also changed in July 2012. Members continue to register and amend their declarable interests as appropriate.

Employees are also subject to a Code of Conduct and a number of specific policies (such as Harassment, Discrimination and Bullying) set out in the Corporate Induction Portfolio. All new members of staff receive one to one induction training with their line manager and attend an induction training session.

The Officer Code of Conduct was updated in 2013/14 and required no changes in 2014/15. All new members of staff are required to sign up to the new code and it is covered as part of the induction process.

### ***Information Governance***

The Council has introduced a number of safeguards to ensure the appropriate use of information it holds. All employees have undertaken mandatory training to ensure they are compliant with data protection legislation and good practice.

Enhancements to current processes such as Subject Access Requests have been made to ensure customers are able to access the information they are legally entitled to. A Governance Coordinator post has been introduced to review current processes and develop strategies for improvement in corporate Privacy Notices and Data Sharing arrangements. The Council has also implemented a Data Incident Response Protocol. This document provides a clear framework in which Members and Officers should operate in the event of a data incident.

Data Retention is the next key area to be reviewed as part of the overall Information Governance strategy.

### ***Counter-fraud, Whistleblowing and Complaints***

The Council has arrangements in place for receiving allegations of fraud or misconduct through its whistle-blowing policy. All members of staff are made aware of this policy through the induction programme and it is publicised through the staff bulletin and intranet.

The Council was the victim of a fraud in the year. The Council received a fraudulent letter asking for a genuine suppliers bank details to be updated. The letter was not deemed to be suspicious and was processed. This resulted in a number of payments being made to a false account. A report was taken to Audit and Risk Committee setting out how the Council has strengthened procedures in response to this issue. The Council also developed a fraud risk register as part its wider response to mitigating fraud and corruption.

The Council recognises the importance of customer complaints and welcomes complaints as a valuable form of feedback about its services. There is a formal compliments and complaints procedure which enables the Council to respond to complaints but also to use the information it receives effectively, to help drive forward improvements. A new process came into effect on 1st January 2015. The Council also developed a Children's and Adults Social Care protocol which sits under the corporate complaints policy and provides further detail on responding to matters in these areas.

### ***Developing Effectiveness***

Individual officers have a Performance Development Review annually with opportunities for interim reviews. This process includes identifying training and development needs. In addition, members of staff have regular, planned, one-to-one meetings with their manager.

The Council has developed a Corporate Training Programme that is driven by the Performance Framework. The programme has three strands:

- Mandatory/priority training – essential in order to perform role/deliver service;
- Organisational Development/Corporate Improvement – key themes linked to Leadership Behaviours and Values; and
- Core Skills – Finance, Governance, IT, Health and Safety

Members are provided with development opportunities through in-house and external training and briefings. There is mandatory training on the Code of Conduct, development control, licensing and appeals. Members are encouraged to express an interest in receiving training on specific topics.

In 2014/15 Member training was provided on:

- The Care Act
- Safeguarding/Corporate Parenting
- Standards & Conduct
- Conduct & Ethics
- Childhood Sexual Exploitation
- Plus other regulatory training prior to committees such as Audit & Risk.

Budget provision is made for training and development of members and officers.

### ***Service Delivery***

The Council uses a variety of service delivery models. It has a number of key services such as refuse collection and highways which are outsourced. It is also part of many successful partnerships, including a pooled budget with Leicester City Council, Leicestershire County Council and the three Clinical Commissioning Groups covering Rutland and Leicestershire for Adult Social Care service and the Children's Trust. Along with other authorities in the Welland Partnership, the Council has a shared Internal Audit Service (for which it is the lead Council) and joint Procurement Unit. Further shared services arrangements have been implemented, covering public protection services, legal services and benefit fraud investigations. The Council works in partnership with other local authorities and public agencies through the Leicester, Leicestershire and Rutland Local Resilience Forum to prepare for, and respond to, civil emergencies.

The cost of the Council's services continues to be relatively low as evidenced by cost profiles produced by the Audit Commission. Nevertheless, the Council continues to review how services should be delivered and this was a key part of its budget deliberation for 2015/16.

