





Brighton & Hove
City Council

Audit & Standards Committee

Title:	Audit & Standards Committee
Date:	15 November 2016
Time:	4.00pm
Venue	Council Chamber, Hove Town Hall, Norton Road, Hove, BN3 3BQ
Members:	Councillors: A Norman (Chair), Chapman, Cobb, Druitt, Morris, Robins (Group Spokesperson), Sykes (Group Spokesperson) and Taylor Co-opted Members: Diane Bushell and Dr David Horne
Contact:	John Peel Democratic Services Officer 01273 291058 john.peel@brighton-hove.gov.uk

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Democratic Services: Audit & Standards Committee

Monitoring Officer	Executive Director	Councillor A Norman (Chair)	Democratic Services Officer
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OFFICERS

Councillor Chapman
Councillor Morris
Councillor Robins
Dr David Horne
Diane Bushell
Officers
Officers

Councillor Cobb
Councillor Taylor
Councillor Druitt
Councillor Sykes
Officers
Officers
Officers

Public Speaker	Public Speaker
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Press

Public Seating



Public Seating



AGENDA

38 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.

39 MINUTES

1 - 8

To consider the minutes of the meeting held on 15 October 2016 (copy attached).

40 CHAIR'S COMMUNICATIONS

AUDIT & STANDARDS COMMITTEE

41 CALL OVER

- (a) Items (44-52) 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.

42 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 8 November 2016;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on the 8 November 2016.

43 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.

44 STRATEGIC RISK FOCUS ITEM: SR21 HOUSING PRESSURES; SR23 DEVELOPING AN INVESTMENT STRATEGY TO REFURBISH AND DEVELOP THE CITY'S MAJOR ASSET OF THE SEAFRONT; AND SR27 DEVOLUTION 9 - 34

Report of the Executive Lead Officer, Strategy, Governance & Law (copy attached).

Contact Officer: Jackie Algar
Ward Affected: All Wards

Tel: 01273 291273

45 INTERNAL AUDIT UPDATE (INCLUDING AMENDED AUDIT PLAN) 35 - 40

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

Contact Officer: Graham Liddell

Tel: 01273 291323

AUDIT & STANDARDS COMMITTEE

- 46 TARGETTED BUDGET MANAGEMENT (TBM) 2016/17 MONTH 5** **41 - 116**
Extract from the proceedings of the Policy, Resources & Growth Committee meeting held on 13 October 2016; together with a report of the Executive Director of Finance & Resources (copies attached).
- 47 ERNST & YOUNG ANNUAL AUDIT LETTER** **117 - 144**
Report of Ernst & Young (copy attached).
- 48 DEVELOPING THE AUDIT & STANDARDS COMMITTEE** **145 - 154**
Report of the Executive Director, Finance & Resources (copy attached).
Contact Officer: Graham Liddell Tel: 01273 291323
- 49 STANDARDS UPDATE** **155 - 158**
Report of the Head of Law & Monitoring Officer (copy attached).
Contact Officer: Abraham Ghebre-Ghiorghis Tel: 01273 291500
Ward Affected: All Wards
- 50 REVIEW OF THE CODE OF CONDUCT FOR MEMBERS** **159 - 190**
Report of the Head of Law & Monitoring Officer (copy attached).
Contact Officer: Abraham Ghebre-Ghiorghis Tel: 01273 291500
Ward Affected: All Wards
- 51 CUSTOMER FEEDBACK REPORT** **191 - 206**
Report of the Executive Lead Officer – Strategy Governance & Law (copy attached).
Contact Officer: Brian Foley Tel: 01273 291229
Ward Affected: All Wards
- 52 ANNUAL SURVEILLANCE REPORT** **207 - 244**
Report of the Executive Director, Finance & Resources (copy attached).
Contact Officer: Jo Player Tel: 01273 292488
Ward Affected: All Wards
- 53 ITEMS REFERRED FOR COUNCIL**
To consider items to be submitted to the 15 December 2016 Full 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

AUDIT & STANDARDS COMMITTEE

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

54 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.

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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, 7 November 2016

BRIGHTON & HOVE CITY COUNCIL

AUDIT & STANDARDS COMMITTEE

4.00pm 27 SEPTEMBER 2016

COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 4AH

MINUTES

Present: Councillors A Norman (Chair) Chapman, Cobb, Druitt, Morris, Robins (Group Spokesperson), Sykes (Group Spokesperson) and Taylor

PART ONE

23 PROCEDURAL BUSINESS

23a Declarations of substitutes

23.1 There were none.

23b Declarations of interests

23.2 Councillor Druitt declared a non-pecuniary interest in Item 36 as one of the complaints related to his partner and business.

23c Exclusion of the press and public

23.3 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.

23.4 **RESOLVED** - That the press and public not be excluded from the meeting.

24 MINUTES

24.1 **RESOLVED** – That the minutes of the previous meeting held on 21 June be approved and signed as the correct record.

25 CHAIR'S COMMUNICATIONS

25.1 The Chair stated there would be a change to the order to the agenda with the reports: *2015/16 financial statements and annual governance statement, Ernst & Young Audit results report 2015/16 and Targetted Budget Management (TBM) 2016/17 Month 2* taken as the first three items of business.

26 CALL OVER

26.1 All items on the agenda were reserved for discussion.

27 PUBLIC INVOLVEMENT

27.1 There were none.

28 MEMBER INVOLVEMENT

28.1 There were none.

29 2015/16 FINANCIAL STATEMENTS AND ANNUAL GOVERNANCE STATEMENT

29.1 The Committee considered a report of the Executive Director, Finance & Resources that that provided information about the audit of the council's 2015/16 Statement of Accounts and recommended approval of the 2015/16 audited accounts and the Letter of Representation on behalf of the council. The report also provided information about the Annual Governance Statement.

29.2 Councillor Druitt asked if there was opportunity to redirect lender option borrower option (LOBO) loans to a better arrangement for the council.

29.3 The Assistant Director- Finance stated that finance officers were always looking for restructuring opportunities but with regard to its existing LOBO loans, the council would have to pay an exit penalty to terminate the loan early that would equate to approximately the same amount as fulfilling the loan to maturity. This was the same as all other types of loans that the council held.

29.4 Councillor Taylor asked whether any decline in interest rate, partially related to the current fortunes of Deutsche Bank and declining exchange rates would present unfavourable risk to the council.

29.5 The Assistant Director, Finance stated that he believed it unlikely and that Deutsche Bank was registered in the UK and that transactions were in sterling but would confirm the position to Members subsequent to the meeting.

29.6 The Head of Internal Audit informed Members that there were minor changes to the Annual Governance Statement as attached at Appendix 5. These were approved by the Chief Executive and the Leader of the Council prior to their signature, and these minor amendments would be reflected in the published Annual Governance Statement on the council website.

29.7 **RESOLVED-** That the Audit & Standards Committee:

- 1) Notes the findings of Ernst & Young in their Audit Results Report (ARR). The ARR is a separate item on this agenda.

- 2) Notes the outcome of the ongoing work on the valuation of property, plant and equipment and any related misstatement / adjustment to the 2015/16 accounts (paragraph 3.19 and Appendix 4).
- 3) Notes the results of the public inspection of the accounts (Section 9).
- 4) Approves the Letter of Representation on behalf of the council (Appendix 1).
- 5) Approves the audited Statement of Accounts for 2015/16.
- 6) Note the Annual Governance Statement (Appendix 5).

30 ERNST & YOUNG AUDIT RESULTS REPORT 2015/16

- 30.1 The Committee considered a report of Ernst & Young that summarised the findings of the 2015/16 audit and included key messages arising from the audit of the financial statements and the results of work undertaken to assess the council's arrangements to secure value for money on its use of resources. Representatives from Ernst & Young stated that they were in a position to give an unqualified opinion of the council's financial statements subject to full completion of outstanding areas of work. A unqualified opinion would be issued for the council's value for money arrangements as Ernst & Young were satisfied that the council had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2016.
- 30.2 Councillor Robins enquired as to when the council had entered into its LOBO loan agreements, what constituted plant and equipment and how EY arrived at its property valuation figures.
- 30.3 Paul King stated the council had entered into its LOBO loan agreements approximately ten years ago, plant and equipment related to items used across council departments for example, schools and leisure centres and property valuation was related to the value of land and could be dependent on location.
- 30.4 The Assistant Director, Finance supplemented that the council's LOBO loans had been agreed between 2002 and 2012 and equated to £75 million of the council's £240 million loan portfolio. Furthermore, £25 million of these loans had recently been converted from LOBO's to regular loans with the outlook for long-term loan rates being very stable.
- 30.5 Councillor Sykes asked if the rate of interest of the loans were re-negotiated during the conversion to regular loans.
- 30.6 The Assistant Director, Finance stated that this was not an option and the interest rate applied was that of the original agreed LOBO rate. The nature of a conversion meant that the interest rate cannot be changed by lender or borrower.
- 30.7 Councillor Morris asked for details of the level of interest on LOBO loans.
- 30.8 The Assistant Director, Finance clarified that the loans had an interest rate of between 3.7% and 4.8%. Recent loans made by the council had lower interest rates that reflected the current economic climate.

- 30.9 Councillor Morris asked if land valuation represented the re-build price of an asset.
- 30.10 Paul King stated the cost to build or re-build was an element of the valuation but also reflected the value of the land that could vary significantly depending on location.
- 30.11 Councillor Chapman asked what the likely consequences were in the delay in issuing the Audit Certificate.
- 30.12 Paul King explained that the EY could not formally conclude the audit and issue the audit certificate until the objection regarding the LOBO loans was resolved. Delays were not uncommon and there would be no further penalty in relation to the resolution of the objection. Furthermore, Brighton & Hove City Council was one of a number of authorities where similar objections had been made.
- 30.13 Councillor Taylor noted that an unqualified opinion had been issued for budgetary planning and asked if that meant the council had moved forward from the issue highlighted in the previous years audit of high unit cost in children and adults services.
- 30.14 Ian Young stated that the issue related more to a longer term planning, understanding and awareness of financial risk rather than unit cost reduction.
- 30.15 In reference to the objection made regarding LOBO loans, Councillor Druitt stated that he did not understand how the objection was valid if the council could not take any reasonable action to resolve it.
- 30.16 Paul King explained that the contention of the objection made was that the action taken was irrational and unreasonable and therefore unlawful which would be a matter for the courts to decide upon who would examine the nature of the decision and the terms and conditions of the loans in examining whether the objection should be upheld. Whilst it was lawful for the council to undertake borrowing, a decision would be made on whether that was irrational or unreasonable in this instance.
- 30.17 Councillor Druitt enquired as to the implication for the council if the courts did determine that the action was irrational and/or unreasonable and queried how a loan agreement from several years ago, related to the audit of the 2015/16 accounts.
- 30.18 Paul King explained the objection related to the legality of the accounts rather than the 2015/16 audit. Ian Young added that the procedure followed set criteria as there was no opportunity to object to previous year's accounts.
- 30.19 **RESOLVED-** That the Committee notes the findings set out in the 2015/16 Audit Results Report.

31 TARGETTED BUDGET MANAGEMENT (TBM) 2016/17 MONTH 2

- 31.1 The Committee considered a report of the Executive Director, Finance & Resources that provided the Targeted Budget Management (TBM) Month 2 report and an extract of proceedings of the Policy, Resources & Growth Committee held on 14 July 2016 from

which the report had been referred; together with a specific report to the Audit & Standards Committee.

- 31.2 Councillor Taylor noted that the forecast outturn for the Dedicated Schools Grant was an overspend of £97,000 and asked for the reasons behind that overspend and how the overspend would be accounted for if the position was the same at the end of the financial year.
- 31.3 The Assistant Director, Finance explained that this was a ring-fenced fund and underspend or overspend would be carried forward to the next year although it was very likely that there were plans to address this relatively small overspend in the short-term.
- 31.4 Councillor Druitt noted that the report highlighted overspending in adults and children's service which reflected a similar position to the previous year. Councillor Druitt noted that the council was better now at managing these services but it was clear that demand continued to increase meaning continued budgetary pressures. Councillor Druitt asked if the council should be more realistic in its financial forecasting and if increased budgets and variance should be introduced for these services.
- 31.5 The Assistant Director, Finance stated that such decisions were always part of budget forward planning adding that both services were relatively volatile and demand led and there was a need for understanding of the reasons and implications of that in both the short and long-term.
- 31.6 **RESOLVED-** That the Audit & Standards Committee notes the update on the council's in-year financial position and the continuing actions taken to address forecast overspend risks.

32 STRATEGIC RISK MAP FOCUS

- 32.1 The Assistant Director, Adult Social Care provided a verbal update and answered Members questions for SR13: Keeping Vulnerable Adults Safe; SR20 Better Care Fund. The Executive Director, Finance & Resources provided a verbal update and answered Members questions for SR10: Information Governance Management and SR18 Transition to modern, digital ICT.
- 32.2 Councillor Sykes asked if Adult Social Care experienced problems with recruitment and retention.
- 32.3 The Assistant Director, Adult Social Care stated that the service did not experience severe issues on recruitment and retention adding that agency staff were used where any critical short-term vacancies arose.
- 32.4 Councillor Sykes enquired as to when there would be an indication of the urgent need for Better Care Funds.
- 32.5 The Assistant Director, Adult Social Care clarified that funds were available and discussions underway with the Clinical Commissioning Group (CCG) on a decision on how to allocate those funds.

- 32.6 The Chair asked if there was any update available on delayed discharges as she had received a lot of correspondence on the matter of late.
- 32.7 The Assistant Director, Adult Social Care clarified that a key part of the strategy to address this issue would be use of the social care precept in order to broaden the availability of packages of care.
- 32.8 Councillor Sykes noted that the Digital First programme was being rebooted and asked if it was sufficiently resourced.
- 32.9 The Executive Director, Finance & Resources stated that £6m had been invested in stabilising IT infrastructure and a more settled human resource was now in place to take that forward. Furthermore, the existing and prominent digital sector based in the city was being used to undertake targeted pieces of work.
- 32.10 Councillor Sykes noted that when the programme had been originally agreed, there was consensus that the Digital First programme would use small start-ups based in the city rather than larger companies and asked if that remained the case.
- 32.11 The Executive Director, Finance & Resources confirmed that principle remained and that the focus now would be on effective delivery of the programme.
- 32.12 Councillor Druitt noted that some of the Risk ratings had not been reviewed since 2014.
- 32.13 The Risk Management Lead clarified that this had arisen from an error in the software used to create the document and whilst the last review date was recorded clearly, this specific section would be corrected for subsequent versions.
- 32.14 **RESOLVED-** That the Audit & Standards Committee notes the Strategic Risk Assessment Report at Appendix 1.

33 INTERNAL AUDIT AND CORPORATE FRAUD PROGRESS REPORT

- 33.1 The Committee considered a report of the Executive Director, Finance & Resources that summarised the progress made against the Internal Audit and Corporate Fraud Plan, the key issues identified and action being taken and progress made by management in implementing audit recommendations.
- 33.2 Councillor Sykes noted that the capacity of the audit team had been reduced for a number of reasons and asked for reassurance that Internal Audit was sufficiently resourced.
- 33.3 The Head of Internal Audit stated that in circumstances of diminishing resources, it was natural to reduce workloads and whilst there was a reduction in the number of audit days, he could provide assurance that the service could work effectively within those.
- 33.4 Councillor Druitt asked if the increase in the number of unplanned audits was due to investigation into the Mears contract, when the remaining 10% of audits would be scheduled to be completed and if there was a prioritisation system to those and if the service would have reached 100% completion if there had been no unplanned audits.

33.5 The Head of Internal Audit stated that in cases on unplanned audits, it was important to start work straight away, that the scheduling of audit work was determined by individual risk assessment and frontloaded so the 10% of audits outstanding were relatively low risk and that 100% completion was never expected as some items become redundant through the period of the audit plan and from his experience, a completion rate of 90-95% was the standard.

33.6 **RESOLVED-** That the Audit & Standards Committee notes the report.

34 DUE DILIGENCE IMPLICATIONS FOR AUDIT AND CORPORATE FRAUD JOINING ORBIS

34.1 The Committee considered a report of the Executive Director, Finance & Resources that updated Members on the progress made in carrying out due diligence for assessing the effectiveness of audit at Brighton & Hove City Council provided through Orbis.

34.2 Councillor Sykes asked how Brighton & Hove City Council compared to the other partner authorities in terms of internal audit workload and productivity.

34.3 The Head of Internal Audit stated that the three councils were broadly similar in terms of workload and productivity and the partnership would allow for the sharing of best practice and specialisation.

34.4 Councillor Morris noted that paragraph 4.3 of the report set out that Orbis would be subject to external assessment against professional standards in 2017/18 and asked who this assessor would be.

34.5 The Head of Internal Audit clarified that this would typically be a choice between a fellow auditor or a professional body such as The Chartered Institute of Public Finance Accountants (CIPFA) or a the Chartered Institute of Internal Auditors (CIAA).

34.6 **RESOLVED-** That the Committee notes that Orbis is capable of delivering an effective internal audit function at Brighton & Hove City Council.

35 CUSTOMER FEEDBACK REPORT

35.1 The Committee considered a report of the Executive Lead Officer- Strategy, Governance & Law that provided assurance to the Committee that the Council has an effective Customer Feedback system that included detail and analysis of the complaints received.

35.2 Councillor Drutt asked if the rise in complaints could be related to diminishing council resources.

35.3 The Customer Experience Lead stated that it was essential to manage customer expectation and communicate effectively. Understanding the data was also important as a rise in complaints could be sometimes be related to isolated circumstances such as the introduction of new parking schemes.

35.4 Councillor Morris stated that he was unsurprised at the high number of complaints related to Housing services as there was no clear information about how to make contact. Councillor Morris noted that the Housing Repairs Handbook was currently being revised and he hoped that clearer information could be given in the Handbook on procedures.

35.5 The Customer Experience Lead thanked Councillor Morris for his suggestion that he would relay to colleagues.

35.6 RESOLVED-

- 1) That the Committee note the report.
- 2) That the Committee agree to receive a similar report four times a year.

36 STANDARDS UPDATE

36.1 The Committee considered a report of the Head of Law & Monitoring Officer that updated Members on Standards related matters since the previous meeting.

36.2 Councillor Druitt asked if comprehensive information on the requirements of being a councillor could be provided to prospective candidates in the 2019 local elections.

