





**Brighton & Hove
City Council**

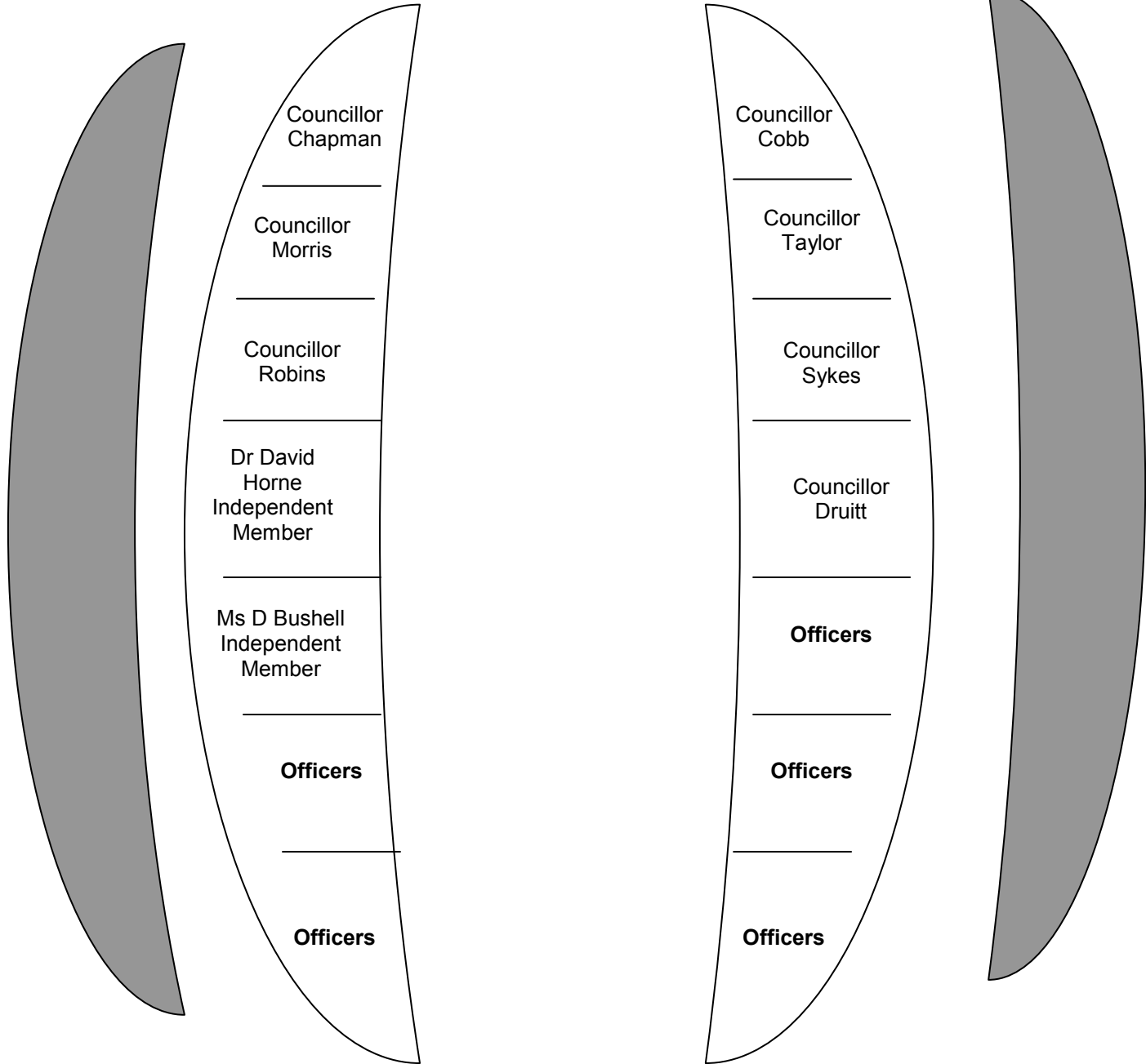
Audit & Standards Committee

Title:	Audit & Standards Committee
Date:	12 January 2016
Time:	4.00pm
Venue	The Ronuk Hall, Portslade Town Hall
Members:	<p>Councillors: A Norman (Chair), Chapman, Cobb, Druitt, Morris, Robins (Group Spokesperson), Sykes (Group Spokesperson) and Taylor</p> <p>Co-opted Members: Diane Bushell and Dr David Horne</p>
Contact:	<p>John Peel Democratic Services Officer 01273 291058 john.peel@brighton-hove.gov.uk</p>

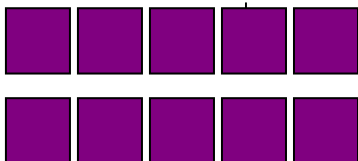
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Democratic Services: Audit & Standards Committee

Head of Legal & Democratic Services	Councillor A Norman (Chair)	Acting Executive Director Finance & Resources	Democratic Services Officer
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Public Seating



Press



AGENDA

55 PROCEDURAL BUSINESS

(a) **Declaration of Substitutes:** Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) **Declarations of Interest:**

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

56 MINUTES

1 - 10

To consider the minutes of the meeting held on 17 November 2015 (copy attached).

57 CHAIR'S COMMUNICATIONS

AUDIT & STANDARDS COMMITTEE

58 CALL OVER

- (a) Items (61 - 69) will be read out at the meeting and Members invited to reserve the items for consideration.
- (b) Those items not reserved will be taken as having been received and the reports' recommendations agreed.

59 PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented to the full council or at the meeting itself;
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on the 5 January 2016;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on the 5 January 2016.

60 MEMBER INVOLVEMENT

To consider the following matters raised by councillors:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion referred from Council or submitted directly to the Committee.

AUDIT ITEMS

61 STRATEGIC RISK MAP FOCUS: SR10 INFORMATION GOVERNANCE MANAGEMENT; SR22 MODERNISING THE COUNCIL; AND SR24 WELFARE REFORM 11 - 22

Report of the Acting Executive Director, Finance & Resources (copy attached).

Contact Officer: Jackie Algar
Ward Affected: All Wards

Tel: 01273 291273

AUDIT & STANDARDS COMMITTEE

- 62 ERNST & YOUNG: ANNUAL CERTIFICATION REPORT 2014/15 AND PROGRESS REPORT 2015/16** **23 - 44**
- Report of Ernst & Young (copy attached).
- 63 TARGETED BUDGET MANAGEMENT (TBM) 2015/16 MONTH 7** **45 - 60**
- Extract from the proceedings of the Policy & Resources Committee meeting held on 3 December 2015; together with reports of the Acting Executive Director of Finance & Resources (copies attached).
Ward Affected: All Wards
- 64 TREASURY MANAGEMENT POLICY STATEMENT 2015/16 (INCLUDING ANNUAL INVESTMENT STRATEGY 2015/16) – MID YEAR REVIEW** **61 - 74**
- Extract from the proceedings of the Policy & Resources Committee meeting held on 3 December 2015; together with reports of the Acting Executive Director of Finance & Resources (copies attached).
Ward Affected: All Wards
- 65 OVERPAYMENTS ON THE HOUSING REPAIRS AND IMPROVEMENT CONTRACT** **75 - 80**
- Report of the Acting Executive Director, Finance & Resources (copy attached).
- Contact Officer: Graham Liddell Tel: 01273 291323*
Ward Affected: All Wards
- 66 INTERNAL AUDIT AND CORPORATE FRAUD PROGRESS REPORT** **81 - 86**
- Report of the Acting Executive Director, Finance & Resources (copy attached).
- Contact Officer: Graham Liddell Tel: 01273 291323*
- STANDARDS ITEMS**
- 67 STANDARDS UPDATE** **87 - 90**
- Report of the Head of Law and Monitoring Officer (copy attached).
- Contact Officer: Abraham Ghebre-Ghiorghis Tel: 01273 291500*
Ward Affected: All Wards
- 68 INFORMATION GOVERNANCE STRATEGY** **91 - 114**
- Report of the Head of Law and Monitoring Officer (copy attached).
- Contact Officer: Abraham Ghebre-Ghiorghis Tel: 01273 291500*
Ward Affected: All Wards

69 ANNUAL SURVEILLANCE REPORT 2015

115 - 152

Report of the Acting Executive Director, Finance & Resources (copy attached).

Contact Officer: Jo Player
Ward Affected: All Wards

Tel: 01273 292488

70 ITEMS REFERRED FOR COUNCIL

To consider items to be submitted to the 28 January 2016 Council meeting for information.

In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, any Group may specify one further item to be included by notifying the Chief Executive no later than 10am on the eighth working day before the Council meeting at which the report is to be made, or if the Committee meeting take place after this deadline, immediately at the conclusion of the Committee meeting

71 ITEMS FOR THE NEXT MEETING

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Electronic agendas can also be accessed through our meetings app available through www.moderngov.co.uk

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact John Peel, (01273 291058, email john.peel@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk.

Date of Publication - Monday, 4 January 2016

BRIGHTON & HOVE CITY COUNCIL

AUDIT & STANDARDS COMMITTEE

4.00pm 17 NOVEMBER 2015

THE RONUK HALL, PORTSLADE TOWN HALL

MINUTES

Present: Councillors A Norman (Chair), Diane Bushell, Councillor Chapman, Cobb, Druitt, Dr David Horne, Morris, Robins (Group Spokesperson), Sykes (Group Spokesperson) and Taylor

PART ONE

40 PROCEDURAL BUSINESS

40a Declarations of substitutes

40.1 There were none.

40b Declarations of interests

40.2 There were none

40c Exclusion of the press and public

40.3 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

40.4 **RESOLVED** - That the public not be excluded from the meeting.

41 MINUTES

41.1 **RESOLVED** – That the minutes of the previous meeting held on 22 September 2015 be approved and signed as the correct record.

41.2 As a matter arising, Councillor Taylor asked if there was an further update available on Item 36 of the previous meeting: Cash Collection Contract.

- 41.3 The Assistant Director, Finance & Resources clarified that the administration process was continuing and whilst there was nothing to report arising from that process, any significant update would be brought to the attention of Members.

42 CHAIR'S COMMUNICATIONS

- 42.1 The Chair provided the following communication:

"This will be the last meeting of the Audit & Standards Committee attended by Rachel Musson our Interim Executive Director of Finance & Resources. Rachel has been a steady force since she has been with us and has encouraged us to peer outside 'the box' we currently operate in. Rachel is about to embark on a new career and we all want to wish her well and much happiness in her new role.

This will also be the last meeting for Simon Mathers from Ernst & Young. Simon has made a great contribution in the past seven years of working with the committee and I'd like to wish him well in the next stage of his career. Ian Young will be the new representative from Ernst & Young alongside Paul King and we look forward to working with him".

43 CALL OVER

- 43.1 All items on the agenda were reserved for discussion.

44 PUBLIC INVOLVEMENT

- 44.1 No items from members of the public were received.

45 MEMBER INVOLVEMENT

- 45.1 No items from Members were received.

46 CUSTOMER FEEDBACK REPORT

- 46.1 The Committee considered a report of the Interim Executive Director of Finance & Resources that provided information on Customer Feedback about services delivered by the council for the first two quarters of the 2015-16 financial year.
- 46.2 Councillor Druitt asked if there was a sufficient level of awareness of the complaints process from residents and staff and if continuing reductions in the council's budget was likely to lead to an increase in complaints and if any pre-emptive action was being taken to that end.
- 46.3 The Customer Experience Lead stated that the complaints process was clearly signposted on the council website and training provided for staff on resolution and directing residents to the complaints procedure. The Customer Experience Lead added that a reduction in budget may have an effect on the quality of service provided. Steps were being taken to mitigate the effects and awareness needed to be raised as to what service level could be provided.

- 46.4 Councillor Chapman noted that many of the complaints from members of the public he received as ward councillor related to the council's housing repair and maintenance contractor. Councillor Chapman asked if such complaints were recorded in the data detailed in the report.
- 46.5 The Customer Service Lead clarified that the report did not cover specific detail on complaints made regarding the council's housing contractor. However, the contractor did conduct training with their staff and there was particular awareness on their part of delays to scheduled repairs. Furthermore, he had attended monthly meetings in the past with the contractor and he would be happy to discuss the specific issue in Queens Park with Councillors Chapman and Morris as ward councillors for the area. The Customer Service Lead stated that it was his understanding that in many cases of complaints, the work was to standard but may not meet the customer expectation.
- 46.6 Councillor Morris asked for further information on the programme of managing Housing Car Parks.
- 46.7 The Customer Service Lead stated that he was unable to give specific details on the programme but would endeavour to obtain the information for Councillor Morris.
- 46.8 Councillor Sykes noted the change in report presentation that now contained less data and statistical information and asked if this was related to the change in governance structure for the complaints process.
- 46.9 The Customer Service Lead clarified that the new presentation was compatible with other reporting streams that provided an overall picture. The Customer Service Lead added that the arrangements for the service had remained consistent although the team had moved service areas in recent times.
- 46.10 Councillor Robins asked if there was any information to demonstrate residents found the complaints process a useful function and was not treated in a sceptical manner.
- 46.11 The Customer Service Lead stated that it was his understanding that residents did find the complaints process useful and there was also a benefit in giving feedback as it can lead to service improvement.
- 46.12 Councillor Taylor asked why the Key Performance Indicator used per 10,000 population and asked if it was possible to use the definitive figure in addition for future reports.
- 46.13 The Customer Service Lead clarified that using per 10,000 population as an indicator enabled benchmarking with other authorities but a specific number could be used for future reports.
- 46.14 Diane Bushell asked if the complaints team liaised with other agencies such as the Citizen's Advice Bureau regarding complaints.
- 46.15 The Customer Service Lead stated that this was not currently undertaken but was a very good suggestion to pursue.

- 46.16 Councillor Druitt asked if whistleblowing figures were included in the data for complaints and also if the number of compliments were recorded.
- 46.17 The Customer Service Lead stated that the Public Disclosure Interest Act only applied to staff and the report related only to complaints from members of the public. Compliments were recorded and reported annually so would form part of that report.
- 46.18 **RESOLVED-**
- 1) That the Committee note the report.
 - 2) That the Committee receive a similar report every six months.

47 STRATEGIC RISK REGISTER REVIEW SEPTEMBER 2015

- 47.1 The Committee considered a report of the Interim Executive Director, Finance & Resources that set out the Strategic Risk Register Assessment Report giving detail on actions taken and planned actions to manage each strategic risk.
- 47.2 Dr Horne noted his concern that none of the strategic risks listed at paragraph 4.5 had improved.
- 47.3 The Risk Management Lead clarified that as risk items were often long-term issues by definition, they did not often move within a six month period. The Risk Management Lead added that the items listed were those considered very seriously and thoroughly by the Executive Leadership Team (ELT) and were regularly reviewed.
- 47.4 The Interim Executive Director, Finance & Resources stated that as a member of ELT, she could give assurance that the risk register was regularly and robustly reviewed.
- 47.5 Dr Horne stated that there were no comments in relation to the solutions proposed for each risk and therefore no information on whether those solutions were effective.
- 47.6 Councillor Morris noted that both uncertain and adequate were given for those items listed as amber and asked the reasons for the differing classifications.
- 47.7 In response to the issues raised, the Risk Management Lead clarified that the risk owners set controls as an action to resolve the issue. Amber rated items were sometimes left open as they were subject to change that could include a change or finalisation in central government policy.
- 47.8 Diane Bushell noted that no deadlines for risk solutions were provided.
- 47.9 The Risk Management Lead clarified that completion dates were sometimes set internally and the observations of the committee would be reviewed for future versions of the report.
- 47.10 Councillor Sykes noted that two risks had been removed from the Register and asked if it was the duty of ELT to make such decisions.

47.11 The Interim Executive Director, Finance & Resources confirmed that the decision was taken by ELT if they were satisfied the actions implemented had reduced the risk level and to allow for focus on the highest priority strategic risks.

47.12 **RESOLVED-** That the Audit & Standards Committee notes the Strategic Risk Assessment Report October 2015 (Appendix 1).

48 STRATEGIC RISK MAP FOCUS: SR23 AND SR21 HOUSING PRESSURES

48.1 The Committee considered a report of the Interim Executive Director, Finance & Resources which informed Members that the Committee had a role to monitor the effectiveness of risk management and internal control. This included oversight of the Strategic Risk Register which was set and reviewed every six months by the Executive Leadership Team (ELT). Each Strategic Risk had a Risk Management Action Plan (a risk MAP) to deliver action to address the risk by a Risk Owner, a member of the ELT. The meeting was attended by the Joint Acting Executive Director, Environment, Development & Housing who was the Risk Owner for SR21: Housing Pressures and the joint risk owner with the Assistant Chief Executive for SR23: Developing an investment strategy to refurbish and develop the city's major asset of the Seafront. The Joint Acting Executive Director, Environment, Development & Housing provided a comprehensive verbal update to the Committee on each of the Strategic Risks.

48.2 Councillor Sykes asked how existing controls around housing support could be maintained in the context of continuing budget reductions and noted that the private housing rental sector had dramatically increased over recent years but there was no identification of the sector in the report.

48.3 In relation to private sector housing, the Joint Acting Executive Director, Environment, Development & Housing clarified that there had been a Scrutiny Panel review of the matter and recommendations had been submitted to Housing Committee. Amongst others, they included recommendations on closer working with Strategic Housing Partnership (SHP) on measures such as student accommodation and he was also aware that the Housing and Planning Bill currently being considered by Parliament would include a Private Sector Landlord Register. The Joint Acting Executive Director, Environment, Development & Housing further confirmed that there was still a Housing Support Budget although this, like other council budgets, was reducing year on year. That presented continuing pressure and the council was working towards different methods of delivery that would hopefully achieve the same output.

48.4 Councillor Morris noted the pressures placed upon housing availability by 'Party Houses' and asked what actions were being taken to address the matter.

48.5 The Joint Acting Executive Director, Environment, Development & Housing confirmed that there had also been a Scrutiny Panel held on the matter and the outcome had been reported to Full Council similarly with recommendations.

- 48.6 In respect of SR21, Diane Bushell asked if the Joint Acting Executive Director, Environment, Development & Housing if he was content that the risk rating had been reduced from red to amber.
- 48.7 The Joint Acting Executive Director, Environment, Development & Housing clarified that this was the correct course of action and the council was now intervening in a much more strategic manner in the city and city region than before.
- 48.8 In relation to SR23, Councillor Cobb stated that she was disappointed the council had not anticipated that repairs would be required to Madeira Terrace and implemented a planned maintenance programme. Councillor Cobb asked if there would be any impact on events held on Madeira Drive.
- 48.9 The Joint Acting Executive Director, Environment, Development & Housing stated that the structural design of the Terraces had meant that it had been difficult to maintain, inspect and repair. The Joint Acting Executive Director, Environment, Development & Housing added that the 2016 events calendar had been agreed at Economic, Development & Culture Committee the previous week and no events had been lost compared to the 2015 schedule.
- 48.10 Councillor Taylor asked if the Seafront Strategy included Saltdean Lido.
- 48.11 The Joint Acting Executive Director, Environment, Development & Housing confirmed that Saltdean Lido was included in the Seafront Strategy.
- 48.12 **RESOLVED-** That Members note the information provided in the Strategic Risk MAPs in Appendix 1 (Strategic Risk Assessment Report).

49 ANNUAL AUDIT LETTER 2014/15

- 49.1 **RESOLVED-** That the Committee note 2014/15 Annual Audit Letter.

50 ORGANISATIONAL LEARNING REVIEW

- 50.1 The Committee considered a report of the Interim Executive Director, Finance & Resources that summarised the findings and recommendations from the council's learning review following the dismissal of the Assistant Director for Housing.
- 50.2 Councillor Druitt stated that he found some of the findings of the review to be damning of the council. Councillor Druitt asked why whistleblowing attempts were unsuccessful and why governance arrangements were not always fully understood or applied.
- 50.3 The Interim Executive Director, Finance & Resources stated that the report examined issues across a number of years and the investigators comments were reflective of the workplace environment at that time.
- 50.4 The Deputy Head of Law added that the Whistleblowing Policy was in place and reflected in the constitution and was clearly advertised and accessible on the council's internal website and received accompanying publicity at its launch. The Deputy Head of Law supplemented that items had been received from staff and investigated arising from

the Whistleblowing Policy. Monitoring would be continued and reported to the Committee for Members to check and challenge.

- 50.5 Diane Bushell stated that she found paragraph 4.1 to be slightly complacent regarding progress and sought assurance that the council had improved in the areas of policy, culture and in its governance arrangements.
- 50.6 The Head of Internal Audit clarified that reports through the Whistleblowing Policy were being received and whilst significant progress in changing the workplace culture had been made, the full scope of change would take time. Furthermore, four out of ten of the recommendations arising from the investigation were in operation and progress was continuing on the remaining six.
- 50.7 The Deputy Head of Law stated that the complaint made against the former Assistant Director had arisen from the Whistleblowing mechanism. The council had improved the process, accessibility and handling of Whistleblowing reports and made concrete policy changes such as on contract standing orders and declarations of interest.
- 50.8 Councillor Robins stated his concern regarding the comments made in the investigation relating to Member/Officer relations.
- 50.9 The Deputy Head of Law clarified that the Members/Officer Code of Conduct was set out in the council's constitution and that would strike an appropriate balance if followed.
- 50.10 **RESOLVED-**
- 1) That the Audit & Standards Committee note the content of the learning review.
 - 2) That the Committee note the progress and improvements already made to address the areas under the recommendations.

51 TARGETTED BUDGET MANAGEMENT TBM 201516 MONTH 5

- 51.1 **RESOLVED-** That the Audit & Standards Committee notes the update on the council's in-year financial position and the actions being taken to address forecast overspend risks.

52 FINANCIAL POSITION UPDATE

- 52.1 The Committee considered a report of the Interim Executive Director, Finance & Resources that set out an update of the council's financial position as at Month 6 2015/16. The report had been referred for information from the Policy & Resources Committee meeting held on 4 November 2015.
- 52.2 Councillor Druitt asked for a breakdown of agency staff recruitment historically and under the current financial controls and the reasons for the employment of agency staff.
- 52.3 The Head of Financial Services stated that he did not have those figures to hand but could provide further information on agency spend subsequent to the meeting. The

Head of Financial Services clarified that agency spend was usually used in areas and to positions where it was difficult to recruit staff.

- 52.4 Councillor Taylor noted that savings at risk had increased from £900,000 at Month 5 to £1.1m at Month 6 and asked the reasons behind that.
- 52.5 The Head of Financial Services said that an analysis of the movement could be provided to Councillor Taylor.
- 52.6 Diane Bushell asked how the overspend in NHS Partnership arrangements would be challenged.
- 52.7 The Head of Financial Services clarified that the council were working closely with partners in the NHS to reduce the overspend. Furthermore, the council was in regular discussions with the Clinical Commissioning Group (CCG) to examine whether there was an underlying funding issue. The Head of Financial Services added that due to the nature of the S75 agreement, the NHS Trust managed S75 services require different treatment and discussions to council-controlled budgets.
- 52.8 **RESOLVED-** That the report be noted

53 INTERNAL AUDIT AND CORPORATE FRAUD PROGRESS REPORT

- 53.1 The Committee considered a report that summarised the progress made against the Internal Audit and Corporate Fraud Plan 2015/16.
- 53.2 Councillor Sykes asked if the changes to the Audit Plan particularly the focus on IT systems would require specialist advice. Furthermore, Councillor Sykes noted the potential changes to the audit service and requested assurance that the integrity of such a key service would be retained.
- 53.3 The Head of Internal Audit confirmed that due to the specialist nature of IT systems, external services would be required. In relation to the potential changes to the service, the Head of Internal Audit clarified that the size of the audit programme had been reviewed and he believed there was scope to reduce workload without any reduction in the integrity of work.
- 53.4 Dr Horne asked if the Head of Internal Audit was confident in delivering the remaining audits in the 2015/16 programme. In addition, Dr Horne stated his belief that the committee should have some input on the future of the Internal Audit function.
- 53.5 Councillor Druitt expressed his concern that the benefits of economies of scale detailed in the report may also lead to a lack of focus in audit delivery and asked how the committee could ensure that was not the case.
- 53.6 The Head of Internal Audit stated that after considering the options available in determining the future of the service, it had been his judgement that working as part of a shared service agreement was the preferred option to ensure the integrity of internal audit. It was his expectation that the current Internal Audit team would still be based in Brighton & Hove and would benefit in learning from co-operation with other partners and

would allow the team to use specialist support from partners. In response to the matters raised by Dr Horne, the Head of Internal Audit clarified that he was confident the 2015/16 Audit Plan would be delivered to schedule. The Head of Internal Audit supplemented that subject to agreement by Policy & Resources Committee, a period of due diligence would be required for the proposal of a shared service agreement. There was an overlap of responsibility for the Internal Audit service between the Section 151 Officer, the Audit & Standards Committee and Policy & Resources Committee however; the ultimate decision would be made by the latter.

53.7 **RESOLVED-** That the Audit and Standards Committee note the report

54 ITEMS REFERRED FOR COUNCIL

54.1 No items were referred to Full Council for information.

The meeting concluded at 6.30pm

Signed

Chair

Dated this

day of

Subject:	Strategic Risk MAP Focus: SR10 Information Governance Management; SR22 Modernising the Council; and SR24 Welfare Reform		
Date of Meeting:	12 January 2016		
Report of:	Acting Executive Director of Finance & Resources		
Contact Officer:	Name:	Jackie Algar	Tel: 01273 29-1273
	Email:	Jackie.algar@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The Committee has a role to monitor the effectiveness of risk management and internal control. This includes the oversight of the Strategic Risk Register which is set and reviewed every six months by the Executive Leadership Team (ELT). Each Strategic Risk is 'owned' by a member of ELT and has a risk Management Action Plan (a 'risk MAP') to deliver action to address the risk.
- 1.2 The Committee has agreed a schedule in its Work Plan to focus on at least two strategic risk MAPs at each meeting, and asks Risk Owners to attend in order to more fully explore the details of actions to address each Strategic Risk.
- 1.3 This meeting will be attended by Risk Owners: Geoff Raw, Chief Executive; Nigel Manvell, Acting Executive Director of Finance & Resources; and Abraham Ghebre-Ghiorghis, Monitoring Officer & Head of Legal & Democratic Services; and Senior Information Risk Owner (SIRO).

2. RECOMMENDATIONS:

- 2.1 That Members note the information provided in the Strategic Risk MAPs in Appendix 1 (Strategic Risk Assessment Report).
- 2.2 That, having considered Appendix 1 and any clarification comments from the Risk Owners the Committee make any recommendations it considers appropriate to the relevant council body.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 As requested by Members of the Audit & Standards Committee, in order to enable an improved overview of the priority of various actions, referred to as 'solutions' in appendix 1, a new format of the Strategic Risk Assessment Report is provided.

4. FINANCE & OTHER IMPLICATIONS

Financial Implications

- 4.1 Each Strategic Risk MAP provided details of the actions already in place ('Existing Controls') or work to be done as part of business or project plans (the 'Risk Actions') to address each strategic risk. Potentially these may have significant financial implications for the authority either directly or indirectly.

The associated financial risks are considered during the Targeted Budget Management process, the development of the Medium Term Financial Strategy and budget strategies.