One of the Council's key projects in 2014/15 was the review of the People Directorate called **PeopleFirst** which was originally commissioned by Council in January 2014. The objectives of the review were to:

- put in place a vision for the future of service delivery for the Directorate within the over-arching One Council Vision
- propose a commissioning strategy to support the vision
- recommend a structure to support the commissioning strategy
- undertake the appropriate consultation
- deliver on-going savings on the cost base of the People Directorate

The review included a detailed look at all services provided by the People Directorate and considered the rationale for the provision of services, options for delivering services

differently and improving performance/reducing cost. The review also included significant stakeholder engagement for 7 weeks from 28th April – 13th June.

The conclusions of the review were presented to Council in September 2014 and identified a number of recommendations/lines of enquiry that could save the Council in the region of £1.5m over the term of the Medium Term Financial Plan (3-5 years). This included restructuring the Directorate, working up opportunities to integrate services with health, redirecting Public Health monies, focusing service provision on those in greatest need and exploring the opportunity to charge for some services.

### ***Community Engagement, Partnership working and Reporting***

#### ***Rutland Together***

The Council engages with the local community in different ways. Rutland Together is the Local Strategic Partnership (LSP) for Rutland. The Partnership was established to bring together all of those people and bodies whose work impacts on the lives of local people.

The partnership has gone through radical changes since its beginning; this is due to political changes over the years which have affected the partnerships direction of travel. Rutland Together is made up of over 50 partners from the public, private and voluntary sectors. Rutland Together allows different organisations in the community to support each other and work together on different initiatives and services to address local issues.

#### ***Better Care Together and the Better Care Fund***

Better Care Together (BCT) is a significant programme of work which will transform the health and social care system in Leicester, Leicestershire and Rutland (LLR) by 2019. BCT brings together partners in Health and Local Government, including the Council, to ensure that services change to meet the needs of local people. The programme is also working closely with public and patient involvement (PPI) representatives to develop plans for change.

Two of the key issues we need to address relate to the ever increasing demand on social and health care services and the fact too many people find themselves in hospital and residential care. This is often because we have not done enough to keep them well and supported in the community before hospital and/or residential care becomes the only option.

The BCT vision is for a local health and social care system that supports our community through every stage of life. More information can be found at:

<http://www.bettercareleicester.nhs.uk/EasysiteWeb/getresource.axd?AssetID=32078>

Officers and Members of the Council are working across LLR to integrate reform and transform services. As part of this work, the government has set up the Better Care Fund – this is a budget to improve the ways health services and social care services work together, starting with services for older people and people with long term conditions. The Council and ELRCCG have submitted a Better Care Fund plan; this has now been fully approved by NHS England. The two organisations' are working closely to develop implementation plans for integrating health and social care services.

We report to the Health and Wellbeing Board on a regular basis to present our developing project plans, and report on expenditure and progress against the performance metrics as set out by government. More information can be found [here](#)



### ***Other engagement***

The Council undertakes public engagement and consultation on a range of matters. In 2014/15 this included:

- consultation in relation to PeopleFirst as described above;
- a business summit held in partnership with the Local Enterprise Partnership to raise awareness of the support available locally;
- annual budget consultation about future levels of council tax. In respect of the budget, public consultation took place through the Council website, was promoted through Twitter, and a small display at Rutland libraries. Presentations were also made to local businesses and council employees;
- a statutory review of the polling districts, places and stations was undertaken starting on 17 November 2014 until 12 December 2014 with final recommendations being presented to full Council on 31 January 2015; and
- a Community Governance Review was undertaken in December 2014 to February 2015 with a final report to full Council in March 2015 in order to determine the future of the parish area of Horn. All residents of Horn were contacted via letter along with the neighbouring parish council, ward councillors and council officers. The resulting decision merged the parish area of Horn with that of the Exton parish area.

### ***Reporting***

All formal meetings are held in public, and the reports and minutes of those meetings are published on the Council's website, unless there are legal reasons for confidentiality. There are opportunities for members of the public to make deputations to, or ask questions at, meetings of the Council, Committees and Scrutiny Panels.

The Council publishes information relating to all of its expenditure on its website and also complies with the Local Government Transparency Code 2015 which sets out the minimum data that local authorities should be publishing and the frequency it should be published and how it should be published. The information published can be found here.