36.3 The Head of Law & Monitoring Officer answered that the Council provided a number of induction sessions and training for prospective Members and encouragement was given to the political parties to promote these events to their candidates.

36.4 **RESOLVED-** That Members note the report.

37 ITEMS REFERRED FOR COUNCIL

37.1 No items were referred to Full Council for information.

The meeting concluded at 6.25pm

Signed

Chair

Dated this

day of

Subject:	Strategic Risk Focus: SR21 Housing Pressures; SR23 Developing an Investment Strategy to refurbish and develop the city's major asset of the seafront; and SR27 Devolution		
Date of Meeting:	15 November 2016		
Report of:	Executive Lead Officer, Strategy, Governance & Law		
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 Audit & Standards Committee has a role to monitor and form an opinion on the effectiveness of risk management and internal control. As part of discharging this role it reviews the Strategic Risk Register (SRR), last updated by the Executive Leadership Team (ELT) on 20 April 2016.
- 1.2 The Audit & Standards Committee have agreed to focus on at least two Strategic Risks at each of their meetings.
- 1.3 The Strategic Risk Assessment Report (Appendix 1) provides further detail on the actions taken (existing controls) and future actions to manage each strategic risk.
- 1.4 The officer available to answer Members' questions on the Strategic Risks will be Nick Hibberd, Executive Director, Economy, Environment and Culture.

2. RECOMMENDATIONS:

- 2.1 That the Audit & Standards Committee notes the Strategic Risk Assessment Report at Appendix 1.
- 2.2 That, having considered Appendix 1 and any clarification comments from the officer, the Committee makes any recommendations it considers appropriate to the relevant council body.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Strategic Risk Register details the current prioritised risks which may affect achievement of the council's Corporate Plan purpose, including in relation to its work with other organisations across the city. It is reviewed and agreed by ELT

every six months (usually around May and November) and provides evidence of a risk aware and risk managed organisation.

- 3.2 Across the council there are a number of risk registers which prioritise risks consistently by assigning risk scores 1-5 that the risk will occur, and the potential impact (denoted by 'I') if it should occur. These L and I scores are multiplied; the higher the result of L x I, the greater the risk e.g. L4xI4 which denotes a Likelihood score of 4 (Likely) x Impact score of 4 (Major). A colour coded system, similar to the traffic light system, is used to distinguish risks that require intervention. Red risks are the highest, followed by Amber risks and then Yellow, and then Green. The Strategic Risk Register records Red and Amber risks.
- 3.3 Each strategic risk has a unique identifying number and is prefixed by 'SR' representing that it is a strategic risk. Each is recorded on the Integrated Risk Manager (IRM) software system, part of the Interplan package. Appendix 1 gives details of existing controls and future actions to manage each strategic risk.
- 3.4 The Existing Controls for each risk now reflect the approach agreed by the ELT to adopt the Three Lines of Defence model which is best practice and has been practised for a number of years in other organisations, particularly within central government, financial services and the NHS. It provides for three levels of compliance within any organisation. Appendix 1 shows in the Existing Controls field the controls divided into First Line of Defence: Management Controls; Second Line of Defence: Corporate Oversight; and Third Line of Defence: Independent Assurance.

4. **FINANCIAL & OTHER IMPLICATIONS:**

- 4.1 There are three strategic risks considered in this report. For each of these Appendix One contains details of the actions already in place ('Existing Controls') and work to be done as part of business or project plans ('Risk Actions') to address the risks. Potentially these may have significant financial implications for the authority either directly or indirectly and would need to be costed and reported to the appropriate committee.
The associated financial risks are considered during the Targeted Budget Management process and the development of the Medium Term Financial Strategy.

Finance Officer Consulted: Jeff Coates

Date:25/10/2016

- 4.2 This report comes before Audit & Standards Committee to assist the Committee in discharging its function of providing independent assurance of the adequacy of the council's risk management and associated control environment. Having reviewed the latest Strategic Risk Register, the Committee may, if it considers it appropriate, make recommendations to Full Council, Policy, Resources & Growth Committee, one or more officers or another relevant body in the council. .To assist them, members of the Committee are entitled to any information, data and other evidence which enables them to reach an informed view as to whether the council's strategic risks are being adequately managed.

SUPPORTING DOCUMENTATION

Appendices:

1. Strategic Risk Assessment Report: SR21, SR23 and SR27.

Documents in Members' Rooms

1. None.

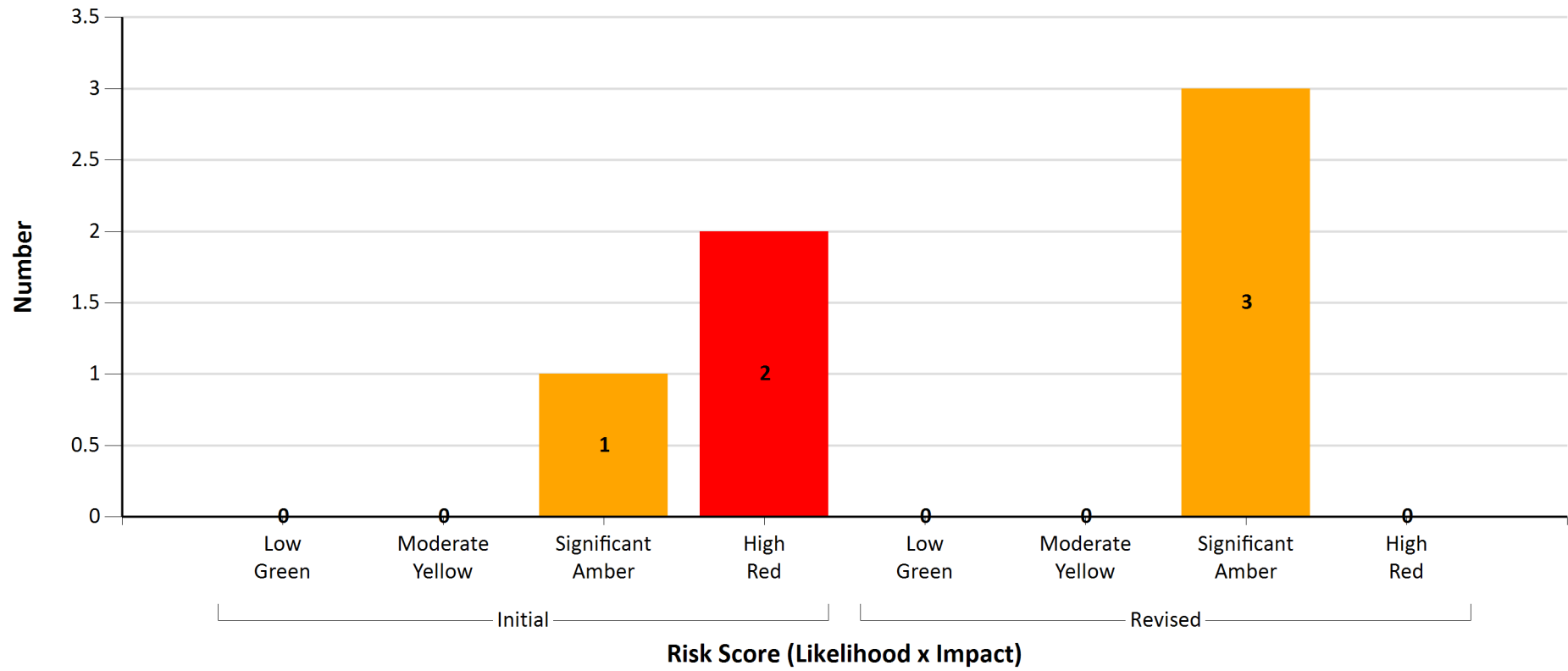
Background Documents

1. Strategic Risk Register Review April 2016.

Brighton & Hove City Council

Strategic Risk Focus Item:
SR21 Housing Pressures
SR23 Developing an investment strategy to
refurbish and develop the city's major asset
of the seafront
SR27 Devolution

Risk Summary



14

Initial Rating

LIKELIHOOD	IMPACT				
	Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Almost Certain (5)	0	0	0	1	0
Likely (4)	0	0	1	1	0
Possible (3)	0	0	0	0	0
Unlikely (2)	0	0	0	0	0
Almost Impossible (1)	0	0	0	0	0

Revised Rating

LIKELIHOOD	IMPACT				
	Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
Almost Certain (5)	0	0	0	0	0
Likely (4)	0	0	1	0	0
Possible (3)	0	0	1	1	0
Unlikely (2)	0	0	0	0	0
Almost Impossible (1)	0	0	0	0	0

15


1 - 3
Low
Monitor periodically

4 - 7
Moderate
Monitor if the risk levels increase

8 - 14
Significant
Review and ensure effective controls

15 - 25
High
Immediate action required & need to escalate to the management level above

Risk Details

Risk Code	Risk	Responsible Officer	Risk Category	Last Reviewed	Issue Type	Risk Treatment	Initial Rating	Revised Rating	Future Rating	Eff. of Control
SR21	Housing Pressures	Executive Director Economy, Environment & Culture Head of Housing Strategy / Private Sector Housing Assistant Director Housing	BHCC Strategic Risk, Environmental / Sustainability	20/04/16	Threat	Treat	 L4 x 14	 L3 x 14		Revised: Adequate

Causes

Brighton & Hove is a growing city with high house prices, low incomes, an ageing population and a significant proportion of households with a support need. Scope for development within the city is affected by significant geographical constraints and competing land pressures. The increasing demands for housing continues to outstrip new supply and as a consequence accommodation is becoming less affordable notably in central city areas relative to the local wage rates. Housing shortages are particularly acute for low income families. Demand for affordable rented homes is growing with over 23,000 households currently on the Housing Register, c 1,800 households in temporary accommodation and rising homelessness. The private rented sector continues to expand at the expense of rates of owner occupation which are in long term decline. The continued growth of universities and other educational establishments has a significant impact on the housing market and existing residential communities in parts of the city, in terms of affordable rents for non-student households, local character and impact on neighbourhood amenity.

Potential Consequence(s)

1. The city is constrained in its capacity to accommodate economic growth, housing supply obligations and sustainable development objectives.
2. The city council is unable to meet its strategic housing and planning policy objectives to: meet City Plan requirements in terms housing numbers; improve overall housing supply and housing mix; deliver affordable lower cost homes.
3. The city council is unable to meet statutory homelessness obligations. In particular, corporate critical budget implications arising from Temporary Accommodation pressures owing to lack of suitable alternative accommodation.
4. The shortage of homes to meet the accommodation requirements of elderly and vulnerable people which can have an adverse impact on social care provision and cost pressures.
5. Impact on our ability to recruit and retain lower income working and younger households and employment in the city, in particular in social care, health and other lower wage sectors.

Existing Controls

First Line of Defence: Management Controls

The Council's Housing Strategy sets out objectives and action plan addressing identified housing needs in the City. This includes policy and investment prioritising: i) Improving Housing Supply; ii) Improving Housing Quality; iii) Improving Housing Support. This strategy has been agreed by Full Council. The City Plan also sets out housing targets across all tenures; policies on securing affordable housing through the planning system, residential development standards. Housing Revenue Account Asset Management Strategy is aligned to Housing Strategy in support of improving housing supply & housing quality. Greater Brighton Housing & Growth Working Group is aiming to accelerate delivery of new housing supply through freedoms and flexibilities sought as part of the wider GB Devolution proposals. The Student Housing Strategy is due for review in 2017, informed by our most recent analysis of student number assumptions and supply and demand for student accommodation in the City.

Key controls include:

1. Housing Allocation Policy framework ensuring best use of existing council and registered provider resources through nomination of affordable housing to priority households.
2. Procurement of Temporary Accommodation and long term private sector housing lettings with private landlords in the city and wider city region for those to whom we owe a housing duty.
3. Our 'New Homes for Neighbourhoods' estate regeneration programme to deliver new affordable homes in the city.
4. Development of additional Housing Delivery Options: Living Wage Joint Venture with Hyde proposal to deliver 1,000 new lower cost homes for rental and sale; and, Housing Market Intervention / direct delivery through council wholly owned Special Purpose Vehicle.
5. Enabling delivery of new affordable homes in partnership with Registered Provider partners and the Homes & Communities Agency.
6. Improving supply through best use of existing HRA assets including conversions / hidden homes programme.
7. Bringing long term empty private sector homes back into use through our Empty Property Strategy.
8. Tenancy sustainment initiatives particularly for more vulnerable people in order to prevent homelessness.
9. Forthcoming review of Student Housing Strategy.
10. Ongoing work of Greater Brighton Housing & Growth Working Group to accelerate delivery of new homes.
11. The establishment of the Greater Brighton Strategic Property Board; bringing national, regional and local partners together to make the best use of the combined public estate – including the release of surplus land and sites for economic growth (new jobs, employment floorspace and home)'.
Inaugural meeting of the Board taking place on 25 October 2016

Second Line of Defence: Corporate and Committee Oversight

Corporate Investment Board

Strategic Investment Board

Cross Party Estates Regeneration Board

Strategic Housing Partnership (cross sector)

Third Line of Defence: Independent Assurance

Homes & Communities Agency - monitor and assure processes relating to affordable housing

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
<p>Continue to track number of Right to Buy Purchases; student houses; HMOs, accepted as homeless under our statutory duty and the number of cases ASC & Children's accept a duty to house</p>	Assistant Director Housing	50	31/03/17	01/04/15	31/03/17
<p>Comments: RTB completions are monitored and reported to housing leadership team; Qtrly meetings with the Strategic Housing Partnership including university reps and private landlords. Evidence for an Additional licencing scheme for HMOs currently being researched. Student housing strategy work underway.</p> <p>Private Sector Housing licence 3000 Houses in Multiple Occupation (HMOs). Proposals to consult on extending discretionary licensing of private rented homes to widen improvement of standards to be considered at November 2016 Housing & New Homes Committee (H&NHCTte). Government consultation on extending mandatory HMO licensing and related reforms commencing. Head of Housing Strategy Property & Investment. November 2016.</p> <p>Housing Allocation Policy framework ensuring best use of existing council and registered provider resources through nomination of affordable housing to priority households being reconsidered at H&NHCTte November 2016. Head of Temporary Accommodation & Allocations. November 2016.</p> <p>ELT considered draft student housing study and issues arising. Informed Leadership Board Workshop – HMOs and University Growth held on 10 October 2016. ELT level discussions with Vice-Chancellors of Universities. CEO /Executive Directors. Nov / Dec 2016. Development of Student Housing Strategy. Head of Housing Strategy, Property & Investment / Planning Policy, Projects and Heritage Manager / Strategic Housing Partnership. 2017 workplan.</p>					
SR 21 Risk Action: Affordable housing City Plan policy to be adopted	Executive Director Economy, Environment & Culture	100	31/03/16	01/04/15	31/03/16
<p>Comments: The Affordable Housing Policy is part of the City Plan which was Adopted by Full Council on 24th March 2016.</p>					
SR 21 Risk Action: Greater Brighton Economic Board, City Deal & regional working to find housing solutions.	Executive Director Economy, Environment & Culture	50	31/03/17	01/04/15	31/03/17

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
<p>Comments: Greater Brighton Housing & Growth Working Group continues to meet regularly to accelerate delivery of new housing supply through freedoms and flexibilities sought as part of the wider GB Devolution proposals. Includes Government, Homes & Communities Agency and GB Devolution partner authorities. Next Greater Brighton Housing & Growth Working Group, Nov / December 2016.</p> <p>In addition, following One Public Estate Bid we are launching the Greater Brighton Strategic Property Board, to provide direction, oversight and accountability for the One Public Estate Programme. The Board will bring together senior officer representatives from local, regional and national public sector partners as a local strategic assets forum. Members will work collaboratively to identify and take forward opportunities across the public estate to including to create economic growth (new homes, employment floorspace and jobs). The Board will meet quarterly, with its inaugural meeting on 25 October. CEO, Exec Director EEC.</p> <p>The Coastal West Sussex and GB Local Strategic Statement 2 was agreed by the 10 constituent authorities in March 2016 and a study has been commissioned to evaluate the Housing Market Areas and Functional Economic Areas for CWS and GB Area (to be completed in Jan 2017). Policy, Projects and Heritage Team Manager.</p>					
SR 21 Risk Action: Work through City Deal with regional partners & LEP to promote Economic development incl increased sub-regional working to meet housing need	Executive Director Economy, Environment & Culture	50	31/03/16	01/04/15	31/03/16
<p>Comments: Greater Brighton Housing & Growth Working Group is aiming to accelerate delivery of new housing supply through freedoms and flexibilities sought as part of the wider GB Devolution proposals. Group continues to meet regularly taking forward the following matters: Homes & Communities Agency funding options - Starter Homes Expressions Of Interests, Home Builders Fund, Estates Regeneration Prospectus; Housing & Planning Act impact /considerations; Updates on One Public Estate Submission; Housing Delivery Models Proposals; Private Sector Rented matters; Feedback from C2C LEP Housing Task Force; development and update on Large Sites Delivery Work. Next meeting Nov / Dec 2016. Head of Housing Strategy, Property & Investment.</p>					
SR21 Risk Action: Consider use of New Policy Article 4 a) allocates sites for purpose built housing; and b) manages properties to meet student housing needs	Executive Director Economy, Environment & Culture	50	31/03/17	01/04/15	31/03/17

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
<p>Comments: City plan approved and work is underway. The Student Housing Strategy is due for review in 2017, informed by our most recent analysis of student number assumptions and supply and demand for student accommodation in the City. Student Housing Study to inform both City Plan Part 2 and Student Housing Strategy refresh. Draft student housing study and issues arising informed Leadership Board Workshop – HMOs and University Growth held on 10 October 2016. ELT level discussions with Vice-Chancellors of Universities. CEO /Executive Directors. Nov / Dec 2016. Development of Student Housing Strategy. Head of Housing Strategy, Property & Investment / Planning Policy, Projects and Heritage Manager / Strategic Housing Partnership. 2017 workplan. Progress on preparing City Plan Part 2 (Scoping paper consultation) which will look at options for site allocations is ongoing. Policy, Projects and Heritage Team Manager.</p>					
<p>SR21 Risk Action: Exercise Duty to Co-operate with Neighbouring Authorities to address the shortfall in housing supply that is not deliverable in Brighton & Hove</p>	<p>Assistant Director Housing</p>	<p>100</p>	<p>16/03/16</p>	<p>01/04/14</p>	<p>16/03/16</p>
<p>Comments: Delivery of Temporary accommodation for homeless families through the temporary accommodation procurement (DPS) for the Greater Brighton area has been in place wef March 2016</p>					
<p>SR21 Risk Action: Explore options with universities to improve student accommodation provision to meet forecast growth in student numbers.</p>	<p>Assistant Director Housing</p>	<p>50</p>	<p>31/03/17</p>	<p>01/04/15</p>	<p>31/03/17</p>