Finance Officer Consulted: Jeff Coates

Date: 30.11.15

Legal Implications

- 4.2 Members of the Committee are entitled to information, data and other evidence which enable them to reach an informed view as to whether the council's strategic risks are being adequately managed, and to make recommendations based on their conclusions.

Lawyer Consulted: Elizabeth Culbert

Date: 25.11.15

SUPPORTING DOCUMENTATION

Appendices:

1. Strategic Risk Assessment Report.

Documents in Members' Rooms

1. None.

Background Documents

1. Strategic Risk Review as reviewed by ELT 30 September 2015.

Brighton & Hove City Council

Strategic Risk Focus Report SR10; SR22; and SR24

see final page for
Background information/ Terms Used

Report Filters

Organisational Risk Summary : No
Show Risk Details : Yes
Secondary Responsible Person : No
Risk Category : BHCC Strategic Risk

sales@cammanagementsolutions.com

Risk Code	Risk	Responsible Officer	Risk Category	Last Reviewed	Issue Type	Risk Treatment	Initial Rating	Revised Rating	Future Rating	Eff. of Control
SR10	Information Governance Management	Executive Director Finance & Resources & Senior Information Risk Owner (SIRO)	Legislative, BHCC Strategic Risk	10/06/2014	Threat	Treat	Red 29/04/2015 L4 x I4	Amber 01/05/2015 L3 x I4		Revised: Uncertain

Causes

The council must operate to a high standard of information governance and information management within the overall context of openness and transparency. The council must ensure that it not only protects the organisation's information and technical assets but that it does so within a complex array of legislative (including Data Protection, and Freedom of Information) requirements and compliance regimes. As examples, the Public Services Network ("PSN") and the Health & Social Care Information Centre ("HSCIC") both place significant emphasis on Information Governance Controls as does the Information Commissioner's Office .

Potential Consequence(s)

The council recognises that if it fails to manage data effectively then :

- 1) Individuals could suffer reputational, financial or physical harm,
- 2) The council could suffer reputational and/or financial loss along with an inability to function effectively ,
- 3) The PSN & HSCIC could impose operational sanctions which would be catastrophic for many services,
- 5) The Information Commissioner's Office could impose financial sanctions,
- 4) It could result in a loss of trust in the council by citizens and partners.

Existing Controls

- 1) The Senior Information Risk Owner ("SIRO") oversees the organisation's approach to Information Risk Management, setting the culture along with risk appetite and tolerances;
- 2) The Information Management Board ("IMB") oversees and provides leadership on Information Risk Management and obligations arising from legislation such as the DPA 1998 & FOI 1998;
- 3) A suite of Information Governance Policies has been approved and a move towards alignment with ISO 27001 is planned for the future;
- 4) An Information Audit has been completed, including business impact assessments for the loss or compromise of Confidentiality, Integrity and Availability;
- 5) Open Government Licence implemented to support open government agenda and records management;
- 6) Code of Connection compliance has been achieved for 2015;
- 7) An Information Governance training package has been rolled out across the entire organisation;
- 8) Work is taking place to move to a new datacentre .

Risk
Action

Responsible
Person

Progress %

Due Date

Start Date

End Date

SR 10 Risk Action: Refreshed and updated the Information Governance training package and made it available to staff via elearning	Anita Baxter	100	30/09/2014	01/05/2014	30/09/2014
Comments: E-learning module available to all staff with access to computers . Staff without access to computers have been provided with briefing delivered via team or other appropriate meetings.					
SR 10 Risk Action: Implement an organisation wide information risk management process and maintain a prioritised information risk register.	Anita Baxter	50	31/03/2016	01/09/2015	31/03/2016
Comments: An Information Risk management process has been developed in ICT and an initial risk register has been produced . The next stage is to refine the approach and apply it to information risk outside ICT.					
SR 10 Risk Action: Continual review and development of the newly approved suite of information governance policies along with the creation of specific user guidance for Members and staff as part of the wider user education programme.	Anita Baxter	50	31/03/2016	01/04/2014	31/03/2016
Comments: All policies must be reviewed and updated (where there is a material change in legislation or guidance) by 31st March 2016. The work has started and will be completed in time to meet compliance requirements.					
SR10 Risk Action: Review arrangements for dealing with Freedom of Information Requests	Mark Watson	50	31/03/2016	01/04/2015	31/03/2016
Comments: We are exploring the technology options for both managing and publishing FOIs.					
SR 10 Risk Action: Align our internal controls with ISO27001 (the de facto standard for information security management)	Anita Baxter	10	30/06/2017	01/06/2015	30/06/2017
Comments: This is a long term piece of work. Information Security Manager devising approach, reporting to Chief Technology Officer.					
SR 10 Risk Action: Continue to deliver CoCo project programme of works as agreed by Information Management Board	Mark Watson	100	31/08/2015	01/09/2014	31/08/2015
Comments: We have successfully passed 2015 CoCo. An action plan is being followed in preparation for the next submission in August 2016					
SR 10 Risk Action: Business continuity arrangements are being reviewed and updated, then to be considered by decision makers and communicated to services	Robin Humphries	30	31/03/2016	01/04/2014	31/03/2016
Comments: Emergencies & Resilience Team co-ordinates service business continuity plans through Corporate Business Continuity Group representatives. Prioritisation of recovery of services and ICT requirements to be reported to ELT for approval in January 2016. Work to inform services and review business continuity plans will be undertaken on a quarterly basis via DMTs					
SR 10 Risk Action: Sharing of best practice across SE7 authorities particularly for remote access	Mark Watson	100	31/03/2016	01/05/2013	31/03/2016
Comments: Inter Authority Information Governance and Information Security Group has been initiated and will meet to share best practice on an ongoing basis . Remote access proof of concept is in development.					

<p>SR10 New education and awareness programme approved at Information Governance Board on 15/12/15. Objectives;</p> <ol style="list-style-type: none"> 1. Increase awareness, and understanding of IG across organisation 2. Information Asset Owners practical training to target good IG in their areas with a focus reducing data incidents 	Anita Baxter	10	31/12/2016	15/12/2015	31/12/2016
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Risk Code	Risk	Responsible Officer	Risk Category	Last Reviewed	Issue Type	Risk Treatment	Initial Rating	Revised Rating	Future Rating	Eff. of Control												
SR22	Modernising the Council	Geoff Raw	BHCC Strategic Risk	05/11/2014	Threat	Treat	Red 03/11/2014 L4 x I4	Amber 03/11/2014 L3 x I3		Revised: Adequate												
<p>Causes The Corporate Plan sets out, "our purpose to provide strong civic leadership for the well-being and aspiration of Brighton & Hove. We will be successful if we are judged to deliver: A good life: Ensuring a city for all ages, inclusive of everyone and protecting the most vulnerable. A well run city: Keeping the city safe, clean, moving and connected. A vibrant economy: Promoting a world class economy with a local workforce to match. A modern council: Providing open civic leadership and effective public services."</p> <p>Potential Consequence(s) Modernisation is the council's portfolio of change management programmes and projects which will support delivery of corporate principles and priorities . This in turn will help evidence achievement of outcomes in relation to council's purpose as set out in the Corporate Plan . If the programmes/projects are not successful in delivering intended benefits, it will impact on the achievement of these outcomes failing to deliver our Corporate Plan.</p> <p>Existing Controls *Corporate Modernisation Delivery Board has been set up to initiate and lead programmes and projects that are intended to achieve the Corporate Plan priorities and principles including cross-cutting programmes and projects *The Board is chaired by the Chief Executive and consists of Executive Leadership Team and other key officers of the council . * Reporting to the Corporate Modernisation Delivery Board, Directorate Modernisation Boards are set up to drive the programmes and projects forward and deliver outcomes and benefits. * Reporting to the Directorate Modernisation Boards, there are Programme and Project Boards responsible for planning, set-up and management of programmes and projects. * A cross-party Member Oversight Group monitor progress and provide support and challenge as required. * The financial benefits are reported to the Policy & Resources Committee as part of TBM reports.</p>																						
<table border="1"> <thead> <tr> <th>Risk Action</th> <th>Responsible Person</th> <th>Progress %</th> <th>Due Date</th> <th>Start Date</th> <th>End Date</th> </tr> </thead> <tbody> <tr> <td>Risk Action: Corporate Modernisation Delivery Board to continue to regularly review risks escalated by individual programmes and projects and initiate mitigating actions</td> <td>Rima Desai</td> <td>75</td> <td>31/03/2015</td> <td>01/04/2014</td> <td>31/03/2015</td> </tr> </tbody> </table>											Risk Action	Responsible Person	Progress %	Due Date	Start Date	End Date	Risk Action: Corporate Modernisation Delivery Board to continue to regularly review risks escalated by individual programmes and projects and initiate mitigating actions	Rima Desai	75	31/03/2015	01/04/2014	31/03/2015
Risk Action	Responsible Person	Progress %	Due Date	Start Date	End Date																	
Risk Action: Corporate Modernisation Delivery Board to continue to regularly review risks escalated by individual programmes and projects and initiate mitigating actions	Rima Desai	75	31/03/2015	01/04/2014	31/03/2015																	

<p>Comments: Corporate Modernisation governance arrangements in place. Internal audit provided 'reasonable assurance'. Some of the savings target are proving difficult to achieve. Corporate Modernisation Delivery Board to continue to provide support and challenge to project/programme managers and Senior Responsible Owners. Highlight reports provided by project/programme managers include risk section and these are escalated to Corporate Modernisation Delivery Board as appropriate to request support and guidance from the Board.</p>	<p>Rima Desai</p>	<p>60</p>	<p>31/03/2015</p>	<p>01/04/2014</p>	<p>31/03/2015</p>
<p>Risk Action: The funding of the Modernisation programme to be regularly reviewed to ensure limited resources are effectively targeted. In addition, resource requirements for the modernisation portfolio to be identified based on business cases.</p>					
<p>Comments: Corporate Modernisation Delivery Board at every meeting reviews expenditure against funding available. Resource requirements identified in business cases are carefully considered. The next step is to identify mechanism to request modernisation funding as part of 4 year Service & Finance Planning.</p>	<p>Rima Desai</p>	<p>75</p>	<p>31/03/2015</p>	<p>01/10/2014</p>	<p>31/03/2015</p>
<p>Risk Action: Performance Improvement & Programmes team to support, coordinate and challenge programmes and projects delivery.</p>					
<p>Comments: Corporate Modernisation governance arrangements defined and being implemented by the Corporate Programme Management Office. This includes Advisory & Support Group consisting of key support services to ensure all implications of any change proposals are fully considered. Business partnering arrangements in place to provide change management support for lead officers across all directorates. Project/programme/BPI training/toolkit/templates in place to ensure consistency across the organisation. Modernisation Network consisting of project/programme managers managing corporate projects/programmes set up to share best practice and identify/resolve barriers.</p>					
<p>SharePoint site set up to share key documents.</p>	<p>Geoff Raw</p>	<p>10</p>	<p>31/03/2016</p>	<p>01/07/2015</p>	<p>31/03/2016</p>
<p>Development of council wide approach to create a co-operative council ethos, model and ways of working for Brighton and Hove, involving communities, residents and partners</p>					

Risk Code	Risk	Responsible Officer	Risk Category	Last Reviewed	Issue Type	Risk Treatment	Initial Rating	Revised Rating	Future Rating	Eff. of Control
SR24	Welfare Reform (Joint risk owners: Nigel Manvell, Acting Executive Director of Finance & Resources; and Tom Scanlon - Director of Public Health)	Nigel Manvell	BHCC Strategic Risk		Threat	Treat	Red 27/03/2015 L4 x I4	Amber 04/06/2015 L4 x I3		Revised: Uncertain
<p>Causes Introduction of Universal Credit during 2015/16 with extended roll out during 2016. Implications for staffing levels within services; TUPE issues to DWP; rent collection; council tax collection and pressures on social services and homeless services. Additionally further to the July 2015 national budget a new programme of welfare reform is commencing from April 2016.</p> <p>Potential Consequences(s) Increased service pressures on housing and social services Decreased rent and Council Tax collection</p> <p>Existing Controls A welfare reform team is in place to monitor welfare changes and to coordinate a corporate response to them Ongoing meetings have been held with DWP about change to Universal Credit and go live date for Universal Credit for a limited cohort is 14th December 2015. Negotiations with DWP and third sector about business readiness and commissioning of support for customers who will claim Universal Credit are at an advanced stage . Information is provided to inform housing and children's services colleagues re changes to benefit cap policy and impact on funding of temporary accommodation. Analysis of impact of the changes to the benefit cap in 2016 has been done and a joint strategy to minimise the impact of this changes is being planned across services. Council Tax Reduction (CTR) policy options provided to members to give the option to partially mitigate impact of Tax Credit changes on local CTR costs as part of CTR yearly process. Consultation has been undertaken and reports authored for committee and council. Provide caseworking support directly to customers most significantly affected by the changes (specifically the benefit cap) Regular links maintained with advice and voluntary sector so impacts on citizens can be judged Modelling of specific policies being undertaken to assess the impact on customers in terms of numbers and change. Welfare Reform meetings at CMT level booked in for the year to track these changes and enable a corporate response , this incorporates a detailed risk register with progress of actions reviewed at programme boards.</p>										
<p>Risk Action</p> <p style="text-align: right;">Responsible Person Progress % Due Date Start Date End Date</p>										

Benefit cap reducing to £20k - Reduction on previously assumed level of £23k. Main impacts likely to be on housing, rent collection and homelessness pressures. Analysis of probable caseload done, shared with appropriate services and action plan in development.	John Francis	75	31/03/2016	01/06/2015	31/03/2016
<p>Comments: Precise measures now known, £20k implementation date only vague Autumn 2016 Probable caseload identified Action plan in development with Housing colleagues Discretionary Housing Payment (DHP) position not clear but some increase in funding expected Workshop held 15th October with colleagues from Housing, Children's Services, ASC, CVS, Advice services to develop cross services approach to benefit cap. Initial meetings held with DWP to plan for practicalities of implementation</p>					
Analysis of Party political policies to be presented to F&R DMT pre election	John Francis	100	30/04/2015	16/03/2015	30/04/2015
<p>Comments: completed, on feedback from F&R DMT paper re-worked post election and circulated to CMT</p>					
Keep relevant staff and stakeholders up to date with information as it becomes available	John Francis	75	05/12/2016	01/06/2015	05/12/2016
<p>Comments: Programme governance in place (Senior level, operational level, City Wide Partners level) in place and meetings happening as planned. Members briefed as appropriate through various channels. Key updates have included details and key impacts of July 2015 budget measures and CTR issues</p>					
<p>Information provided to relevant services (largely Housing and Children's services) about policy changes which are likely to have direct service impacts and create budget pressures.</p>					
Report data to programme board on the effectiveness of the caseworking support in place to help to most significantly affected by the Welfare Reforms. Eg trend analysis, financial impact	John Francis	50	31/03/2016	01/04/2015	31/03/2016
<p>Comments: Previous programme board cancelled, next PB due in December where progress will be reported</p>					
The library service is leading digital inclusion for the council. We are working with this project around digital support for claimants of universal credit, this will include an analysis of current staff skills. There is also a need to identify specific support for UC claimants and fund this through DWP funding streams.	John Francis	75	14/12/2015	01/04/2015	14/12/2015
<p>Comments: Project to commission digital support for people claiming UC underway</p>					
The programme maintains a detailed risk register which is reviewed quarterly.	John Francis	50	31/03/2016	01/04/2015	31/03/2016
<p>Comments: Next meeting due September 2015; previous meeting due Sept cancelled, next meeting due December 2015 and will be reviewed there.</p>					
Provide policy options and author reports to give members options on policy issues Eg Council Tax Reduction	John Francis	75	31/03/2016	01/04/2015	31/03/2016

<p>Comments: Council Tax Reduction Report due to P&R and Council in December - on track Welfare Reform Report due to NCE committee November - on track May have to review DHP policy later in the year which will require committee report CTR report on schedule; NCE report completed</p>	<p>John Francis</p>	<p>75</p>	<p>01/09/2016</p>	<p>04/05/2015</p>	<p>01/09/2016</p>
<p>Comments: Further meetings with DWP re rollout of Universal Credit (UC) in place. Council will commission some support services for people on UC (funded by DWP) Housing have own action plan re direct payments of rent Revenues and Benefits are required to undertake some business process changes Rollout of UC planned for 14th December 15, project underway to enable required business changes in revs and bens; and, project underway to commission budgetting and digital support for people on UC (funded by DWP, commissioned by council)</p>					

Background Information/Terms Used

Risk Scores are allocated by assessing potential Likelihood (L) x Impact (I):

LIKELIHOOD

- Almost Certain 5
- Likely 4
- Possible 3
- Unlikely 2
- Almost Impossible 1

IMPACT

- Catastrophic 5
- Major 4
- Moderate 3
- Minor 2
- Insignificant 1

Subject:	Ernst & Young - 2014/15 Annual Certification Report and December 2015 Progress Report		
Date of Meeting:	12 January 2016		
Report of:	Ernst & Young		
Contact Officer:	Name:	Paul King	Tel: 0118 928 1556 (Ext 41556)
	Email:	pking1@uk.ey.com	
Ward(s) affected:	All		

1. SUMMARY AND POLICY CONTEXT:

- 1.1 **2014/15 Annual Certification report** - This report relates to the audit of the Council's 2014/15 grant claims. The statement of responsibilities in respect of grant certification requires auditors to report the results of certification work to those charged with governance. This report communicates the results of our certification work to members.
- 1.2 **December 2015 Progress Report** - The purpose of this report is to provide the Audit & Standards Committee with an overview of the stage we have reached in your 2014/15 audit, and an outline of our timetable for the 2015/16 audit.

2. RECOMMENDATIONS:

- 2.1 To consider the 2014/15 Annual Certification report and ask questions as necessary.
- 2.2 To consider the December 2015 progress Report and ask questions as necessary.

Certification of claims and returns annual report 2014-15

Brighton & Hove City Council

December 2015

Ernst & Young LLP



Audit & Standards Committee
Brighton & Hove City Council
Kings House
Grand Avenue
Hove
BN3 2LS

9 December 2015

Ref: BHCC15ACR

Direct line: 0118 928 1556 x41556

Email: Pking1@uk.ey.com

Dear Members

Certification of claims and returns annual report 2014-15 for Brighton & Hove City Council

We are pleased to report on our certification work. This report summarises the results of our work on Brighton & Hove City Council's 2014-15 claims.

Scope of work

Local authorities claim large sums of public money in grants and subsidies from central government and other grant-paying bodies and must complete returns providing financial information to government departments. In some cases these grant-paying bodies and government departments require appropriately qualified auditors to certify the claims and returns submitted to them.

Under section 28 of the Audit Commission Act 1998, as transitionally saved, the Audit Commission made arrangements for certifying claims and returns in respect of the 2014-15 financial year. These arrangements required only the certification of the housing benefits subsidy claim. In certifying this we followed a methodology determined by the Department for Work and Pensions (DWP) and did not undertake an audit of the claim.

Statement of responsibilities

The Audit Commission's 'Statement of responsibilities of grant-paying bodies, authorities, the Audit Commission and appointed auditors in relation to claims and returns' (statement of responsibilities) applied to this work. It serves as the formal terms of engagement between ourselves as your appointed auditor and the Council as audited body.

This report is prepared in the context of the statement of responsibilities. It is addressed to those charged with governance and is prepared for the sole use of the Council. As appointed auditor we take no responsibility to any third party.

Summary

Section 1 of this report outlines the results of our 2014-15 certification work and highlights the significant issues.

We checked and certified the housing benefits subsidy claim with a total value of £164,430,769. We met the submission deadline. Our initial work identified a number of errors. As a result further testing needed to be undertaken by the Council and reviewed by us. We reported the results of our initial and additional testing to the DWP in a qualification letter. Details of the qualification matters are included in section 2.



Fees for certification work are summarised in section 2. The fees for 2014-15 were published by the Audit Commission on 27 March 2014 and are now available on the Public Sector Audit Appointments Ltd (PSAA's) website (www.psaa.co.uk)

We welcome the opportunity to discuss the contents of this report with you at the 12 January 2016 meeting of the Audit & Standards Committee.

Yours faithfully

Paul King
Executive Director
Ernst & Young LLP
Enc

Contents

1. Housing benefits subsidy claim.....	1
2. 2014-15 certification fees.....	2
3. Looking forward.....	3
4. Summary of recommendations.....	4

1. Housing benefits subsidy claim

Scope of work	Results
Value of claim presented for certification	£164,430,769
Amended/Not amended	Not amended
Qualification letter	Yes
Fee – 2014-15	£18,530
Fee – 2013-14	£21,276
Recommendations from 2013-14	Findings in 2014-15
None relevant to the housing benefits subsidy claim.	N/A

Local Government administers the Government's housing benefits scheme for tenants and can claim subsidies from the DWP towards the cost of benefits paid.

The certification guidance requires auditors to complete more extensive '40+' testing (extended testing) if initial testing identifies errors in the calculation of benefit or compilation of the claim. We found errors in all benefit types caused by the incorrect consideration of claimant income in the assessment of benefit entitlement and carried out three sets of extended testing covering: housing revenue account rent rebates; non-housing revenue account rent rebates; and rent allowances. We also identified one rent allowance case where ineligible service charges had been incorrectly included in the assessment of benefit entitlement. We carried out one set of extended testing to consider this issue.

The extended testing identified a number of further cases across all benefits types where similar errors had occurred in the consideration of claimant income in the assessment of benefit entitlement. We identified no further cases where ineligible service charges had been included in the assessment of benefit entitlement. We extrapolated the financial impact of our findings to determine the total financial impact of the errors on the claim. The total value of extrapolated errors was £124,160. No amendments were made to the claim. This was because, given the nature of the populations tested, it was unlikely that even significant additional work would result in amendments to the claim that would allow us to conclude it was fairly stated. We reported the extrapolated value of these errors to the DWP in a qualification letter. The DWP then decides whether to ask the Council to carry out further work to quantify the error or to claw back the benefit subsidy paid.

The errors found in the consideration of claimant income in the assessment of benefit entitlement were pervasive across benefit types, and are consistent with the previous period where the Council was required to undertake further work by the DWP. The Council should seek to improve its performance in this area.

2. 2014-15 certification fees

The Audit Commission determined a scale fee each year for the audit of claims and returns. For 2014-15, these scale fees were published by the Audit Commission on 27 March 2014 and are now available on the PSAA's website (www.psa.co.uk).

Claim or return	2013-14	2014-15	2014-15
	Actual fee £	Indicative fee £	Actual fee £
Housing benefits subsidy claim	21,276	18,530	18,530
Total			

3. Looking forward

From 1 April 2015, the duty to make arrangements for the certification of relevant claims and returns and to prescribe scales of fees for this work was delegated to PSAA by the Secretary of State for Communities and Local Government.

The Council's indicative certification fee for 2015-16 is £15,957. This was set by PSAA in April 2015, based on no changes to the work programme for 2015-16. PSAA reduced scale audit fees and indicative certification fees for most audited bodies by 25 per cent based on the fees applicable for 2013-14.

Details of individual indicative fees are available at the following web address:
<http://www.psa.co.uk/audit-and-certification-fees/201516-work-programme-and-scales-of-fees/individual-fees-for-local-government-bodies>

We must seek the agreement of PSAA to any proposed variations to these indicative certification fees. We will inform the Executive Director of Finance & Resources before seeking any such variation.

4. Summary of recommendations

This section highlights the recommendations from our work and the actions agreed.

Recommendation	Priority	Agreed action and comment	Deadline	Responsible officer
Seek to improve the control environment in the housing benefit department to reduce the level of error caused by the incorrect consideration of claimant income in the calculation of benefit entitlement.	Medium	Agreed	Ongoing	Graham Bourne, Head of Revenues and Benefits

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Brighton & Hove City Council Council

Audit & Standards Committee Progress Report

December 2015



Audit & Standards Committee Members
Brighton & Hove City Council
Kings House
Grand Avenue
Hove
BN3 2LS

11 December 2015

Dear Committee Member

Audit Progress Report

We are pleased to attach our Audit Progress Report.

The purpose of this report is to provide the Committee with an overview of our initial plans for the 2015/16 audit. This report is a key mechanism in ensuring that our audit is aligned with the Committee's service expectations.

Our audit is undertaken in accordance with the requirements of the Local Audit and Accountability Act 2014, the National Audit Office's 2015 Code of Audit Practice, the Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA) Ltd, auditing standards and other professional requirements.

We welcome the opportunity to discuss this report with you as well as understand whether there are other matters which you consider may influence our audit.

Yours faithfully

Paul King
Executive Director
For and behalf of Ernst & Young LLP

Contents

Audit Progress 2014/15	2
Audit Progress 2015/16	3
Timetable.....	5

In April 2015 Public Sector Audit Appointments Ltd (PSAA) issued ‘Statement of responsibilities of auditors and audited bodies 2015-16’. It is available from the Chief Executive of each audited body and via the PSAA website (www.psaa.co.uk)

The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The ‘Terms of Appointment from 1 April 2015’ issued by PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and statute, and covers matters of practice and procedure which are of a recurring nature.

This progress update is prepared in the context of the Statement of responsibilities. It is addressed to the Audit & Standards Committee, and is prepared for the sole use of the audited body. We, as appointed auditor, take no responsibility to any third party.

Our Complaints Procedure – If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, you may take the issue up with your usual partner or director contact. If you prefer an alternative route, please contact Steve Varley, our Managing Partner, 1 More London Place, London SE1 2AF. We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. Should you remain dissatisfied with any aspect of our service, you may of course take matters up with our professional institute. We can provide further information on how you may contact our professional institute..

Audit Progress 2014/15

2014/15

We are presenting our annual report on the certification of claims and returns to the Committee today. This completes our work in relation to the 2014/15 financial year.

Audit Progress 2015/16

Fee letter

We issued our 2015/16 fee letter to the Council on 13 April 2015.

Financial Statements

We adopt a risk based approach to the audit and, as part of our ongoing continuous planning, we will continue to meet key officers regularly to ensure the 2015/16 audit runs as smoothly as possible and to identify any risks and technical accounting issues that require our consideration at the earliest opportunity. .

Planning and interim visit

We are scheduled to complete our initial planning work, including the walkthrough of the key financial systems in December 2015/January 2016.

There are no significant matters arising from our initial planning meetings that we need to bring to your attention at this stage. We are continuing to liaise with officers on their plans in relation to the new requirements for transport infrastructure assets.

We will update the Committee when the testing of controls and early substantive testing has been completed in April 2016.

Internal Audit

Internal Audit is a key part of the Council's internal control environment that we review during our assessment process. This process helps us to assess the level of risk of material errors occurring in the financial statements and informs the level of testing that we are required to complete in support of the audit opinion. We consider Internal Audit's progress with their annual audit plan and the results of their testing of financial systems and, where it is appropriate to do so, we will undertake procedures to enable us to place reliance upon this testing.

Post statements visit

We are in the process of finalising the exact dates for our audit visit, and we will have early discussions on the working papers required in support of the audit.

Our detailed audit plan, setting out the risks we have identified and the work we will undertake in response, will be presented to the Audit & Standards Committee in March 2016.

We will continue to use our computer-based analytics tools to enable us to capture whole populations of your financial data, in particular payroll and journal entries.

We will also review and report to the National Audit Office, to the extent and in the form required by them, on your whole of government accounts return.