[http://www.rutland.gov.uk/council\\_and\\_democracy/transparency\\_code\\_2014-15.aspx](http://www.rutland.gov.uk/council_and_democracy/transparency_code_2014-15.aspx)

## **4. Review of Effectiveness**

The 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 its effectiveness is informed by the work of the senior managers within the Council who have responsibility for the development and maintenance of the governance environment, the Head of Internal Audit's annual report, and also comments made by the external auditors and other review agencies and inspectorates.

### ***Internal and Management assurance***

#### ***Internal Audit***

The responsibility for maintaining an effective Internal Audit function is set out in Regulation 6 of the Accounts and Audit (England) Regulations 2011. This responsibility is delegated to the Assistant Director - Finance. The Internal Audit service operates in accordance with best practice professional standards and guidelines. The service independently and objectively reviews, on a continuous basis, the extent to which the internal control environment supports

and promotes the achievement of the Council's objectives, and contributes to the proper, economic, efficient and effective use of resources.

The Internal Audit service is provided by the Welland Internal Audit Consortium. The former Head of Consortium retired in August 2014 having implemented an improvement plan following an independent external review undertaken in 2013/14. From August 2014, the Consortium has been working with Local Government Shared Services (LGSS) to manage the Internal Audit service.

In 2014/15 the Consortium completed 22 assurance assignments, each providing an assurance opinion over the design and effectiveness of the control framework in place – 18 of these were rated as 'Substantial' or 'Sufficient' assurance and 4 as 'Limited' assurance. The reports providing an opinion of Limited Assurance related to the Agresso system, Safe Driving at Work, ICT Asset Management and Client Finances – Court of Protection and Deputyships. Each Limited assurance report is presented to the Audit and Risk Committee with separate follow up on actions taken by management to address the areas of concern.

Members receive an annual report of Internal Audit activity and approve the Audit Plan for the forthcoming year. For the year 2014/15, it is the opinion of the Head of the Welland Internal Audit Consortium that Sufficient Assurance can be taken from the Council's control environment. At least Sufficient assurance was provided over audits of the key financial system controls for Payroll, Creditors, Debtors, Local Taxation and Benefits.

### ***Scrutiny***

During 2014/15 the Scrutiny Panels have considered a number of issues of particular concern to satisfy members that there are robust governance arrangements in place as far as the Council's own services are concerned. These include: development of the People First Review, implications of the Care Act and Better Care Fund, CQC Inspection reports, Safeguarding Children and Adults, Corporate Parenting; Learning and Skills Strategy, School Improvement Plan, Parking Review, Community Infrastructure Levy, Economic Growth Strategy; Legal Services, ICT Services, Corporate Support Team, Complaints Policy and Discretionary Relief Policy.

Each Scrutiny Panel has produced an annual scrutiny report presented to Council in March.

The Scrutiny Commission conducted a review of the work that scrutiny carries out and a number changes were identified which will improve the reporting pathway to Cabinet and Council, the support provided to Chairs and working groups and the presentation of officer reports to Panels. Further suggestions will be considered by the new Scrutiny Commission.

### ***Performance***

The end of year report was presented to Cabinet in June 2015. In summary, the report states that 94% of KPI targets were on target and 6% were below target.

### ***Business Continuity Exercise***

Specific recovery plans are in place for the 5 key threats listed below.

- loss of key staff (skills/knowledge);
- loss of telephone system;
- loss of buildings;
- loss of ICT; and
- loss of utilities.

An exercise was carried out on 9th October 2014 with senior managers across the authority to test the plans. This exercise was successful but highlighted some areas for improvement. Officers have reviewed and revise the recovery plans following the exercise. The business continuity documents have been uploaded to a secure website (Resilience Direct) to ensure they can be accessed from any site in the event of an incident. The revised business impact assessment and recovery plans will be approved in June 2015.

### ***Management Assurance***

Senior managers make annual individual written assurance statements relating to any internal control weaknesses they have identified. The outcome of this work has not highlighted any significant control issues.

### **External Audit, Inspections and Reviews**

#### ***External Audit***

The Audit and Risk Committee has received and formally debated the Annual Audit Letter and External Audit Annual Plan. KPMG in their Annual Governance Report for 2013/14 gave the Council an unqualified audit opinion on the financial statements and value for money conclusion.