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
<p>Comments: Progress to date - student housing study: Student Housing Study to inform both City Plan Part 2 and Student Housing Strategy refresh commissioned by Planning working in conjunction with Housing from Dr Darren Smith following formal ITT process. Both universities offered opportunity to comment on full draft report (in strictest confidence) in terms of accuracy of evidence and student numbers. Meeting held and email exchanges with University of Sussex with regard to draft study. Amendments agreed and made by Dr Smith subject to ELT steer. ELT considered draft student housing study and issues arising. Informed Leadership Board Workshop – HMOs and University Growth held on 10 October 2016.</p> <p>Next steps - student housing study: Further briefings arising from Leadership Board Workshop – HMOs and University Growth held on 10 October 2016. Head of Housing Strategy, Property & Investment / Planning Policy, Projects and Heritage Manager. Nov / Dec 2016. ELT level discussions with Vice-Chancellors of Universities. CEO /Executive Directors. Nov / Dec 2016. Review release of study aligned to City Plan and Housing Strategy timelines and any further ELT steer - end Nov 2016. Head of Housing Strategy, Property & Investment / Planning Policy, Projects and Heritage Manager Development of Student Housing Strategy. Head of Housing Strategy, Property & Investment / Planning Policy, Projects and Heritage Manager / Strategic Housing Partnership. 2017 workplan.</p>					
SR21 Risk Action: HRA stock improvement & estate regeneration initiative (New Homes for Neighbourhoods) to increase affordable housing supply	Assistant Director Housing	60	31/03/17	01/04/15	31/03/17

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
<p>Comments: Housing Revenue Account Asset Management Strategy is aligned to Housing Strategy in support of improving housing supply & housing quality. Housing stock review is an ongoing process.</p> <p>HRA asset management strategy has been approved by Housing and New homes committee and P&R committee March 2016 for 2016-2020.</p> <p>HRA AMS supports increasing housing supply through:</p> <p>Our 'New Homes for Neighbourhoods' estate regeneration programme to deliver new affordable homes in the city. 262 new homes have been developed or are in the pipeline, including: new homes delivered at Robert lodge; further schemes on site at Findon Road, Wellsbourne, Selsfield Drive and Lynchet Close - Lead Regeneration Programme Manager;</p> <p>Improving supply through best use of existing HRA assets including conversions / hidden homes programme, improvements being carried out to senior housing units to convert bedsits into 1 bed flats - Head of Housing Strategy, Property & Investment.</p> <p>Future HRA investment risks arise through reaching the HRA borrowing cap. Mitigation includes:</p> <p>Development of additional Housing Delivery Options: Living Wage Joint Venture with Hyde proposal to deliver 1,000 new lower cost homes for rental and sale; and, Housing Market Intervention / direct delivery through council wholly owned Special Purpose Vehicle - Head of Housing Strategy, Property & Investment / Lead Regeneration Programme Manager.</p> <p>Greater Brighton Housing & Growth Working Group is aiming to accelerate delivery of new housing supply through freedoms and flexibilities sought as part of the wider GB Devolution proposals, including raising the HRA borrowing cap. Head of Housing Strategy Property & Investment.</p> <p>Regular Review through regular Estate Regeneration Programme Board officer and member meetings. Lead Regeneration Programme Manager, Head of Housing Strategy, Property & Investment.</p>					
<p>SR21 Risk Action: Investigate options for council resources to develop finance expertise to increase council's ability to negotiate effectively with developers and local private agents re. schemes for housing and to provide affordable housing</p>	<p>Assistant Director Housing</p>	<p>50</p>	<p>31/03/17</p>	<p>01/04/15</p>	<p>31/03/17</p>

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
<p>Comments: Funding approval agreed at Housing and New homes committee in March 2016 to evaluate and progress proposals for alternative models to deliver affordable homes including joint ventures.</p> <p>Following previous deferral, Housing & New Homes Committee on 16 November 2016 are to re-consider recommendations in relation to taking forward proposals for development of additional Housing Delivery Options: Living Wage Joint Venture with Hyde proposal to deliver 1,000 new lower cost homes for rental and sale; and, Housing Market Intervention / direct delivery through council wholly owned Special Purpose Vehicle. Head of Housing Strategy, Property & Investment / Lead Regeneration Programme Manager November 2016.</p> <p>Housing Strategy & Development team continue to work with Planning, developers, as well as Homes & Communities Agency and Registered Provider Partners on our Affordable Housing Delivery Partnership, to enable maximum delivery of new affordable homes on development sites in the city in line with our Affordable Housing Brief and City Plan requirements under CP 20 Affordable Housing. We await Housing & Planning Act regulations and the impact of Government investment and legislative approach in favour of low cost home ownership including through Starter Homes. Head of Housing Strategy, Property & Investment through regular meetings with HCA and of Affordable Housing Delivery Partnership. January 2017.</p>					
SR21 Risk Action: Investigate options to procure more housing for affordable rented and shared ownership use	Assistant Director Housing	50	31/03/17	01/04/14	31/03/17

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
<p>Comments: Funding approval agreed at Housing and New Homes Committee in March 2016 to evaluate and progress proposals for alternative models to deliver affordable homes including joint ventures. Development of additional Housing Delivery Options: Living Wage Joint Venture with Hyde proposal to deliver 1,000 new lower cost homes for rental and sale; and, Housing Market Intervention / direct delivery through council wholly owned Special Purpose Vehicle. Report to September 2016 Housing & New Homes Ctte. Decision be deferred to the next meeting of the Committee to ensure that members can feel fully supportive of the proposals. Further work is being undertaken on addressing key concerns through extension of comprehensive briefings offered to Housing spokes and their lead members / groups. Detailed list of FAQs and responses being prepared for member sign off. Further Housing Delivery Options report is on draft agenda for 16 November 2016 Committee. Project development continues, including detailed follow up on meeting between BHCC / Bevan Brittan & Hyde / Trowers, in particular regarding draft Heads of Terms & Counsel advice. Further briefings & updates for members arranged including: Estate Regen Members Board; Green Group; Labour Group; Conservative H&NH Committee Councillors & Group. Peer review - ongoing. Head of Housing Strategy, Property & Investment & Lead Regeneration Programme Manager. November 2016.</p>					
<p>SR21 Risk Action: Act on outcome of joint partners' bid for £59M for extra care housing to address social care residential needs as part of 2015-18 Affordable Housing Programme</p>	<p>Assistant Director Housing</p>	<p>50</p>	<p>31/03/17</p>	<p>01/04/15</p>	<p>31/03/17</p>
<p>Comments: Good progress on delivery of Brooke Mead extra care housing scheme. A 'Topping Out' Ceremony was held on Friday 17 June and speeches were given by Councillor Anne Meadows (Chair of Housing & New Homes) and David Issott (Managing Director of Willmott Partnership Homes) (WPH). Work continues on-site and the concrete frame is now complete and brickwork is up to 1-2 floor level. The windows are installed up to the fourth floor level and the first fix of mechanical and electrical is complete for ground and first floor. In addition the water tank and communal boilers have been installed in the plant room and except for the area occupied by the work crane, the screeding is virtually complete. Continue to commission new wheelchair adapted and lifetime homes through New Homes for Neighbourhoods programme, Affordable Housing Delivery Partnership and Affordable Housing Brief. Continue to enable vulnerable households with complex needs to live independently their own home through the work of the integrated (pan tenure) Housing Adaptations Service. Joint ASC/Housing working on successful bid to Homes and Communities Agency (HCA) for Homeless Change Fund investment delivering a supported housing scheme of 10-12 units for former homeless older adults with mobility and mental health issues.</p>					

Next steps:

Meet with ASC to commence comprehensive needs profiling - Head of Housing Strategy Property & Investment / Housing Leadership Team – Nov/Dec 2016

Explore and develop the business case supporting the commissioning new supported housing - Head of Housing Strategy Property & Investment / Housing Leadership Team - Nov/Dec 2016

Continue to progress delivery of Homeless Change Fund project, including reviewing against other strategic priorities - working toward report to January 2017 Housing & New Homes Committee. Housing Stock Review Manager

Completion of Brooke Mead - by June 2017 - Estate Regeneration Team. Work with Social Care colleagues to identify nominees. Housing Team.



Continue to commission new wheelchair adapted and lifetime homes through New Homes for Neighbourhoods programme and Affordable Housing Delivery Partnership - ongoing - Head of Housing Strategy, Property & Investment.

Continue to enable vulnerable households with complex needs to live independently their own home through the work of the integrated (pan tenure) Housing Adaptations Service - ongoing -Operational Manager Housing Adaptations.

Continue to review options for any further HCA funding toward specialist homes for older, disabled and vulnerable people under 2016 – 21 Shared Ownership and Affordable Housing Programme - subject to overall business case. Via Monthly HCA meetings - Head of Housing Strategy, Property & Investment.

Measures of Success

- Progress the construction of the Brook Mead Extra Care Housing Scheme in July 2017 (March 2017)
- Increase in vulnerable households living independently (KPI)
- Increase in level of adaptations (KPI)
- New support contracts in place that contributes to the prevention of homelessness (KPI)

Risk Code	Risk	Responsible Officer	Risk Category	Last Reviewed	Issue Type	Risk Treatment	Initial Rating	Revised Rating	Future Rating	Eff. of Control
SR23	Developing an investment strategy to refurbish and develop the city's major asset of the seafront	Executive Director Economy, Environment & Culture Head of Sport & Leisure	BHCC Strategic Risk	20/04/16	Threat	Treat	 L5 x I4	 L3 x I3		Revised: Adequate

Causes

The seafront is a city asset which is iconic and contributes to the city's reputation. The council is the lead custodian of the seafront but the benefits are shared by many. At least 5 million people use our seafront every year. It is a very significant attraction in our visitor economy; provides a series of important public spaces for residents; many businesses in the city rely on the draw of the seafront to sustain their organisation's value and to provide an attractive place for stakeholders and employees. It is being used beyond its original design and, in many ways, is a victim of its own success and affected by the changing patterns and increased demands of usage. the deterioration of Madeira Terraces in particular have reached a critical point, requiring fencing and safety measures whilst a longer term solution is developed.

Potential Consequence(s)

The heritages structures and infrastructure along the seafront require significant investment and ongoing revenue in order to ensure suitability for modern use, and to preserve and enhance the reputation of the city and its offer.

Existing Controls

First Line of Defence: Management Controls

Seafront Investment Programme and Strategic Delivery Board have been established and are actively considering seafront redevelopment opportunities including the Black Rock and King Alfred sites

DfT funding secured for the redevelopment of the West Street / A259 Junction and Shelter Hall. Initial infrastructure work commenced late 2015

Coast Revival Funding secured to develop Madeira Drive Investment and Regeneration Plan

HLF Funding secured for improvements to Volks Railway

Seafront Arches and A259 infrastructure Phase 2 works completed June 2016

P&R approval to commence seafront landscaping around i360 and seafront arches. PR&G approval to enter into a conditional development agreement with Standard Life Investments for the Brighton Waterfront Project

Installation of anti-climb fencing at Madeira Terraces November-December 2015 and continued work to minimise risk from potential structural failure.

Second Line of Defence: Corporate Oversight

Investment plan to underpin the Seafront Strategy and long term viability of the seafront infrastructure. Report to Policy, Resources & Growth Committee in October 2016;

Corporate Investment Board;

Cross-party Strategic Delivery Board.

Third Line of Defence: Independent Assurance

Projects funded by Government departments are overseen by the Greater Brighton Economic Board (quarterly) and Coast to Capital LEP governance arrangements (quarterly) / and by relevant government department (according to their timetable). No funding has been withdrawn to date.

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
Develop stage 2 funding bid for Coastal Communities Funding for Madeira Terraces redevelopment	Major Projects & Regeneration Manager	10	31/03/17	10/10/16	31/03/17
Comments: Coastal Communities Fund (CCF) have recently invited the council to submit an application of Stage 2 funding c,£4m towards the Madeira Terraces Project					
Officers continue to respond to Seafront Scrutiny report recommendations.	Executive Director Economy, Environment & Culture	90	31/12/16	01/12/14	31/12/16

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
<p>Comments: Seafront Investment Programme governance arrangement agreed March 2015. Update October 16: Seafront Investment Programme Board meets monthly Seafront Investment Plan under development. Report to Policy & Resources Committee Jan-Feb 2016. Update Oct 16: Final Investment Plan approved by PRG Committee Oct 16. Funding secured for redevelopment of Shelter Hall. Planning application May 2016 Update Oct 16: Planning permission granted Sept 16 Seafront projects included in Greater Brighton Economic Board project pipeline for future rounds of Local Growth Fund Update Oct 16: Brighton Waterfront included in Local Growth Fund bid, outcome anticipated Nov 16</p>					
<p>The interim plans for Madeira Terraces are in development with identified budget; propping the structures, working with traders to create as good an environment for the short term as possible</p>	<p>Executive Director Economy, Environment & Culture</p>	<p>45</p>	<p>31/03/17</p>	<p>03/08/15</p>	<p>31/03/17</p>
<p>Comments: The Council is exploring practical solutions to secure investment to rebuild and regenerate the Terraces and secure the long-term future of Madeira Drive. Actions to date include:</p> <ul style="list-style-type: none"> • Planning permission secure for anti-climb fencing • £50,000 funding secured from CLG's Coastal Revival Fund for £50,000 to develop investment and regeneration options. Draft Madeira Drive Regeneration Framework anticipated November 2016. • The Greater Brighton Economic Board agreed at the meeting on the 13th of October 2015 to include Madeira Drive regeneration in the project pipeline for potential funding through Local Growth Fund Round 3. <p>Successful One Public Estate bid will provide c £70k for project development for stage 2 CCF bid.</p> <p>Next steps:</p> <ul style="list-style-type: none"> • Continue to explore potential solutions to secure investment to rebuild and regenerate the Terraces • Continue to liaise with affected tenants and relocate to alternative accommodation where possible • Continue to liaise with tenants on the on-going operation of Madeira Drive 					

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
Work to implement the HLF funded plans for Volks can continue with the success of stage 2 funding bid.	Seafront Development Manager	50	30/04/17	01/11/15	30/04/17
<p>Comments: Project Manager and Activity Plan Managers now appointed.</p> <p>Design Team are appointed and all Planning consents in place. Tender completed for train carriage restoration and contractor has now commenced work on 2 of the 3 trains. Tender completed and main building contractor appointed. Work started on site September 2016 and is due to be completed Spring 2017 for the railway to re-open.</p>					

Risk Code	Risk	Responsible Officer	Risk Category	Last Reviewed	Issue Type	Risk Treatment	Initial Rating	Revised Rating	Future Rating	Eff. of Control
SR27	Devolution	Executive Director Economy, Environment & Culture Project Manager Greater Brighton Economic Board Business Manager	BHCC Strategic Risk, Political	20/04/16	Threat	Treat	Amber L4 x I3	Amber L4 x I3		Revised: Adequate

Causes

Readiness of politicians and management teams to take up opportunity of Devolution could determine the city's profile in the Region.

Potential Consequence(s)

- * Council preparedness for devolution will be tested by increased regionalisation
- * Devolution settlements increasingly linked to new governance arrangements
- * Relationship with HM Government affected
- * Impact on council ability to drive economic growth and public service delivery

Existing Controls

First Line of Defence: Management Controls

Brighton & Hove City Council is part of Greater Brighton and the Greater Brighton Economic Board has been established

The City Council submitted a bid for devolution deal with government with Greater Brighton Economic Board partners in September 2015

Devolution Programme consisting of four streams submitted for approval to the Corporate Modernisation Board

Second Line of Defence: Corporate Oversight

Corporate oversight through the Modernisation Programme Governance

Third Line of Defence: Independent Assurance:

None

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
Develop appropriate communications programme	Executive Director Economy, Environment & Culture	35	31/03/17	20/04/16	31/03/17
<p>Comments: The communications strategy for the Greater Brighton Devolution proposals is being led by Adur & Worthing Councils on behalf of the Greater Brighton Economic Board. Communications updates from the chair of Greater Brighton Economic Board following each meeting established.</p>					
Establish Devolution Programme governance arrangements	Executive Director Economy, Environment & Culture	100	15/06/16	20/04/16	15/06/16
<p>Comments: Governance arrangements for the Greater Brighton devolution proposals are as follows:</p> <ul style="list-style-type: none"> - Greater Brighton Economic Board, a joint committee that brings together the Leaders of Greater Brighton alongside business partners (Universities, South Downs National Park Authority, FE representatives, Coast to Capital LEP) - Greater Brighton Officer Programme Board - provides officer support and oversight - Internal corporate oversight of the devolution proposals established through the corporate modernisation governance structure. 					
Review of Governance arrangements	Executive Lead Officer Strategy, Governance and Law	10	31/03/17	20/04/16	31/03/17

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
<p>Comments: Proposals for establishing a sub-national transport body under consideration with South East Seven partners and Coast to Capital LEP. Wider review of governance proposals will commence once devolution proposals have been further developed</p>					

Subject:	Internal Audit update (including amended audit plan)		
Date of Meeting:	15 November 2016		
Report of:	Executive Director, Finance & Resources		
Contact Officer:	Name:	Graham Liddell	Tel: 01273 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 audits that have been carried out to date and proposed changes to the audit plan.

2. RECOMMENDATIONS

- 2.1 That the Audit & Standards Committee notes the audits that have been carried out to date.
- 2.2 That the Committee approves the proposed changes to the audit plan.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Committee approved the Internal Audit and Corporate Fraud Plan on 8 March 2016. The audit plan comprised 1,115 audit days covering:
- audit reviews based on assessment of risk
 - following up progress on implementing audit recommendations
- 3.2 At the 25 September Committee, the Head of Internal Audit reported that less progress than expected had been made against the audit plan and that he would bring proposed amendments to the plan to this meeting.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**Reason for amending the audit plan**

- 4.1 As reported to the Committee on 25 September, less progress than expected has been made on the 2016/17 audit plan because:
- substantial work had been carried out on new and emerging risks during the first six months of the year
 - more time than expected had been spent on developing a joint working with colleagues from Orbis.
- 4.2 The team is now at full capacity and together with support from our private sector partner, still expects to deliver approximately 1,100 audit days for 2016/17.