Value for money

The NAO has consulted on a draft Auditor Guidance Note (AGN) in respect of auditors' work on value for money (VFM) arrangements. The guidance has now been issued and sets out the proposed overall approach to work on VFM arrangements which apply to audits from 2015/16 onwards.

A copy of the final AGN, and the supporting information for local government bodies, can be viewed on the NAO website: <http://www.nao.org.uk/code-audit-practice/guidance-and-information-for-auditors/>.

We are required to reach our statutory conclusion on arrangements to secure value for money based on the overall evaluation criterion, supported by sub-criteria as set out below.

The overall criterion for 2015/16 is:

- ▶ In all significant respects, you had proper arrangements to ensure you took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people.

And the sub criteria are:

- ▶ informed decision making;
- ▶ sustainable resource deployment; and
- ▶ working with partners and other third parties.

We will carry out our initial risk assessment in early 2016 and report the risks we have identified, and associated work we will carry out, to the Audit & Standards Committee in March 2016.

Local appointment of auditors

The Department of Communities and Local Government (DCLG) has announced that it has decided not to extend the existing arrangements for external audit contracts beyond the end of 2017/18. From 2018/19 onwards, local authorities will be responsible for appointing their own auditors, and directly managing the resulting contract and the relationship.

Although the new approach to local audit does not come into play until 2018/19, bodies will need to start putting in place the mechanism required to deliver this. As part of the process, bodies will need to set up auditor panels to advise on the selection, appointment and removal of external auditors, and on maintaining an independent relationship with them. These will need to be in place by early 2017, with the procurement process taking place in spring 2017 and external auditors being appointed by December 2017.

Existing external audit arrangements will remain unchanged for the 2015/16, 2016/17 and 2017/18 years.

Other issues of interest

In addition to our formal reporting and deliverables we provide practical business insights and updates on regulatory matters through our Sector Briefings.

Timetable

We set out below a timetable showing the key stages of the audit, including the value for money work, and the deliverables we will provide to you through the 2015/16 Audit & Standards Committee cycle.

Audit phase	EY Timetable	Deliverable	Reported	Status
High level planning	Ongoing	Audit Fee Letter	Issued 13 April 2015	Completed
Risk assessment and setting of scope of audit	Dec 2015 - January 2016	Audit Plan	March 2016	In progress
Testing of routine processes and controls	Feb - March 2016	Progress Report	April 2016	
Year-end audit	August - September 2016	<p>Audit results report to those charged with governance</p> <p>Audit report (including our opinion on the financial statements and a conclusion on your arrangements for securing economy, efficiency and effectiveness in your use of resources)</p> <p>Whole of Government Accounts Submission to NAO based on their group audit instructions</p> <p>Audit Completion certificate</p>	August 2016	Work is planned to start during June 2016.

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Subject: Extract from the proceedings of the Policy & Resources Committee meeting held on the 3 December 2015 - Targeted Budget Management (TBM) 2015/16 Month 7

Date of Meeting: 12 January 2016

Report of: Head of Legal & Democratic Services & Monitoring Officer

Contact Officer: Name: **Ross Keatley** Tel: **29-1064**
E-mail: ross.keatley@brighton-hove.gov.uk

Wards Affected: All

FOR GENERAL RELEASE***Action Required of the Audit & Standards Committee:***

To receive the report referred from the Policy & Resources for information.

Recommendations:

That the Committee note the report.

BRIGHTON & HOVE CITY COUNCIL
POLICY & RESOURCES COMMITTEE

4.00pm 3 DECEMBER 2015

AUDITORIUM - THE BRIGHTELM CENTRE

MINUTES

Present: Councillors Morgan (Chair), Hamilton (Deputy Chair), G Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Janio, Meadows, Mitchell, A Norman, Sykes and Wealls

PART ONE

80 TARGETED BUDGET MANAGEMENT (TBM) 2015/16 MONTH 7

- 80.1 Before the Committee considered the item thanks were extended by the Committee to Interim Executive Director for Finance & Resources as 5 December was her last day with the organisation.
- 80.2 The Committee considered a report of the Interim Executive Director in relation to Targeted Budget Management (TBM) 2015/16 Month 5. The Targeted Budget Monitoring (TBM) report was a key component of the Council's overall performance monitoring and control framework. The report set out the projected forecast risk as at Month 7 (October) on the Council's revenue and capital budgets for the financial year 2015/16.
- 80.3 Councillor Sykes commented that the report was good news for the Council's budget position, but it was clear there was still some risk. He expressed concern that some of the measures were not sustainable in the long term such as holding positions vacant and delaying maintenance works to buildings. In response to questions from Councillor Sykes the Executive Director for Adult's Services explained that the Resource Allocation Budget was set up to work out indicative budget options as budgets and options changed to become more personalised – where someone had an indicative budget and the need could not be met it would be necessary to ensure there was budget to do this.
- 80.4 In response to concerns expressed by Councillor Wealls the Interim Executive Director for Finance & Resources explained that one off-decisions had been taken to help bring the budget position back into line this financial year and there was a crucial need to understand demand for future years.
- 80.5 Councillor Hamilton explained that it remained the position of the administration to keep the financial controls in place to ensure the budget came back into line by the end of the financial year.

80.6 The Chair then put the recommendations to the vote:

80.7 **RESOLVED** – That the Committee:

- 1) Note the forecast risk position for the General Fund, which indicates a budget pressure of £1.653m. This consists of £1.111m on council controlled budgets and £0.542m on the council's share of the NHS managed Section 75 services.
- 2) Note the forecast for the Housing Revenue Account (HRA), which is an underspend of £0.512m.
- 3) Note the forecast for the Dedicated Schools Grant which is an underspend of £0.035m.
- 4) Note the forecast outturn position on the capital programme.
- 5) Approve the capital programme variations and reprofiles in Appendix 3 and new capital schemes in Appendix 4.

Subject:	Targeted Budget Management (TBM) 2015/16 Month 7		
Date:	3 December 2015		
Report of:	Interim Executive Director of Finance & Resources		
Contact Officer:	Name:	Nigel Manvell	Tel: 29-3104
	Email:	Nigel.manvell@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1 SUMMARY AND POLICY CONTEXT:

- 1.1 The Targeted Budget Monitoring (TBM) report is a key component of the council's overall performance monitoring and control framework. This report sets out the projected forecast risk as at Month 7 (October) on the council's revenue and capital budgets for the financial year 2015/16.
- 1.2 The month 7 report is an important forecast as it accompanies the draft revenue budget proposals elsewhere on the agenda and indicates the likely financial position that will need to be taken into account when setting the 2016/17 budget.
- 1.3 Month 6 (September) indicated a substantial forecast risk of £4.751m after taking into account corrective action and the impact of increased recruitment and financial controls introduced in late August. The report to the Special Policy & Resources meeting on 4 November outlined 'improvement targets' across all directorates to bring the position back into balance. The forecast risk for month 7 (October) shows further improvement of nearly £3m bringing the forecast overspend risk down to £1.653m. This is a significant improvement and there must now be reasonable optimism that a break-even position can be achieved over the remaining 5 months. However, this can only be achieved if current strict recruitment and financial controls remain in force.
- 1.4 Financial performance is kept under review on a monthly basis by the Cross-Party Budget Review Group and the management and treatment of forecast risks is considered by the Audit & Standards Committee.

2 RECOMMENDATIONS:

It is recommended to:

- 2.1 Note the forecast risk position for the General Fund, which indicates a budget pressure of £1.653m. This consists of £1.111m on council controlled budgets and £0.542m on the council's share of the NHS managed Section 75 services.

- 2.2 Note the forecast for the Housing Revenue Account (HRA), which is an underspend of £0.512m.
- 2.3 Note the forecast for the Dedicated Schools Grant which is an underspend of £0.035m.
- 2.4 Note the forecast outturn position on the capital programme.
- 2.5 Approve the capital programme variations and reprofiles in Appendix 3 and new capital schemes in Appendix 4.

3 RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Targeted Budget Management (TBM) Reporting Framework

- 3.1 The TBM framework focuses on identifying and managing financial risks on a regular basis throughout the year. This is applied at all levels of the organisation from Budget Managers through to Policy & Resources Committee. Services monitor their TBM position on a monthly or quarterly basis depending on the size, complexity or risks apparent within a budget area. TBM therefore operates on a risk-based approach, paying particular attention to mitigation of growing cost pressures, demands or overspending together with more regular monitoring of high risk 'corporate critical' areas as detailed below.
- 3.2 The TBM report is normally split into 8 sections as follows:
 - i) General Fund Revenue Budget Performance
 - ii) Housing Revenue Account (HRA) Performance
 - iii) Dedicated Schools Grant (DSG) Performance
 - iv) NHS Controlled S75 Partnership Performance
 - v) Capital Investment Programme Performance
 - vi) Capital Programme Changes
 - vii) Implications for the Medium Term Financial Strategy (MTFS)
 - viii) Comments of the Director of Finance (statutory S151 officer)

General Fund Revenue Budget Performance (Appendix 1)

- 3.3 The table below shows the forecast outturn for Council controlled revenue budgets within the General Fund. More detailed explanation of the variances can be found in Appendix 1.

Forecast Variance Month 6 £'000		2015/16 Budget Month 7 £'000	Forecast Outturn Month 7 £'000	Forecast Variance Month 7 £'000	Forecast Variance Month 7 %
	Directorate				
2,722	Children's Services	55,327	57,681	2,354	4.3%
3,903	Adult Services	66,919	69,728	2,809	4.2%
290	Environment, Development & Housing	30,717	30,652	(65)	-0.2%
(147)	Assistant Chief Executive	15,379	14,890	(489)	-3.2%
(106)	Public Health (incl. Community Safety & Public Protection)	5,114	4,790	(324)	-6.3%
(1,237)	Finance, Resources & Law	29,512	27,510	(2,002)	-6.8%
5,425	Sub Total	202,968	205,251	2,283	1.1%
(1,166)	Corporate Budgets	6,653	5,481	(1,172)	17.6%
4,259	Total Council Controlled Budgets	209,621	210,732	1,111	0.5%

- 3.4 The General Fund includes general council services, corporate budgets and central support services. Corporate budgets include centrally held provisions and budgets (e.g. insurance). General Fund services are accounted for separately to the Housing Revenue Account (Council Housing). Although part of the General Fund, financial information for the Dedicated Schools Grant is shown separately as this is ring-fenced to education provision (i.e. Schools).

Corporate Critical Budgets

- 3.5 There are a number of budgets that carry potentially higher financial risks and therefore could have a material impact on the council's overall financial position. These are significant budgets where demand or activity is difficult to predict and where relatively small changes in demand can have significant implications for the council's budget strategy. These therefore undergo more frequent and detailed analysis.

Forecast Variance Month 6 £'000		2015/16 Budget Month 7 £'000	Forecast Outturn Month 7 £'000	Forecast Variance Month 7 £'000	Forecast Variance Month 7 %
	Corporate Critical				
1,077	Child Agency & In House	20,454	21,566	1,112	5.4%
2,325	Community Care	39,765	40,909	1,144	2.9%
(386)	Parking	(17,078)	(17,685)	(607)	-3.6%
642	Temporary Accommodation	992	1,704	712	71.8%
(400)	Housing Benefits	(637)	(1,034)	(397)	62.3%
3,258	Total Council Controlled	43,496	45,460	1,964	4.5%

Summary of the position at Month 7

The main pressures reported at Month 7 continue to be across Children's and Adults social care and homelessness (temporary accommodation) as follows:

- 3.6 **Children's Services:** There continues to be increased pressure on the children's social care system both within Brighton and Hove and nationally. This is as a consequence of increased awareness of child abuse and child sexual exploitation following a number of high profile cases nationally. The age range with the largest increase are adolescents who can present quite problematic needs. The national increase in 2013/14 was 10.8% in referrals and a 12.1% increase in children subject to a child protection plan and it is believed this has continued to increase nationally this year. In Brighton and Hove there have been increases as a consequence of introducing improvements in the referral process following the start of the Multi Agency Safeguarding Hub (MASH). The most recent data shows that between March 2015 and June 2015 there was an increase in the number of assessed children from 673 to 976.
- 3.7 Overall, this is causing a cost pressure of £1.514m on social services staffing and £0.862m on placement budgets (as above). Together with risks of £0.700m on savings plans, and other underspending of £0.722m, this explains the forecast risk of £2.354m at month 7.
- 3.8 **Adults Services:** The service is facing a significant financial challenge in 2015/16 in mitigating the pressures arising from the 2014/15 overspent position, and managing in year demand alongside implementing the Care Act, developing integration plans through the Better Care programme and completing the Learning Disabilities Review.
- 3.9 The forecast TBM risk at Month 7 of £3.351m has decreased over Month 6 in the light of improved forecasting through data quality checks and the release of one-off funding for the Care Act. The forecast risk includes the following main elements that are described in more detail in Appendix 1:
- Approved budget savings of £8.101m at Month 7 are projected to be £0.018m greater than the savings target but not without risks against the remaining anticipated savings of £1.906m.
 - In year spend has been reduced by £3.397m as a result of the action taken to manage demand for and cost of community care placements, improved forecasting through data quality checks, increased scrutiny and management controls and funding from health that has been agreed.
 - The in year forecast includes one-off funding identified for the Care Act implementation of £2.147m which has been applied to support the investment required to deliver the savings plans. There is a subsequent risk in 2016/17 on the savings as a result of the investment being non-recurrent.
 - There are unachieved savings from previous years of £3.184m across assessment and provider services for which mitigating recovery plans have been developed, including the Learning Disability Review, and at

Month 7 there is a significant risk against £2.794m of these savings (as reflected in the forecast overspend) .

- The main area of forecast risk concerns service pressures identified at the beginning of the year of £3.769m relating to increased complexity of need, increased cost of transitions cases, pressures on the provider services budget and Deprivation of Liberty cases. At month 7 there is a significant risk against £3.658m of the plans against these pressures (as reflected in the forecast overspend).

3.10 The funding of all packages is scrutinised for Value for Money, ensuring that eligible needs are met in the most cost-effective manner which will not always meet customer aspirations, this forms a key part of the savings implementation plan. Adult Services are also using benchmarking information to support the driving down of unit costs but are faced with increased complexity and growth. Through regional and other social care networks we have been looking at best practice in delivering cost effective services in order to influence future direction- this includes demand management and identifying opportunities through Housing.

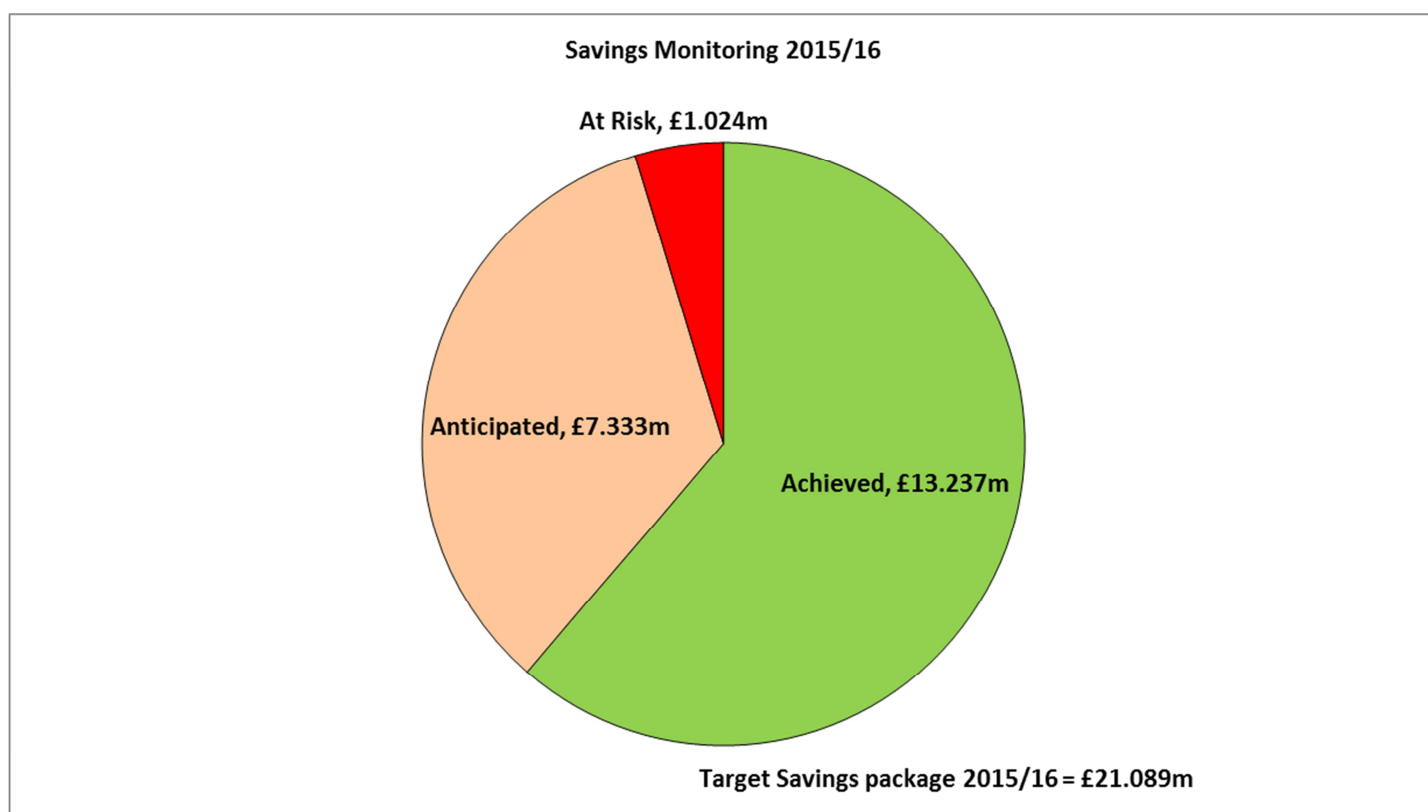
3.11 Where practical savings plans for 2016/17 are being brought forward to deliver a part year effect in the current financial year. This includes working towards the refinement of the Resource Allocation System (RAS) by increasing the savings against personal budgets by an additional 3% for the remainder of the financial year, making better use of community assets alongside a more personalised approach, and opportunities for service redesign within provider services.

3.12 As described there are significant risks still present within the forecast. In addition, with winter approaching there is potential for a spike in demand and it may be necessary to invest in the relatively fragile care market to ensure that care needs can be met.

3.13 **Housing Services and Temporary Accommodation:** There is a £0.692m pressure mainly relating to the ongoing need to spot-purchase expensive bed and breakfast accommodation which has been made worse by the need to hand back 54 leased properties so far this year. This reflects growing homelessness and the difficulty of securing affordable private rented homes in the city to meet the council's statutory housing obligations in a period of rapidly rising house and private rent prices. With the new framework in place, more cost effective leased properties are being procured but these are not keeping pace with demand. Therefore the need to spot purchase nightly temporary accommodation has not reduced as originally forecast. The review of properties with Adults and Children's services clients has not resulted in any properties being released. Although 100 new leased properties have just been procured it will take some months before these become available. Other landlords with fewer properties are also being approached with a view to expanding the leased property portfolio. Housing services (General Fund) also have a number of undeliverable savings (£0.150) which has contributed to the Housing overspend position.

Monitoring Savings

- 3.14 The savings package approved by full Council to support the revenue budget position in 2015/16 was £21.089m (£24.852m in a full year). This is a very large savings package and follows 4 years of substantial packages totalling nearly £77m. Achievement of savings programmes and actions in 2015/16 is closely monitored to ensure satisfactory progress and avoid adding to financial pressures in future years through non-achievement.
- 3.15 Appendix 1 provides details of savings in each directorate and indicates for each saving what has been achieved, is anticipated to be achieved, or is at risk. Appendix 2 summarises the position across all directorates and presents the entire savings programme. The graph below provides a summary of the position as at Month 7. This shows that delivery of the savings programme for 2015/16 is substantially on track with only a small number of items at risk. Mitigation of these risks is included in the development of services' financial recovery actions.



(Note: Achieved savings can include over-achievements)

Housing Revenue Account Performance (Appendix 1)

- 3.16 The Housing Revenue Account is a separate ring-fenced account which covers income and expenditure related to the management and operation of the council's housing stock. Expenditure is generally funded by Council Tenants' rents. The current forecast is an underspend of £0.512m and more details are provided in Appendix 1.

Dedicated Schools Grant Performance (Appendix 1)

3.17 The Dedicated Schools Grant (DSG) is a ring-fenced grant which can only be used to fund expenditure on the schools budget. The schools budget includes elements for a range of services provided on an authority-wide basis including Early Years education provided by the Private, Voluntary and Independent (PVI) sector, and the Individual Schools Budget (ISB) which is divided into a budget share for each maintained school. The current forecast is an underspend of £0.035m and more details are provided in Appendix 1. Under the Schools Finance Regulations any underspend must be carried forward to support the schools budget in future years.

NHS Managed S75 Partnership Performance (Appendix 1)

3.18 The NHS Trust-managed Section 75 Services represent those services for which local NHS Trusts act as the Host Provider under Section 75 Agreements. Services are managed by Sussex Partnership Foundation Trust (SPFT) and Sussex Community NHS Trust (SCT) and include health and social care services for Adult Mental Health, Older People Mental Health, Substance Misuse, AIDS/HIV, Intermediate Care and Community Equipment.

3.19 These partnerships are subject to separate annual risk-sharing arrangements and the monitoring of financial performance is the responsibility of the respective host NHS Trust provider. Risk-sharing arrangements can result in financial implications for the council should a partnership be underspent or overspent at year-end and hence the performance of the partnerships is reported as a memorandum item under TBM throughout the year.

Forecast Variance Month 6 £'000		2015/16 Budget Month 7 £'000	Forecast Outturn Month7 £'000	Forecast Variance Month 7 £'000	Forecast Variance Month 7 %
493	Section 75 NHS Trust managed S75 Services	11,555	12,097	542	4.7%

Capital Programme Performance and Changes

3.20 The table below provides a summary of capital programme performance by Directorate and shows that there is an overall overspend of £1.047m forecast at this stage.

Forecast Variance Month 6 £'000		2015/16 Budget Month 7 £'000	Forecast Outturn Month 7 £'000	Forecast Variance Month 7 £'000	Forecast Variance Month 7 %
	Capital Budgets				
0	Children's Services	25,801	25,801	0	0.0%
0	Adult Services	474	474	0	0.0%
572	Environment, Development & Housing - General Fund	40,342	40,914	572	1.4%
444	Environment, Development & Housing - HRA	36,957	37,451	494	1.3%
(19)	Assistant Chief Executive	4,084	4,065	(19)	-0.5%
0	Public Health	423	423	0	0.0%
0	Finance, Resources & Law	20,152	20,152	0	0.0%
0	Corporate Services	25	25	0	0.0%
997	Total Capital	128,258	129,305	1,047	0.8%

3.21 Appendix 3 shows the changes to the budget and Appendix 4 provides details of new schemes for 2015/16 to be added to the capital programme which are included in the budget figures above. Policy & Resources Committee's approval for these changes is required under the Council's Financial Regulations. The following table shows the movement in the capital budget since approval in the Month 5 report to the October Policy & Resources Committee.

Capital Budget Summary	2015/16 Budget £'000
Approved budget as at Month 5	137,697
Reported at other Policy & Resources committees since Month 5	200
New schemes to be approved in this report (see Appendix 4)	592
Variations (to be approved – see Appendix 3)	329
Reprofiles (to be approved - see Appendix 3)	(9,911)
Slippage (to be approved – see Appendix 3)	(649)
Total Capital Budget	128,258

3.22 Appendix 3 also details any slippage into next year. In total, project managers have forecast that £0.649m of the capital budget may slip into the next financial year and this equates to 0.51% of the budget.

Implications for the Medium Term Financial Strategy (MTFS)

3.23 The council's MTFS sets out resource assumptions and projections over a longer term. It is periodically updated including a major annual update which is included in the annual revenue budget report to Policy & Resources

Committee and Full Council. This section highlights any potential implications for the current MTFs arising from in-year TBM monitoring above and details any changes to financial risks together with any impact on associated risk provisions, reserves and contingencies. Details of Capital Receipts and Collection Fund performance are also given below because of their potential impact on future resources.

- 3.24 The council has set aside risk provisions to mitigate non-achievement of savings or other unexpected pressures should the need arise. Risk provisions currently held are shown in the Corporate Budgets section of Appendix 1. Risk provisions will continue to be held back as every effort should be made to achieve financial balance through in-year savings, mitigating actions and controls, and recovery plans.

Capital Receipts Performance

- 3.25 Capital receipts are used to support the capital programme. Any changes to the level of receipts during the year will impact on future years' capital programmes and may impact on the level of future investment for corporate funds and projects such as the Strategic Investment Fund, Asset Management Fund, ICT Fund and the Workstyles VFM projects. The planned profile of capital receipts for 2015/16, as at Month 7, is £9.770m against which there have been receipts of £9.187m in relation to the disposal of Eastbrook Farm allotments, the Buckingham Road sites, 2 Boundary Road, the appropriation of the Whitehawk library site, the disposal of, a number of minor lease extensions at the Marina and the repayment of improvement grants.
- 3.26 The forecast for the 'right to buy sales' in 2015/16 (after allowable costs, repayment of housing debt and forecast receipt to central government) is that an estimated 50 homes will be sold with a maximum useable receipt of £0.480m to fund the corporate capital programme and net retained receipt of £2.387m available to re-invest in replacement homes. To date 45 homes have been sold in 2015/16.
- 3.27 A total of £2.275m receipts from the housing Local Delivery Vehicle (LDV) have been received to date. A further tranche of circa £1.400m is expected toward the end of the financial year. The net receipts are ringfenced to support investment in council owned homes.

Collection Fund Performance

- 3.28 The collection fund is a separate account for transactions in relation to council tax and business rates. Any deficit or surplus forecast on the collection fund relating to council tax is distributed between the council, Sussex Police and East Sussex Fire Authority whereas any forecast deficit or surplus relating to business rates is shared between, the council, East Sussex Fire Authority and the government.
- 3.29 The council tax outturn for 2014/15 showed an improved position which means there is a brought forward collection fund surplus in 2015/16 of £0.400m, of which the council's share is £0.350m. The in-year monitoring for

2015/16 indicates a surplus of £1.737m, of which the council's share is £1.475m. The main factors within this surplus are lower than forecast Council Tax Reduction (CTR) discounts as a result of reducing caseload (£0.900m), lower student exemptions awards (£0.300m), higher than forecast property numbers (£0.500m), band increases (£0.250m) and higher than forecast discounts of £0.200m for Severely Mentally Impaired (SMI).

3.30 The business rates outturn for 2014/15 showed an improved position of £0.130m for the council. The in-year monitoring for 2015/16 indicates a deficit of £2.007m of which the council's 49% share is £0.983m. This change is mainly caused by the recognition of a greater impact of appeals than previously estimated which requires greater provisions for backdated appeals as well as reducing the anticipated resource from business rates in future years. For example, there has been a national change to the rating of purpose built doctors' surgeries which has reduced rateable value on average by 65%, resulting in significant reductions in the ongoing business rates as well as a one-off payment for the backdated impact. Another example is in relation to a Valuation Office amendment, outside of the appeals scheme, which significantly reduced the rateable value of a property by changing the use from 'shop and premises' to 'retail warehouse and premises' and as this was backdated it reduced the ongoing liability and resulted in a one-off refund.