#### ***Peer Challenge Review– Adults***

The Peer Challenge Team Review (PCTR) is part of the East Midlands Sector-Led Improvement Programme for Adults Services. This was a 3-day visit that took place 9th February 2015 focussing on Adult Safeguarding. The review identified strong political and strategic engagement and that front-line practice appears to have improved significantly. The reviewers felt that the Council has knowledgeable, informed and committed staff and feedback from service users and carers was positive. They identified the need to support priority and capacity of managers, as well as improving stability of managers and leadership. There was a need for greater clarity and consistency around policy, procedures shared across L&R with questions about the structure of the adults safeguarding board. Overall there was a strong message about the need to maintain the pace of improvement. The recommendations are now being progressed through the peer review action plan.

#### ***Data Incidents***

Following the introduction of a Data Incident Response Protocol, a small number of incidents were reported and subsequently managed in accordance with the Protocol.

Between May 2014 and February 2015 10 reports were made. All were investigated to satisfactory conclusion with no outstanding risks identified. Incidents ranged from the loss of files containing personal information to Council Tax information being incorrectly disclosed to a number of customers. Officers involved were disciplined as a result of various breaches. The Information Commissioner's Office (ICO) was notified of two incidents; which resulted in their decision to take no further action.

### ***Office of the Surveillance Commissioner (OSC)***

A planned inspection of the Council's arrangements in respect of the Regulation of Investigatory Powers Act (RIPA) took place in November 2013. A number of recommendations were made and a follow up visit was undertaken in May 2014. The follow up visit generated excellent feedback on the Council's arrangements around the use of RIPA; no formal recommendations were made by the Surveillance Inspector

### **Public Services Network compliance**

The Council must demonstrate compliance with the Public Services Network (PSN) Code of Connection (CoCo) on an annual basis. The CoCo is an Information Assurance mechanism to support the connection of a network to another accredited network, without increasing or substantially changing the risks to the already accredited network. The Council undertakes a CoCo Security Health-Check annually (carried out by accredited third party) to identify any weak compliance positions. Once these have been addressed, the Council complete and return the CoCo for the PSNA (PSN Authority) to assess eligibility to connect.

The Council has had its compliance verification activity reviewed and may act and operate as a PSN Customer during 9th March 2015 and 9th March 2016. The Certificate is valid until 9th March 2016. It may be withdrawn at any time in instances of non-compliance are identified.

### **Better Care Fund review**

The final Better Care Fund plan was approved by the Rutland Health and Wellbeing board on the 17<sup>th</sup> September and submitted to the Department of Health on the 19th September 2014, with a couple of tweaks required in November 2014 (As requested by NHS England).

### **Local Government Ombudsman (LGO)**

The Ombudsman's report for the year ended 31 March 2014 showed that eighteen complaints (there were 7 in 2012/13) had been made during the year. The nature and outcome of these complaints are detailed in the table below.

<b>Detailed investigations carried out</b>						
<b>Upheld</b>	<b>Not upheld</b>	<b>Advice given</b>	<b>Closed after initial enquiries</b>	<b>Incomplete / Invalid</b>	<b>Referred back for local resolution</b>	<b>Total</b>
1	1	0	9	1	6	18

### **Summary**

This statement has been considered by the Audit and Risk Committee, who were satisfied that it is an accurate reflection of the governance framework and that the arrangements continue to be regarded as fit for purpose in accordance with the governance framework. There has been one significant governance issue arising. Whilst action has been taken to address this issue, full disclosure of the issue, impact and Council's response is given below.

### **5. Significant Governance Issues**

In April 2015, the Council identified a failing relating to a planning application and section 106 agreement (originally dealt with in 2011 and 2012) which has significant financial and reputational implications for the Council. The Council has investigated the matter and produced a full report to Full Council setting out the circumstances and details surrounding

the application. The report was discussed at Full Council on September 14<sup>th</sup> 2015. A summary of the circumstances, its impact and the Council's response is provided below:

### **The issue**

On 11<sup>th</sup> July 2011 Rutland County Council entered into a Section 106 agreement with Hawksmead (Larkfleet) Limited ("Larkfleet") linked to the outline planning approval granted and signed on the same date (OUT/2009/1306) for a major residential development known as Oakham North. The Section 106 agreement required the developer to pay a financial contribution of c£7.65m (revised later to £6.68m based on a reduced number of properties being built and some contributions originally expected related to monitoring fees no longer considered allowable) to the Council to pay for community and social infrastructure, the need for which arises because of the new development.