- 4.3 The Head of Internal Audit has, therefore, proposed changes to the 2016/17 plan to ensure that he will have sufficient assurance to deliver his annual audit opinion. These changes are informed by:
- the results of work carried out (including unplanned audit work)
 - changing priorities for the council
 - the level of audit resource available.

Results from planned audit work

- 4.4 Table 1 sets out the reports issued by Internal Audit on planned audits.

Table 1 - planned audit work

Audit	Audit conclusion
Contract Waivers	Limited
Business Continuity	Limited
IT Disposals	Limited
Computer Facilities	Limited
Public Health	Reasonable
Budget Management	Reasonable
Declarations of Interests, Gifts & Hospitality	Reasonable
Home to School Transport	Substantial
Troubled families grant claim	Unqualified certificate issued
Schools audits	Various
Banking	Draft report
Business rates	Draft report
Council Tax	Draft report
European General Data Protection Regulations (GAP Analysis)	Draft report
Purchasing cards	Draft report

- 4.5 Summary findings for finalised reports were presented to the Committee on 25 September 2016. The key areas where the council needs to strengthen are:
- security of information systems
 - contract management.

Unplanned audit work

- 4.6 Table 2 sets out the key areas where Internal Audit has carried out work that were not included in the audit plan approved by the Committee in March 2016. Some of the demand for this unplanned work stems from service managers identifying contract management and ICT issues and requesting audit support to help address these issues. This was also encouraged by the new Executive Director, Finance & Resources.

Table 2 – unplanned audit work delivered

Audit work	Audit conclusion	Commentary
Department for Transport grant claims x2	Audit certificate issued	A routine audit was requested by Department for Transport to certify that £5m of funding provided from central government was used in line with grant conditions.
Disabled facilities grant claim	Audit certificate issued	A routine audit was requested by Department for Communities and Local Government to certify that £1m of funding provided from central government was used in line with grant conditions.
Housing responsive repairs	n/a	<p>Internal audit has continued to work closely with colleagues from housing and procurement to support the recover of overpayments made in relation to work carried out by a sub-contractor.</p> <p>As reported to the Housing and New Homes Committee, the council has received a total repayment of £513k related to the overcharge. This is made up of a sum of £275k for repairs post April 2014 and a sum £238k relating to the repairs undertaken by the subcontractor before April 2014.</p> <p>Officers within the Housing Property & Investment team the council continue to meet with senior management at Mears on a weekly basis to review progress with quality assurance on the contract and undertake, monitor and complete agreed actions.</p> <p>We will carry out a follow up review as part of our 2016/17 audit plan.</p>
Housing capital works (specific scheme)	Reasonable (currently in draft)	<p>This audit replaced the original planned general review of housing capital works by reviewing the capital works for a particular block of flats. This followed concerns raised by leaseholders about whether the capital works were required and the expected cost of the work.</p> <p>The audit (currently in draft) has concluded that the council put reasonable arrangements for commissioning and delivering this capital work. The audit made recommendations to clarify the role of the consultant surveyors and to document more clearly key decisions and judgements.</p>
Housing electrical works	Limited	<p>As part of the council’s ongoing review of contract payments, finance and housing staff identified apparent discrepancies between work carried out and the charges for electrical works. Internal Audit was then asked to carry out a detailed review into these discrepancies.</p> <p>The audit confirmed that there were cases where the amounts charged for a particular property do not appear to match the work carried out. The council is</p>

		working with Mears to resolve these issues and further updates will be provided to the Audit & Standards Committee.
Allegations about disposal of property leases	Allegations unfounded	Concerns were raised with Internal Audit that the council may have disposed of some property leases too cheaply. The audit review concluded that the allegations were unfounded.
Emergency Accommodation	Limited	<p>Internal audit reviewed the arrangements for managing emergency accommodation contracts following concerns raised by a member of the public.</p> <p>The audit concluded that before May 2015:</p> <ul style="list-style-type: none"> potentially significant shortfalls in the standard of accommodation provided had not been addressed in a timely manner. contracts had been awarded through a series of Waivers to Contract Standing Orders. <p>During the 2015 a procurement exercise was carried out and the management agreements, lease, contract and property standards were reviewed and improved. The council also initiated additional actions to improve the monitoring and rectification of shortfalls at this accommodation. There is evidence that the provider of the emergency accommodation has responded positively and has instigated a number of planned improvements to the property.</p>
Payments for provision of social care	n/a	This review considered potential overpayments made to a social care provider. The review confirmed that there is a case for recovering some amounts paid payments and the council is currently discussing these with its provider.

4.7 The team has been asked to carry out three further additional audits . These are set out in table 3.

Table 3 – additional audits requested

Additional audit planned	Reason for including in revised audit plan
Care Payments	Requested by EY to support the audit of the financial statements and to keep down the cost of the external audit.
Three European grants a part of the council's participation in Interreg, a European Union funding programme that supports cross-border co-operation projects between neighbouring regions.	Specific requirement for an audit of grant claims that are a condition of the council receiving grant funding.
Review of compliance with data security standard for Payment Cards	New and merging risk that could affect the ability of the council to process payment card transactions.

Proposed deletions from the audit plan

- 4.8 In light of the results of additional work, the Head of Internal Audit has reviewed the remaining plan and proposes that the seven audits set out in table 4 should be deleted.

Table 4 – deleted audits

Deleted audit	Reason for deleting
Adolescent Services	Following discussion with Executive Director (FCL) not judged as high risk for 2016/17. Will be reconsidered as part of 2017/18 plan.
City Parks	No significant risks identified that suggest that this area requires review in 2016/17.
Contract Letting & Renewal	Assurance gained on contract letting & renewal procurement in 2014/15. Focus for 2016/17 now more on contract management.
Direct Payments	Specific fraud work planned through East Sussex Fraud Hub instead.
Grants Payable and Trust Funds	Judged as lower risk as grants payable have significantly reduced.
Housing Allocations	Allocations system is being re-procured and process subject to change. Audit to be considered for inclusion in 2017/18 audit plan.
Housing Repairs - Capital Programme (general)	Replaced by more specific review of housing repairs capital works.
Modernising the council	Reasonable assurance provided as part of 2015/16 audit plan and good progress on actions. Revisit to be considered for 2017/18
Strategic construction contract	Re-procurement is currently taking place. To be considered for inclusion in 2017/18 audit plan.
Refurbishing the seafront	Assurance gained as part of strategic risk.

- 4.9 In the professional judgement of the Head of Internal Audit, the deletion of these audits will not compromise his ability to issue his annual audit opinion for 2016/17. This is because, he will gain sufficient assurance from other audit work in 2016/17 (including unplanned work) or because the risk for 2016/17 is low.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 None

6. CONCLUSION

- 6.1 The Committee is asked to approve the proposed changes to the audit plan for 2016/17.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 It is expected that the Internal Audit and Corporate Fraud Plan 2016/17 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: Jeff Coates

Date: 26/10/2016

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: 23/10/16

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

AUDIT & STANDARDS COMMITTEE	Agenda Item 46
	Brighton & Hove City Council

Subject:	Targeted Budget Management 2016/17 (Month 2)		
Date of Meeting:	15 November 2016		
Report of:	Executive Director of Finance & Resources		
Contact Officer:	Name:	James Hengeveld	Tel: 29-1242
	E-mail:	James.Hengeveld@brighton-hove.gov.uk	
Wards Affected:	All		

FOR GENERAL RELEASE

1 SUMMARY AND POLICY CONTEXT:

- 1.1 Targeted Budget Management (TBM) reports are reported to the Policy, Resources & Growth Committee and referred to the Audit & Standards Committee and the Cross Party Budget Review Group (monthly) to ensure effective member oversight and consideration of the in-year revenue and capital financial performance and associated risks.
- 1.2 The purpose of providing the TBM reports to the Audit & Standards Committee is to:
 - provide assurance to the committee that there are appropriate arrangements in place to identify and treat risks;
 - demonstrate that members of the Policy, Resources & Growth Committee are able to make informed decisions on the monitoring of the budget process to ensure the ongoing financial resilience of the authority;
 - provide an opportunity for members to consider whether the information provided to Policy, Resources & Growth Committee as part of the TBM process could be improved.
- 1.3 This report highlights the position as at Month 5 (August) as reported to the 13 October meeting of the Policy, Resources & Growth Committee.

2 RECOMMENDATIONS:

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

3 CONTEXT/BACKGROUND INFORMATION:

- 3.1 The council's financial performance is monitored monthly through the Targeted Budget Management (TBM) process. TBM reports are reported to Policy, Resources & Growth Committee and more frequently (monthly) to the cross-party member

Budget Review Group. They are also reviewed monthly by Directorate Management Teams and the Executive Leadership Team.

- 3.2 The TBM framework focuses on identifying and managing financial risks on a regular basis throughout the year. Individual services monitor their TBM position on a monthly or quarterly basis depending on the size, complexity or risks apparent within each 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 demand-led areas.
- 3.3 In summary, as at Month 5, the forecast overspend risk on the council's General Fund was £3.916m as shown below:

2016/17 Month 2 Variance £'000	Directorate	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
1,077	Families, Children & Learning	53,068	54,086	1,018	1.9%
3,459	Health & Adult Social Care	79,926	83,828	3,902	4.9%
27	Economy, Environment & Culture	33,395	33,126	(269)	-0.8%
248	Neighbourhood, Communities & Housing	15,695	15,945	250	1.6%
(450)	Finance & Resources	20,657	20,340	(317)	-1.5%
42	Strategy, Governance & Law	5,643	5,713	70	1.2%
4,403	Sub Total	208,384	213,038	4,654	2.2%
(658)	Corporate Budgets	7,449	6,711	(738)	-9.9%
3,745	Total General Fund	215,833	219,749	3,916	1.8%

- 3.4 Taking into account the available risk provisions of £3m, the council's financial position is therefore in a reasonable position at this point in the year, however, utilising risk provisions is to be avoided if at all possible as these resources are highly likely to be required for future years as the financial challenges increase.
- 3.5 The TBM report provides assurance by presenting members with comprehensive and timely information about forecast expenditure compared to budget based on two months of actual expenditure. As well as the summary table above the report provides members with a detailed breakdown for each Directorate (as well as the Housing Revenue Account and Dedicated Schools Grant) which gives details of all the key risks and the steps being taken to mitigate them.
- 3.6 As TBM is a risk based process the report provides members with more detailed narrative descriptions, both in the body of the report and the Directorate appendix, of the pressures and recovery plan mitigations on the key demand-led budgets in Adult Social Care, Children's Agency placements and Homelessness (temporary accommodation).

- 3.7 The report also provides an update on the capital programme (a forecast overspend of £0.424m) and with progress against 2016/17 savings targets. It shows that the substantial savings package in 2016/17 of £20.968m is significantly on track with £18.789m either achieved or anticipated to be achieved.
- 3.8 The draft minutes of the Policy, Resources & Growth Committee meeting demonstrate that members asked a wide range of questions on information presented in the report.
- 3.9 The report provides members with assurance that the Executive Leadership Team will continue to keep recovery actions under review. In addition the cross-party Budget Review Group will be provided with appropriate updates on recovery actions and monthly TBM reports to provide members with effective oversight of this corporate risk. During October there were a series of workshops which undertook further 'stress testing' of current and future budget proposals, including 4-year savings plan proposals, to ensure that the 2017/18 budget is developed on a sound footing.
- 3.10 The report concludes that the forecast risk at Month 5, while challenging, would appear to be manageable in the context of the expected level of risk and given that there is still sufficient time to take further corrective action. However, the underlying pressures on social care are of concern and suggest that demand management alone will not bring the budget into balance. Services will therefore revisit financial recovery plans and consider what further spending restrictions and savings can be identified to address the current risks. Consideration will also be given to bringing forward savings proposals already identified in the 4-year Integrated Service & Financial Plans where practicable and subject to necessary approvals.

4 EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 4.1 Any overspend remaining at the year-end, after taking account of 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 the recommended level of £9.000m. Any underspend would release one off resources that can be used to aid budget planning for 2017/18.

5 COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 None directly in relation to this update report.

6 CONCLUSION

- 6.1 The TBM Month 2 report to Policy, Resources & Growth Committee on 14 July highlighted the forecast overspend risk at Month 2 and the mitigating actions being taken. The report provides members with the information needed to make informed decisions on management of the 2016/17 budget monitoring process to ensure the continued financial resilience of the council.

7 FINANCIAL & OTHER IMPLICATIONS:

- 7.1 Included in the body of the report.

Finance Officer Consulted: Jeff Coates

Date: 3 November 2016

Legal Implications:

- 7.2 None directly in relation to this report. Implications relating to TBM Month 5 are detailed in the report to the 13 October Policy, Resources & Growth Committee meeting.

Equalities Implications:

- 7.3 None directly in relation to this report. Implications relating to TBM Month 5 are detailed in the report to the 13 October Policy, Resources & Growth Committee meeting.

Sustainability Implications:

- 7.4 None directly in relation to this report. Implications relating to TBM Month 2 are detailed in the report to the 13 October Policy, Resources & Growth Committee meeting.

SUPPORTING DOCUMENTATION

Appendices: None

Documents in Members' Rooms: None

Background Documents: None

Subject:	Targetted Budget Management (TBM) 2016/17 Month 5- Extract from the proceedings of the Policy, Resources & Growth Committee Meeting held on the 13 October 2016		
Date of Meeting:	15 November 2016		
Report of:	Executive Lead for Strategy, Governance & Law		
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 item referred from the Policy, Resources & Growth Committee for information:

Recommendation:

That the Committee note the report.

BRIGHTON & HOVE CITY COUNCIL**POLICY, RESOURCES & GROWTH COMMITTEE****4.00pm 13 OCTOBER 2016****COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 4AH****MINUTES**

Present: Councillor Morgan (Chair) Hamilton (Deputy Chair), G Theobald (Opposition Spokesperson), Mac Cafferty (Group Spokesperson), Daniel, Janio, A Norman, Robins, Sykes and Wealls

PART ONE**50 TARGETTED BUDGET MANAGEMENT (TBM) 2016/17 MONTH 5**

- 50.1 The Committee considered a report of the Executive Director for Finance & Resources in relation to Targetted Budget Management (TBM) 2016/17 Month 5. The Targetted Budget Monitoring (TBM) report was a key component of the Council's overall

performance monitoring and control framework. The report set out an indication of forecast risks as at Month 5 (August) on the Council's revenue and capital budgets for the financial year 2016/17.

- 50.2 In response to questions from Councillor Sykes the following responses were provided. In relation to the base budget there were a number of fluctuating factors during the financial year as well as other areas that were based off assumptions. In relation to the consideration of next year's budget, work was already being undertaken with service leads in areas with demand pressures to ensure projections were calculated accurately. All of this work was considered through the Members' Budget Group; as well as reports through the Committee in December and February. 2017/18 was due to be one of the most challenging years for Council financially.
- 50.3 In response to further questions from Councillor Sykes in relation to temporary accommodation costs it was explained that there were two main strands of works being undertaken. The first related to the allocation of supported housing and the sharing of some accommodation between Housing and Adult Social Care Services; which was considered good corporate working. In relation to a final query the projected £2.9M related to the shortfall on savings to be made and additional demand pressures.
- 50.4 In response to questions from Councillor Wealls it was explained that the DCLG had undertaken consultation in relation to Business Rates; the Council had responded, but the main concern related to appeals. The Council were of the view that the risks associated should be offset by Central Government. In relation to collection rates, these were currently at approximately 98.5% and the majority of non-collections related to businesses failing and folding. Where reliefs were offered the collection rates tended to remain high as the Council had relationships with the business organisationally. In terms of performance the authority was performing at a level in the middle of the league table, this was considered good given the number of start-up businesses in the city, Officers agreed to send a copy of the national league table to the Committee.
- 50.5 In response to further questions from Councillor Wealls it was acknowledged that the Planning Service had been through a challenging period, and this had impacted on the financial performance of the service; the work to raise standards was ongoing.
- 50.6 Councillor Hamilton stated that the general fund budget was nearly always different by the end of the financial year. He noted that the level of business rates had increased for the city, but also highlighted the complexity of this revenue stream. The greatest concern related to the increase of the variance from month 2, and this continued to be in Children's and Adults Services; the variance needed to be at zero by the end of the financial year.
- 50.7 In response to Councillor Janio it was explained that the budget the Council set annually was subject to change as it could fluctuate under the impact of factors such as changes in Central Government policy.
- 50.8 In response to Councillor Mac Cafferty it was explained that the authority was already working closely with health colleagues to identify risks and there was an open dialogue to better align budgets. The Better Care Fund submission had been signed off and

approved, and the work on the detailed allocation between health and social care was now being considered.

50.9 The Chair highlighted that the Bike Share Scheme costs were to be met through grant funding and not Council funded.

50.10 The Chair put the recommendations to the vote.

50.11 **RESOLVED:**

1. That the Committee note the forecast risk position for the General Fund, which indicates an in-year budget pressure of £3.916m. This includes a pressure of £0.232m on the council's share of the NHS managed Section 75 services.
2. That the Committee note that total recurrent and one-off risk provisions of £3.000m are available to mitigate the forecast risk if the risks cannot be completely eliminated by year-end.
3. That the Committee note the forecast for the Housing Revenue Account (HRA), which is an underspend of £0.864m.
4. That the Committee note the forecast risk position for the Dedicated Schools Grant which is an underspend of £0.009m.
5. That the Committee note the forecast outturn position on the capital programme and approve the variations and reprofiles in Appendix 4 and the new schemes as set out in Appendix 5.
6. That the Committee approves forward funding of Local Growth Fund Grant to the preferred Bike Share scheme provider up to a maximum value of £1.160m as set out in Paragraphs 6.3 to 6.5.
7. That the Committee approves a budget transfer (virement) of £0.257m to reallocate 2016/17 pressure funding from the Community Care – Learning Disabilities budget to the Physical Support budget as set out in Appendix 2 (Health & Adult Social Care section).