3.31 In addition to these gross liability changes there are also higher than anticipated awards of small business rates relief, mandatory charity relief and empty reliefs. Business rates still remain a difficult area to predict with certainty and the actual impact from the large number of appeals raised at year-end will not be known until all appeals have been actioned.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS:

4.1 The forecast outturn position on council controlled budgets is an overspend of £1.111m. In addition, the council's share of the forecast overspend on NHS managed Section 75 services is £0.542m. Any overspend at the year end, after risk provisions, would need to be funded from general reserves which would then need to be replenished to ensure that the working balance did not remain below £9.000m. Any underspend would release one off resources that can be used to aid budget planning for 2016/17.

5 COMMUNITY ENGAGEMENT AND CONSULTATION

5.1 No specific consultation has been undertaken in relation to this report.

6 CONCLUSION AND COMMENTS OF THE DIRECTOR OF FINANCE (S151 OFFICER)

6.1 The position at month 7 is a significant improvement that puts the authority within sight of achieving financial balance over the remaining 5 months. However, there are still underlying pressures and significant risk areas within the forecast and therefore strict recruitment and financial controls must remain in place to maintain a strong grip on financial performance. This will also maintain the focus on containing costs and demands to avoid putting the

revenue budget under immediate pressure at the start of the next financial year.

7 FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The financial implications are covered in the main body of the report.

Finance Officer Consulted: Jeff Coates *Date: 16/11/2015*

Legal Implications:

- 7.2 Decisions taken in relation to the budget must enable the council to observe its legal duty to achieve best value by securing continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The council must also comply with its general fiduciary duties to its council tax payers by acting with financial prudence, and bear in mind the reserve powers of the Secretary of State under the Local Government Act 1999 to limit council tax & precepts.

Lawyer Consulted: Elizabeth Culbert *Date: 17/11/2015*

Equalities Implications:

- 7.3 There are no direct equalities implications arising from this report.

Sustainability Implications:

- 7.4 There are no direct sustainability implications arising from this report.

Risk and Opportunity Management Implications:

- 7.5 The Council's revenue budget and Medium Term Financial Strategy contain risk provisions to accommodate emergency spending, even out cash flow movements and/or meet exceptional items. The council maintains a recommended minimum working balance of £9.000m to mitigate these risks. The council also maintains other general and earmarked reserves and contingencies to cover specific project or contractual risks and commitments.

SUPPORTING DOCUMENTATION

Appendices:

1. Revenue Budget Performance
2. Summary of 2015/16 Savings Progress
3. Capital Programme Performance
4. New Capital Schemes

Documents in Members' Rooms:

None.

Background Documents

None.

Subject: Extract from the proceedings of the Policy & Resources Committee meeting held on the 3 December 2015 - Treasury Management Policy Statement 2015/16 (including Annual Investment Strategy 2015/16) – Mid Year Review

Date of Meeting: 12 January 2016

Report of: Head of Legal & Democratic Services & Monitoring Officer

Contact Officer: Name: **Ross Keatley** Tel: **29-1064**
E-mail: ross.keatley@brighton-hove.gov.uk

Wards Affected: All

FOR GENERAL RELEASE***Action Required of the Audit & Standards Committee:***

To receive the report referred from the Policy & Resources for information.

Recommendations:

That the Committee note the report.

BRIGHTON & HOVE CITY COUNCIL

POLICY & RESOURCES COMMITTEE

4.00pm 3 DECEMBER 2015

AUDITORIUM - THE BRIGHTELM CENTRE

MINUTES

Present: Councillors Morgan (Chair), Hamilton (Deputy Chair), G Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Janio, Meadows, Mitchell, A Norman, Sykes and Wealls

PART ONE

83 TREASURY MANAGEMENT POLICY STATEMENT 2015/16 (INCLUDING ANNUAL INVESTMENT STRATEGY 2015/16) – MID YEAR REVIEW

83.1 RESOLVED:

- 1) That Policy & Resources Committee endorses the key actions taken during the first half of 2015/16 to meet the treasury management policy statement and practices (including the investment strategy) as set out in this report.
- 2) That Policy & Resources Committee notes that the approved maximum indicator for investment risk of 0.05% has been adhered to and the authorised limit and operational boundary have not been exceeded in the first half of the year.

Subject:	Treasury Management Policy Statement 2015/16 (including Annual Investment Strategy 2015/16) – Mid Year Review		
Date of Meeting:	3 December 2015		
Report of:	Interim Executive Director of Finance & Resources		
Contact Officer:	Name:	James Hengeveld	Tel: 29-1242
	Email:	james.hengeveld@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The 2015/16 Treasury Management Policy Statement (TMPS), practices and schedules were approved by Policy & Resources on 19 March 2015. The TMPS sets out the role of Treasury Management, whilst the practices and schedules set out the annual targets and methods by which these targets will be met.
- 1.2 The TMPS includes the Annual Investment Strategy (AIS) which sets out the key parameters for investing council cash funds and was approved by Full Council on 26 March 2015.
- 1.3 It is recommended good and proper practice that Members receive half yearly reports and review and endorse treasury management actions during the year. The purpose of this report is to advise members of the actions taken in the first half of 2015/16.

2. RECOMMENDATIONS:

- 2.1 That Policy & Resources Committee endorses the key actions taken during the first half of 2015/16 to meet the treasury management policy statement and practices (including the investment strategy) as set out in this report.
- 2.2 That Policy & Resources Committee notes that the approved maximum indicator for investment risk of 0.05% has been adhered to and the authorised limit and operational boundary have not been exceeded in the first half of the year.

3. CONTEXT/ BACKGROUND INFORMATION

Overview of Markets

- 3.1 The UK economy had seen the strongest growth rates of the G7 in 2013 and 2014 at 2.2% and 2.9% respectively. However, quarter 1 of 2015 was weaker at +0.4% though there was a rebound in quarter 2 to +0.7%. Growth slowed again in Q3 to 0.5%. The weaker growth was as a result of the biggest fall in construction output in three years, and a further contraction of the manufacturing output, which has

therefore seen the sector contracting for three consecutive quarters. The services sector grew strongly in the quarter, indicating that economic recovery is heavily reliant on this sector, as opposed to the broad-based approach desired by the Bank of England Monetary Policy Committee. Looking ahead, the increases in consumer credit, which demonstrates strong consumer demand, should offset a weakening global outlook. This would suggest that the dip in growth in Q3 is not indicative of a start toward lower growth.

- 3.2 CPI Inflation dipped back into negative territory in September 2015 for the second time this year. The drop in the price of fuel played a significant part in this, while the recent fall in the price of clothing also kept core prices (which exclude certain more volatile elements such as energy and food costs) subdued. With the Monetary Policy Committee (MPC) not expecting a pickup in inflation until the turn of the year, a temporary bout of deflation is seen as beneficial for the UK economy; households are seeing a boost in their spending power, with the economy likely to benefit in terms of growth.
- 3.3 There has been a weakness in some global economic announcements in recent weeks. Those from China, Japan and the Eurozone are not unexpected but those out of the US and, to a lesser extent, the UK are raising doubts about the prospects of an early interest rate rise. This data has persuaded the Federal Reserve not to raise rates at this time. This leaves markets and investors guessing about when conditions will be right for the central bank to act. The UK is highly unlikely to raise rates ahead of the US, and with UK data starting to lose some of its strength, the potency of economic recovery is starting to be questioned by the markets. As a consequence, the expectations of a UK rate increase have been pushed deeper into 2016, with some analysts now suggesting that it could even be 2017 before there is any Bank of England action.
- 3.4 The delay in any increase in the Bank Rate is likely to suppress the council's income from its investment portfolio. However, long term borrowing rates are also suppressed in the current market, and therefore borrowing requirements for capital projects will be at a lower cost than earlier projections. However, as a result of the differential between investment rates and borrowing rates, any new borrowing that is entered into will generate a cost of carry until investment rates improve. A delay in rate increase could therefore impact on the cost of undertaking the potential borrowing activity detailed in paragraphs 3.16 to 3.19. Therefore, interest rate forecasts will be kept under close scrutiny and reviewed before any new borrowing is entered into.

Treasury Management Strategy

- 3.5 A summary of the action taken in the 6 months to September 2015 is provided in Appendix 1 to this report and further information on borrowing and investment performance is shown in the September 2015 Bulletin at Appendix 2. The main points are:

- The council entered into £12.010m of new borrowing arrangements during the period to support the construction of the i360;
- The highest risk indicator during the period was 0.036% which is below the maximum set of 0.05%;
- The return on investments by the in-house treasury team and cash manager has exceeded the target rates.

- The two borrowing limits approved by full Council have not been exceeded.

3.6 Treasury management activity in the half-year has focused on a short-term horizon as summarised in the table below:

	Amount invested 1 Apr 2015 to 30 Sep 2015			
	Fixed deposits	Money market funds	Total	
Up to 1 week	-	£220.1m	£220.1m	80%
Between 1 week & 1 month	£5.0m	-	£5.0m	2%
Between 1 month & 3 months	£19.5m	-	£19.5m	7%
Over 3 months	£29.0m	-	£29.0m	11%
	£53.5m	£220.1m	£273.6m	100%

Summary of Treasury Activity April to September 2015

3.7 The following table summarises the treasury activity in the half year to September 2015 compared to the corresponding period in the previous year.

April to September	2014/15	2015/16
Long-term borrowing repaid	-	£0.2m
Short-term borrowing repaid	-	-
Investments made	£303.3m	£273.6m
Investments maturing	(£296.6m)	(£255.3m)

3.8 The Financing Costs budget reported a £0.133m underspend at Month 7. This is mainly as a result of cash balances being higher than expected, which has negated the need for short term borrowing to help fund cash flow. The saving is therefore a combination of higher than expected interest on cash balances and lower short term borrowing costs.

3.9 The following table summarises how the day-to-day cash flows in the first half-year have been funded compared to the same period in the previous year.

April to September	2014/15	2015/16
Cash flow surplus – general	£11.3m	£8.0m
Net cash flow surplus	£11.3m	£8.0m
Represented by:		
Increase in long-term borrowing	-	£11.8m
Decrease in short-term borrowing	-	(£2.0m)
Increase in investments	(£6.7m)	(£18.3m)
(Increase)/decrease in bank balance	(£4.6m)	£0.5m

Security of Investments

3.10 A summary of investments made by the in-house treasury team and outstanding as at 30 September 2015 in the table below shows that investments continue to be held in

good quality, short term instruments. The funds invested in BBB institutions included in the table below are invested in the part-nationalised banks which are backed by a Government guarantee in line with the AIS.

'AAA' rated money market funds	£12.84m	21%
'AA' rated institutions	£0.00m	0%
'A' rated institutions	£48.00m	76%
'BBB' rated institutions	£2.01m	3%
Total	£62.85m	100%
Period – less than one week	£15.84m	25%
Period – between one week and one month	£5.50m	9%
Period – between one month and three months	£13.50m	21%
Period – between three months and 1 year	£28.01m	45%
Total	£62.85m	100%

Risk

- 3.11 As part of the investment strategy for 2015/16 the Council agreed a maximum risk benchmark of 0.05% i.e. there is a 99.95% probability that the council will receive its investments back. The benchmark is a simple target that measures the risk based on the financial standing of counterparties and length of each investment based on historic default rates. The actual risk indicator has varied between 0.020% and 0.036% between April 2015 and September 2015. It should be remembered however that the benchmark is an average risk of default measure, and does not constitute an expectation of loss against a particular investment.
- 3.12 In January 2015, Internal Audit undertook an audit of the treasury management function. The audit concluded that “reasonable assurance” is provided on the effectiveness of the control framework operating and mitigating risks for treasury management. The audit recommended an improvement in the control environment to ensure greater independence in the reconciliation of treasury activity. These arrangements have subsequently been put in place.

Performance

- 3.13 The following table summarises the performance on investments compared with the budgeted position and the benchmark rate.

(*) <i>Annualised rates</i>	In-house investments		Cash manager investments	
	Average balance	Average rate (*)	Average balance	Average rate (*)
Budget 2015/16– full year*	£57.0m	0.60%	£25.5m	0.38%
Actual to end Sept 2015	£77.5m	0.66%	£25.6m	0.38%
Benchmark rate (i.e. 7 day LIBID Rate) to end Sept 2015	-	0.36%	-	0.38%

**please note this is an average for the full year –profile of balances are higher in the first half of the year and are expected to reduce over the financial year.*

- 3.14 The cash manager fund has maintained its AAA rating during the period, so the authority's investment in this fund has remained very secure. The performance of the fund has declined over the last 6 months. Officers are closely monitoring the performance of the fund and, alongside treasury advisors, officers are looking at alternative solutions for investing this cash to ensure the council can optimise its return without compromising the security of the investment.
- 3.15 The council is now part of a regional benchmark club which shares investment strategies and performance on a confidential basis. The latest benchmarking data demonstrates that the council's investment portfolio is performing in line with expectations.

Borrowing Strategy

- 3.16 Over recent years the council has been following a strategy of repaying debt and funding its borrowing requirement through utilising cash balances which were supporting the council's reserves and balances. This is a prudent strategy which has allowed the council to minimise the cost of carry on its borrowing, and reduce its counterparty exposure risk. The approved 2015/16 TMPS presented to Policy & Resources Committee on 19 March 2015 included a change in approach as a result of a number of contributing factors; an expectation of increases in interest rates next year, the expected reduction of certain reserves over the next 4 years, and the forward borrowing opportunities expected in the local authority market. As a result, the 2015/16 budget included provision to enter into some short term borrowing before the first phase of forward borrowing was expected to be drawn down during 2016/17.
- 3.17 The forward borrowing opportunities have not yet become available and it is appearing increasingly unlikely that any products will become available. Consequently it has been necessary for officers to explore alternative sources of borrowing in order to maintain appropriate levels of liquidity over the next 4 years, and to ensure the council is mitigating its exposure to rising interest rates.
- 3.18 PWLB rates have been volatile in the last year, and have reached historic lows in the last 6 months. Following analysis of borrowing costs and interest rate forecasts, in consultation with the council's Treasury Advisors, "trigger" rates have been determined to potentially undertake two tranches of PWLB borrowing in 2015/16. The PWLB rates are published twice a day and officers are pro-actively monitoring these rates; if the rates reduce to or below the first trigger rate set, £5.000m borrowing will be undertaken and a subsequent £5.000m will be undertaken if a second trigger rate is met subject to a reassessment of interest rate forecasts as outlined in paragraph 3.4.
- 3.19 This will allow the council to take advantage of the dips in rates during this volatile period. This borrowing will replace the short term borrowing budgeted for in 2015/16 and the £0.133m Financing Costs underspend forecast assumes both tranches of borrowing will be undertaken. If trigger rates are not hit, and this borrowing is not undertaken in 2015/16, there will be a potential further £0.075m saving against the 2015/16 budget, but with the potential impact of increasing costs in future years.

Treasury Advisors

- 3.20 The council's current contract with Capita Asset Services expires on 30 November 2015. Procurement for a new 3 year treasury advisor contract is underway via a framework agreement for Professional Services.

Minimum Revenue Provision Review

- 3.21 The council is required to set aside a provision each year towards repaying its debt – called Minimum Revenue Provision (or MRP). Each year full Council agree the MRP statement as part of the General Fund Revenue Budget and Council Tax report.
- 3.22 The council's current level of provision is around £8-9m per year. A one-off piece of work has been commissioned to analyse the council's historical application of MRP and outline revised MRP Policy options to allow the council to change the profile of its MRP.
- 3.23 The review will result in a robust revised MRP Policy which will be presented with the budget report to Budget Policy & Resources Committee on 11 February 2015. The revised policy is expected to result in a smoother profile of MRP, which will in turn free up revenue budget in the early years. Expected savings are difficult to quantify until the review is completed, but experience from other local authorities of a similar size who have already made a change in MRP policy implies minimum potential savings of £0.5m.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 This report sets out action taken in the 6 months to September 2015. Treasury management actions have been carried out within the parameters of the AIS, TMPS and Prudential Indicators. Therefore, no alternative options have been considered.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The council's external treasury advisors have been consulted over the content of this report. No other consultation was undertaken.

6. CONCLUSION

- 6.1 Treasury management is governed by a code that is recognised as "best and proper practice" under the Local Government Act 2003. The Code requires a minimum of two reports per year, one of which is required to review the previous year's performance. This report fulfils this requirement.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The financial implications of treasury management activity are reflected in the financing costs budget set out in paragraph 3.8.

Finance Officer Consulted: James Hengeveld

Date: 05/11/15

Legal Implications:

- 7.2 The TMPS and associated actions are exercised under powers given to the council by Part 1 of the Local Government Act 2003 which includes the power for a local authority to invest for the purposes of the prudent management of its financial affairs (section 12).

Lawyer Consulted: Elizabeth Culbert

Date: 09/11/15

Equalities, Sustainability and other significant implications:

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

SUPPORTING DOCUMENTATION

Appendices:

1. A summary of the action taken in the period April 2015 to September 2015
2. September 2015 Treasury Management Bulletin

Documents in Members' Rooms

None

Background Documents

1. Part I of the Local Government Act 2003 and associated regulations
2. The Treasury Management Policy Statement and associated schedules 2015/16 approved by Policy & Resources Committee on 19 March 2015
3. The Annual Investment Strategy 2015/16 approved by full Council on 26 March 2015
4. Treasury Management Policy Statement 2015/16 (including Annual Investment Strategy 2015/16) – End of year Review approved by Policy & Resources Committee on 9 July 2015
5. Papers held within Finance
6. The Prudential Code for Capital Finance in Local Authorities published by CIPFA 2011

Summary of action taken in the period April to September 2015

Treasury Management Strategy

New long term borrowing

Debt maturity

£0.201m of long-term borrowing was repaid in the first 6 months.

Lender options, where the lender has the exclusive option to request an increase in the loan interest rate and the council has the right to reject the higher rate and repay instead, on 4 loans were due in the 6 month period but no option was exercised.

Debt restructuring

Opportunities to restructure the debt portfolio are severely restricted under changes introduced by the Public Works Loan Board in October 2007. No restructuring was undertaken in the first 6 months.

Weighted average maturity profile

The changes in the long-term debt portfolio have resulted in the weighted average maturity period of the portfolio decreasing from 30.2 years to 29.0 years. This is a combination of a natural decrease of 6 months and the maturity profile of new debt being shorter than the portfolio average.

Capital financing requirement

The prudential code introduces a number of indicators that compare borrowing with the capital financing requirement (CFR) – the CFR being amount of capital investment met from borrowing that is outstanding. Table 1 compares the CFR with actual borrowing.

Table 1 – Capital financing requirement compared to debt outstanding

	1 April 2015	30 Sept 2015	Movement in period
Capital financing requirement (CFR)	£334.4m		
Less PFI element	(£55.8m)		
Net CFR	£278.6m	(*) £292.3m	£13.7m
Long-term debt	£213.1m	(**) £224.9m	£11.8m
O/s debt to CFR (%)	76.5%	67.4%	(9.1%)

(*) projected 31 March 2016

(**) As at 30 Sept 2015, but expected to be £240.2m by 31st March 2016

Traditionally, the level of borrowing outstanding is at or near the maximum permitted in order to reduce the risk that demand for capital investment (and hence resources) falls in years when long-term interest rates are high (i.e. interest rate risk). However, given the continued volatility and uncertainty within the financial markets, the council has maintained the strategy to keep borrowing at much lower levels (as investments are used to repay debt). Currently outstanding debt represents 67.4% of the capital financing requirement.

Cash flow debt / investments

The TMPS states that “The council will maintain an investment portfolio that is

consistent with its long term funding requirements, spending plans and cash flow movements.”

An analysis of the cash flows reveals a net surplus for the first 6 months of £8.0m. The surplus has been used to increase investments (Table 2).

Table 2 – Cash flow April to September 2015

	Payments	Receipts	Net cash
Total for period	£484.7m	£476.7m	+£8.0m
Increase in investments			+£8.0m

Prudential indicators

Budget Council approved a series of prudential indicators for 2015/16 at its meeting on 3 March 2015. Taken together, the indicators demonstrate that the council’s capital investment plans are affordable, prudent and sustainable.

In terms of treasury management the main indicators are the ‘authorised limit’ and ‘operational boundary’. The authorised limit is the maximum level of borrowing that can be outstanding at any one time. The limit is a statutory requirement as set out in the Local Government Act 2003. The limit includes ‘headroom’ for unexpected borrowing resulting from adverse cash flow.

The operational boundary represents the level of borrowing needed to meet the capital investment plans approved by the council. Effectively it is the authorised limit minus the headroom and is used as an in-year monitoring indicator to measure actual borrowing requirements against budgeted forecasts.

Table 3 compares both indicators with the maximum debt outstanding in the first half year.

Table 3 – Comparison of outstanding debt with Authorised Limit and Operational Boundary 2015/16

	Authorised limit	Operational boundary
Indicator set	£376.0m	£365.0m
Less PFI element	-£57.0m	-£57.0m
Indicator less PFI element	£319.0m	£308.0m
Maximum amount o/s in first half of year	£224.9m	£224.9m
Variance	(*) £94.1m	£83.1m

(*) cannot be less than zero

Performance

The series of charts in Appendix 2 provide a summary of the performance for both the debt and investment portfolios.

The graphs below show the monthly averages of borrowing and investments outstanding, monthly cashflows and the average monthly cost/return on debt/investments, over a thirteen month period.

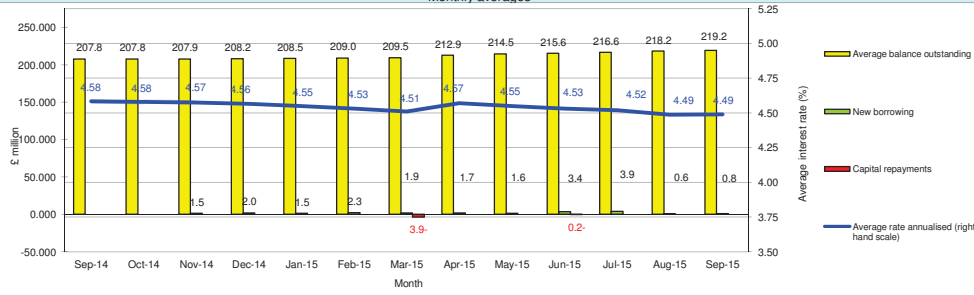
Graph 1

This graph shows the average monthly balance outstanding on long term debt, together with the average cost.

It also shows the amount of new long term debt raised and the repayment of long term borrowing.

£0.8m of new debt was raised in Sept 2015. This was part of the £360 Loan.

Graph 1 Long Term Debt Outstanding
Monthly averages



Graph 2

This graph shows the average monthly balance outstanding for:

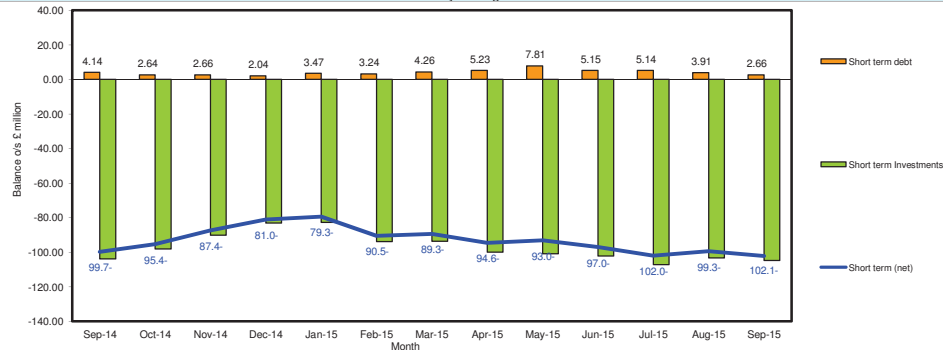
- short term debt

- short term investments

The graph also shows the net monthly cash position, excluding long term borrowing

Short term debt includes the monies held on behalf of South Downs National Park Authority.

Graph 2 - Short Term Borrowing / Investments (all)
Monthly Averages

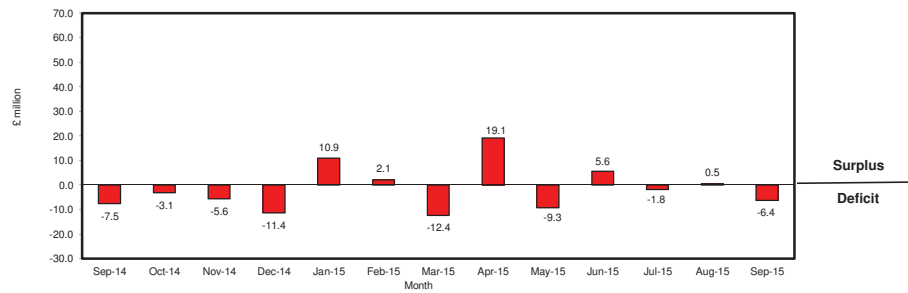


Graph 3

This graph shows the net monthly cash flow position, excluding movement in borrowing and investments.

Cashflow movements have resulted in a deficit for the month.

Graph 3 - Monthly Cash Flows



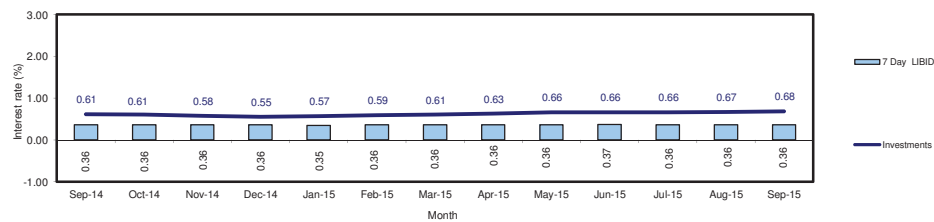
Graph 4a

This graph compares the average return on short term investments with the average 7 Day LIBID rate.

The target is for the return on short term investments to exceed the 7 Day rate by 5% in a 12 month period

In house investments continue to meet the benchmark target rate of return.

Graph 4a - Short Term Investments -v- 7 Day LIBID (In house)
Monthly averages - annualised (to 2 dec pl)



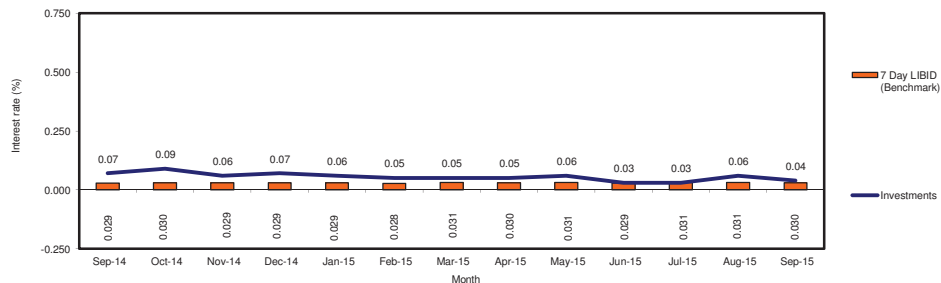
Graph 4b

The cash manager performance fluctuates due to changes in the value of the investments. Performance has been above benchmark target levels in 10 of the past 12 months.

This graph compares the average return on the fund with a benchmark of 7 Day LIBID (compounded weekly).