On the 10<sup>th</sup> November 2011 Larkfleet applied to vary a condition of the planning application. The variation was relatively minor and was agreed. The application for a variation was determined under delegated powers by the Development and Control Manager (Acting), counter signed by a second planning officer under a new permission (effectively a new planning consent) and signed by the Head of Service. The permission was issued as APP/2011/0832 on 18th January 2012.

At this point the Officer should have instructed the Council's Legal advisors (in this instance Peterborough Legal) to have completed a new section 106 agreement or a deed of variation based on the original section 106 that would have ensured that the legal agreement applied to the new permission. The Officer failed to do this.

At this point the developer had therefore two planning permissions, one which was underpinned by a section 106 agreement (OUT/2009/1306) and one which was not (APP/2011/0832). If the developer chose to build under APP/2011/0832, then it could argue that the £7.4m contribution was no longer due to the Council.

When the Council initially billed Larkfleet for contributions in line with (OUT/2009/1306) some fees and a substantial invoice of £290k was paid. Following further development taking place and 'trigger points' occurring the Council continued to invoice Larkfleet. The invoice was not paid and the Council issued a reminder letter, which included the normal reference to potential legal action if the debt was not paid. At this point Larkfleet advised the Council in writing (24<sup>th</sup> April 2015) that in relation to the outstanding invoices totalling £976k, it no longer considered it was liable to make any payments as development was now taking place under (APP/2011/0832). The Council therefore paused to look into the matter.

### **The Council's response**

The Council considered the comments from the developer, took its own external legal advice and investigated the circumstances around the planning applications. The Council's assessment was that a mistake had been made and, as set out above, contractually no payment was due from Larkfleet. In response to this, the Council took various steps:

1. **Negotiate a contribution from the developer** - The development has and will continue to place pressure on infrastructure – the very purpose of the contribution was to mitigate against the impact of the development. Residents will have purchased properties with expectations that will now have to be managed both by the Larkfleet and the Council. In order to minimise any loss for its residents, the Council and Larkfleet have agreed a settlement figure of £4.8m against the original figure of £6.68m.
2. **Investigate the circumstances to ensure there has been no misappropriation** – In order to satisfy itself that there has been no misappropriation or fraud and corruption involving council officers, the Council commissioned an independent

external view from Baker Tilly. Baker Tilly have concluded that “Based on our enquiries conducted, inclusive of interviews with staff members, review of correspondence held within RCC and information available from ‘open source’ enquires conducted, we have not identified any matters which would give rise for concern, with no financial connections, personal or undeclared professional relationships between the development staff within RCC and the contractor organisations involved in this planning application process”.

3. **Review other applications to assess whether this mistake is a one-off** - A thorough review has been undertaken of all planning permissions with Section 106 agreements attached to them and the Council has concluded that this mistake has not happened in any other instances.
4. **Assessed the financial impact** – The Council has assessed the financial impact and full details are set out in the Council Report. In brief, the Council has lost £1.88m (net of indexation) of potential S106 funding. The settlement figure from the Larkfleet will allow the Council to meet much of the development need but should the Council need to borrow or find additional funding this is achievable within the context of the Medium Term Financial Plan.
5. **Made procedural changes** – In order to mitigate the risk that this issue does not happen again there has been a comprehensive review of the way we process Section 73 applications and S106 agreements. The new arrangements have been in place for some time supported by training for planning officers. New planning applications are now reviewed by a dedicated S106 officer to identify any impact on existing S106 agreements and whether further action is required. It is not possible to say conclusively that mistakes will not be made but safeguards and checks are in place to mitigate against this situation arising again.

The Council is satisfied that it has taken all necessary action in response to this issue.

### **Certification**

As Leader and Chief Executive, we have been advised on the implications of the results of the review of effectiveness of the Council's governance framework, by the Audit Committee and Cabinet.

Our overall assessment is that the Annual Governance Statement is a balanced reflection of the governance environment and that an adequate framework exists within Rutland County Council to ensure effective internal control is maintained. We are also satisfied that there are appropriate plans in place to address any significant governance issues and in particular that changes made to planning procedures should minimise the risk of a similar problem reoccurring.

Signed: \_\_\_\_\_

Helen Briggs, Chief Executive

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Roger Begy, Leader of the Council

Date: \_\_\_\_\_