Subject:	Targeted Budget Management (TBM) 2016/17: Month 5		
Date of Meeting:	13 October 2016		
Report of:	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 an indication of forecast risks as at Month 5 (August) on the council's revenue and capital budgets for the financial year 2016/17.
- 1.2 As set out in the General Fund Revenue Budget 2016/17 report to Budget Council, potential cost pressures of up to £18m were identified of which approximately £12m was provided for in the budget through 'service pressure funding'. The report highlighted that successful 'demand management' strategies would therefore be key to managing down cost pressures across Adult and Children's social care and Homelessness (temporary accommodation) in order to achieve financial balance in 2016/17. In recognition of this challenging position, £3m risk provisions were set aside to provide some mitigation against these risks.
- 1.3 The forecast risk for 2016/17 as at August is £3.916m on the General Fund, compared to £3.745m in May, reflecting the situation outlined above. This includes a pressure of £0.232m on the council's share of the NHS managed Section 75 services. The position continues to be driven by sustained pressures across Adults and Children's social care budgets and Homelessness. These services have developed recovery plans and measures to address pressures as far as practicable and this process will continue to attempt to pull the position back into balance over the remainder of the year.
- 1.4 Taking into account the available risk provisions of £3.000m, the council's financial position is therefore reasonable at position at this point in the year, however, utilising risk provisions is to be avoided if at all possible as these resources are highly likely to be required for future years as the financial challenges increase.

2 RECOMMENDATIONS:

- 2.1 That the Committee note the forecast risk position for the General Fund, which indicates an in-year budget pressure of £3.916m. This includes a pressure of £0.232m on the council's share of the NHS managed Section 75 services.
- 2.2 That the Committee note that total recurrent and one-off risk provisions of £3.000m are available to mitigate the forecast risk if the risks cannot be completely eliminated by year-end.

- 2.3 That the Committee note the forecast for the Housing Revenue Account (HRA), which is an underspend of £0.864m.
- 2.4 That the Committee note the forecast risk position for the Dedicated Schools Grant which is an underspend of £0.009m.
- 2.5 That the Committee note the forecast outturn position on the capital programme and approve the variations and reprofiles in Appendix 4 and the new schemes as set out in Appendix 5.
- 2.6 That the Committee approves forward funding of Local Growth Fund Grant to the preferred Bike Share scheme provider up to a maximum value of £1.160m as set out in Paragraphs 6.3 to 6.5.
- 2.7 That the Committee approves a budget transfer (virement) of £0.257m to reallocate 2016/17 pressure funding from the Community Care – Learning Disabilities budget to the Physical Support budget as set out in Appendix 2 (Health & Adult Social Care section).

3 RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Targeted Budget Management (TBM) Reporting Framework

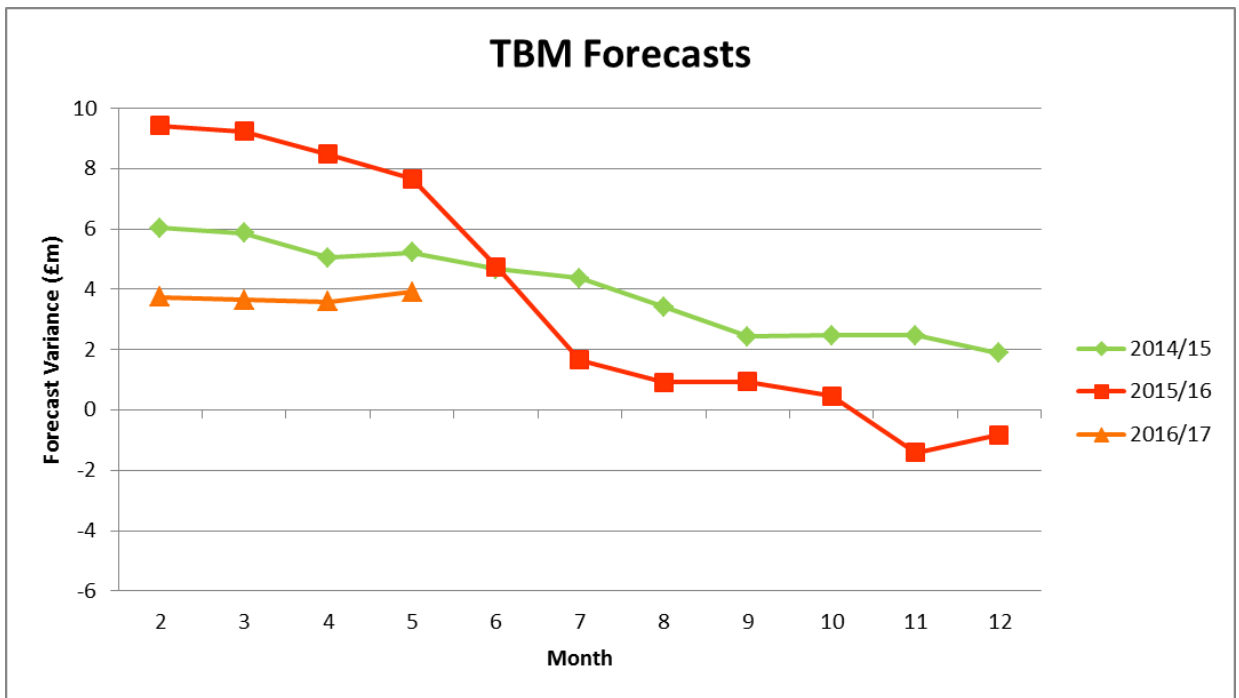
- 3.1 The TBM framework focuses on identifying and managing financial risks on a regular basis throughout the year. This is applied at all levels of the organisation from Budget Managers through to Policy, Resources & Growth Committee. Services monitor their TBM position on a monthly or quarterly basis 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 demand-led 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 (Appendices 1 & 2)

- 3.3 The table below shows the forecast outturn for Council controlled revenue budgets within the General Fund. These are budgets under the direct control and management of the Executive Leadership Team. A summary of the movement between Months 2 and 5 is shown in Appendix 1 and a more detailed explanation of the variances can be found in Appendix 2.

2016/17 Month 2 Variance £'000	Directorate	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
1,077	Families, Children & Learning	53,068	54,086	1,018	1.9%
3,459	Health & Adult Social Care	79,926	83,828	3,902	4.9%
27	Economy, Environment & Culture	33,395	33,126	(269)	-0.8%
248	Neighbourhood, Communities & Housing	15,695	15,945	250	1.6%
(450)	Finance & Resources	20,657	20,340	(317)	-1.5%
42	Strategy, Governance & Law	5,643	5,713	70	1.2%
4,403	Sub Total	208,384	213,038	4,654	2.2%
(658)	Corporate Budgets	7,449	6,711	(738)	-9.9%
3,745	Total General Fund	215,833	219,749	3,916	1.8%

- 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) as well as some cross-cutting value for money savings targets. Note that General Fund services are accounted for separately to the Housing Revenue Account (Council Housing). Note also that 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).
- 3.5 The chart below shows the monthly forecast variances for 2016/17 and the previous two years for comparative purposes. To ensure a like for like comparison of the underlying position, the data for the previous two years excludes the allocation of risk provisions and the one-off Minimum Revenue Provision adjustment of £2.328m in 2015/16.

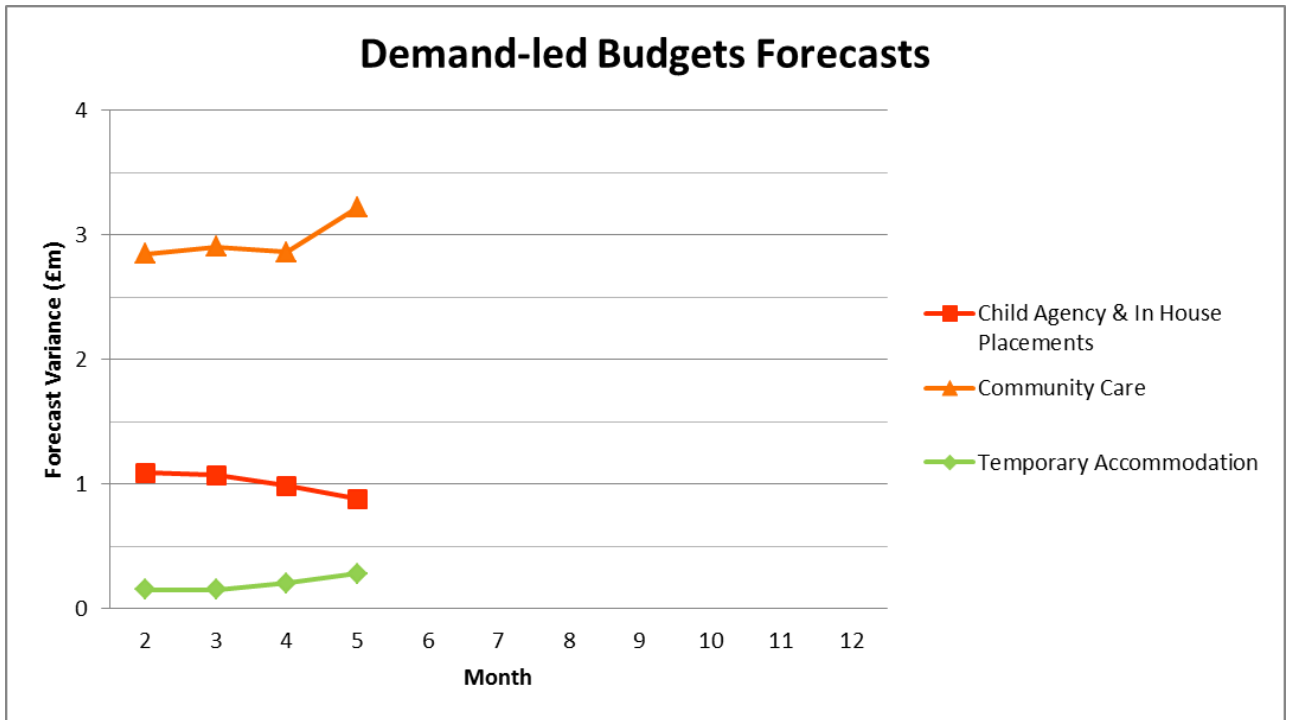


Demand-led Budgets

- 3.6 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.

2016/17 Month 2 Variance £'000	Demand-led Budget	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
1,087	Child Agency & In House Placements	19,556	20,437	881	4.5%
2,611	Community Care	48,553	51,769	3,216	6.6%
152	Temporary Accommodation	1,459	1,736	277	19.0%
3,850	Total Demand-led Budget	69,568	73,942	4,374	6.3%

The chart below shows the monthly forecast variances on the demand-led budgets for 2016/17.



Summary of the position at Month 5

The main pressures reported at Month 5 continue to be across Children's and Adults Social Care and Homelessness (Temporary Accommodation) as follows:

- 3.7 **Children's Services:** The initial forecast budget risk across Families, Children and Learning was £2.534m primarily resulting from increased demand pressures on services for Children in Care and social work cost pressures continuing through from last year. Subsequently the directorate has put together a financial recovery plan to address the financial risks as far as possible. This recovery plan identified £1.535m of potential cost reductions to improve the forecast position which would give an outturn of £0.999m. There still remain significant financial pressures on services for Children in Care and social work as well as emerging risks in the Home to School Transport budget, Youth Service and Nurseries that will need to be closely monitored.

The current projected position has identified potential cost pressures of £0.276m on social work staffing and £1.081m on placement budgets. Together with risks of £0.246m on Home to school transport, £0.069m on Youth Services, £0.100m on Nurseries and other underspending budgets of £0.754m, explaining the residual forecast risk of £1.018m as at Month 5.

- 3.8 **Adults Services:** The service is facing significant financial challenges in 2016/17 in mitigating the risks arising from the sustained pressures in 2015/16 and managing in-year demands. This is alongside delivering a significant budget savings programme, developing integration plans through the Better Care Fund and completing the Learning Disabilities Review.

- The forecast TBM risk at Month 5 of £3.902m is after identifying recovery measures of £1.741m which have helped to contain the forecast risk. Recovery measures are focused on attempting to manage demands on and costs of community care placements across Assessment Services and making the most efficient use of

available funds. The forecast risk includes the following main elements that are described in more detail in Appendix 1:

- The main area of forecast risk concerns service pressures identified at the beginning of the year (and highlighted in the General Fund Revenue Budget report as noted above) which relate to increased complexity of need, increasing numbers of older people being discharged from hospital requiring social care services for the first time, pressures on the provider services' budget and Deprivation of Liberty Standards (DoLS) cases. At Month 5 there is a significant residual risk of £3.902m relating to these pressures.
- Note that the in-year forecast does not include any one-off funding contributions. In previous years, one-off contributions have been received from the Care Act implementation funds and the Better Care Fund (£3.548m in 2015/16). At this stage it is not anticipated that any additional funds will be made available in 2016/17 but this is being kept under review.
- The forecast includes the part year effect of the increase in care home fees. In order to manage the local market and address the significant under-supply of providers in the city who will accept publicly funded residents, fee increases were essential.
- Of the approved budget savings for 2016/17 of £6.159m, £0.498m are currently projected as unachievable.
- Service pressure funding of over £6m, including the Adult Social Care precept, was applied in 2016/17 and has been used to fund budget pressures resulting from increased demands and complexity, DoLS, the national living wage and fee rates.

The funding of all care packages is scrutinised for Value for Money, ensuring that eligible needs are met in the most cost-effective manner which will not always meet people's 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 demand (demographic) growth which is also a national picture. Through regional and other social care networks the service has been looking at best practice in delivering cost effective services in order to influence future direction - this includes demand management strategies and identifying opportunities through Housing provision.

3.9 Housing Services and Temporary Accommodation: Although the council is accepting a full housing duty for a similar level of households to previously, the actual numbers of households in temporary accommodation is increasing because there are limited opportunities to move these households out of temporary accommodation into other alternative longer term forms of accommodation. This is due to a mixture of shortage of supply, unaffordable rents in the private sector and policy changes within ASC commissioning affecting the allocation of supported beds.

We are in the process of a large decanting programme out of around 200 leased units of temporary accommodation. We have decanted and handed back around half of these properties and are looking to achieve the remainder by the end of the financial year. This has a significant impact as:

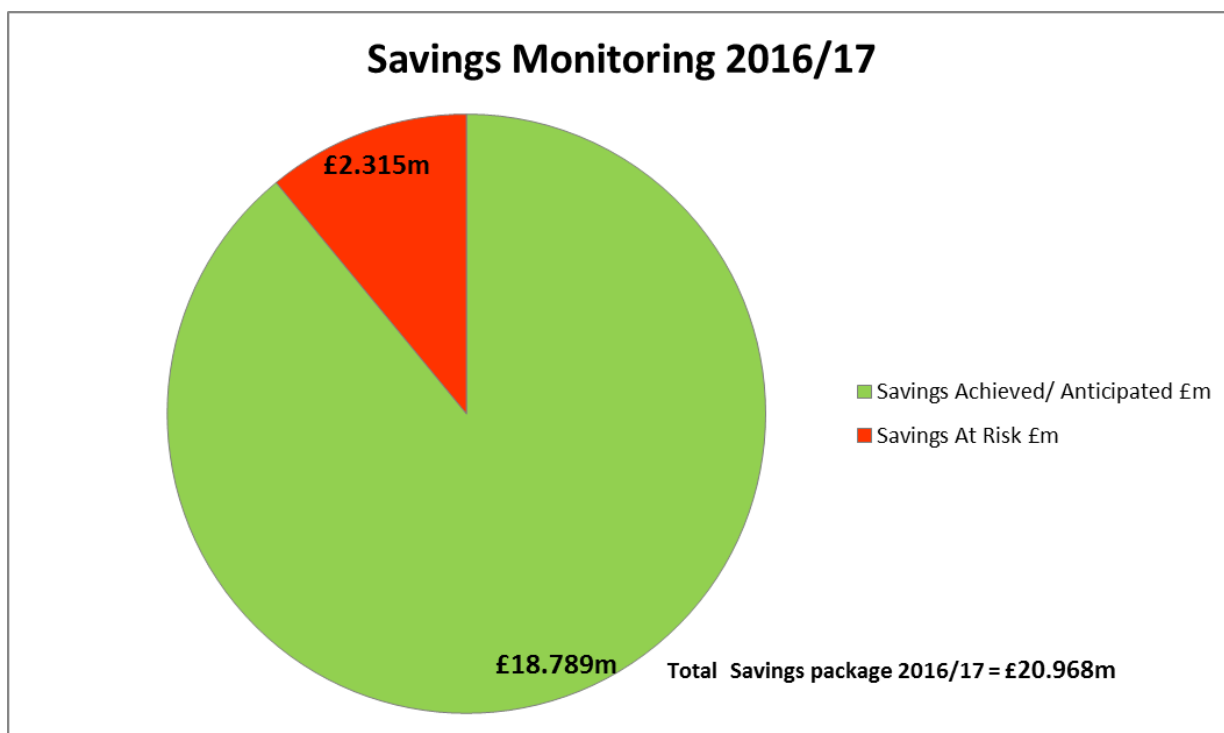
- re-provision means that additional growth of leased property is at a standstill;
- re-provision is at an increased cost as the housing market is now more expensive;
- there are costs associated with the handback of a large number of units which include dilapidation and void costs; and
- some units of provision were diverted to ASC to assist with an emergency situation.

The current projection is an overspend of £0.820m of which £0.335m relates to the managed risk identified at budget setting. As a result, the service has developed a financial recovery plan which includes a number of measures to reduce the overspend

including the use of one off specific temporary accommodation reserves, vacancy management, improving moving on out of temporary accommodation as well as utilising £0.200m of DCLG funding for early prevention work and financial incentives to landlords and applicants. However, £0.277m is at high risk of not being achieved and hence, taking into account other forecast underspends within Housing, the current forecast is an overspend of £0.164m.

Monitoring Savings

- 3.10 The savings package approved by full Council to support the revenue budget position in 2016/17 was £20.968m. This is a very large savings package and follows five years of substantial packages totalling nearly £98m. Achievement of savings programmes and actions in 2016/17 will be closely monitored to ensure satisfactory progress and, so far as possible, to avoid adding to financial pressures in future years through non-achievement.
- 3.11 Appendix 2 includes a summary of savings in each directorate and indicates in total what is anticipated/achieved or is at risk. Appendix 3 summarises the position across all directorates and presents the entire savings programme. The chart below provides a summary of the position as at Month 5. This shows that delivery of the savings programme of £20.968m for 2016/17 is expected to be significantly on track with approximately £2.315m at risk. Mitigation of these risks is included in the development of services' financial recovery actions. The majority of 'at risk' savings are within the Families, Children & Learning directorate as detailed in Appendix 2.