The target is for the return on investment to exceed the benchmark rate by 5% in a 12 month period.

Graph 4b Short Term Investments -v- Benchmark Rate (Cash Managers)

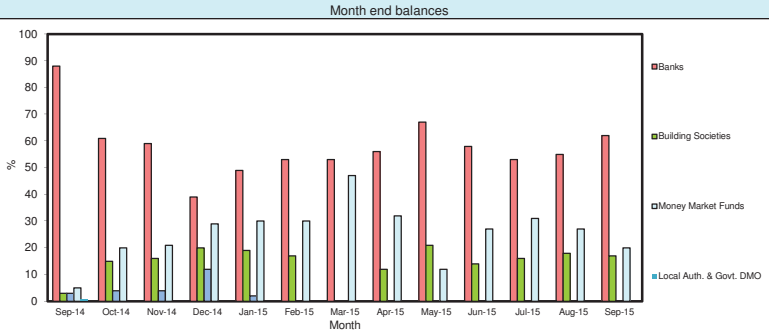


Investments by Sector

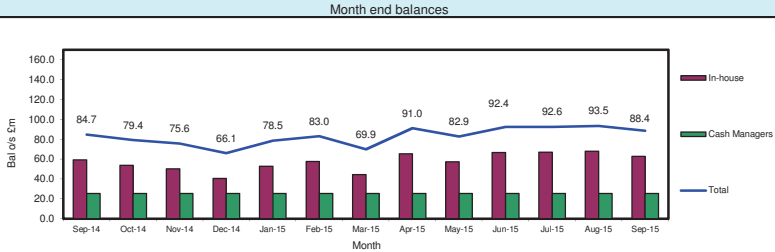
The 2014/15 Treasury Policy Statement states that with the exception of the banking sector and money market funds, no one sector shall have more than 75% of the investment portfolio at the time an investment is made. As at end of Sept 2015 investments were made as follows:-

SWIP External Managers	£m		
		25.59	
In-house Investments - Banks			
Barclays Bank plc		9.000	
Lloyds Bank plc		9.503	
Royal Bank of Scotland		3.013	
Santander UK Plc		8.501	
Standard Chartered Bank		9.000	
		<u>39.017</u>	62.1 %
Local Authority			
		<u>0.000</u>	0.0 %
Money Market Funds			
Aberdeen Global Liquidity Fund		1.294	
BNP PARIBAS INSTICASH STERLING - Lux		9.975	
CCLA - Public Sector Deposit Fund		0.200	
Goldman Sachs Funds Plc		0.031	
Ignis Liquidity Fund		0.726	
Insight Liquidity Funds Plc		0.616	
Morgan Stanley Sterling Liquidity Fund		0.002	
State Street services		<u>12.844</u>	20.4 %
In-house Investments - Building Societies			
Leeds Building Society		3.000	
Nationwide Building Society		8.000	
		<u>11.000</u>	17.5 %
TOTAL - In-house Investments		<u><u>62.861</u></u>	100.0 %

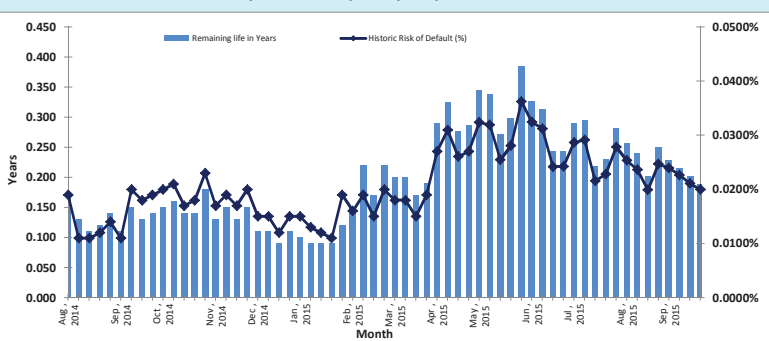
Graph 5a - Investments by Sector (In-house)



Graph 5b - Investments In-house -v- Cash Manager



Graph 6 - Security & Liquidity of Investments



Graph 6

Members agreed, as part of the 2014/15 Treasury Policy Statement, to set a maximum indicator for risk at 0.05%. Table 6 shows the risk factor to be well below the maximum set.

3.0

Prudential Indicators (Treasury Management)

The Council sets each year a number of prudential indicators for treasury management. The following tables show that these indicators have not been exceeded in the month of Sept 2015.

Gross Outstanding Debt (£millions)		
	Debt	PFI
Authorised limit	319	57
Operational boundary	308	57
Minimum o/s	224	-
Maximum o/s	225	-

Variable Rate Debt (%age)	
Maximum limit	40.0
Maximum amount o/s	0.0

(NB. The maximum limit for fixed rate debt, is 100% and cannot therefore be breached.)

Net Outstanding Debt (£millions)		
	Debt	PFI
Minimum capital financing requirement	278	57
Maximum net debt o/s	148	-

Debt Maturity Profile (%ages)					
	<12 mths	1-2 yrs	2-5 yrs	5-10 yrs	≥10 yrs
Maximum limit	40.0	30.0	40.0	75.0	100.0
Minimum limit	0.0	0.0	0.0	0.0	50.0
Maximum o/s debt	1.5	1.6	1.7	14.1	81.1

This Bulletin was produced by Corporate Finance & Resources, Financial Services

Subject:	Overpayments on the housing repairs and improvement contract		
Date of Meeting:	12 January 2016		
Report of:	Acting Director of Finance & Resources		
Contact Officer:	Name:	Graham Liddell	Tel: 29-1323
	Email:	Graham.Liddell@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report summarises the results of an internal audit review of overpayments identified by the council in respect of contracted housing repairs. It summarises:
- the audit findings;
 - the actions taken by the council to recover amounts owing and to prevent any further overpayments;
 - actions being taken by the contractor (Mears Ltd) who are working with the council to prevent further occurrences.

2. RECOMMENDATIONS:

That the Audit & Standards Committee:

- 2.1 Note that the council's housing revenue account was over-charged by an amount estimated by audit at more than £300,000 over a 17 month period for work carried out by a sub-contractor working on the housing repairs and improvements contract.
- 2.2 Note that the council expects to recover the overpayments from the main contractor, Mears Ltd.
- 2.3 Note that the council is working positively with Mears Ltd to identify any other overpayments that may have been made and to prevent any overpayments in the future.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Mears Ltd provides a comprehensive responsive repairs, planned maintenance and major works service for council homes across the city under a 10-year contract. Around 20% of the annual contract is responsive repairs of which just under 30% (by number of jobs) is carried out by sub-contractors. In terms of value, the contract is expected to cost £27m in 2015/16. Approximately 4% of the annual cost relates to sub-contracted responsive repairs. Sub-contractors are also used extensively for planned and major works but these are subject to different payment, audit and sign off regimes.

- 3.2 Mears Ltd has contractual responsibility for undertaking post inspections of 10% of all completed works and the council's housing contract compliance team also carry out checks. Following an audit of housing repairs in 2013/14, the Housing Contract Compliance Team enhanced its assurance processes by increasing the number of physical post-inspections (with effect from February 2015). In May 2015 these inspections identified a potential over-charging issue by a sub-contractor. After initial investigation, the Housing Contract Compliance Team contacted Internal Audit with their concerns.
- 3.3 Internal audit, working jointly with quantity surveyors from the council's Housing team, inspected 46 repairs completed by a single sub-contractor to identify the extent of any potential overcharging and to identify shortfalls in internal controls.
- 3.4 Further inspections were then carried out by Mears Ltd and council surveyors.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The audit concluded that mechanisms put in place by Mears Ltd to identify overcharging were not operating as intended. There was significant evidence that a particular subcontractor had routinely overcharged Mears Ltd and that these costs had been passed onto the council. The audit concluded that the housing revenue account had been overcharged and estimated that the overcharge was in excess of £300,000 for the 17 month period examined.
- 4.2 The contractual mechanism allows for review of valuations after submission. This takes place on a monthly basis as a matter of course. In this case, however, the overcharging was not identified at the time and so would need to be addressed by correcting historical valuations.
- 4.3 The audit made a series of high priority recommendations to:
- stop the sub-contractor from working on council contracts;
 - identify and recover all overpayments made by the council to Mears Ltd;
 - improve controls by Mears Ltd over the work carried out by sub-contractors;
 - strengthen the scrutiny of the work carried out under the contract by the council.
- 4.4 Officers have agreed to implement all audit recommendations by the end of December 2015. They have also met with senior managers at Mears Ltd who have responded positively.
- The sub-contractor has been dismissed from the contract.
 - The council and Mears are working together to:
 - estimate and refund to the council the amounts overcharged for work carried out by the subcontractor for the 17 month period examined and since the subcontractor was first engaged in 2011/12;

- review amounts charged by other sub-contractors to assess whether there are any other potential instances of over charging;
- improve the arrangements put in place by Mears to prevent further instances of overcharging. This includes:
 - § reducing the amount of sub-contracted work with more direct delivery through a Minor Works Team;
 - § implementing cultural change, ensuring the lessons learned from this case are disseminated into practice;
 - § a new management and staffing structure (including the appointment of a new quality assurance manager);
 - § redesigning post-inspection processes;
 - § introducing a new protocol for the information, records and photographs to be made available for the council to inspect.
- revisit the contract to consider providing funds to enable the council to increase the extent of its quality assurance processes.
- Mears Ltd has provided regular updates on the progress it has made to gain assurance that these issues are isolated to a single contractor and that processes and procedures have been strengthened to prevent any reoccurrence.

4.5 The housing repair and improvements partnership with Mears Ltd is a critical part of the housing service provided to council tenants. Internal audit will continue to work with housing officers to:

- monitor implementation of audit recommendations arising from this report;
- review other aspects of the contract, with a particular focus on assurance processes, and make recommendations for improvement where appropriate.

4.6 We will carry out a follow up audit in 2016/17.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 None.

6. CONCLUSION

6.1 The council's Housing Revenue Account was over-charged for work carried out by a sub-contractor by an amount estimated at more than £300,000 over a 17 month period. The council expects to recover these overpayments from its main contractor, Mears Ltd, and is working positively with Mears Ltd to:

- identify any other potential overpayments that may have been made;
- prevent any overpayments in the future.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The housing repairs and improvement contract was procured to deliver significant efficiency savings and at the time of procurement it was evidenced that the new contract would provide:
- the greatest level of discounts to the schedule of rates used for responsive repair works compared to other tenders;
 - cost efficiencies in the agreed schedule of rates for capital works. In addition capital works and any other works outside of the agreed schedule of rates are competitively tendered with a minimum of three suppliers.
- 7.2 The estimated overpayments of over £300,000 relate to expenditure within the Housing Revenue Account (HRA). These overpayments will be recovered from the main contractor and are ring-fenced for reinvestment within the HRA. Any further overpayments that may be uncovered through the investigation are also expected to be recovered.
- 7.3 A small element of this overpayment estimated at between £3,000 to £5,000 over the 17 month period related to leaseholders. This will have been included in leaseholder service charges and therefore a reimbursement for any overcharge will be included in next year's service charge statement.

Finance Officer Consulted: James Hengeveld

Date: 18/12/15

Legal Implications:

- 7.4 The measures outlined in the Audit report and agreed by officers will ensure that all monies due to the Council are recovered and that the Council is protected from similar overcharging in the future.

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 15/12/15

Equalities Implications:

- 7.5 None

Sustainability Implications:

- 7.6 None

Any Other Significant Implications:

- 7.7 None.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents in Members' Rooms:

None

Background Documents:

None

Subject:	Internal Audit and Corporate Fraud Progress Report		
Date of Meeting:	12 January 2016		
Report of:	Acting Executive Director of Finance & Resources		
Contact Officer:	Name:	Graham Liddell	Tel: 29-1323
	Email:	Graham.Liddell@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report summarises the progress made against the Internal Audit and Corporate Fraud Plan 2015/16. It summarises the key issues identified by Internal Audit and the Corporate Fraud Team and the progress made by management in implementing audit recommendations.

2. RECOMMENDATIONS

- 2.1 That the Audit and Standards Committee note:
- progress made on the audit plan for 2015/16
 - progress made against recommendations
 - continued success in tackling fraud and corruption

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Audit and Standards Committee approved the Internal Audit and Corporate Fraud Plan on 10 March 2015 which was updated on on 23 June 2015 and 17 November 2015 to respond to new and emerging risks and reduced resources. The updated plan comprises:
- 1240 audit days to:
 - provide assurance on the Council's core systems and controls:
 - provide assurance on controls in service areas
 - support the modernisation agenda (including reviews of procurement)
 - review implementation of audit recommendations
 - 500 anti-fraud and corruption days to:
 - support the Council's promotion of a strong anti-fraud and corruption culture
 - prevent and detect fraud and corruption
 - investigate and pursue fraud and corruption

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

Audit reports issued

- 4.1 Internal audit has issued 42 reports representing 55% of the audit plan. The service remains on track to deliver more than 90% of the 2015/16 audit plan.
- 4.2 Since the November Audit & Standards Committee just one report has been assessed as providing limited or no assurance. This audit, on housing repairs, is discussed as a separate agenda item.

Progress made in implementing recommendations

- 4.3 We have received confirmation that 84% of recommendations due to be implemented by 30 November 2015 had been implemented (see table 2). This compares to 82% reported in November 2015 and 76% reported in September 2015.

Table 2 – implementation of audit recommendations

Priority	Audit Recs due by 31 July (includes c/f 2014/15)	Database not updated by managers	Not implemented (or less than 50% implemented)	Implemented (includes part implemented > 50%)	Implemented (%)
High	36	0	1	35	97%
Medium	245	25	20	200	82%
All	281	25	21	235	84%

- 4.4 There is just one high priority recommendation that had not been implemented and was overdue. This has been previously reported and is set out below in table 3.

Table 3 – high priority recommendations not implemented

Recommendation	Directorate	Due date	Progress as at 30 November 2015
Management should ensure that the current Network Access Protection and Network Access Controls (NAP-NAC) initiative tasks (see appendix D) being rolled out by ICT to help prevent unauthorised devices from accessing the network is adequately prioritised, resourced and monitored for achievement and ongoing trend analysis of NAP NAC incidents by the Cyber Security governance stakeholders.	F&R (ICT)	31 December 2014	Full implementation is part of a three year plan. In the meantime mitigating factors have been put in place.

- 4.5 There are 45 medium priority recommendations that have not been implemented and/or the corporate tracking record has not been updated. Of these there are 7 audit reports where there are two or more overdue recommendations. These are detailed in table 4 below.

Table 4 – Reports with two or more overdue recommendations

Report Title	No of overdue recommendations
Attendance Management	2
Blue Badges	3
Penalty Charge Notices	2
Pier – Management of Data	2
Seafront Infrastructure	4
Social Media	3
Write-offs	2

- 4.6 We will continue to work with ELT and other senior managers to ensure that all managers understand the importance of implementing audit recommendations, or if it is not practicable to do so to ensure that action is taken to address the underlying risk.

Corporate Fraud

- 4.7 During 2015/16 the Corporate Fraud Team has worked with colleagues across the council in three main areas:

- **Promoting a strong anti-fraud and corruption culture.** This has included:
 - the fraud e-learning awareness programme which has currently been completed by 690 members of staff
 - alerting staff to new and emerging fraud threats, including email fraud
 - working with colleagues in housing to prevent and identify housing tenancy fraud including delivering briefings to housing customer services staff and employees at Mears Ltd and PH Jones.
- **Preventing and detecting fraud and corruption.**
 - £72,920 overpayments recovered as part of the National Fraud Initiative
 - 23 Blue Badges cancelled as part of the National Fraud Initiative, 76 Blue Badges were retained as part of the joint exercise with East Sussex and 31 blue badges were handed in during a blue badge fraud amnesty. There have been 34 prosecutions, 37 community resolutions.
- **Investigating and pursuing fraud and corruption.** Following investigations by the corporate fraud team, the council has:
 - saved £80,000 in planned adaptation costs as it was found that an individual had misrepresented their circumstances

- recovered 18 council dwellings and successfully prosecuted two individuals for subletting their council properties
- removed council tax discounts of £7,689
- cancelled four residents parking permits because permit holders did not reside at the relevant address
- effected the removal seven employees either through resignation or dismissal.

4.8 During 2016 the Corporate Fraud Manager is planning to develop new initiatives on other key fraud threats including procurement and payments made to individuals as “no recourse to public funds” grants.

Future developments of the service

4.9 At the Policy & Resources Committee on Thursday 3 December it was agreed that a number of the council’s support functions, including internal audit and corporate fraud, will join the Orbis partnership. Orbis is a newly created partnership with East Sussex County Council and Surrey County Council which provides support functions to councils. Staff remain employed within each partner council, and make efficiencies through integrating work and minimising duplication, while offering high standards of service to all the partner organisations. Brighton & Hove City Council will become a founding partner. This means we can help shape the future structures and service offers to achieve the full benefit of the opportunity. The council is now starting a period of due diligence, which is the process where we work out the detail of the how the partnership will work in practice. The Head of Internal Audit will continue to update members on the implications for providing an effective internal audit function for the council.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 None

6. CONCLUSION

- 6.1 The Committee is asked to note:
- progress made on the audit plan for 2015/16
 - progress made against recommendations
 - continued success in tackling fraud and corruption.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 It is expected that the Internal Audit and Corporate Fraud Plan 2015/16 will be delivered within existing budgetary resources. Progress against the plan and

action taken in line with recommendations support the robustness and resilience of the council's practices and procedures in support of the council's overall financial position.

Finance Officer Consulted: James Hengeveld

Date: 14/12/2015

Legal Implications:

- 7.2 The Accounts and Audit Regulations 2015 require the Council to 'undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards'. It is a legitimate part of the Audit and Standards Committee's role to review the level of work completed and planned by internal audit.

Lawyer Consulted: Elizabeth Culbert

Date:17/12/15

Equalities Implications:

- 7.3 There are no direct equalities implications.

Sustainability Implications:

- 7.4 There are no direct sustainability implications.

SUPPORTING DOCUMENTATION

Appendices:

1. None

Documents in Members' Rooms

1. None

Background Documents

1. None

Subject:	Standards Update		
Date of Meeting:	12 January 2016		
Report of:	Head of Law and Monitoring Officer		
Contact Officer:	Name:	Abraham Ghebre-Ghiorghis	Tel: 29-1500
	Email:	Abraham.ghebre-ghiorghis@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 This report updates Members on Standards-related issues/activities since the last report.

2. RECOMMENDATIONS:

- 2.1 That Members note the report

3. Member-related Complaints

- 3.1 Since the last report to the Committee, there have been three standards complaints, one relating to Rottindean Parish Council and the others relating to the City Council.
- 3.2 A complaint was received from a member of the public regarding the conduct of the selection panel for the appointment of a co-opted Member to Rottingdean Parish Council. The complaint alleged that a member of the selection panel, who is a parish Councillor, made comments suggesting one of the candidates "would be a better appointment". This was overheard by one of the candidates before the interviews started.
- 3.3 Following consultation with one of the Independent Persons, the Monitoring Officer decided to investigate the complaint. The investigation established that, although the statement was made, it was not made by the Member against whom the complaint was made. It was clear that there was no evidence of "conferring an advantage improperly". However, the alleged conduct could bring the parish council into disrepute.
- 3.4 Following the investigation, and after consulting with both parties, it was agreed that an informal resolution involving the relevant Members of the selection Panel receiving training on proper appointments and selection procedures as well as behaviour expected when involved in such process would be the best way forward. This was agreed by both parties and arrangements have been made with our HR team to organise the training. This matter is now closed.

- 3.5 In December last year, we had a complaint from a Member of the public about a Member failing to respond to correspondence from a constituent. Following consultation with one of the Independent Persons, it was decided to investigate the complaint. This does raise an issue of general interest in terms of what is expected of Members in dealing with enquiries and correspondence from their constituents and may be an opportunity to look at some suggested guidance.
- 3.6 Finally, we received a complaint on 30th December about comments made by a Member on Facebook. This is the subject of consultation with one of the Independent Persons before deciding whether to investigate in accordance with our standards complaints procedure.
- 4.3.7 We have experienced delays in dealing with the first complaint mainly due to the handover of the process from Standards and Complaints to Legal Services. Arrangements have been put in place to minimise this in the future.

5. Whistleblowing

- 5.1 Members may recall that the Council's Whistleblowing Policy was reviewed last year. Some of the changes included transferring overall responsibility for the function to the Monitoring Officer, improving recording and monitoring of whistleblowing and also ensuring that there is sufficient publicity for the process.
- 5.2 Over the last year, which saw the introduction of the new process, there has been an increase in the number of whistleblowing incidents recorded. It now stands at 18. They were all actioned and appropriate steps taken in response to the whistleblowing. A regular (quarterly) review of all whistleblowing is undertaken by the Head of Law, the Head of Internal Audit and Head of HR. There has also been appropriate publicity in the form of team briefings and on the Wave. The level of awareness of the existence of the policy seems higher and the increased number of incidents suggests it is working as intended.

6. Other Standards Initiatives

- 6.1 Over the last year, the Council introduced a mandatory declaration of interests (including a NIL return) for all senior officers and officers working in some sensitive areas (such as Legal and Procurement). The system was put on the pier electronic system and all relevant staff sent a reminder at least once a year. This is an improvement on previous arrangements and seems to have improved the level of returns.
- 6.2 A meeting with the two Independent Persons and a Workshop with representatives from each of the political groups discussed a number of ways of improving the workings of the Audit & Standards Committee, the risk framework and general good governance. Some of the proposals include looking at the Council's complaints publicity and forms, making members more aware of the standards framework and general good audit and risk management practice. These are all being followed up.

- 6.3 One area where there is some concern is the number of members of the Audit & Standards Committee who are trained to sit on Standards Hearing Panels. There was one training session offered last year, but due to the short notice and other factors the attendance was very low. It is proposed to arrange training early in the new year.

7. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 7.1 The Council is obliged under the Localism Act to make arrangements for maintaining high standards of conduct among members and to make arrangements for the investigation of complaints. The current arrangements and the proposals in this report reflect this and no alternative proposals are suggested.

8. COMMUNITY ENGAGEMENT & CONSULTATION

- 8.1 The nature of the report (focussing on internal rules and procedures) means there has been no consultation with the local community generally.

9. CONCLUSION

- 9.1 The current arrangements for maintaining high standards of conduct comply with local requirements and the steps taken over the last year have contributed to improvements in standards as well as governance in general.

10. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 10.1 There are no direct financial implications arising from this report

Finance Officer Consulted: Peter Francis

Date: 04/01/2016

Legal Implications:

- 10.2 These are covered in the body of the report

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 29/12/15

Equalities Implications:

- 10.3 There are no equalities implications arising from this report

Sustainability Implications:

- 10.4 There are no sustainability implications arising from this report

Any Other Significant Implications:

- 10.5 None

SUPPORTING DOCUMENTATION

Appendices: None

Documents in Members' Rooms: none.

Background Documents: None

Subject:	Information Governance Strategy		
Date of Meeting:	12 January 2016		
Report of:	Head of Law and Monitoring Officer		
Contact Officer:	Name:	Abraham Ghebre-Ghiorghis	Tel: 29-1500
	Email:	Abraham.ghebre-ghiorghis@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE.**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The purpose of this report is to seek comments from the Committee on the draft Information Governance Strategy (attached as an Appendix) before consideration and approval of the strategy by the Policy & Resources Committee.

2. RECOMMENDATIONS:

- 2.1 That Members consider the attached draft Information Governance Strategy 2016-19 (appendix 1) and comment as necessary.
- 2.2 Note that any comments will be incorporated into a revised draft going to the Policy & Resources Committee for final approval.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Information governance has over the last few years grown in importance to reflect public expectation and complex laws that govern data protection, access to information and proper management of records. This trend has been accentuated with the increasing digitalisation of services and the way people prefer to access services.
- 3.2 The attached draft Information Governance Strategy has been developed by the Information Governance Team and agreed by the Information Governance Board which is chaired by the Chief Executive and has representatives from key Council directorates. It sets out Information Governance aims and deliverables over the next 4 years.
- 3.3 Some key aims of the strategy include:
- Ensuring that information governance policies are embedded in the day to day operations of the organisation;
 - Ensuring a high level of staff and supplier awareness through education and fostering a culture of personal responsibility, ownership and commitment to high standards

- Ensuring that there are proper audit and assurance processes to check whether information governance polices are being implemented
 - Implementing a comprehensive information security management system (ISMS) aligned to international best practice standards ISO 270001.
 - Ensure safe and proper records and information management.
- 3.4. A high level of deliverables or actions to support the achievement of the aims is set out in section 7 of the strategy (see appendix 1)
- 3.5. Section 8 of the report sets out the information governance framework roles and responsibilities. More detailed information with terms of reference is attached in Appendix 2. This includes the roles of the Information Governance Board, the Senior Information Risk Owner, the two Caldicott Guardians, the Information Management Team and the Information Asset Owners.
- 3.6. The adoption of the strategy will help the Council achieve better levels of compliance with the law and best practice.
- 3.7. The strategy needs to be approved by the Policy & Resources Committee, but given its role in assuring proper governance, including information governance, it has been referred to this committee for information and comment. Any comments received will be incorporated in the final draft going to the Policy & Resources Committee.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The adoption of the strategy will help the council comply with regulatory and good practice requirements.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Relevant staff were consulted and the draft was approved by the Information Governance Board.

6. CONCLUSION

- 6.1 That the strategy be agreed subject to any comments or suggestions from the committee

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The costs of reviewing the Information Governance Strategy will be met within existing council resources.

Finance Officer Consulted: Peter Francis

Date: 04//01/16/

Legal Implications:

- 7.2 The adoption of the strategy will assist the Council in complying with its legal obligations regarding data protection, freedom of information, human rights law and requirements of regulatory bodies,

Lawyer Consulted: Abraham Ghebre-Ghiorghis

Date: 29/12/2015

Equalities Implications:

- 7.3 None arising from the report

Sustainability Implications:

- 7.4 None arising from the report

Any Other Significant Implications:

- 7.5 None

SUPPORTING DOCUMENTATION

Appendices:

1. Information Governance Strategy
2. Information Management Frame work-roles and responsibilities

Documents in Members' Rooms

None

Background Documents

None

Brighton and Hove City Council

Information Governance Strategy 2016-19

Contents

1.0 Executive summary

2.0 Introduction

3.0 BHCC's Corporate Plan 2015-19

4.0 Regulatory environment

5.0 Scope

6.0 Information governance aims

7.0 Deliverables

8.0 Roles and responsibilities

1.0 Executive summary

This strategy describes Brighton and Hove City Council's information governance aims and deliverables over the next three years.

It asserts the council's commitment to compliance with information rights legislation, robust records management and compliance with HMG and other security requirements. It also confirms our commitment to good practice through the implementation of, and adherence to, a comprehensive suite of policies and guidance.

It sets out an approach that actively enables and supports the delivery of corporate objectives and exploits opportunities for business benefits whilst delivering the requirements of the various compliance regimes. It is an approach that aims to be flexible and responsive to new or changed operational requirements, and that establishes the capacity of the

organisation to take proportionate risk in accordance with a defined risk appetite.

The strategy establishes a framework for creating effective information governance that helps us to make the best use of our information assets and as a consequence support the delivery of our corporate objectives and the improvement of our business processes.