Note: Savings achieved/anticipated includes an overachievement of savings of £0.136m.

Housing Revenue Account Performance (Appendix 2)

- 3.12 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 forecast outturn is an underspend of £0.864m and more details are provided in Appendix 2.

Dedicated Schools Grant Performance (Appendix 2)

3.13 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 forecast outturn is an underspend of £0.009m and more details are provided in Appendix 2. 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 2)

3.14 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 include health and social care services for Adult Mental Health and Memory and Cognitive Support Services.

3.15 This partnership is 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 result in financial implications for the council where a partnership is underspent or overspent at year-end and hence the performance of the partnership is included within the forecast outturn for the Health & Adult Social Care directorate. The council's forecast contribution to the risk share for 2016/17 is currently £0.232m and more details are provided in Appendix 2.

Capital Programme Performance and Changes

3.16 The table below provides a summary of capital programme performance by Directorate and shows that there is a forecast overspend of £0.424m at this stage. More details are provided in Appendix 4.

2016/17 Month 2 Variance £'000	Capital Budgets	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	Families, Children & Learning	17,339	17,339	0	0.0%
0	Health & Adult Social Care	489	489	0	0.0%
0	Economy, Environment & Culture	50,342	50,342	0	0.0%
312	Neighbourhood, Comms & Housing	4,590	4,918	328	7.1%
0	Housing Revenue Account	48,645	48,741	96	0.2%
0	Finance & Resources	3,572	3,572	0	0.0%
0	Strategy, Governance & Law	0	0	0	0.0%
0	Corporate Services	0	0	0	0.0%
312	Total Capital	124,977	125,401	424	0.3%

(Note: Summary may include minor rounding differences)

3.17 Appendix 4 shows the changes to the budget and Appendix 5 provides details of new schemes for 2016/17 to be added to the capital programme which are included in the budget figures above. Policy, Resources and Growth 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 at TBM2.

Capital Budget Movement Summary	2016/17 Budget £'000
Budget Approved at TBM2	132,480
Reported at other Policy & Resources committees since Month 2	0
New schemes to be approved in this report (see Appendix 5)	768
Variations (to be approved - see Appendix 4)	(500)
Reprofiles (to be approved - see Appendix 4)	(7,771)
Slippage (to be approved - see Appendix 4)	0
Total Capital Budget	124,977

3.18 Appendix 4 also details any slippage into next year. However, project managers have forecast that none of the capital budget will slip into the next financial year at this stage.

Implications for the Medium Term Financial Strategy (MTFS)

3.19 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 & Growth 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.

Capital Receipts Performance

3.20 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, Customer First in a Digital Age and the Workstyles VFM projects. The planned profile of capital receipts for 2016/17, as at Month 5, is £12.220m against which there have been receipts of £1.081m in relation to a lease extension at Hartington Road plus some minor lease extensions at the Marina and the sale of Lions Court with the capital receipt ringfenced for investment into the housing capital programme.

3.21 The forecast for the 'right to buy sales' in 2016/17 (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 £0.500m to fund the corporate capital programme and net retained receipt of £3.013m available to re-invest in replacement homes. To date 15 homes have been sold in 2016/17.

Collection Fund Performance

- 3.22 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 Crime Commissioner 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.
- 3.23 The council tax collection fund is forecast to be in surplus by (£0.765m) at year end which incorporates a brought forward surplus of (£0.376m). Other main changes in the forecast during the year are a greater than forecast reduction in Council Tax Reduction awards (£0.300m), increased income from new properties and banding changes (£0.150m), and increased severely mentally impaired exemptions £0.050m. The council's share of the overall forecast council tax surplus is (£0.654m).
- 3.24 The business rates collection fund is forecast to be in deficit by £3.233m at year-end which incorporates a brought forward deficit of £1.378m. The main changes in the forecast during the year are in relation to a greater reduction in the 2016/17 liability being forecast from the impact of appeals and a higher provision being anticipated for losses in collection. Business rates income continues to be difficult to forecast due to the backlog of appeals. The number of appeals outstanding at the end of August totalled 911 (down from 1,094 at 31/3/16) of which 519 were lodged before 01/04/15. The council's share of the overall forecast business rates deficit is £1.584m.
- 3.25 The council's share of the combined net deficit across both collection funds is £0.930m and this will need to be included in the budget forecast for 2017/18.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The provisional outturn position on the General Fund is an overspend of £3.916m. This includes a pressure of £0.232m on the council's share of the NHS managed Section 75 services. Risk provisions of £3.000m are available to substantially mitigate the position if the risk cannot be addressed by year-end. Any overspend above this level at the year end 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 2017/18.

5 COMMUNITY ENGAGEMENT & 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 General Fund Revenue Budget 2016/17 report to full Council in February, which set out the budget for approval, indicated that cost pressures arising from increasing costs and demands, particularly across social care, were likely to add costs of around £18m. Through a combination of savings programmes (totalling over £20m) and taxbase increases, including the Adult Social Care precept, the council was able to provide £12m funding toward these cost pressures requiring effective demand management strategies to manage the residual risk.
- 6.2 The forecast risk at Month 5, while challenging, would appear to be manageable in the context of the expected level of risk and given that there is still sufficient time to take further corrective action. However, the underlying pressures on social care are of concern and suggest that demand management alone will not bring the budget into

balance. Services will therefore revisit financial recovery plans and consider what further spending restrictions and savings can be identified to address the current risks. Consideration will also be given to bringing forward savings proposals already identified in the 4-year Integrated Service & Financial Plans where practicable and subject to necessary approvals.

- 6.3 Turning to another matter, the council has received a Local Growth Fund (LGF) grant funding offer from the Coast to Capital Local Enterprise Partnership of up to £1.160m to implement a BikeShare Scheme within the City. The scheme has received approval from the Environment, Transport & Sustainability Committee for the tender of a concession agreement for an operator to implement and operate a BikeShare scheme.
- 6.4 The LGF grant can only be claimed by Brighton & Hove City Council in arrears of actual expenditure incurred, therefore forward funding of the grant to the operator of up to £1.160m is required to enable the capital mobilisation works for the scheme. The council's Standard Financial Procedure E.2.9.1.5 requires that any forward funding pending grant receipt in excess of £0.100m requires approval by the Policy, Resources & Growth Committee.
- 6.5 Forward funding will only be made where the recipient has provided satisfactory evidence to enable the council to make a grant claim based on a project appraisal. Various measures will be put in place to safeguard against the financial risks to the council associated with forward funding, such as funding agreements with the operator, appropriate financial checks of the operator and allocation of contingency funds.

7 FINANCIAL AND OTHER IMPLICATIONS

Financial Implications:

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

Finance Officer Consulted: Jeff Coates Date: 20/09/16

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. Where forward funding and virements are recommended in this report, these are explained in the body of the report and are in accordance with the Council's Standard Financial Procedures.

Lawyer Consulted: Elizabeth Culbert Date: 26/09/16

Equalities Implications:

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

Sustainability Implications:

- 7.4 Although there are no direct sustainability implications arising from this report, the council's financial position is an important aspect of its ability to meet Corporate Plan and Medium Term Financial Strategy priorities. The achievement of a break-even position or better is therefore important in the context of ensuring that there are no adverse impacts on future financial years from performance in 2016/17.

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 Movement since Month 2
2. Revenue Budget Performance
3. 2016/17 Savings Progress
4. Capital Programme Performance
5. New Capital Schemes

Documents in Members' Rooms:

None.

Background Documents

None.

Appendix 1 – Revenue Budget Movement Since Month 2

Service	2016/17 Month 2 Variance £'000	Forecast Variance Month 5 £'000	Movement £'000	Explanation of Main Movements
Director of Families, Children & Learning	0	0	0	
Health & Disability Services	(227)	(152)	75	Increased staffing costs in residential and respite services plus partial achievement of the financial recovery plan.
Education & Skills	208	315	107	Reduction of funded two year olds in council run nurseries.
Children's Safeguarding & Care	1,096	855	(241)	Reduction in numbers of children in residential and secure placements has reduced the overspend risk.
Children's Safeguarding & Quality Assurance	0	0	0	
Total Families, Children & Learning	1,077	1,018	(59)	
Adult Social Care	3,198	3,645	447	The cost of the increased Care Home Fees from September was higher than anticipated within the forecast and £0.200m of the £4.385m Savings target has been put at risk.
Provider Services	125	242	117	Some savings against in house Day Services are now being reflected as unachievable.
Integrated Commissioning	(100)	(142)	(42)	Due to a review of contracts across the service.
S75 Sussex Partnership Foundation Trust (SPFT)	236	232	(4)	
Public Health	0	(75)	(75)	This is partly due to the vacant Director post and other staff savings.
Total Health & Adult Social Care	3,459	3,902	443	
Transport	(175)	(432)	(257)	Review of Transport Projects forecasts to include expected borrowing recharges, external contributions and one-off contract income (£0.225m); updated parking income forecasts to reflect trend in increased demand for permit parking and effects on other parking income streams (£0.159m); variance relating to the service redesign saving of £0.167m now reflects the expected timing of implementation.

Appendix 1 – Revenue Budget Movement Since Month 2

Service	2016/17 Month 2 Variance £'000	Forecast Variance Month 5 £'000	Movement £'000	Explanation of Main Movements
City Environmental Management	(44)	8	52	Movement largely due to a revised City Clean employee forecast following review of demand during the summer season, as well as to support the introduction of new modernisation schemes.
City Development & Regeneration	147	159	12	Improved development application income following review of demand has been offset from increased employee and agency costs to meet government set timescales and to support service modernisation and transformation.
Culture	25	(73)	(98)	The improved forecast position management of vacant posts and improved income across the tourism and venues service.
Property	74	69	(5)	Minor net movement.
Total Economy, Environment & Culture	27	(269)	(296)	
Housing General Fund	152	164	12	Minor net movement.
Libraries	0	0	0	
Communities, Equalities & Third Sector	100	90	(10)	Minor net movement.
Regulatory Services	(4)	(4)	0	
Community Safety	0	0	0	
Total Neighbourhood, Communities & Housing	248	250	2	
Finance	(242)	(9)	233	Revised forecast in Revenues & Benefits following final costing of the restructure of the service to meet 2016/17 savings.
Housing Benefit Subsidy	(250)	(350)	(100)	Increased recovery expected of former Council Tax Benefit overpayments
HR & Organisational Development	42	42	0	
ICT	0	0	0	
Total Finance & Resources	(450)	(317)	133	

Appendix 1 – Revenue Budget Movement Since Month 2

Service	2016/17 Month 2 Variance £'000	Forecast Variance Month 5 £'000	Movement £'000	Explanation of Main Movements
Corporate Policy	0	(30)	(30)	Management of vacancies.
Legal Services	(6)	0	6	Minor overspends.
Democratic & Civic Office Services	0	(11)	(11)	Management of vacancies.
Life Events	48	101	53	Income pressures, mainly around cremation fees.
Performance, Improvement & Programmes	0	0	0	
Communications	0	10	10	Freelance costs.
Total Strategy, Governance & Law	42	70	28	
Bulk Insurance Premia	(250)	(250)	0	
Concessionary Fares	(44)	(30)	14	Recent concessionary trip numbers are higher than anticipated leading to a reduced forecast underspend.
Capital Financing Costs	0	(94)	(94)	An increase in investment income has resulted due to a combination of increased balances available for investment and improved average investment rates compared to budget. This has been offset by an increase in interest on borrowings as a result of bringing forward borrowing from future years to take advantage of low interest rates.
Levies & Precepts	(1)	(1)	0	
Unallocated Contingency & Risk Provisions	0	0	0	
Unringfenced Grants	(146)	(146)	0	
Other Corporate Items	(217)	(217)	0	
Total Corporate Budgets	(658)	(738)	(80)	
Total General Fund Revenue Budgets	3,745	3,916	171	

Families, Children & Learning

Revenue Budget Summary

2016/17 Month 2 Variance £'000	Service	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
0	Director of Families, Children & Learning	292	292	0	0.0%	100	100	0
(227)	Health & Disability Services	5,574	5,422	(152)	-2.7%	1,105	1,191	0
208	Education & Skills	7,919	8,234	315	4.0%	786	677	129
1,096	Children's Safeguarding & Care	37,856	38,711	855	2.3%	2,971	1,773	1,228
0	Children's Safeguarding & Quality Assurance	1,427	1,427	0	0.0%	0	0	0
1,077	Total Families, Children & Learning	53,068	54,086	1,018	1.9%	4,962	3,741	1,357

Explanation of Key Variances (Note: FTE/WTE = Full/Whole Time Equivalent)

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
Health & Disability Services			
(123)	Demand-Led - Disability Agency Placements	It is currently forecast that there will be 11.87 FTE disability agency placements during 2016/17. The budget allows for 14.00 FTE and this has resulted in the underspend of £0.123m.	

Appendix 2 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
Education & Skills			
246	Home to School Transport	<p>The overspend is due to:</p> <ul style="list-style-type: none"> • Additional costs of the new contract introduced last year following the retendering exercise; • Less impact of Independent Travel Training than anticipated; • Increased costs in 16-19 travel; • Additional recoupment costs. <p>The overspend reflects the latest number of children (346) being transported. An analysis has been undertaken with the budget holder for each area of the budget and the latest position reflects the estimated outturn position based on current information.</p>	Further work is taking place to understand the increased costs of transport and identify mitigations.
69	Youth Service	An element of the 2016/17 budget savings strategy for the youth service was based on reducing the costs for premises following a review of buildings. At this stage it is unlikely that these savings will materialise, resulting in an overspend of £0.045m. A further overspend of £0.024m is due to a reduction in Aspire software system users which has led to a greater proportion of cost being borne by the Youth Service.	Negotiations are currently underway with third sector providers to increase delivery from the Youth Service buildings. It is expected that an initial one year licence will be agreed for one building and will be in place by July 2016 which will produce a significant contribution towards this this pressure. Other negotiations are continuing.
(45)	Behaviour and Attendance	The underspend relates to additional income received from parents taking children out of school in term time and reductions in expenditure.	

Appendix 2 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
100	Nurseries	There is a projected overspend of £0.100m associated with the council-run nurseries. The most significant component within this is Roundabout Nursery where there has been a reduction in the number of funded two-year olds. There is also a high number of staff on maternity leave increasing the cost of supply cover. The proposed savings of £0.060m have not been pursued following withdrawal of member support.	The restructure of the nurseries is progressing and some savings are expected but at a lower level; at this stage is difficult to quantify the level of the savings due to uncertainties around voluntary severance and protected pay.
Children's Safeguarding & Care			
15	Demand-Led - Residential Agency Placements	The projected number of residential placements (30.25 FTE) is broken down as 26.99 FTE social care residential placements (children's homes), 3.00 FTE schools placements and 0.27 FTE family assessment placements. The budget allowed for 27.70 FTE social care residential care placements, 3.90 FTE schools placements and 0.40 FTE family assessment placements. The average unit costs of these placements is, however, higher than the budgeted level, particularly for residential home placements. The number of children's placements is 1.75 FTE below the budgeted level but the overall average unit cost pressure of £181.27 per week results in an overspend of £0.015m.	Regular reviews of any placement in a residential setting are being undertaken and there are plans for a number of children to move them to alternative placements in the community where this is appropriate.

Appendix 2 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
897	Demand-Led - Independent Foster Agency (IFA) Placements	The number of children placed in Independent Foster Agency placements has decreased in recent years. During 2015/16 there were 158.06 FTE. The current projected number of placements in 2016/17 is 137.07 FTE, a reduction of 13.3%. The budget for IFA placements included significant levels of savings and was set at 121.00 FTE. The numbers being higher than the budget by 16.07 FTE results in a projected overspend of £0.897m.	This project is working well and with a reduction in children in Care (CIC) is enabling the service to achieve an improved financial outcome. If both factors continue, it should be possible to achieve greater savings. It is, however, anticipated that the recruitment of new in-house foster carers will reduce the overspend by £0.200m.
69	Demand-Led - Secure Accommodation	It is estimated that during 2016/17 there will be 1.47 FTE secure (welfare) placements and 0.76 FTE secure (justice) placements. The budget allowed for 1.00 FTE welfare and 1.00 FTE justice placements during the year. There are currently two children in a secure (welfare) placement and none in a secure (criminal) placement resulting in a projected overspend of £0.069m.	Secure placements are only used as a last resort. They are used when deprivation of a young person's liberty is the only solution which will enable work to start to keep them safe on exit from the unit. The Adolescent Service is being successful in reducing the risk and stepping down needs and it is planned that the service will be able to impact on the number of young people requiring secure placements.
212	Demand-Led - Semi-independent/Supported placements	The number of semi-independent and supported living placements is projected to be 20.65 FTE and this is 2.15 FTE above the budgeted level. In addition, the average unit cost of these placements is £109.74 per week higher than the budget and this results in an overspend of £0.212m.	It will be difficult to achieve any savings in this area due to pressures elsewhere in the system.

Appendix 2 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
(189)	Demand-Led - In-House Fostering	As at the 31st August 2016 there were 151 children placed with 'in-house' foster carers. The budget was based on an increasing trend over the last few years and was set at 156.50 FTE placements. This has resulted in the current projected underspend of £0.189m. There is currently work ongoing to increase the number of in-house foster carers and this should result in a net reduction in costs.	The project will try to increase the number of in house foster carers by more than predicted.
(105)	Demand-Led - Family & Friends placements, Child Arrangement Orders and Special Guardianship Orders	The budget allows for 310.00 FTE placements of these types. It is currently anticipated that there will be 294.51 FTE children in these placements during 2016/17 and this results in the underspend of £0.105m.	
305	Demand-Led - Care Leavers	The projected number of care leaver placements in 2016/17 is 77.51 FTE. The budget allows for 58.10 FTE placements. The increase mainly relates to growing numbers of Staying Put placements (46.35 FTE in 2016/17). In addition, the average unit cost is also higher than the budget resulting in an overall overspend of £0.305m.	The right of 18 year olds to decide to 'Stay Put' with their foster carers is a requirement on the service and one which we are tasked to encourage as in the best interests of young people. We do not anticipate this spend reducing. The current Social Work Bill is likely to lead to increased pressure in this area.

Appendix 2 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
276	Social Work Teams	The overspend within the social work teams relates predominantly to use of agency staff. This is a result of a large number of vacant posts across the social work teams at present and a difficulty in retaining experienced staff. There are currently 26 locum social workers employed within the social work service resulting in additional costs of £1.825m. It is anticipated that the new measures designed to improve recruitment and retention of social workers will reduce this overspend.	The new model for social work adopted in Brighton & Hove has attracted a lot of interest from social workers from other areas and those employed as agency staff currently. With the potential agreement to a market supplement payment, it is hoped that it will be possible to achieve further reductions in agency spend.
(413)	Adoption	Following changes to adoption regulations and a re-basing of the inter-agency budget, it is anticipated that there will be an underspend in 2016/17. This is based on estimated income from other agencies which was considerably higher last year than in previous years. In addition, it includes income from the new Inter Agency Adoption Fee Grant.	
(82)	Fostering and Adoption teams	There are currently a number of vacant posts across the fostering and adoption teams.	

Health & Adult Social Care

Revenue Budget Summary

2016/17 Month 2 Variance £'000	Service	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
3,198	Adult Social Care	46,272	49,917	3,645	7.9%	4,385	4,185	200
125	Provider Services	12,091	12,333	242	2.0%	1,369	1,071	298
(100)	Integrated Commissioning	8,687	8,545	(142)	-1.6%	159	159	0
236	S75 Sussex Partnership Foundation Trust (SPFT)	11,634	11,866	232	2.0%	246	246	0
0	Public Health	1,242	1,167	(75)	-6.0%	1,096	1,096	0
3,459	Total Health & Adult Social Care	79,926	83,828	3,902	4.9%	7,255	6,757	498

Explanation of Key Variances (Note: FTE/WTE = Full/Whole Time Equivalent)

Key Variances £'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
2,233	Demand-Led Community Care - Learning Disability	<p>There has been an increase in the level of clients presenting with greater complexity of need in recent months. This has resulted in an increase in the average unit costs for Learning Disability Care packages. The overspend mainly relates to Supported Accommodation and Direct Payments which have shown a significant increase in activity since April 2015.</p> <p>The variance assumes a £0.257m realignment of the budget allocated for the increase in Care Home Fees, to the</p>	<p>Continued review of care packages to ensure provision of services is effective, appropriate and value for money. Making the best use of in-house resources is also critical. Continued exploration of ways to reduce the need for high cost care and admissions into residential homes.</p> <p>Also, talking to NHS colleagues regarding the impact of the transforming care programme.</p>

Appendix 2 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
		Physical Support Community Care budget. Policy, Resources & Growth Committee approval is required for this virement as it is in excess of £0.250m.	
709	Demand-Led Community Care - Physical & Sensory Support	The number of WTE care packages is significantly greater than the budgeted level. This is partly the result of increasing numbers of 'new' older people being discharged from hospital requiring social care services for the first time, as well as increased community demand.	Numbers of clients requiring social care services have been higher than anticipated and work is ongoing to look at reducing admissions to nursing and residential homes. There is a need to work with all partners both NHS and independent sector to promote well being and reablement.
44	Demand-Led Community Care - Substance Misuse	There are relatively small numbers of clients within this service and this is in line with the expected demand. The average unit costs however are slightly higher than anticipated and this accounts for the small overspend.	
660	Deprivation of Liberty Safeguarding (DOLS)	The level of new referrals increased significantly in the last half of 2015/16, rising from 122 in October 2015 to 190 in April 2016. It is estimated that referrals will increase by 25% in 2016/17 to just fewer than 3,100 for new and repeat referrals.	This is a key pressure area for which additional resources will be required and in future years will need to be mitigated by either additional resources (e.g. Adult Social Care precepts) or by savings elsewhere.
(82)	Carers Support	More efficient use of Better Care Fund resources will result in an underspend in the carers support budget.	
Provider Services			
137	Older people resource centres	The overspend relates to use of Care Crew agency staffing pressures across the resource centres.	Reviewing staffing levels and the use of Care Crew.

Appendix 2 – Revenue Budget Performance

Key Variances £'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
197	Supported employment	The income target for supported employment has risen significantly in the last few years to £0.490m. The level of sales being generated however is considerably below the required rate and it is anticipated that there will be a shortfall of £0.197m in 2016/17.	Review of the service and exploring ways to maximise income revenue streams.
46	Respite Services	There are increasing staff costs within this service to manage emergency placements at Beach House for clients with high needs.	
Integrated Commissioning			
(118)	Carers Support	More efficient use of Better Care Fund resources will result in an underspend in the Carers Support budget.	
(57)	Contracts	A review of contracts across the service has identified savings of £0.057m mainly within community meals.	
S75 Sussex Partnership Foundation Trust (SPFT)			
299	Demand-Led - Memory Cognition Support	There are higher numbers of WTE care packages than are funded in the budget; the unit costs are also higher than had been anticipated resulting in the overspend of £0.299m. This is due to a current lack of affordable residential and nursing home placements within the city.	Increased scrutiny of all complex or high cost care packages to ensure value for money against eligible care needs. Where possible, no placements are made above the agreed Local Authority rates. The Clinical Commissioning Group (CCG) have agreed additional funding of £0.850m to offset the risks on the Community Care budget. The Risk Share arrangement with SPFT assumes a 50:50 split of any remaining overspend. A Continuing Health Care Taskforce is in place to ensure that all appropriate funding

Appendix 2 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
265	Demand-Led - Mental Health Support	Numbers of WTE clients are lower than the budget allocation but the average unit costs are significantly higher due to the increasing need and complexity of this client group and it is this that results in the overspend of £0.265m.	sources are identified.
(100)	Staff teams	Underspends resulting from vacancies and turnover.	
(232)	Demand-Led - SPFT risk share	The risk share arrangements with SPFT have been agreed for two years. The risk will be shared 50/50 with a cap at £0.250m, the breaching of which would trigger further negotiations with the CCG.	
Public Health			
(89)	Staffing	There are a number of vacant posts across Public Health (including that of the Director) resulting in an in year saving of £0.089m	

Economy, Environment & Culture

Revenue Budget Summary

2016/17 Month 2 Variance £'000	Service	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
(175)	Transport	(6,181)	(6,613)	(432)	-7.0%	980	813	167
(44)	City Environmental Management	28,365	28,373	8	0.0%	1,330	1,330	0
147	City Development & Regeneration	2,787	2,946	159	5.7%	226	216	10
25	Culture	4,403	4,330	(73)	-1.7%	572	469	103
74	Property	4,021	4,090	69	1.7%	789	769	20
27	Total Economy, Environment & Culture	33,395	33,126	(269)	-0.8%	3,897	3,597	300

Explanation of Key Variances

Key Variances £'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
189	Head of Transport	The implementation of the service redesign is now anticipated later than originally planned resulting in a savings risk of £0.167m. There is also a £0.022m variance for the planned recruitment of a Commercial Manager post to support actions identified in the service and financial plans.	Various vacancies are being held across the Transport service area pending the service redesign.

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
(356)	Parking & Network Operations	Forecast over-achievement of permit fee income of £0.503m due to continued uptake, particularly relating to traders and visitors permit parking, is partly offset by a salary variance of £0.102m to meet demands for parking permits and clear back log of Penalty Charge Notice challenges. Forecast under-achievement on other parking income of £0.156m where there has been a shift to more permitted parking. Net underspending on car park expenditure of £0.111m is largely due to reduced borrowing costs of historic refurbishment schemes.	
(225)	Transport Projects	Various underspend variances include reduced borrowing and other public transport related costs (£0.076m), one-off contractual income from the bus shelter contract (£0.072m), and reduced contribution to the Sussex Safer Roads Partnership (£0.051m) in addition to the saving proposal following a change to partnership funding.	
City Development & Regeneration			
234	Applications	Forecast under achievement on Development Planning and Building Control fee income of £0.143m based on current demand forecasts and delays to implementing pre-planning application advice charges. Net salary overspend forecast of £0.091m to support the improvement of service performance and meet government set timescales to respond to planning applications.	Income levels are demand led and dependant on the number of applications and major developments in the City. The service plans to introduce charges for minor and other pre-planning advice in January 2017. Potential mitigating actions are not currently possible due to pressure on the service to meet government set timescales for respond to planning applications.

Appendix 2 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
54	Head of City Development & Regeneration	Interim management services provided by external agency to support service modernisation and transformation.	
(86)	Planning Policy and Major Projects	Underspends in salary costs due to vacancies being held during a service restructure.	
Culture			
24	Royal Pavilion and Museums	An overspend of £0.040m in relation to the savings at risk, due to the delay in the implementation of the extension of cultural exemption to other sites. Unachievable one off savings of £0.063m relating to sinking fund contributions for The Keep.	Overspends will be partially offset by one-off grant income of £0.056m and managed within other expenditure budgets within the service.
(63)	Tourism	Vacancy management underspend of £0.052m to allow for business planning and service delivery review, and increased Conference Commission income of £0.011m	
Property			
202	Estates	Despite a slight improvement in the rental forecast on New England House and Contracted Property portfolio currently other net rent income pressures still total £0.134m. This includes £0.020m of savings at risk which are subject to economic and market conditions. Also, additional business rate bills for Corporate Landlord properties have led to a £0.068m pressure on the estates budget.	Rent income forecasts are monitored and reported on a monthly basis as part of the TBM process. The managing agents acting on behalf of the council seek to maximise the level of rental income from the commercial portfolio.

Appendix 2 – Revenue Budget Performance

Key Variances £'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
(133)	Property Services	There are underspends within the Energy Management service of £0.017m, £0.036m Utility savings under Corporate Landlord and other services adding a further underspends of £0.080m	

Neighbourhood, Communities & Housing

Revenue Budget Summary

2016/17 Month 2 Variance £'000	Service	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
152	Housing General Fund	4,499	4,663	164	3.6%	582	582	0
0	Libraries	4,968	4,968	0	0.0%	309	309	0
100	Communities, Equalities & Third Sector	2,985	3,075	90	3.0%	208	108	100
(4)	Regulatory Services	1,983	1,979	(4)	-0.2%	154	154	0
0	Community Safety	1,260	1,260	0	0.0%	133	133	0
248	Total Neighbourhood, Communities & Housing	15,695	15,945	250	1.6%	1,386	1,286	100

Explanation of Key Variances

Key Variances £'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
Housing General Fund			
277	Demand-Led - Temporary Accommodation and Allocations	This service is currently forecasting to overspend by £0.820m due to the lack of accommodation to move people on to because of the short supply of affordable alternative accommodation. Therefore a Financial Recovery Plan has been developed which aims to bring the spend within budget, However, approximately £0.277m is at risk of not being achieved and is therefore forecast as an overspend risk at this time.	Currently the service is forecast to overspend by £0.820m but a financial recovery plan has been developed including the use of reserves, use of DCLG money for early prevention work, vacancy management, and a change in the allocation of supported beds by Adult Social Care which aims to keep costs within budget. There are other compensating underspends within Housing which will alleviate some of this overspend and other means of mitigating this overspend are being considered.

Appendix 2 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
(74)	Private Sector Housing	This underspend is the result of vacancies within the Private Sector Housing team and an increase in the recharge of salaries to capital for the adaptations service	
(39)	Housing Strategy	This relates to the service redesign taking place earlier than originally planned leading to reduced employee costs in 2016/17.	
Communities, Equalities & Third Sector			
90	Communities, Equalities & Third Sector	The projected variance reflects the cross-cutting saving (£0.200m) from the proposed merger with Community Safety in Public Health of which £0.100m is currently at risk. £0.110m is currently being managed through vacancy management.	The service is currently considering ways to mitigate this overspend.

Finance & Resources

Revenue Budget Summary

2016/17 Month 2 Variance £'000	Service	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
(242)	Finance	10,996	10,987	(9)	-0.1%	810	810	0
(250)	Housing Benefit Subsidy	(676)	(1,026)	(350)	-51.8%	0	0	0
42	HR & Organisational Development	3,084	3,126	42	1.4%	335	335	0
0	ICT	7,253	7,253	0	0.0%	434	434	0
(450)	Total Finance & Resources	20,657	20,340	(317)	-1.5%	1,579	1,579	0

Explanation of Key Variances

Key Variances £'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
(350)	Housing Benefit Subsidy	£0.200m (previously £0.100m) relates to the recovery of former Council Tax Benefit overpayments. There is not sufficient data available yet to make a detailed forecast on the main subsidy budgets, but based on last year's outturn a surplus of £0.150m can be forecast.	

Strategy, Governance & Law

Revenue Budget Summary

2016/17 Month 2 Variance £'000	Service	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
0	Corporate Policy	917	887	(30)	-3.3%	167	167	0
(6)	Legal Services	1,574	1,574	0	0.0%	105	105	0
0	Democratic & Civic Office Services	1,575	1,564	(11)	-0.7%	85	85	0
48	Life Events	27	128	101	374.1%	212	152	60
0	Performance, Improvement & Programmes	881	881	0	0.0%	46	46	0
0	Communications	669	679	10	1.5%	140	140	0
42	Total Strategy, Governance & Law	5,643	5,713	70	1.2%	755	695	60

Explanation of Key Variances

Key Variances £'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
Life Events			
81	Registrars	Staffing cost pressures within the Registrars Service.	The Head of Life Events and Registrations Manager are progressing a service redesign in this area.
13	Elections	Staffing cost pressures within Elections Service.	A review of the costs and funding for the Elections Service will be undertaken following the EU referendum.
7	Bereavement Services	Cremation fee income pressure £0.100m, Vacancy management of £0.062m, maintenance underspends £0.020m, other underspends £0.011m	There is to be a further review of fees and charges

Corporate Services

Revenue Budget Summary

2016/17 Month 2 Variance £'000	Service	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
(250)	Bulk Insurance Premia	0	(250)	(250)	0.0%	0	0	0
(44)	Concessionary Fares	10,933	10,903	(30)	-0.3%	240	240	0
0	Capital Financing Costs	6,705	6,611	(94)	-1.4%	0	0	0
(1)	Levies & Precepts	172	171	(1)	-0.6%	0	0	0
0	Unallocated Contingency & Risk Provisions	3,516	3,516	0	0.0%	0	0	0
(146)	Unringfenced Grants	(15,495)	(15,641)	(146)	-0.9%	0	0	0
(217)	Other Corporate Items	1,618	1,401	(217)	-13.4%	270	270	0
(658)	Total Corporate Budgets	7,449	6,711	(738)	-9.9%	510	510	0

Explanation of Key Variances

Key Variances £'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
Bulk Insurance Premia			
(250)	Bulk Insurance Premia	Expenditure on the settlement of claims is forecast to be lower than budgeted.	
Concessionary Fares			
(30)	Concessionary Bus Fares	Lower than anticipated reimbursements for concessionary trips.	

Appendix 2 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
Capital Financing Costs			
(94)	Capital Financing Costs	Additional net borrowing costs of £0.147m will be incurred as a result of bringing forward borrowing to take advantage of historically low borrowing rates (this is expected to make permanent savings of £0.085m per year). This is offset by an increase in forecast investment income as a result of higher forecast investment balances than previously expected. There is also a budgeted contribution to Trusts of £0.080m that is accounted for in another budget line and is no longer required.	Overspending is offset by an increase in forecast investment income (see below).
Unringfenced Grants			
(146)	Unringfenced Grants	Council Tax Support Admin Subsidy Grant announced in March 2016 is higher than forecast (£0.078m). Local Reform & Community Voices grant announced in April 2016 is higher than forecast (£0.068m).	
Other Corporate Items			
(217)	Unfunded Pension Payments	There is a £0.123m underspend relating to overpayments identified in respect of previous years and £0.094m in respect of an in year reduction.	

Housing Revenue Account (HRA)

Revenue Budget Summary

2016/17 Month 2 Variance £'000	Service	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
0	Capital Financing	31,916	31,791	(125)	-0.4%	0	0	0
(0)	Head of Housing HRA	3,197	3,190	(7)	-0.2%	385	385	0
(27)	Head of City Development & Regeneration	264	225	(39)	-14.8%	37	37	0
0	Housing Strategy	664	659	(5)	-0.8%	0	0	0
(12)	Income Involvement Improvement	(49,449)	(49,481)	(32)	-0.1%	239	239	0
(274)	Property & Investment	11,557	10,963	(594)	-5.1%	348	348	0
43	Tenancy Services	1,851	1,789	(62)	-3.3%	384	384	0
(270)	Total Housing Revenue Account	0	(864)	(864)	0.0%	1,393	1,393	0

Explanation of Key Variances

Key Variances £'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
(125)	Capital Financing	Significant reprofiling of HRA capital expenditure from 2015/16 into 2016/17 impacts on the timing of when borrowing is required to be undertaken to fund the expenditure. This has resulted in lower interest charges being incurred during 2016/17 compared to the original budget forecast.	

Appendix 2 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
Property & Investment			
(120)	Responsive Repairs	This underspend relates to a reduction in responsive repairs expenditure due to the increased capital investment in council dwellings over recent years as well as reducing stock numbers from Right to Buy sales and stock transfer to Seaside Homes.	
(450)	Gas servicing and maintenance	Estimated contract efficiency savings relating to new gas contract which commenced on 1 April 2016.	
Tenancy Services			
(62)	Tenancy Management Property Costs	Forecast underspend of £0.105m for gas and electricity charges which has been offset by various minor variations across Tenancy Services.	

Dedicated Schools Grant (DSG)

Revenue Budget Summary

2016/17 Month 2 Variance £'000	Service	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	Individual Schools Budget (ISB)	123,389	123,389	0	0.0%
0	Early Years Block (including delegated to Schools) <i>(This includes Private Voluntary & Independent (PVI) Early Years 3 & 4 year old funding for the 15 hours free entitlement to early years education)</i>	10,605	10,565	(40)	-0.4%
119	High Needs Block (excluding delegated to Schools)	18,403	18,471	68	0.4%
(22)	Exceptions and Growth Fund	5,298	5,261	(37)	-0.7%
0	Grant Income	(157,263)	(157,263)	0	0.0%
97	Total Dedicated Schools Grant (DSG)	432	423	(9)	-2.1%

Explanation of Key Variances

Key Variances £'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
Early Years Block (including delegated to Schools)			
(40)	2 year old funding	Latest estimate of 2 year old payments for EYFE based on summer 2016.	
High Needs Block (excluding delegated to Schools)			
232	Maintained schools top up funding	High Needs top up to maintained schools (mainstream and special) is higher than budgeted.	A review of top up funding to primary and secondary schools will take place and a report will be prepared for DMT incorporating a number of proposals to address the ongoing pressure.