This approach will further the Council's aim 'to provide open civic leadership and effective public services' through being transparent, open, and accountable about what we do and for the actions we take.

It will support the confidence of our citizens that their personal information will be managed in accordance with their rights.

The Information Governance team will set out and communicate our information governance strategy and champion the information governance agenda. The team will engage with business areas across the organisation to ensure that the corporate information governance policy framework is understood widely and is properly aligned with business and operational requirements. The team will work with, and provide specialist advice and support to:

- Citizens
- Executive Leadership Team
- Senior Information Risk Owner
- Information Asset Owners (IAO)
- Staff
- Partners
- Suppliers

2.0 Introduction

This strategy covers the period March 2016 - Dec 2019 and sets out the on-going development, implementation and embedding of a robust information governance framework for the effective management and protection of BHCC's information assets.

Information governance is the discipline within which accountability, standards, policies and procedures are developed and implemented. Good information governance practices aim to ensure that all information created, obtained or received, by BHCC is managed, accessed, used and disposed of appropriately. Effective Information Governance ensures that information assets are compliant with our regulatory obligations, support the rights of our citizens and are cost effective.

BHCC has a responsibility to manage and protect a wide range of information to ensure that it remains confidential and preserves its integrity and availability. Information types include:

- personal and sometimes sensitive information provided by citizens relating to provision of services
- information about our services and how they are provided
- information which supports the running of our organisation including records relating to staff and our IT
- information about the strategies and policies of our organisation

3.0 BHCC Corporate Plan 2015 -19

In the Corporate Plan 2015-19 BHCC describes two of its four objectives as building an organisation that is publicly accountable and citizen focused. This is in the context of significantly reduced budget and growing demand. If we are to achieve these objectives we must create an environment in which citizens and other agencies with which we work trust us to look after their information responsibly, securely and fairly.

To achieve this we must ensure that;

- our staff have a high level of awareness of all their obligations under information rights law and other regulatory requirements, and that those obligations are routinely met in practice
- that good information handling practice is embedded into the culture and day to day business processes of the organisation and into the design and acquisition of new technologies and systems
- our information management processes are streamlined, cost effective and robust, creating a high level of confidence in the quality of our information that supports efficient day to day practice and good decision making. Furthermore, this is essential to the secure exchange of information with other agencies with which we must collaborate to deliver more shared services.

This information governance strategy is a clear statement of BHCC's commitment to high quality information management and to technical and physical information security good practice. It recognises that investment in

information governance supports and contributes to both our corporate objectives and our regulatory responsibilities

The strategy also establishes our commitment to ensuring effective information governance practice as a means to enable our organisation to operate openly and efficiently in an increasingly digital environment.

4.0 Regulatory environment

BHCC is a data controller and as such is subject to a regulatory framework, including but not limited to:

- The Data Protection Act 1998
- The Freedom of Information Act 2000
- The Environmental Information Regulations 2004
- Privacy and Electronic Communications Regulations 2003

Other related legislation:

- The Public Records Act 1958
- The Re-use of Public sector Information Regulations 2005
- Computer Misuse Act 1990
- Regulation of Investigatory Powers Act 2000
- Local Government Acts
- Copyright Design and Patents Act
- Common Law – duty of confidentiality

Related guidance and codes of good practice:

- Security Policy Framework (Cabinet Office).
- Public Service Network (PSN) Code of Connection.
- The Health and Social Care Information Centre, Information Governance Toolkit
- Information Commissioner's Office guidance and standards
- ISO 27001: 2013 – Information Security Management Systems
- ISO 15489:1&2 – The International Standard for Records Management
- e-Government Metadata Standard version 3.1
- The Lord Chancellor's Code of Practice on Records Management

5.0 Scope

This strategy is applicable to all BHCC staff and all departments, sections, services, information systems and records and other information assets of the Council and includes within its scope;

- The framework of accountability and responsibility for information assets
- The processes by which information is created, accessed and used
- The arrangements under which the Council uses the information of its partners and/or allows its partners to use its information.
- The efforts to build high quality information practice in staff and partners through education and awareness

6.0 Information governance aims

There are three elements to the BHCC information governance landscape; information security, data protection and records management. Each element requires policy, process and defined standards. There are overlaps between the three elements but each has as its primary focus and together they form a complete information governance discipline. BHCC's information governance aims are described below and encompass all three elements. Achievement of these aims will deliver essential compliance requirements but will also enable and support our business and deliver business benefits.

The high level deliverables to support the achievement of these aims are described in section 7.0 below.

6.1 Policy

We will ensure that our information governance policies are embedded in the day to day operations of the organisation, that they are compliant with relevant legislation, standards and codes of practice, demonstrate good practice and meet the public interest.

The policies are based on a risk management approach that recognises that information has significant value, are commensurate with our stated risk appetite and are aligned with business requirements.

6.2 Education and Awareness

We will aim to embed a high level of staff and supplier awareness of information governance policy and process to help achieve compliance and reduce the risk of avoidable incidents and breaches through human error.

We will foster a culture of personal responsibility, ownership and commitment to high standards in information handling to support and enable our business processes.

6.3 Audit and assurance

We will ensure that there are processes in place to check whether information governance policy is being implemented and measure the effectiveness of the control environment.

We will work with business areas and Information Asset Owners to gain feedback about the practical operation of policy. We will act on this feedback and make changes where necessary.

The Information Governance team and IAOs will work together to share experience and maximise the opportunities to learn from examples of good practice, both internal and external.

6.4 Records and information management

We will ensure that staff competency in records management is developed and supported by appropriate technologies and processes, so as to achieve the following benefits:

- Information is trusted, authentic and reliable
- Information enables high quality decision making
- Information quality contributes to improved public confidence in the council
- Information supports effective and timely services for vulnerable citizens
- Information handling is efficient and cost effective
- Information supports and does not hinder internal/external collaboration

6.5 Information security

We will implement a comprehensive information security management system (ISMS) aligned to the international best practice standard ISO 270001. This will ensure that the council has robust, proportionate, cost effective and compliant information security measures in place so that that the organisation is protected against threats from unauthorised or unintended access, destruction, disclosure and tampering.

We will work with business areas to ensure that information security policy is aligned with operational requirements and find solutions appropriate to BHCC's risk appetite. We will support our people by ensuring that information security policy and processes are clear and easy to

understand, that help and guidance are available when needed, and by providing appropriate training to minimise the risk of human error.

We will provide an assurance function (Information Security Team) that sets clear security standards against which all technology developments are measured.

6.6 Collection and use of personal information

The Data Protection Act 1998 sets out the requirements and safeguards which must be applied to personal data to ensure the rights and freedoms of living individuals are not compromised. It is BHCC’s obligation as Data Controller to comply with the Act.

We will:

- Comply with the law in respect of the data we hold about individuals
- Hold information securely and confidentially
- Obtain information fairly and efficiently
- Record information accurately and reliably
- Share information appropriately and lawfully

In addition we will promote transparency and openness about how we handle personal information providing confidence to the individuals and third parties who pass personal information to us.

7.0 Deliverables

The high level deliverables to support the achievement of the BHCC’s information governance aims are outlined in the tables below.

7.1 Policy

	Compliance	Business benefits
Develop and review all information governance policies and process	Ensures policy set is complete and up to date. Policies must achieve legal and regulatory compliance and demonstrate good practice	Policy is aligned with business practice and operational requirements Staff know what to do
Provide accessible underpinning guidance in a range of formats to support policy	Improves compliance and helps reduce avoidable human error.	Ease of access leads to better compliance and efficiency

7.2 Awareness

	Compliance	Business benefits
Annually review and	A well informed workforce	Awareness programme is

update education, awareness and training programme for all staff	reduces the risk of information incidents and facilitates compliance with the legal framework	<p>tailored to job roles and business processes. One size does not fit all</p> <p>A raised level of awareness of information governance embeds good practice, creates efficiencies and delivers improved services to the public</p> <p>Skills are transferrable across services and roles</p>
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7.3 Audit & Assurance

	Compliance	Business benefits
Implement a risk management framework	A coherent and organisation wide approach to the identification, assessment and treatment of risk which aligns to the requirements laid down by our compliance regimes and best practise.	<p>Aides with the protection and preservation of Confidentiality, Integrity & Availability (CIA) of information assets.</p> <p>This reduces the risk of loss of IT services critical to the operation of the business and lowers the likelihood of reputational and financial damage.</p> <p>Develops a risk appetite that allows for proportionate risk taking.</p> <p>Empowers people to act appropriately</p>
Provide an advice and assurance function, supported by robust documentation across all three domains (Infosec, DP and RM).	Demonstrates adherence to our own standards and policies.	Enables the business to seek and obtain appropriate advice and allows reliance on the controls and measures in place.
Monitor compliance through the independent internal audit function.	Appropriate technical and organisational measures are in place.	Identifies gross risks to allow the smooth delivery of services.
At least annual penetration testing.	Required by our compliance regimes and provides external & independent assurance over our technical security.	Protects the CIA of information assets.

Review and develop management information and key performance indicators that are accurate and fit for purpose and produce improvement plans	Supports compliance with the legal and regulatory framework	Supports business to make informed decisions.
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7.4 Records and information management

	Compliance	Business benefits
<p>Design and implement a framework for appropriate management of the Council's records.</p> <p>This includes:</p> <ul style="list-style-type: none"> • Corporate Retention Schedule • Business Classification Scheme • Records Management Architecture • Digital Records Toolbox • ECM and Digital Consultancy Service • Information Asset Register • Records Training and Awareness initiatives 	<p>A consistent approach to creating, storing, maintaining and disposing of records and data improves ability to comply with public information rights and contributes to ensuring that information is used in the public interest.</p> <p>Accountability for records assets is maintained at appropriate levels of the organisation</p>	<p>Authentic and credible information is more easily found and used.</p> <p>Decision making is enhanced by higher quality evidence</p> <p>Records related risk is managed</p> <p>Records are retained in a usable form for as long as required to meet the Council's interests and obligations.</p> <p>Information management is cheaper</p>

7.5 Information Security

	Compliance	Business benefits
Set the standards to enable compliance with ISO 27001, HSCIC IG Toolkit, PSNA Code of Connection and other security standards as appropriate	<p>Achieves compliance with the regulatory framework</p> <p>Business information is protected against threats from unauthorised or unintended access, destruction, disclosure and tampering.</p>	<p>IT services are available and business is not interrupted</p> <p>Essential to the development of shared and collaborative services with other agencies</p>
Document and implement a suite of user and technical information	Achieves compliance with regulatory framework	Normalises expected standards and supports efficient business

security procedures		practices
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7.6 Collection and use of personal information

	Compliance	Business benefits
Put in place and develop appropriate measures to ensure best practice in handling of personal information; For example; <ul style="list-style-type: none"> • Information Sharing Protocols • Privacy Impact Assessments • Privacy notices • Data Processing Agreements 	Achieves compliance with the legal and regulatory framework	Gives confidence to citizens, partners and staff that we are sharing data appropriately. Embeds efficient information handling practice Allows for data to be used across services & improves efficiency and cost effectiveness.

8.0 Information governance management framework - roles and responsibilities

We will have appropriate structures in place to ensure that there are clear delegated duties, responsibilities, decision-making powers and processes embedded within BHCC’s operational processes. Roles and responsibilities are described in brief below.

8.1 The Information Governance Board (IGB)

The IGB is the executive level board that champions IG across the organisation and provides advice and support to the SIRO. It is chaired by the Chief Executive.

8.2 Senior Information Risk Owner (SIRO)

The SIRO is a member of BHCC’s Executive Leadership Team. Their role is to take ownership of the organisation's information risk policy, act as an advocate for the management of information risk on the Executive Leadership Team and provide written advice to the Audit and Standards Committee through the annual governance statement in regard to information risk.

The SIRO has overall responsibility for understanding how the strategic business goals of the organisation may be impacted by information risk and for sponsoring and promoting information governance policy across the organisation.

8.3 Caldicott Guardian

The Caldicott Guardian plays a key role in ensuring that BHCC and partner organisations satisfy the highest practical standards for handling patient/service user-identifiable information. They acting as the 'conscience' of an organisation.

The Caldicott Guardian also has a strategic role alongside the SIRO to champion information governance requirements and issues at Board / senior management level and, where appropriate, at a range of levels within the organisation's overall governance framework.

8.4 The Information Governance Team

The Information Governance team is responsible for the provision of subject matter expertise to the organisation within the disciplines of Information Security, Information Rights and Records/Content Management. It supports compliance with relevant legislation, compliance standards and best practice.

8.5 Information Asset Owners (IAO's)

IAOs are accountable for the quality of and access to information created, received or obtained by their business area. Additionally IAOs are responsible for identifying, assessing and managing the risk associated with their information assets.

8.6 BHCC's staff

All BHCC staff have a personal responsibility to understand and comply with the information governance policies and any procedures applicable to their specific role.

8.7 Independent Assurance

BHCC will have in place external independent assurance arrangements to ensure compliance with information governance and information security legislation, regulations and good practice.

8.8 Information Governance Working Groups

We will establish appropriate IG working groups in specific subject matter areas to champion IG matters. For example;

- a security working group whose role is to contribute to the understanding, identification, and control of information security risks in line with BHCC's information risk appetite
- a physical security working group in which the Facilities Team and the Information Security team work together to ensure that the physical security arrangements in BHCC sites are commensurate with the relevant standards.
- an IAO working group that develops the role and competencies of the IAOs and ensures there is a forum to raise concerns and share experience. Developing into a 'community of practice'.

Information Governance at BHCC



Information Governance Board (IGB)

Terms of Reference

Members

Chief Executive Officer, Chair
Senior Information Risk Owner ('SIRO')
Chief Finance Officer
Caldicott Guardian/s
Chief Technology Officer
Head of Audit
Head of Human Resources and Organisational Development
Corporate Risk Management Lead
Information Asset Owner

Advisors

Head of ICT Business & Governance
Data Protection Manager
Information Security Manager
Records Manager

Purpose

The Information Governance Board will provide leadership in information governance good practice to ensure that the *value* of our core business information is protected and enhanced. This will guard against harmful threats and vulnerabilities, reduce cost and support our ambition to collaborate and share information to improve services to citizens. The Board will set the standards for information governance, ensure that these standards are embedded within the organisation, communicate key messages to the organisation.

The IGB is an advisory body with responsibility for co-ordinating policy and practice across the organisation and ensuring compliance with the law, government guidance and general good practice.

Formal decision-making power in relation to information governance and operational policies is delegated by Policy and Resources Committee to the Executive Director, Finance and Resources. Members of the Board can also use their own delegated powers to take steps or implement proposals in their directorates.

Responsibilities

The Information Governance Board will:

- Advise ELT of key information governance issues

- Agree information governance policy and standards and recommend formal approval to the Executive Director of Finance & Resources or the Policy & Resources Committee where necessary
- Monitor implementation of the Information Governance Strategy challenge performance and provide leadership where conflicts occur
- Provide corporate governance, assurance and risk ownership for information governance
- Receive and review reports into breaches of confidentiality and security and ensure remedial action is effectively communicated and implemented
- Communicate key messages to the organisation

Frequency

The IGB will meet bi-monthly.

Review cycle

This document will be reviewed annually or wherever there may be a change of influencing circumstances.

Approval Date – 15th December 2015

Senior Information Risk Owner

Role

The Senior Information Risk Owner (SIRO) has overall responsibility for understanding how the strategic business goals of the organisation may be impacted by information risks. He or she is a member of the Executive Leadership Team (ELT) and a member of the Information Governance Board (IGB). The seniority of the role in the organisation is a key factor in ensuring the appropriate management of information.

Key SIRO responsibilities

- ensures that the Council's approach to information governance risk is effective in terms of resource, commitment and that it is communicated to all staff
- responsible for describing, defining and reviewing the corporate risk appetite for information risk
- takes ownership of the information risk management approach and provides a focal point for managing information risks and incidents
- makes decisions in respect of the reporting of incidents to the Information Commissioner's Office
- is accountable for information governance processes
- fosters a culture for protecting and using information
- is concerned with the management of information assets
- ensures that ELT and the appropriate committee are regularly briefed on information governance and risk

Other Key Information Governance Roles in relation to the SIRO

Senior Information Risk Owner (SIRO)	Is accountable for the management of risk in respect of all information held by the organisation. He or she operates at an executive level and receives assurances that all relevant Information Governance Processes, procedures and policies are in place.
Caldicott Guardians (Children's Services and Adult Social Care)	Is concerned with the management of patient/service user information. He or she operates at an executive level. The role is advisory, and accountable for that advice. The Caldicott Guardian is the conscience of the organisation and provides a focal point for patient/service user confidentiality & information sharing issues.
Information Governance Board (IGB)	Provides advice and assurance to SIRO in respect of IG requirements, risks and incidents.
Information Asset Owners (IAO's)	IAO's are senior individuals responsible for managing risk in respect of the information assets that they "own". IAO's are responsible for providing assurances to the SIRO though the delegated

	framework.
Information Security Manger	Provides expert advice to SIRO, Caldicott Guardian, IGB and staff.
Data Protection Manager	Provides expert advice to SIRO, Caldicott Guardian, IGB and staff.
Records Manager	Provides expert advice to SIRO, Caldicott Guardian, IGB and staff.

BHCC Caldicott Guardian

Role

The Caldicott Guardian plays a key role in ensuring that BHCC and partner organisations satisfy the highest practical standards for handling patient/service user-identifiable information. Acting as the 'conscience' of an organisation, the Guardian should also actively support work to facilitate and enable information sharing, and advise on options for lawful and ethical processing of information as required. Local issues will inevitably arise for Caldicott Guardians to resolve. Many of these will relate to the legal and ethical decisions required to ensure appropriate information sharing. It is essential in these circumstances for Guardians to know when, and where, to seek advice.

The Caldicott Guardian also has a strategic role alongside the SIRO to champion information governance requirements and issues at Board / senior management level and, where appropriate, at a range of levels within the organisation's overall governance framework.

Key Caldicott Responsibilities

- the Caldicott Guardian sits on organisation's Information Governance Board and acts as both the 'conscience' of the organisation and as an enabler for appropriate information sharing.
- the Caldicott Guardian champions confidentiality issues at Board/senior management team level and develops their knowledge of confidentiality and data protection matters, drawing upon internal and external expertise where appropriate.
- the Caldicott Guardian ensures that confidentiality issues are appropriately reflected in organisational strategies, policies and working procedures for staff. The key areas of work that need to be addressed by the organisation's Caldicott function are detailed in the Information Governance Toolkit.
- the Caldicott Guardian should oversee all arrangements, protocols and procedures where confidential patient / service user information may be shared internally and with external bodies.

The relationship with the Senior Information Risk Owner

There are a number of differences between the roles of the Caldicott Guardian and the SIRO that suggest that they should normally remain distinct and separate; for example, the Caldicott Guardian's main focus is patient identifiable information whereas the SIRO is concerned with the risks to information generally. At the same time there is clearly a need to ensure that the Caldicott Guardian works closely with the SIRO (and any organisational Information Asset Owners – IAOs) and that the Guardian is consulted where appropriate when information risk reviews are conducted for assets which comprise or contain patient/service user information. The Caldicott Guardian should 'sign-off' information risk reviews in these circumstances.

Information Asset Owner

Role

Information Asset Owners (IAO's) are senior individuals responsible for the running of the relevant service; in BHCC this is usually a Head of Service. Their role is to understand what information is held by their business area, what is added and what is removed, how information is moved, and who has access to it and why. As a result they are able to understand and address risks to the information, and ensure that information is fully used within the law for the public good.

Key IAO responsibilities

- Leads and foster a culture that values, protects and uses information for the public good
- Knows what information the asset holds, and what enters and leaves it and why
- Knows who has access and why, and ensures their use of it is monitored
- Understands and addresses risks to the asset, and provides assurance to the SIRO
- Responsible for ensuring that Information Rights access requests (including SARs, FOIs, EIRs, Section 29, etc)re fulfilled in accordance with statute
- Ensures the asset is fully used for the public good

Subject:	Annual Surveillance Report 2015		
Date of Meeting:	12 January 2016		
Report of:	Acting Executive Director of Finance & Resources		
Contact Officer:	Name:	Jo Player	Tel: 29-2488
	Email:	Jo.player@brighton-hove.gcsx.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The purpose of this report is to appraise the Committee of the activities that have been undertaken utilising the powers under the Regulation of Investigatory Powers Act 2000 (RIPA) since the last report to Committee in December 2014.
- 1.2 The report also informs Committee of the outcome of the recent audit of the Council's surveillance activity by the Office of The Surveillance Commissioners in June 2015.
- 1.3 The report also introduces a revised Policy and Guidance document that reflects the findings of the Surveillance Commissioner during his audit in June 2015

2. RECOMMENDATIONS:

- 2.1 That the Committee approve the continued use of covert surveillance as an enforcement tool to prevent and detect crime and disorder investigated by its officers, providing the activity is in line with the Council's Policy and Guidance and that necessity and proportionality rules are stringently applied.
- 2.2 That the Committee note the surveillance activity undertaken by the authority since the report to Committee in December 2014 as set out in paragraph 3.3.
- 2.3 That the Committee approve the continued use of the amended Policy and Guidance document as set out in Appendix 2.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Regulation of Investigatory Powers Act 2000 (RIPA) is the law governing the use of covert surveillance techniques by public authorities, including local authorities. RIPA was enacted as part of a suite of legislation flowing from the Human Rights Act 1997. RIPA requires that when public authorities need to use covert techniques to obtain information about someone, they do it in a way that is necessary and compatible with human rights.
- 3.2 RIPA regulates the interception of communications, directed and intrusive surveillance and the use of covert human intelligence sources (informants). Local

authorities may only carry out directed surveillance, access certain communications data and use informants.

- 3.3 The Council has carried out no surveillance activity since the last report to Committee in December 2014.
- 3.4 The Protection of Freedoms Act was enacted in November 2012. Since then, approval must be sought from a Magistrate when local authorities wish to conduct surveillance activity, access communications data and use informants. This is in addition to the authorisation by an Authorising Officer who meets the criteria regarding their position within the authority.
- 3.5 In addition to seeking the approval of a Magistrate, all applications must meet the Serious Offence test. This stipulates that any directed surveillance is restricted to the investigation of offences that carry a custodial sentence of six months or more. The only offence where this will not apply is in regard to the investigation of underage sales of tobacco or alcohol.
- 3.6 In June 2015 the Office of the Surveillance Commissioner (OSC) audited the authority's use of RIPA in the last three years since the previous audit in 2012. Recommendations made in 2012, to update the central record and revise the Policy document, had been carried out, although further recommendations to update the Policy were made and have been implemented.
- 3.7 The inspector recommended that the Policy and Guidance document was updated, to reflect changes to legislation. A section has been included to account for investigations involving social networking sites and the section regarding urgent oral authorisations has been removed as this is no longer applicable to local authorities. He also recommended training of the Authorising Officers was completed and that future applications and authorisations are carefully scrutinised to ensure that they are accurate and unambiguous.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The only alternative is to curtail the use of RIPA but this is not considered an appropriate step.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 There has been no consultation in the compilation of this report as it is a requirement of the Code of Practice pursuant to section 71 of RIPA that elected members review the authority's use of RIPA and set the policy once a year.

6. CONCLUSION

- 6.1 It is essential that officers are able to use the RIPA powers where necessary and within the threshold set out in the Protection of Freedoms Act 2012, but only after excluding all other methods of enforcement. An authorisation will only be given by the relevant 'Authorising Officer' following vetting by the 'Gatekeeper' therefore it is unlikely that the powers will be abused. There is now the additional safeguard of judicial sign off.

- 6.2 The implementation of the Annual review has made the whole process transparent and demonstrates to the public that the correct procedures are followed.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The costs of officer time associated with the recommendations in this report will be met from existing revenue budgets.

Finance Officer Consulted: Michael Bentley

Date: 03/12/15

Legal Implications:

- 7.2 The legal framework governing the use of covert surveillance and accessing communications data is addressed in the body of the report. The Council's policy and reporting measures (Appended) and amended Guidance ensure that the powers are exercised lawfully, proportionately and consistently.

Lawyer Consulted: Elizabeth Culbert

Date: 02/12/15

Equalities Implications:

- 7.3 The proper and consistent application of the RIPA powers should ensure that a person's basic human rights are not interfered with, without justification. Each application will be assessed by the gatekeeper for necessity and proportionality prior to the authorisation by a restricted number of authorising officers. The application will also be signed off by a Magistrate. This process should identify any inconsistencies or disproportionate targeting of minority groups and enable action to be taken to remedy any perceived inequality. However an equality Impact assessment is being written.

Sustainability Implications:

- 7.4 There are no sustainability implications

SUPPORTING DOCUMENTATION

Appendices:

1. Other Implications
2. Policy and Guidance Document version June 2015

Documents in Members' Rooms

1. None

Background Documents

1. None

Crime & Disorder Implications:

- 1.1 If used appropriately, the activities described in this report should enhance the council's capacity to tackle crime and disorder.

Corporate / Citywide Implications:

- 1.2 Proper application of the powers will help to achieve fair enforcement of the law and help to protect the environment and public from rogue trading and illegal activity.

Brighton & Hove City Council

Corporate Policy & Procedures Document

On

The Regulation of Investigatory Powers Act 2000

(RIPA)

Use of Directed Surveillance
Use of Covert Human Intelligence Sources
Accessing Communications Data

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Version: June 2015

Contents Page

Introduction

Corporate Policy Statement

Senior Responsible Officer

Authorising Officers' Responsibilities

General Information

What RIPA does and does not do

Types of Surveillance

Conduct and Use of a Covert Human Intelligence Source (CHIS)

Covert Surveillance of Social Networking Sites

Juvenile Sources and Vulnerable Individuals

Accessing Communications Data

Authorisation Procedures

Grounds for Authorisation

Serious Crime and Non RIPA Surveillance

Confidential Information

Duration

Other Agencies

Records

Consequences of Non Compliance

Oversight

Appendix 1 List of Authorising Officers

Appendix 2 Flow chart outlining process

Appendix 3 List of Useful Websites

Appendix 4 Guidance for Authorising Officers

Appendix 5 Guidance for Applicants

The Regulation of Regulatory Powers Act 2000 refers to 'Designated Officers'. For ease of understanding and application this document refers to 'Authorising Officers'.

Introduction

This document is based on the requirements of the Regulation of Investigatory Powers Act 2000 (RIPA) and the Home Office's Code of Practices for Directed Surveillance and Covert Human Intelligence Sources (CHIS) and Accessing Communications data. It takes into account the oversight provisions contained in the revised Code of Practice for Covert Surveillance and the revised Code of Practice that deals with Access to communications data that came into force on 6th April 2010. Officers should also bear in mind Procedures and Guidance issued by the Office of the Surveillance Commissioner in December 2014, when applying for, and authorising applications. This policy and procedures document sets out the means of compliance with, and use of, the Act by The Council. It is based upon the requirements of the Act and the Home Office's Codes of Practice on Covert Surveillance and Covert Human Intelligence Sources, together with the Revised Draft Code of Practice on Accessing Communications Data

The authoritative position on RIPA is the Act itself and any Officer who is unsure about any aspect of this document should contact the Trading Standards Manager or the Head of Law, for advice and assistance.

This document has been approved by elected members and is available from the Trading Standards Manager.

The Trading Standards Manager will maintain the Central Register of all authorisations, reviews, renewals, cancellations and rejections. It is the responsibility of the relevant Authorising Officer to ensure that relevant form is submitted, for inclusion on the register, within 1 week of its completion.

This document will be subject to an annual review by the Trading Standards Manager and will be approved by elected members.

In terms of monitoring e-mails and internet usage, it is important to recognise the interplay and overlap with the Council's Information Technology policies and guidance, the Telecommunications (Lawful Business Practice)(Interception of Communications) Regulations 2000, the Data Protection Act 1998 and its Code Of Practice. RIPA forms should only be used where **relevant** and they will only be **relevant** where the **criteria** listed are fully met.

Policy Statement

The Council takes its statutory responsibilities seriously and will at all times act in accordance with the law and takes necessary and proportionate action in these types of matters. In that regard the Trading Standards Manager is duly authorised to keep this document up to date and amend, delete, add or substitute relevant provisions, as necessary. For administrative and operational effectiveness, the Trading Standards Manager is authorised to add or substitute Authorising Officers with the agreement of the Senior Responsible Officer.

It is this Council's Policy that

- All covert surveillance exercises conducted by the Council should comply with the requirements of RIPA
- An Authorisation will only be valid if initialled by a gatekeeper and signed by an authorising officer.
- Authorising 'Access to Communications data' will be restricted to the Trading Standards Manager and the Head of Regulatory Services. The National Anti

Fraud Network will become the Single Point of Contact for purposes of Access to Communications Data.

Senior Responsible Officer

The revised Code of Practice recommends that each public authority appoints a Senior Responsible Officer. This officer will be responsible for the integrity of the process in place within the public authority to authorise directed surveillance; compliance with the relevant Acts and Codes of Practice; engagement with the Commissioners and Inspectors when they conduct their inspections and where necessary overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner.

The Senior Responsible Officer should be a member of the corporate management team and for the purposes of this policy the Executive Director Finance and Resources has been so delegated. It is the responsibility of the Senior Responsible Officer to ensure that all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the Office of the Surveillance Commissioners. Where an inspection report highlights concerns about the standards of authorising officers, it is the responsibility of the Senior Responsible Officer to ensure these concerns are addressed.

Authorising Officers Responsibilities

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 and the Regulation of Investigatory Powers (Communications Data) Order 2010, specify the seniority of officers who are able to authorise surveillance activity and access to communications data. These are Directors, Head of Service, Service Manager or equivalent.

It is essential that Senior Managers and Authorising Officers take personal responsibility for the effective and efficient operation of this document.

It is the responsibility of the Senior Responsible Officer in conjunction with the Trading Standards Manager to ensure that sufficient numbers of Authorising Officers receive suitable training on RIPA and this document, and that they are competent.

It will be the responsibility of those Authorising Officers to ensure that relevant members of staff are also suitably trained as 'Applicants'.

An authorisation must not be approved until the Authorising Officer is satisfied that the activity proposed is necessary and proportionate.

However it will be the responsibility of the gatekeeper to review any applications prior to submission to the Authorising Officer. They should ensure that the correct form has been used. These are the latest Home Office forms and are available on the HO website and that the applicant has obtained a Unique Reference Number (URN) from the PA Head of Regulatory Services. The gatekeeper should also ensure that the form has been correctly completed and contains sufficient detail and information to enable the authorising officer to make an informed decision whether to authorise the application. The gatekeeper should also scrutinise the form to ensure that it complies with the necessity and proportionality requirements before the authorising officer receives the form. A gatekeeper should be a person with sufficient knowledge and understanding of the enforcement activities of the relevant public body, who should vet the applications as outlined above. Once the gatekeeper is satisfied with the application they should initial the form and submit any comments on the application in writing to the Authorising Officer and provide necessary feedback to the applicant. In order that there is consistency with the quality of applications the Trading Standards Manager and Principal Trading Standards Officer will act as gatekeepers for the Council. It should be noted that the Trading Standards Manager will not act as gatekeeper and Authorising Officer on the same application.

- **Necessary** in this context includes consideration as to whether the information sought could be obtained by other less invasive means, and that those methods have been explored and been unsuccessful or could have compromised the investigation. The Authorising Officer must be satisfied that there is necessity to use covert surveillance in the proposed operation. In order to be satisfied there must be an identifiable offence to prevent or detect before an authorisation can be granted on the grounds falling within sec 28(3)(b) and 29(3)(b) of RIPA and ss6(3) and 7(3) of RIP(S)A. The application should identify the **specific offence** being investigated (**including the Act and section**) and the **specific point(s) to prove** that the surveillance is intended to gather evidence about. The applicant must show that the operation is **capable of gathering that evidence** and that such **evidence is likely to prove** that part of the offence.
- Deciding whether the activity is **proportionate** includes balancing the right to privacy against the seriousness of the offence being investigated. Consideration must be given as to whether the activity could be seen as excessive. An authorisation should demonstrate how the Authorising Officer has reached the conclusion that the activity is proportionate to what it seeks to achieve; including an explanation of the reasons why the method, tactic or technique proposed is not disproportionate to what it seeks to achieve. A potential model answer would make it clear that the 4 elements of proportionality had been fully considered.
 1. Balancing the size and scope of the operation against the gravity and extent of the perceived mischief,
 2. Explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others,
 3. That the activity is an appropriate use of the legislation and the only reasonable way, having considered all others, of obtaining the necessary result and,
 4. Evidencing what other methods had been considered and why they were not implemented.

Authorising Officers must pay particular attention to Health & Safety issues that may be raised by any proposed surveillance activity. Approval must not be given until such time as any health and safety issue has been addressed and/or the risks identified are minimised.

Authorising Officers must ensure that staff who report to them follow this document and do not undertake any form of surveillance, or access communications data, without first obtaining the relevant authorisation in compliance with this document.

Authorising Officers must ensure when sending copies of any forms to the Trading Standards Manager for inclusion in the Central Register, that they are sent in **sealed** envelopes and marked **Strictly Private & Confidential**.

General Information on RIPA

The Human Rights Act 1998 (which brought much of the European Convention on Human Rights and Fundamental Freedoms 1950 into UK domestic law) requires the City Council, and organisations working on its behalf, to respect the private and family life of citizens, his home and his correspondence.

The European Convention did not make this an absolute right, but a qualified right. Therefore, in certain circumstances, the City Council may interfere in an individual's right as mentioned above, if that interference is:-

- (a) **In accordance with the law;**
- (b) **Necessary;** and
- (c) **Proportionate.**

The Regulation of Investigatory Powers Act 2000 (RIPA) provides a statutory mechanism (i.e. 'in accordance with the law') for authorising **covert surveillance** and the use of a '**covert human intelligence source**' ('**CHIS**') – e.g. undercover agents, and **Accessing Communications data**. It seeks to ensure that any interference with an individual's right under Article 8 of the European Convention is necessary and proportionate. In doing so, the RIPA seeks to ensure both the public interest and the human rights of individuals are suitably balanced.

Directly employed Council staff and external agencies working for the City Council are covered by the Act for the time they are working for the City Council. All external agencies must, therefore, comply with RIPA and the work carried out by agencies on the Council's behalf must be properly authorised by an Authorising Officer after scrutiny by a gatekeeper.

A list of officers who may authorise Directed Surveillance is kept by the Trading Standards Manager and the current list is attached at **Appendix 1**. This list will be updated annually. The designated gatekeepers for the Council are the Principal Trading Standards Officer and the Trading Standards Manager. For the purposes of Accessing Communications Data the Designated Persons (Authorised Officers) is the Trading Standards Manager.

If the correct procedures are not followed, evidence may be dis-allowed by the courts, a complaint of mal-administration could be made to the Ombudsman, and/or the Council could be ordered to pay compensation. Such action would not, of course, promote the good reputation of the City Council and will, undoubtedly, be the subject of adverse press and media interest.

A flowchart of the procedures to be followed appears at **Appendix 2**. A list of useful websites is available at **Appendix 3**

What RIPA Does and Does Not Do

RIPA does:

- Requires prior authorisation of directed surveillance
- Prohibits the Council from carrying out intrusive surveillance
- Requires authorisation of the conduct and use of a CHIS
- Require safeguards for the conduct and use of a CHIS
- Requires proper authorisation to obtain communication data
- Prohibits the Council from accessing 'traffic data'

RIPA does not:

- Make unlawful conduct which is otherwise lawful
- Prejudice or dis-apply any existing powers available to the City Council to obtain information by any means not involving conduct that may be authorised under this Act. For example, it does not affect the Council's current powers to obtain information via the DVLA or to get information from the Land Registry as to the ownership of a property.

If the Authorising Officer or any Applicant is in any doubt, they should ask the Trading Standards Manager or the Head of Law before any directed surveillance, CHIS, or Access to Communications is authorised, renewed, cancelled or rejected.

Types of Surveillance

'**Surveillance**' includes

- Monitoring, observing, listening to persons, watching or following their movements, listening to their conversations and other such activities or communications.
- Recording anything mentioned above in the course of authorised surveillance
- Surveillance, by or with, the assistance of appropriate surveillance device(s).

Surveillance can be overt or covert.

Overt Surveillance

Most surveillance activity will be done overtly, that is, there will be nothing secretive, clandestine or hidden about it. In many cases, officers will be behaving in the same way as a normal member of the public (e.g. in the case of most test purchases), and/or will be going about Council business openly (e.g. a Neighbourhood Warden walking through the estate).

Similarly, surveillance will be overt if the subject has been told it will happen (e.g. where a noisemaker is warned (preferably in writing) that noise will be recorded if the noise continues, or where an entertainment licence is issued subject to conditions, and the licensee is told that officers may visit without notice or identifying themselves to the owner/proprietor to check that the conditions are being met).

The following are NOT normally Directed Surveillance:

- Activity that is observed as part of normal duties, e.g. by an officer in the course of day-to-day work.
- CCTV cameras (unless they have been directed at the request of investigators) – these are overt or incidental surveillance, and are regulated by the Data Protection Act.

Covert Surveillance

Covert Surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware of it taking place. (Section 26(9)(a) RIPA) It is about the intention of the surveillance, not about whether they are actually aware of it; it is possible to be covert in Council uniform where, for example, the person is intended to mistake the reason for the officer being there.

RIPA regulates two types of covert surveillance, (Directed Surveillance and Intrusive Surveillance) and the use of Covert Human Intelligence Sources (CHIS).

Directed Surveillance

Directed Surveillance is surveillance which: -

- Is covert; and
- Is not intrusive surveillance;
- Is not carried out in an immediate response to events which would otherwise make seeking authorisation under the Act unreasonable, e.g. spotting something suspicious and continuing to observe it; and
- It is undertaken for the purpose of a **specific investigation** or **operation** in a manner **likely to obtain private information** about an individual (whether or not that person is specifically targeted for purposes of an investigation).

Private information in relation to a person includes any information relating to his private and family life, his home and his correspondence. The fact that covert surveillance occurs in a public place or on business premises does not mean that it cannot result in the obtaining of private information about a person. Prolonged surveillance targeted on a single person will undoubtedly result in the obtaining of private information about him/her and others that s/he comes into contact, or associates, with.

Examples of Expectations of Privacy:

Two people are holding a conversation on the street and, even though they are talking together in public, they do not expect their conversation to be overheard and recorded by anyone. They have a 'reasonable expectation of privacy' about the contents of that conversation, even though they are talking in the street. The contents of such a conversation should be considered as private information. A directed surveillance authorisation would therefore be appropriate for a public authority to record or listen to the conversation as part of a specific investigation or operation and otherwise than by way of an immediate response to events. A Surveillance officer intends to record a specific person providing their name and telephone number to a shop assistant, in order to confirm their identity, as part of a criminal investigation. Although the person has disclosed these details in a public place, there is nevertheless a reasonable expectation that the details are not being recorded separately for another purpose. A directed surveillance authorisation

should therefore be sought.

For the avoidance of doubt, only those officers designated as 'Authorising Officers' for the purpose of RIPA can authorise 'Directed Surveillance' IF, AND ONLY IF, the RIPA authorisation procedures detailed in this document, are followed.

Reconnaissance- Examples

Officers wish to drive past a café for the purposes of obtaining a photograph of the exterior. Reconnaissance of this nature is not likely to require a directed surveillance authorisation as no private information about any person is likely to be obtained or recorded. If the officers chanced to see illegal activities taking place, these could be recorded and acted upon as 'an immediate response to events'. If, however, the officers intended to carry out the exercise at a specific time of day, when they expected to see unlawful activity, this would not be reconnaissance but directed surveillance, and an authorisation should be considered. Similarly, if the officers wished to conduct a similar exercise several times, for example to establish a pattern of occupancy of the premises by any person, the accumulation of information is likely to result in the obtaining of private information about that person or persons and a directed surveillance authorisation should be considered

Intrusive Surveillance

This is when it: -

- Is covert;
- Relates to residential premises and private vehicles; and
- Involves the presence of a person in the premises or in the vehicle or is carried out by a surveillance device in the premises/vehicle. Surveillance equipment mounted outside the premises will not be intrusive, unless the device consistently provides information of the same quality and detail as might be expected if they were in the premises/vehicle.

Only police and other law enforcement agencies can carry out this form of surveillance.

Council Officers must not carry out intrusive surveillance.

Notes about 'Intrusive'

Surveillance is generally 'Intrusive' only if the person is on the same premises or in the same vehicle as the subject(s) of the surveillance. Carrying out surveillance using private residential premises (with the consent of the occupier) as a 'Static Observation Point' does not make that surveillance 'Intrusive'. A device used to enhance your external view of property is almost never an *intrusive* device. A device would only become *intrusive* where it provided a high quality of information from inside the *private residential premises*. A device used to enhance your external view of property is almost never an *intrusive* device. A device would only become *intrusive* where it provided a high quality of information from inside the *private residential premises*. If premises under surveillance are known to be used for legally privileged communications, that surveillance must also be treated as *intrusive*

Examples :

Officers intend to use an empty office to carry out surveillance on a person who lives opposite. As the office is on the 4th floor, they wish to use a long lens and binoculars so that they can correctly identify and then photograph their intended subject covertly. This is NOT intrusive surveillance, as the devices do not provide high quality evidence from inside the subject's premises. Officers intend using a surveillance van parked across the street from the subject's house. They could see and identify the subject without binoculars but have realised that, if they use a 500mm lens, as the subject has no net curtains or blinds, they should be able to see documents he is reading. This IS intrusive surveillance, as the evidence gathered is of a high quality, from inside the premises, and is as good as could be provided by an officer or a device being on the premises.

Examples of different types of Surveillance

Type of Surveillance	Examples
<u>Overt</u>	<ul style="list-style-type: none"> § Police Officer or Parks Warden on patrol § Sign-posted Town Centre CCTV cameras (in normal use) § Recording noise coming from outside the premises after the occupier has been warned that this will occur if the noise persists. § Most test purchases (where the officer behaves no differently from a normal member of the public).
<u>Covert</u> but not requiring prior authorisation	<ul style="list-style-type: none"> § CCTV cameras providing general traffic, crime or public safety information.

<p><u>Directed</u> (must be RIPA authorised)</p>	<p>§ Officers follow an individual or individuals over a period, to establish whether s/he is working when claiming benefit or off long term sick from employment.</p> <p>§ Test purchases where the officer has a hidden camera or other recording device to record information that might include information about the private life of a shop-owner, e.g. where s/he is suspected of running his business in an unlawful manner.</p>
<p><u>Intrusive</u></p>	<p>§ Planting a listening or other device (bug) in a person's home or in their private vehicle.</p> <p>THE COUNCIL CANNOT CARRY OUT THIS ACTIVITY AND FORBIDS ITS OFFICERS FROM CARRYING IT OUT</p>

Conduct and Use of a Covert Human Intelligence Source (CHIS)

Who is a CHIS?

A Covert Human Intelligence Source (CHIS) is someone who establishes or maintains a personal or other relationship for the covert purpose or facilitating anything falling under the following bullet points;

- Covertly uses such a relationship to obtain information or to provide access to any information to another person or,
- Covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.

RIPA may or may not apply in circumstances where members of the public volunteer information to the Council or to contact numbers set up to receive such information (such as benefit fraud hotlines). It will often depend on how the information was obtained. If an individual has obtained the information in the course of or as a result of a personal or other relationship it may be that they are acting as a CHIS. The contrast is between such a person and one who has merely observed the relevant activity from 'behind his (actual or figurative) net curtains.

A relationship is covert if it is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of its purpose.

If a person who volunteers information is then asked to obtain further information, it is likely that they would either become a CHIS or that a directed surveillance authorisation should be considered.

Examples of a CHIS may include:
--

- | |
|---|
| <ul style="list-style-type: none"> • Licensing officers, working with the Police, covertly building a business |
|---|

relationship with a cab company which is believed to be using unlicensed drivers.

- Food safety officers posing as customers to get information on what is being sold at premises and developing a relationship with the shopkeeper beyond that of supplier and customer

What must be authorised?

Officers must not create or use a CHIS without prior authorisation. If there is any doubt as to whether an individual is acting as a CHIS advice should be sought from the Trading Standards Manager.

- Creating (or “Conduct of”) a CHIS means procuring a person to establish or maintain a relationship with a person so as to secretly obtain and pass on information. The relationship could be a personal or ‘other’ relationship (such as a business relationship) and obtaining the information may be either the only reason for the relationship or be incidental to it. Note that it can also include asking a person to continue a relationship which they set up of their own accord.
- Use of a CHIS includes actions inducing, asking or assisting a person to act as a CHIS and the decision to use a CHIS in the first place.

Covert Surveillance of Social Networking Sites

Care should be taken to understand how SNS work. Authorising Officers should not assume that one service provider is the same as another or that services provided by a single provider are the same. Whilst it is an individual’s responsibility to set privacy settings to protect private information, and even though data may be deemed to be published and no longer under the control of the author, it is unwise to regard it as ‘open source’ or publicly available. The author will have a reasonable expectation of privacy if access controls are applied.

Where privacy settings are available but not applied the data may be considered open source and an authorisation is not usually required. However repeat viewings of ‘open source’ sites may constitute directed surveillance on a case by case basis and this should be borne in mind.

If it is necessary and proportionate for a public authority to breach covertly access controls, the minimum requirement will be an authorisation for directed surveillance. An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a member of a public authority or by a person acting on its behalf (i.e. the activity is more than merely reading the site’s content.)

It is not unlawful for a member of a public authority to set up a false identity but it is inadvisable for a member of a public authority to do so for a covert purpose without authorisation. Using photographs of other persons without their permission to support the false identity infringes other laws.

A member of the public authority should not adopt the identity of a person known, or likely to be known to the subject of interest or users of the site without authorisation and without the consent of the person whose identity is used, and without considering the protection of that person. The consent must be explicit i.e the person should agree preferably in writing what can and can’t be done.

Juvenile Sources

Special safeguards apply to the use or conduct of juvenile sources (i.e. under 18 year olds). **On no occasion can a child under 16 years of age be authorised to give information against his or her parents.**

Authorisations for juvenile CHIS must not be granted unless: -

- A risk assessment has been undertaken as part of the application, covering the physical dangers and the psychological aspects of the use of the child
- The risk assessment has been considered by the Authorising Officer and he is satisfied that any risks identified in it have been properly explained; and
- The Authorising Officer has given particular consideration as to whether the child is to be asked to get information from a relative, guardian or any other person who has for the time being taken responsibility for the welfare of the child.

Only the Chief Executive may authorise the use of Juvenile Sources.

Vulnerable Individuals

A Vulnerable Individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself or herself, or unable to protect himself or herself against significant harm or exploitation.

A Vulnerable Individual will only be authorised to act as a source in the most exceptional of circumstances.

Only the Chief Executive may authorise the use of Vulnerable Individuals.

Test Purchases

Carrying out test purchases will not require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information and, therefore, the purchaser will not normally be a CHIS. For example, authorisation would not normally be required for test purchases carried out in the ordinary course of business (e.g. walking into a shop and purchasing a product over the counter).

By contrast, developing a relationship with a person in the shop, to obtain information about the seller's suppliers of an illegal product (e.g. illegally imported products) will require authorisation as a CHIS. Similarly, using mobile hidden recording devices or CCTV cameras to record what is going on in the shop will require authorisation as directed surveillance. A combined authorisation can be given for a CHIS and also directed surveillance.

Please also see below under 'Serious Crime'

Anti-social behaviour activities (e.g. noise, violence, racial harassment etc)

Persons who complain about anti-social behaviour, and are asked to keep a diary, will not normally be a CHIS, as they are not required to establish or maintain a relationship for a covert purpose. Recording the level of noise (e.g. the decibel level) will not normally capture private information and, therefore, does not require authorisation.

Recording sound (with a DAT recorder) on private premises could constitute intrusive surveillance, unless it is done overtly. For example, it will be possible to record if the noisemaker is warned that this will occur if the level of noise continues.

Placing a covert stationary or mobile video camera outside a building to record anti social behaviour on residential estates will require prior authorisation.

Accessing Communications Data

Local authority employees (except Housing Benefit Officers) will no longer be able to use their powers under relevant legislation and the exemption under the Data Protection Act 1998. The disclosure of communications data by Communication service providers will now only be permitted if a Notice to obtain and disclose (or in certain circumstances an Authorisation for an Officer to obtain it themselves) has been issued by the 'Designated person'.

Authorities are required to nominate Single Point of Contacts (SPOC) and that person(s) must have undertaken accredited training.

'Designated Persons' within the Council is now limited to the Trading Standards Manager and Head of Regulatory Services.

Local authorities may only access to Customer Data or Service Data. **They cannot access 'traffic data'**.

Customer data (Subscriber)

Customer data is the most basic information about users of communication services.

It includes:-

- The name of the customer
- Addresses for billing, etc.
- Contact telephone numbers
- Abstract personal records provided by the customer (e.g. demographic information or sign up data)
- Account information (bill payment arrangements, bank or credit/debit card details)
- Services subscribed to.

Service Data (Service user)

This relates to the use of the Service Provider services by the customer, and includes:-

- Periods during which the customer used the service
- Information about the provision and use of forwarding and re-direction services
- Itemised records of telephone calls, internet connections, etc
- Connection, disconnect and re-connection
- Provision of conference calls, messaging services, etc
- Records of postal items, etc
- Top-up details for pre-pay mobile phones.

Traffic Data

This is data about the communication. It relates to data generated or acquired by the Service Provider in delivering or fulfilling the service. **Local authorities do not have access to this data.**

Authorisation Procedures

Directed surveillance and the use of a CHIS can only be lawfully carried out if properly authorised, and in strict accordance with the terms of the authorisation. **Appendix 2** provides a flow chart of the process to be followed.

Authorising Officers

Directed surveillance and or the use of CHIS can only be authorised by the officers listed in this document attached at appendix 1. Authorising officers should ensure that they undertake at least one refresher training course on RIPA during each calendar year. The list will be kept up to date by the Trading Standards Manager and amended as necessary. The SRO can add, delete or substitute posts to this list as required.

Authorisations under RIPA are separate from delegated authority to act under the Council's Scheme of Delegation and internal departmental Schemes of Management. RIPA authorisations are for specific investigations only, and must be renewed or cancelled once the specific surveillance is complete or about to expire.

Only the Chief Executive can authorise the use of a CHIS who is a juvenile or a vulnerable person or in cases where it is likely that confidential information will be obtained through the use of surveillance.

Authorising Officers–Access to Communications data

The Trading Standards Manager or the Head of Regulatory Services are the 'Designated persons' permitted to authorise the obtaining and disclosing of communications data. The National Anti Fraud Network will be the Single Point of Contact.

Training Records

A certificate of attendance will be given to anyone undertaking training in relation to the use of RIPA. Training will be recorded on their individual learning and development plan.

Single Points of Contact under Part 1 of the Act are required to undertake accredited training. A record will be kept of this training and any updating. This record is kept by NAFN. Designated persons are also required to be suitably trained.

Application Forms

Only the currently approved forms, available on the Home Office website, may be used. Any other forms will be rejected by the gatekeeper/authorising officer. Applications for communications data should be made via the NAFN website. Please contact NAFN for further information on this process – contact details on the Wave.

A gatekeeper role will be undertaken by either the Trading Standards Manager or the Principal Trading Standards Officer who will check that the applications have been completed on the correct forms, have a URN and that they contain sufficient grounds for authorisation. They will provide feedback to the applicant and will initial the forms before being submitted to the authorising officer. The Trading Standards Manager can fulfil both the role as gatekeeper and authorising officer but will not fulfil both roles for an individual application.

Grounds for Authorisation

Directed Surveillance or the Conduct and Use of the CHIS and Access to Communications Data can be authorised by an Authorising Officer where he believes that the authorisation is necessary in the circumstances of the particular case. For local authorities the only ground that authorisation can be granted is;

- For the prevention or detection of crime

Serious Crime

From 1st November 2012, the Protection of Freedoms Act introduced an additional requirement for officers seeking to use directed surveillance or CHIS. From this date, with the exception of Trading Standards' work regarding test purchases for alcohol and tobacco, all applications must meet the 'serious crime' threshold. This has been identified as any offence for which the offender could be imprisoned for 6 months or more. An analysis of relevant offences indicates that covert surveillance may therefore be used by Housing Benefit (Fraud), Trading Standards (various offences including doorstep crime and counterfeiting), Waste Enforcement (fly tipping), Fraud against the Council and Child Protection and Adult Safeguarding issues. Where an offence meets the serious crime threshold, the applicant will apply to the Authorising Officer in the normal way via a gatekeeper, but will then need to attend Magistrate's Court to obtain judicial sign off.

Non RIPA Surveillance

This new process will automatically restrict the use of surveillance activity under the RIPA framework by a number of our services as the offences they deal with do not meet the serious crime threshold. RIPA does not grant any powers to carry out surveillance, it simply provides a framework that allows authorities to authorise surveillance in a manner that ensures compliance with the European Convention on Human Rights. Equally, RIPA does not prohibit surveillance from being carried out or require that surveillance may only be carried out following a successful RIPA application.

Whilst it is the intention of this Authority to use RIPA in all circumstances where it is available, for a Local Authority, this is limited to preventing or detecting crime and from 1st November 2012 to serious crime. The Authority recognises that there are times when it will be necessary to carry out covert directed surveillance when RIPA is not available to use. Under such circumstances, a RIPA application must be completed and clearly endorsed in red 'NON-RIPA SURVEILLANCE' along the top of the first page. The application must be submitted to a RIPA Authorising Officer in the normal fashion, who must consider it for Necessity and Proportionality in the same fashion as they would a RIPA application. The normal procedure of timescales, reviews and cancellations must be followed. Copies of all authorisations or refusals, the outcome of

reviews or renewal applications and eventual cancellation must be notified to the Trading Standards Manager who will keep a separate record of Non-RIPA activities, and monitor their use in the same manner as RIPA authorised activities.

Assessing the Application Form

Before an Authorising Officer authorises an application, **they must**

Be mindful of this Corporate Policy & Procedures Document

Satisfy themselves that the RIPA authorisation is

- **in accordance with the law,**
- **Necessary** in the circumstances of the particular case on the ground specified above; and
- **Proportionate** to what it seeks to achieve

This means that they must consider

- whether other less invasive methods to obtain the information have been considered. The least intrusive method will normally be considered the most proportionate unless for example it is impractical or would undermine the investigation.
- balance the right of privacy against the seriousness of the offence under investigation. When considering necessity and proportionality, an authorising officer should spell out in terms of the 5 W's, (who, what, why, where, when and how) what specific activity is being sanctioned.
- Take account of the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (**Collateral Intrusion**).
- Ensure that measures are taken wherever practicable to avoid or minimise collateral intrusion.
- Set a date for review of the authorisation and review on only that date where appropriate.
- Ensure that the form carries a unique reference number
- Ensure that the applicant has sent a copy to the Trading Standards Manager for inclusion in the Central Register within 1 week of the authorisation.
- Ensure that the application is cancelled when required.

NB the application **MUST** make it clear how the proposed intrusion is necessary and how an absence of this evidence would prejudice the outcome of the investigation. If it does not then the application **SHOULD** be refused. Some guidance on how to complete the form for both authorising officers and applicants is available at **Appendix 4 and Appendix 5**

Retention and Destruction of the Product

Where the product of surveillance could be relevant to pending or future legal proceedings, it should be retained in accordance with established disclosure requirements for a suitable further period. This should be in line with any subsequent review. Attention should be drawn to the requirements of the Code of Practice issued under the Criminal Procedures and Investigations Act 1996. This states that material obtained in the course of a criminal investigation and which may be relevant to the investigation must be recorded and retained.

There is nothing in RIPA 2000 which prevents material obtained from properly authorised surveillance being used in other investigations. However we must be mindful to handle store and destroy material obtained through the use of covert surveillance appropriately. It will be the responsibility of the Authorising Officer to ensure compliance with the appropriate data protection requirements and to ensure that any material is not retained for any longer than is necessary. It will also be the responsibility of the Authorising Officer to ensure that the material is disposed of appropriately.

Confidential Material

Particular care should be taken where the subject of the investigation or operation might reasonably expect a high degree of privacy, or where confidential information is involved.

Confidential Information consists of matters subject to legal privilege, confidential personal information or confidential journalistic information. So for example extra care should be taken where through the use of surveillance, it would be possible to obtain knowledge of discussions between a minister of religion and an individual relating to the latter's spiritual welfare, or where matters of medical or journalistic confidentiality, or legal privilege may be involved.

Where it is likely, through the use of surveillance, that confidential information will be obtained, authorisation can only be granted by Heads of Service or in their absence the Chief Executive.

Descriptions of what may constitute legally privileged information are set out in section 98 of Police Act 1997 and further guidance is set out in Paragraphs 3.4-3.9 of the Home Office Code of Practice on Covert Surveillance.

Confidential Personal Information and Confidential Journalistic Information

Similar considerations to those involving legally privileged information must also be given to authorisations that involve the above. Confidential personal information is information held in confidence relating to the physical or mental health or spiritual counselling concerning an individual (whether living or dead) who can be identified from it. This information can be either written or oral and might include consultations between a doctor and patient or information from a patient's medical records. Spiritual counselling means conversations between an individual and a Minister of Religion acting in an official capacity, where the individual being counselled is seeking or the Minister is imparting forgiveness, absolution or the resolution of conscience with the authority of the Divine Being(s) of their faith.

Confidential journalistic material includes material acquired or created for the purpose of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purposes of journalism and held subject to such an undertaking.

Further information or guidance regarding Confidential Information can be obtained from the Head of Law or the Trading Standards Manager.

Additional Safeguards when Authorising a CHIS

When authorising the conduct or use of a CHIS, the Authorising Officer **must also**

- Be satisfied that the **conduct** and/or **use** of the CHIS is proportionate to what is sought to be achieved;
- Be satisfied that **appropriate arrangements** are in place for the management and oversight of the CHIS and this must address health and safety issues through a risk assessment; At all times there will be a person designated to deal with the CHIS on behalf of the authority and for the source's security and welfare. This person should be in at least the position of Head of Service.
- Consider the likely degree of intrusion of all those potentially affected;
- Consider any adverse impact on community confidence that may result from the use or conduct or the information obtained; and
- Ensure **records** contain particulars and are not available except on a need to know basis

Records must be kept that contain the information set out in Statutory Instrument 2000/2725 – The Regulation of Investigatory Powers (Source Records) Regulations 2000. Further guidance on the requirements can be obtained from the Trading Standards Manager.

Duration

The application form **must be reviewed in the time stated and cancelled** once it is no longer needed. The 'authorisation' to conduct the surveillance lasts for a maximum of 3 months for Directed Surveillance and 12 months for a Covert Human Intelligence Source. In respect of a notice or authorisation to obtain communications data the period is one month.

Authorisations can be renewed in writing when the maximum period has expired. The Authorising Officer must consider the matter afresh, including taking into account the benefits of the surveillance to date, and any collateral intrusion that has occurred.

The renewal will begin on the day when the authorisation would have expired.

Urgent authorisations, if not ratified by written authorisation, will cease to have effect after 72 hours, beginning from the time when the authorisation was granted.

Working with Other Agencies

If an officer wishes to utilise the CCTV system operated by the Police Directed Surveillance Authorisation must be obtained before an approach is made to the Control Room. If immediate action is required an Authorisation must be obtained within 72 hours of the request being made.

When some other agency has been instructed on behalf of the City Council to undertake any action under RIPA, this Document and the Forms in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements. They must be made aware explicitly what they are authorised to do.

When another Enforcement Agency (e.g. Police, HMRC etc): -

Wish to use the City Council's resources (e.g. CCTV surveillance systems), that agency must use its own RIPA procedures. Before any Officer agrees to allow the City Council's resources to be used for the other agency's purposes, they must obtain a copy of that agency's RIPA form, or written confirmation that a Directed Surveillance Authorisation is in place.

Wish to use the City Council's premises for their own RIPA action, the Officer should, normally, co-operate with the same, unless there is security or other good operational or managerial reasons as to why the City Council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought, if necessary, from the other agency for the City Council's co-operation in the agent's RIPA operation. In such cases, however, the City Council's own RIPA forms should not be used as the City Council is only 'assisting' not being 'involved' in the RIPA activity of the external agency.

Record Management

A Central Register of all Authorisation Forms will be maintained and monitored by the Trading Standards Manager.

Records maintained in the Department

- A copy of the Forms together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- A record of the period over which the surveillance has taken place;
- The frequency of reviews prescribed by the Authorising Officer;
- A record of the result of each review of the authorisation;
- A copy of any renewal of an authorisation, together with supporting
- Documentation submitted when the renewal was requested;
- The date and time when any instruction was given by the Authorising Officer;
- The Unique Reference Number for the authorisation (URN).

Central Register maintained by Trading Standards

Authorising Officers must forward details of each form to Trading Standards for the Central Register, **within 1 week of the authorisation, review, renewal, cancellation or rejection.**

Records will be retained for six years from the ending of the authorisation. The Office of the Surveillance Commissioners (OSC) and the Interception Commissioner can audit/review the City Council's policies and procedures, and individual authorisations.

Consequences of Non Compliance

Where covert surveillance work is being proposed, this Policy and Guidance must be strictly adhered to in order to protect both the Council and individual officers from the following:

- **Inadmissible Evidence and Loss of a Court Case / Employment Tribunal / Internal Disciplinary Hearing** – there is a risk that, if Covert Surveillance and Covert Human Intelligence Sources are not handled properly, the evidence obtained may be held to be inadmissible. Section 78 of the Police and Criminal Evidence Act 1984 allows for evidence that was gathered in a way that affects the fairness of the criminal proceedings to be excluded. The Common Law Rule of Admissibility means that the court may exclude evidence because its prejudicial effect on the person facing the evidence outweighs any probative value the evidence has (probative v prejudicial).
- **Legal Challenge** – as a potential breach of Article 8 of the European Convention on Human Rights, which establishes a “right to respect for private and family life, home and correspondence”, incorporated into English Law by the Human Rights Act (HRA) 1998. This could not only cause embarrassment to the Council but any person aggrieved by the way a local authority carries out Covert Surveillance, as defined by RIPA, can apply to a Tribunal – see section 15.
- **Offence of unlawful disclosure** – disclosing personal data as defined by the DPA that has been gathered as part of a surveillance operation is an offence under Section 55 of the Act. Disclosure can be made but only where the officer disclosing is satisfied that it is necessary for the prevention and detection of crime, or apprehension or prosecution of offenders. Disclosure of personal data must be made where any statutory power or court order requires disclosure.
- **Fine or Imprisonment** – Interception of communications without consent is a criminal offence punishable by fine or up to two years in prison.
- **Censure** – the Office of Surveillance Commissioners conduct regular audits on how local authorities implement RIPA. If it is found that a local authority is not implementing RIPA properly, then this could result in censure.

Oversight by Members

- Elected Members shall have oversight of the Authority’s policy and shall review that policy annually.
- The report to members shall be presented to the Elected Members by the SRO. The report must not contain any information that identifies specific persons or operations.
- Alongside this report, the SRO will report details of ‘Non-RIPA’ surveillance in precisely the same fashion
- Elected Members may not interfere in individual authorisations. Their function is to, with reference to the reports; satisfy themselves that the Authority’s policy is robust and that it is being followed by all officers involved in this area. Although it is elected members who are accountable to the public for council actions, it is essential that there should be no possibility of political interference in law enforcement operations.

Concluding Remarks

Where there is an interference with the right to respect for private life and family guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority for the interference, or if it is held not to be necessary or proportionate to the circumstances, the consequences of not obtaining or following the correct authorisation procedure may be that the

action (and the evidence obtained), is held to be inadmissible by the Courts pursuant to Section 6 of the Human Rights Act 1998.

Obtaining an authorisation under RIPA and following this document will ensure, therefore, that the action is carried out in accordance with the law and subject to stringent safeguards against abuse of anyone's human rights.

Authorising Officers should be suitably competent and must exercise their minds every time they are asked to sign the request. They must never sign or rubber stamp form(s) without thinking about their personal and the City Council's responsibilities.

Any boxes not needed on the Form(s) must be clearly marked as being 'NOT APPLICABLE', 'N/A' or a line put through the same. Great care must also be taken to ensure accurate information is used and is inserted in the correct boxes. Reasons for any refusal of an application must also be kept on the form and the form retained for future audits.

For further advice and assistance on RIPA, please contact the Trading Standards Manager.

Directed Surveillance/CHIS Forms can be obtained from the Home Office website or from NAFN in relation to Access to Communications Data.



Appendix 1

List of Authorised Officers

Post	Name
Trading Standards Manager	Jo Player
Head of Revenues and Benefits	Graham Bourne
Head of Adult Assessment	Brian Doughty

Designated Person for Approving a Notice in Respect of Access to Communications Data

Trading Standards Manager Jo Player

Single Point of Contact for Accessing Communications Data

National Anti Fraud Network NAFN

Gatekeepers

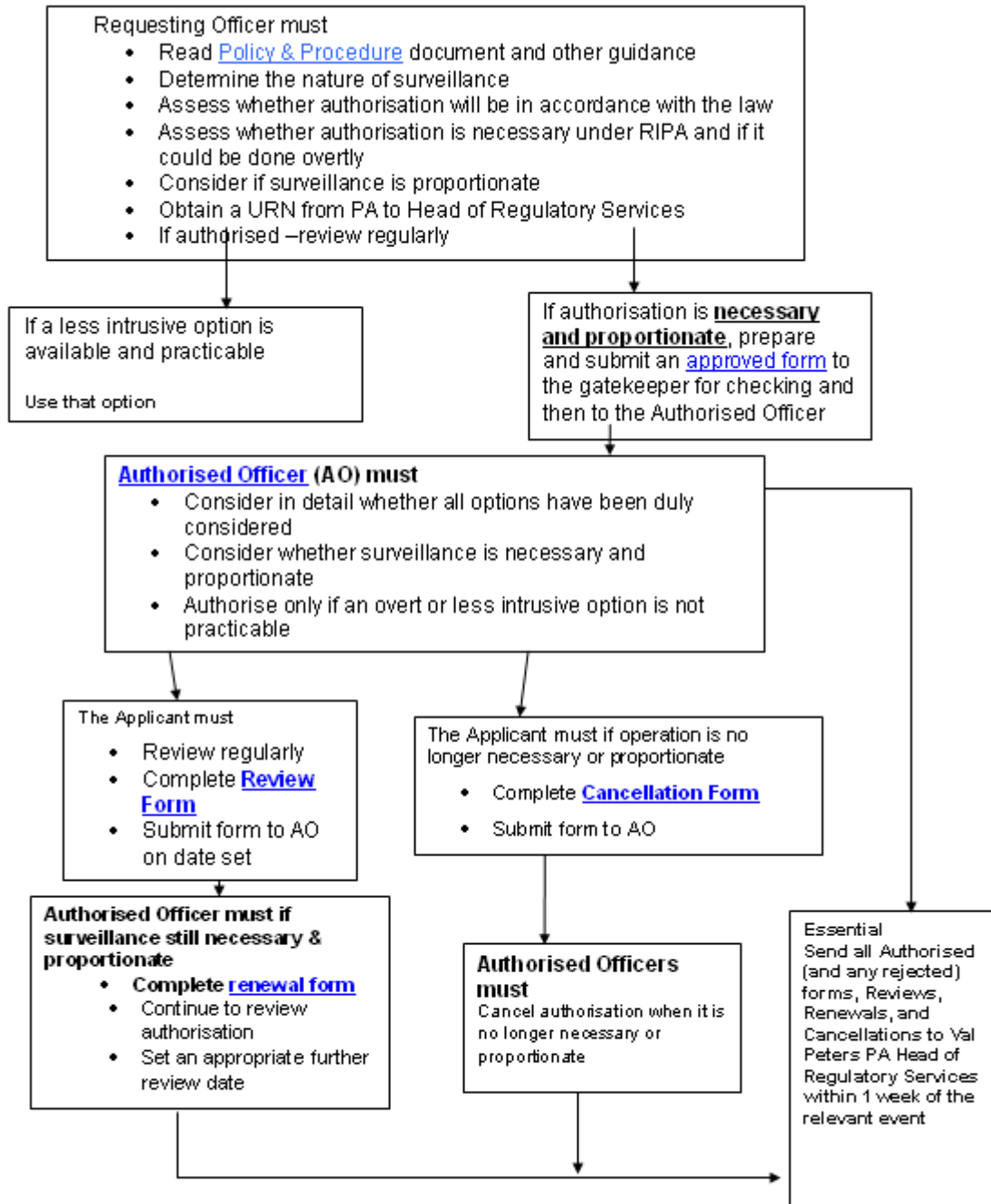
Trading Standards Manager Jo Player

Principal Trading Standards Officer John Peerless

Please contact Val Peters for a URN

Appendix 2

Authorising Directed Surveillance Process



Appendix 3

RIPA Forms, Codes of Practice and Advice

The policy requires you to use the most up-to-date versions of forms and codes of practice. Rather than reproduce forms and codes of practice that are subject to change, we have provided links to the currently approved versions. You should access the document you require by following the relevant link.

- The most up-to-date RIPA forms must always be used. These are available from the Home Office website and may be found by following this link :

<http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/ripa-forms/>

- The full text of the Codes of Practice are available here :

<http://www.homeoffice.gov.uk/counter-terrorism/regulation-investigatory-powers/ripa-codes-of-practice/>

- The Act is available here:

<http://www.legislation.gov.uk/ukpga/2000/23/contents>

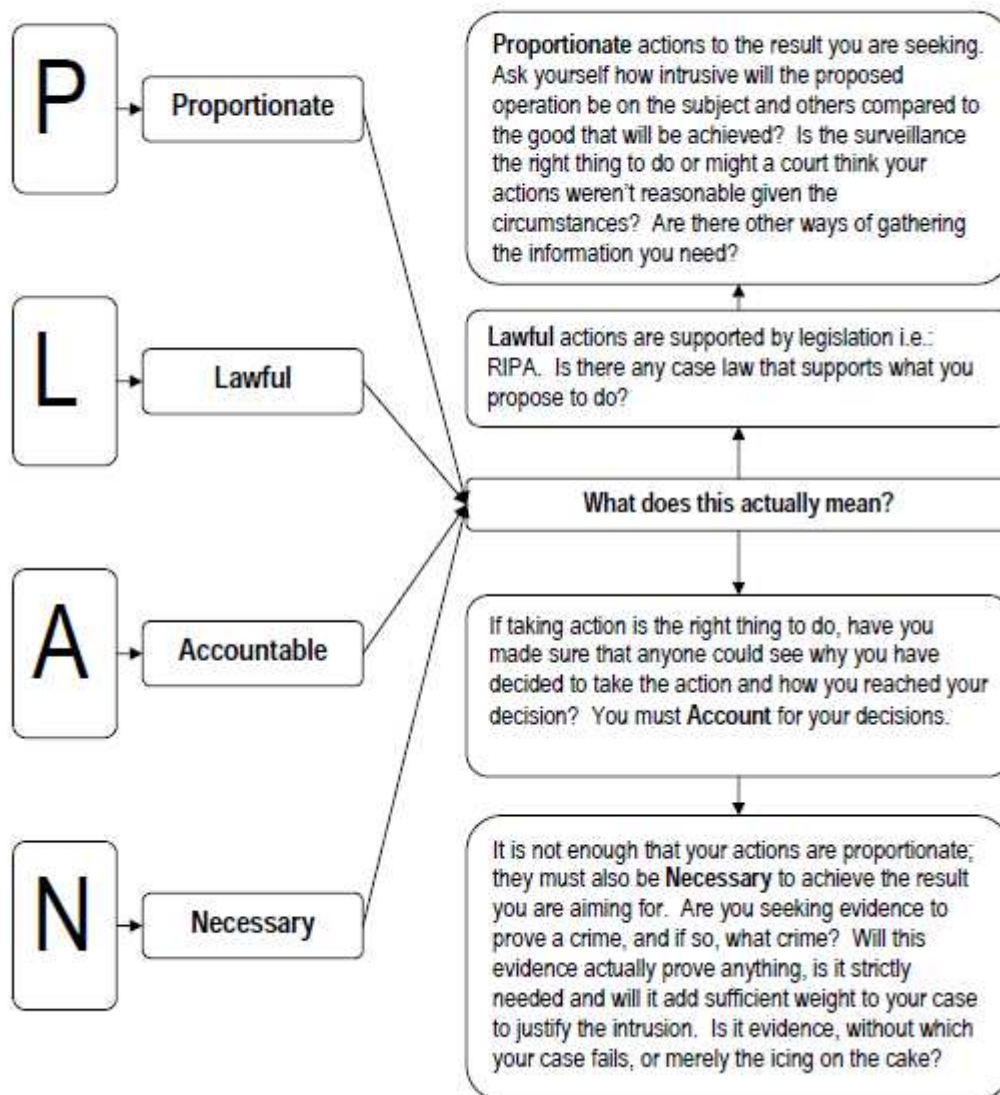
- The Office of Surveillance Commissioners website has some useful information and advice and is available here :

<http://surveillancecommissioners.independent.gov.uk/>

Appendix 4

APPENDIX FOUR

Notes for Guidance for Authorisation – Directed Surveillance



Authorised Officer's Statement

12. Authorising Officer's Statement. [Spell out the "5 Ws" – Who, What, Where, When, Why and the following box.]	<p>You must start by fully explaining what operation you are authorising. State why the surveillance is necessary to the case, what will be achieved, how it will be carried out, how many people used, what equipment / vehicles / technology you authorise the use of and where the operation will happen.</p> <p>Make sure it is clear <u>exactly</u> what it is that you are authorising.</p>
I hereby authorise directed surveillance defined as follows: [Why is the surveillance necessary directed against, Where and When will it take place, What surveillance activity/equipment/ achieved?]	
13. Explain why you believe the directed surveillance is necessary. [Code paragraph 2.4] Explain why you believe the directed surveillance to be proportionate to what is sought to be achieved by carrying it out. [Code paragraph 2.5]	

Now you must explain your decision. Simply stating that you "agree with the officer who applied for the reasons they gave" is not acceptable. You must give, in your own words, a detailed account of how you came to decide that the operation was necessary and proportionate. Make sure that you review the guidance in section seven and show how the evidence is necessary to the offence, and how the offence is one that it is necessary to investigate. Now ensure that you demonstrate how the officer has shown the need to obtain the evidence to be proportionate, when balanced against the person's expectation of privacy, the privacy of innocent third parties and the seriousness of the offence.

If you have completed a surveillance authorisation worksheet, go back over this as you should have already stated your reasons there.

You must explain why you feel it is in the public interest to carry out the action; is it serious, prevalent in the area, an abuse of position, premeditated? Why do you think that the investigation will be prejudiced without surveillance? Are you certain there is no other obvious and less intrusive way of obtaining the information? Does it need to be done? Record everything in this section.

This section must stand on its own, if you are called to court to justify your authorisation.

Authorised Officer's Statement

14. (Confidential Information Authorisation.) Supply detail demonstrating compliance with 3.1 to 3.12

This should be no more than four weeks from the date of authorisation. If you wish to restrict the length of time an officer may carry out surveillance for, you can use this box to set an early review date.

This section is to be completed only by the Senior Authorised Officer if confidential information might be obtained. They should explain why they felt it to be appropriate for the surveillance to be carried out. To comply with the codes, show how further measures, such as more regular reviews and stricter limitations, have been put in place due to the particularly sensitive nature of the operation.

Date of first review

Programme for subsequent reviews of this authorisation: [Code paragraph 4.22]. Only complete dates after first review are known. If not or inappropriate to set additional review dates then leave blank.

Use this box to record dates for review. The normal review period is no longer than every four weeks. It doesn't have to be completed but is useful to do so, especially when a shorter review period is appropriate.

Name (Print)	Grade / Rank
Signature	Date and time
Expiry date and time [e.g.: authorised on 30 June 2005, 23.59]	Expiry date and time [e.g.: authorised on 1 April 2005 - expires]

Finally, write your name, sign the form giving the date and time. You must also record the expiry date. This is always three months, to the minute, from the date that the authorisation was given, no longer, or shorter. The operation can be cancelled before this date if appropriate. (See 7.14 (above) for guidance.)

Sections 15 and 16:

These sections relate to oral authorisations that may be granted or renewed only in urgent cases. In the case that an oral authorisation is granted, the AO should record the reasons why they considered the case urgent and why they believed it was not practicable to delay in order for the investigator to complete an application. Urgent oral authorisations last for seventy-two hours from the time of the authorisation. The officer carrying out the surveillance must complete a written application at the earliest opportunity, not necessarily at the end of the seventy-two hours.

Appendix 5

The RIPA 1 Form – Guidance Notes on Completion

Directed Surveillance Unique Reference Number (URN) (to be supplied by the central monitoring officer)		Unique reference number. This must be provided by the Authorising Officer
PART II OF THE REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000		
APPLICATION FOR AUTHORISATION TO CARRY OUT DIRECTED SURVEILLANCE		
Public Authority (including full address)	What public body do you work for? Record it here	
Unit/Branch /Division	What dept / unit do you work in? Record it here.	
Full address	Full address of your dept / office / building.	
Contact details	Give a phone number, email address and / or fax number to contact you on.	
Investigation/Operation Name (if applicable)	You can give the operation a name if you wish.	
Investigating Officer (if a person other than the applicant)	If the person who is the investigator in the case is someone other than you, record their name here.	
Details of application: 1. Give rank or position of authorising officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003, No. 3171. In local authority exact position of the authorising officer should be given. For example, Head of Trading Standards.		
You must give the position of the Authorised Officer who will be reviewing the application. You do not need to give their name. This should be their full job title, rank or position.		
Record your name. Not the name of the officers carrying out the surveillance (unless that is you).		

Page Two

2. Describe the purpose of the specific operation or investigation.

3. Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, recorder) that may be used.

4. The identities, where known, of those to be subject of the directed surveillance.

Name:

- Address:
- DOB:
- Other information as appropriate:

5. Explain the information that it is desired to obtain as a result of the directed surveillance.

What methods will you use for the surveillance? What are the technical aspects? Who, what, when, where, how long, how many, equipment etc. Mention everything. You will not be authorised to do things you don't mention here.

Enter a summary of the reason for the operation and what you are planning to do. Be brief: what will you do, why are you doing it and what will you get out of it?

Who are you intending to gather evidence on? If you do not know the identity of all parties you must describe them as best as you are able.

What evidence do you intend to obtain from the surveillance? Specify exactly what you intend to get, how much and what types. This is so a judgement can be made on the weight of the evidence that you will get. Be careful what you write here: when you have achieved these aims the surveillance must stop immediately.

Page Three

<p>Specify the offences that you are investigating or preventing. State why the information has to be obtained by surveillance, why do you need it for the reason you specified? How is it essential to the case?</p>	<p>6. Identify on which grounds the directed surveillance is necessary under Section 28(3) of RIPA. Delete that are inapplicable. Enter that you know which of these grounds you are entitled to rely on. (SI 2003 No 2171)</p> <ul style="list-style-type: none">• In the interests of national security;• For the purpose of preventing or detecting crime or of preventing disorder;• In the interests of the economic well-being of the United Kingdom;• In the interests of public safety;• For the purpose of protecting public health;• For the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department; <p>7. Explain why this directed surveillance is necessary on the grounds you have identified [Code paragraph 2.4]</p> <p>8. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. (Bear in mind Code paragraphs 2.6 to 2.10.) Describe precautions you will take to minimise collateral intrusion</p>	<p>Cross out the conditions that do not apply to you. In the case of a local authority, the only one that <i>does</i> is prevention or detecting crime or disorder.</p>
<p>Collateral intrusion is where the operation interferes with the private lives of those not intended to be subject to the surveillance. This could be members of the suspect's family, their partners, colleagues or members of the public. You must identify where there is a risk that you will gather this sort of information. You must take steps to minimise this risk and show that the risk left is unavoidable: what times are you conducting surveillance? Can you avoid catching others on camera? Do you have facilities to remove identifying features? The AO must be satisfied that the need to carry out the operation outweighs this risk.</p>		

Page Four

This is where you must justify your actions as proportionate. You should have completed a planner and decided that surveillance is necessary and the last resort. Record here what you have done already and what you cannot do as it'll prejudice the investigation. Tell the AO why the need to carry out the action outweighs the suspect's right to privacy. How serious is the matter? How intrusive will the operation be on the suspect and on others? What might happen if you don't carry out surveillance? Why can't you get the information in other ways? What will be achieved by gathering the evidence?

9. Explain why this directed surveillance is proportionate to what it is to be on the subject of surveillance or on others? And why is this surveillance in operational terms or can the evidence be obtained otherwise? (Code paragraph 2.5)

... might it be by the need for ...? (Code paragraph ...)

10. Confidential information (Code paragraphs 3.1 to 3.12)
INDICATE THE LIKELIHOOD OF ACQUIRING ANY CONFIDENTIAL INFORMATION:

Confidential information is *special knowledge* of a person's religious, political or medical life or information of a confidential journalistic nature (journalistic sources). Communications subject to legal privilege are also confidential. If there is a chance that you might gather this sort of information, indicate the risk here. The authorisation can then only be given by the person within your public body designated by the RIPA code of practice for this purpose.

11. Applicant's details

Name (print)	Tel No:
Grade/Rank	Date
Signature	

Finish by giving your name, telephone number, job title or rank. Date the form and sign it.