Appendix 2 – Revenue Budget Performance

Key Variances			
£'000	Service Area	Variance Description	Mitigation Strategy (Overspends Only)
50	DSG contributions	Unanticipated DSG contribution to meet General Fund pressures.	
(49)	Other	Unallocated 2015/16 budget brought forward.	
(44)	Other	Savings from Learning Support Service review	
(105)	One to One support	Budget now not allocated to support schools.	
Exceptions and Growth Fund			
(33)	Exception 1	Mainly school reimbursement for union duties, jury service and suspension.	
(17)	Exception 1	Additional charges to schools for Newly Qualified Teacher service	
13	Other	Miscellaneous minor overspends	

Savings Monitoring 2016/17

General Fund

Directorate	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
Families, Children & Learning	4,962	3,741	1,357
Health & Adult Social Care	7,255	6,757	498
Economy, Environment & Culture	3,897	3,597	300
Neighbourhood, Communities & Housing	1,386	1,286	100
Finance & Resources	1,579	1,579	0
Strategy, Governance & Law	755	695	60
Corporate Budgets	510	510	0
Total Directorate Savings	20,344	18,165	2,315
Tax Base Savings	624	624	0
Total General Fund Savings	20,968	18,789	2,315

Housing Revenue Account

Directorate	2016/17 Savings Proposed £'000	Savings Achieved/ Anticipated £'000	Savings At Risk £'000
Housing Revenue Account	1,393	1,393	0
Total HRA Savings	1,393	1,393	0

Appendix 4 – Capital Programme Performance

Families, Children & Learning – Capital Budget Summary

Forecast Variance Month 2 £'000	Service	2016/17 TBM 2 Budget £'000	Reported at other Committees £'000	New Schemes in Appendix 4 £'000	Variation, Slippage/ reprofile £'000	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	Children's Safeguarding & Care	40	0	0	0	40	40	0	0.0%
0	Health & Disability Services	36	0	0	0	36	36	0	0.0%
0	Education & Skills	17,006	0	0	0	17,006	17,006	0	0.0%
0	Schools	166	0	91	0	257	257	0	0.0%
0	Stronger Families Youth & Communities	0	0	0	0	0	0	0	0.0%
0	Total Families, Children & Learning	17,248	0	91	0	17,339	17,339	0	0.0%

Details of Variation requests and explanations of significant Forecast Variances, Slippage or Reprofiles are given below:

Detail Type	£'000	Project	Description	Mitigation Strategy
Families, Children & Learning				
No changes to report for month 5				

Health & Adult Social Care – Capital Budget Summary

Forecast Variance Month 2 £'000	Service	2016/17 TBM 2 Budget £'000	Reported at other Committees £'000	New Schemes in Appendix 4 £'000	Variation, Slippage/ reprofile £'000	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	Adult Social Care	520	0	0	(169)	351	351	0	0.0%
0	Integrated Commissioning	145	0	68	(75)	138	138	0	0.0%
0	Provider Services	0	0	0	0	0	0	0	0.0%
0	Public Health	0	0	0	0	0	0	0	0.0%
0	Total Health & Adult Social Care	665	0	68	(244)	489	489	0	0.0%

Details of Variation requests and explanations of significant Forecast Variances, Slippage or Reprofiles are given below:

Detail Type	£'000	Project	Description	Mitigation Strategy
Adult Social Care				
Variation	(147)	Telecare	The reduction in budget against the Telecare capital programme for 2016/17 will fund the increase in the Disabled Facilities capital programme which was presented to Policy, Resources & Growth Committee on 14th July 2016. This is in-line with the Adult Social Care Services - Specific Capital Grant letter (LASSL(DH)(2016)) received in February 2016 from the Department of Health. The remaining budget of £0.200m, which has been agreed at Adults DMT, on Telecare is sufficient to cover the costs for 2016/17 and is comparable to costs	

Appendix 4 – Capital Programme Performance

Detail Type	£'000	Project	Description	Mitigation Strategy
			incurred over the last 3 financial years.	
Variation	(22)	Adaptations to Homes of Disabled People	Variation to budget of less than £0.050m.	
Integrated Commissioning				
Variation	(75)	Social Care Reform Grant	The reduction in budget against the Social Care Reform capital programme for 2016/17 will fund the increase in the Disabled Facilities Capital Programme which was presented to Policy & Resources on 14th July 2016. This is in-line with the Adults Social Care Services - Specific Capital Grant letter (LASSL(DH)(2016)) received in February 2016 from the Department of Health. The remaining budget of £0.068m on the Social Care Reform programme will be allocated against the new capital programme for 40 Valley Road which is part of the TBM Month 05 report to Policy & Resources.	

Appendix 4 – Capital Programme Performance

Economy, Environment & Culture (excluding Housing Revenue Account) – Capital Budget Summary

Forecast Variance Month 2 £'000	Service	2016/17 TBM 2 Budget £'000	Reported at other Committees £'000	New Schemes in Appendix 4 £'000	Variation, Slippage/ reprofile £'000	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	City Development & Regen	9,646	0	0	0	9,646	9,646	0	0.0%
0	City Environmental Management	8,732	0	343	55	9,130	9,130	0	0.0%
0	Culture	8,837	0	210	0	9,047	9,047	0	0.0%
0	Planning & Building Control	0	0	0	0	0	0	0	0.0%
0	Property	9,095	0	0	(366)	8,729	8,729	0	0.0%
0	Transport	13,724	0	56	10	13,790	13,790	0	0.0%
0	Total Economy, Environment & Culture	50,034	0	609	(301)	50,342	50,342	0	0.0%

Details of Variation requests and explanations of significant Forecast Variances, Slippage or Reprofiles are given below:

Detail Type	£'000	Project	Description	Mitigation Strategy
City Environmental Management				
Variation	55	Hove Lagoon Play Area S106	Additional S106 funding has been allocated to the Hove Lagoon Play area to enable an enhanced improvement scheme to the one originally proposed	
Property				
Reprofile	(266)	Barts House - Windows	The pilot factory refurbishment of two of the existing mansard windows on the 4 th floor was not	

Appendix 4 – Capital Programme Performance

Detail Type	£'000	Project	Description	Mitigation Strategy
			successful. Despite introducing a new drainage method they continued to allow a smaller volume of rainwater to pass. New bespoke replacements windows are required and a suitable design is being sourced. New windows will need planning permission meaning that the works themselves will fall into 2017-18.	
Variation	50	Hollingdean Depot	The £0.050m additional funding is required for two elements. Funding will be met from a combination of borrowing and revenue budgets: 1) £0.008m: new fibre optic cabling and ICT infrastructure, which is required not only to link the new workshop but also to other existing areas of the depot 2) £0.042m: Financial contribution towards a permanent pedestrian bridge to link the east and west sides of the depot which is required to safely move staff from the canteen/mess room over the lower access road to the main administration block. There is currently a scaffold bridge in place but this is a temporary measure.	
Variation	(150)	Madeira Terrace	Reduction of budget as a result of temporary works completed ahead of schedule in 2015/16.	
Transport				
Variation	10	Structural Maintenance of Highways	In the outlying areas of the city the highway gullies are connected to soakaways which are large chambers underground that have outlet holes created in the structure. Many of these soakaways have not had any cleansing or maintenance for several years and they have ceased to function. Each soakaway can cost up to £0.005m to reconstruct. The funding will be met from capital receipts set aside for investment into the area.	

Appendix 4 – Capital Programme Performance

Neighbourhood, Comms & Housing (excluding Housing Revenue Account) – Capital Budget Summary

Forecast Variance Month 2 £'000	Service	2016/17 TBM 2 Budget £'000	Reported at other Committees £'000	New Schemes in Appendix 4 £'000	Variation, Slippage/ reprofile £'000	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	Comms Equalities & 3 rd Sector	278	0	0	0	278	278	0	0.0%
0	Community Safety	0	0	0	0	0	0	0	0.0%
312	Housing - GF	3,349	0	0	45	3,394	3,722	328	9.7%
0	Libraries	373	0	0	0	373	373	0	0.0%
0	Regulatory Services	545	0	0	0	545	545	0	0.0%
312	Total Neighbourhood, Comms & Housing	4,545	0	0	45	4,590	4,918	328	7.1%

Details of Variation requests and explanations of significant Forecast Variances, Slippage or Reprofiles are given below:

Detail Type	£'000	Project	Description	Mitigation Strategy
Housing GF				
Variation	45	Major Adaptations Housing (HOAT)	Variation to budget of less than £0.050m.	
Overspend	328	Disabled Facilities Grant	The Health and Wellbeing Board allocated £1.430m Disabled Facilities Grant funding to disabled adaptations. Estimated spend for 2016/17 is £1.500m, leaving a shortfall of £0.070m. The £0.306m overspend carried	The financial recovery plan will need to be reviewed and discussed with the Health and Wellbeing Board in order to try to mitigate this overspend.

Appendix 4 – Capital Programme Performance

Detail Type	£'000	Project	Description	Mitigation Strategy
			<p>forward, reported to Policy and Resources at the end of 2015/16, should reduce to £0.258m due to the financial recovery measures in place. Therefore the total overspend is now estimated to be £0.328m.</p>	

Housing Revenue Account – Capital Budget Summary

Forecast Variance Month 2 £'000	Service	2016/17 TBM 2 Budget £'000	Reported at other Committees £'000	New Schemes in Appendix 4 £'000	Variation, Slippage/ reprofile £'000	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	City Development & Regen	25,732	0	0	(7,009)	18,723	18,852	129	0.7%
0	Housing - HRA	30,684	0	0	(762)	29,922	29,889	(33)	-0.1%
0	Total Housing Revenue Account	56,416	0	0	(7,771)	48,645	48,741	96	0.2%

Details of Variation requests and explanations of significant Forecast Variances, Slippage or Reprofiles are given below:

Detail Type	£'000	Project	Description	Mitigation Strategy
City Development & Regen				
Reprofile	(2,037)	Redevelopment of HRA Vacant Garage Sites	Kensington Street delay on planning approval. Scheme will now be across two financial years, projected cash flows have been reprofiled.	Scheme is being delivered across two financial years.
Reprofile	(100)	Feasibility and Design - Housing Invest	Revised forecast of feasibility costs to be incurred during 2016/17.	Will be required in future years to deliver new schemes within the New Homes for Neighbourhoods programme.
Reprofile	(877)	Brookmead Site Development	Revised cashflow projections received from contractors.	Scheme will be completed in 2017/18.
Reprofile	(75)	Manor Place	Actual works lower than anticipated. Scheme is due to be completed by December 2016.	
Reprofile	(1,070)	Whitehawk (Findon Road) Development	Revised cashflow projections received from contractors.	Scheme will be completed in 2017/18.

Appendix 4 – Capital Programme Performance

Detail Type	£'000	Project	Description	Mitigation Strategy
Reprofile	(1,900)	Selsfield Drive	Further design work to work the best solution is to be carried out, this has resulted in a delay in the works starting.	Budget to be reprofiled to reflect the delay.
Reprofile	(950)	Design Competition	Further design work to work the best solution is to be carried out, this has resulted in a delay in the works starting.	Budget to be reprofiled to reflect the delay.
Overspend	129	Ardingly Street	Unforeseen works were required on the build once on site and building started.	To be funded from other underspends within the capital programme.
Housing HRA				
Reprofile	(635)	Structural Repairs	An expected year end underspend of £0.635m on Clarendon & Ellen Estates is to be reprofiled to 2017/18	Additional funding will be required next year. No negative impact on residents is anticipated.
Reprofile	(127)	Portslade former police station	Awaiting go-ahead to commence this project as other options are being investigated for alternative community use of the building.	Reprofile to 2017/18 as no works will be commenced during 2016/17
Variation	500	Roofing	To ensure available funding is utilised, additional projects have been brought forward such as Woods House, Hollingdean, Rose Hill Court and various Tyfoam properties.	No major impact on residents is expected.
Variation	193	Windows	To ensure available funding is utilised, additional projects have been brought forward such as Woods House, Hollingdean, Rose Hill Court and various Tyfoam properties.	No major impact on residents is expected.
Variation	81	External Decorations	To ensure available funding is utilised, additional projects have been brought forward such as Woods House, Hollingdean, Rose Hill Court and various Tyfoam properties.	No major impact on residents is expected.
Variation	55	Hidden Homes	To increase the funding of the Hidden Home's programme and allow the creation of new dwellings at Normanhurst and Swallow Court.	No major impact on residents is expected.
Variation	14	Kitchens	Additional works to the communal kitchen at Rosehill Court.	No major impact on residents is expected.

Appendix 4 – Capital Programme Performance

Detail Type	£'000	Project	Description	Mitigation Strategy
Variation	200	Communal Boiler Replacement	<p>A budget virement of £0.200m from Domestic Boiler Replacement (see below) to Communal Boiler Replacement is needed to fund:</p> <p>2016/17 upgrades to two seniors housing scheme communal boiler houses (Evelyn Court and Southease) have both been identified as high risk of failure due to age and non-availability of replacement parts.</p> <p>Mimosa Court has been identified as medium risk of failure due to age and non-availability of replacement parts. Feasibility study being carried out this financial year with a view to installing new heating and hot water services in 2017/18 financial year.</p> <p>A contingency for unforeseen communal boiler failure (full or part), including, temporary plant, design studies, and repair or replacement. If this contingency is not used this financial year, it will be utilised for Mimosa Court replacement the following year.</p>	<p>The scheme should deliver energy efficiency savings with a reduction in carbon footprint, call outs and a reduction in fuel costs.</p>
Variation	(200)	Domestic Boiler Replacement	<p>Long term domestic boiler replacement strategy is currently running for five years to ensure all stock is unified. Anticipated spend this year to meet replacement five year target is £1.6m. With budget set at £1.8m, a budget virement of £0.200m from Domestic Boiler Replacement to Communal Boiler Replacement (see above) is needed to fund:</p> <p>2016/17 upgrades on two seniors housing scheme communal boiler houses (Evelyn Court and Southease) have both been identified as high risk of failure due to age and non-availability of replacement parts.</p> <p>Mimosa Court has been identified as medium</p>	<p>No impact on residents, since the long term domestic boiler replacement strategy is currently running as planned and on target.</p>

Appendix 4 – Capital Programme Performance

Detail Type	£'000	Project	Description	Mitigation Strategy
			<p>risk of failure due to age and non-availability of replacement parts. A Feasibility study is being carried out this financial year with a view to installing new heating and hot water services in 2017/18 financial year.</p> <p>A contingency for unforeseen communal boiler failure (full or part), including, temporary plant, design studies, and repair or replacement. If this contingency is not used this financial year, it will be utilised for Mimosa Court replacement the following year.</p>	
Variation	(335)	Communal rewire programme	<p>As part of the ongoing lift replacement programme, consideration was given to the lifts stopping at every floor, which would have involved moving a substantial amount of cabling to accommodate this change in functionality, with openings also being made in the side of the lift shaft to enable the lifts to stop at every floor.</p> <p>The housing leadership team agreed to replace the lifts at Warwick Mount as is (i.e. stopping at alternate floors) without undertaking additional work to enable the lifts to stop at every floor.</p>	No impact on residents. The lift programme will continue.
Variation	(396)	Structural Repairs	Budget variation from Structural Repairs contingency to fund other new major projects such as Tyfoam properties, Hollingdean and Major Voids.	No major impact on residents is expected.
Variation	(112)	Internal Decorations	Budget variation to fund other new projects such as Hollingdean, Tyfoam properties, Woods House and Rose Hill Court.	No major impact on residents is expected.
Overspend	293	Kitchens	Overspend expected due to tenant choice to follow spend as of previous years, with preference to kitchens over bathrooms.	No major impact on residents is expected.

Appendix 4 – Capital Programme Performance

Detail Type	£'000	Project	Description	Mitigation Strategy
Overspend	250	Major Voids	Overspend expected due to long term leased properties being returned to BHCC. Some funding may be forthcoming following negotiations.	No major impact on residents is expected.
Overspend	92	Fire Safety	Following a thorough review of the Fire Risk Assessments more works have been identified than originally envisaged. Due to the nature of the works they will need to be carried out in this financial year.	No major impact on residents is expected.
Overspend	80	Supercentre Refurbishment	Enhancement to office spaces are required that are in addition to the workstyles programme.	
Overspend	61	External Decorations	To ensure available funding is utilised, additional project have been brought forward such as Woods House, Hollingdean, Rose Hill Court and various Tyfoam properties.	No major impact on residents is expected.
Overspend	53	Block Conversions	The conversion of additional dwellings has increased costs and an overspend is expected.	No major impact on residents is expected.
Overspend	53	Car Parks and Garages	A condition survey of car parks has been carried out and identified a high number of urgent works. The budget level for 2017/18 will be reviewed and a programme of works created.	
Overspend	27	Communal Fire Alarms	Overspend of less than £0.050m.	
Under spend	(492)	Internal Decorations	A process review of how planned works are identified and the programmes are produced has impacted on the formulation of programmes for 2016/17. However, in future years, the new process should better identify areas of greater need and achieve greater value for money.	No major impact on residents is expected.

Appendix 4 – Capital Programme Performance

Detail Type	£'000	Project	Description	Mitigation Strategy
Under spend	(105)	Bathrooms	Underspend expected due to tenant preference for kitchen installs over bathrooms.	No major impact on residents is expected.
Under spend	(100)	Condensation and Damp Works	This is a reactive contract and current levels of work indicate that this budget will be underspent.	No major impact on residents is expected.
Under spend	(91)	Asbestos	Following surveys of communal areas there have been no major works identified this year.	No major impact on residents is expected.
Underspend	(80)	Domestic rewire programme	To support the delivery of decent homes, a domestic rewire programme has been ongoing for several years. The expected number of empty homes coming through the process so far this financial year is lower than previously, due in part to the programme maturing.	No impact on residents as domestic rewire programme will continue.
Underspend	(74)	Various	Underspend from various schemes of less than £0.050m: Insulation (£0.041m), Adaptations (£0.018m), ICT fund (£0.015m).	No major impact on residents is expected.

Appendix 4 – Capital Programme Performance

Finance & Resources - Capital Budget Summary

Forecast Variance Month 2 £'000	Service	2016/17 TBM 2 Budget £'000	Reported at other Committees £'000	New Schemes in Appendix 4 £'000	Variation, Slippage/ reprofile £'000	2016/17 Budget Month 5 £'000	Forecast Outturn Month 5 £'000	Forecast Variance Month 5 £'000	Forecast Variance Month 5 %
0	Finance	53	0	0	0	53	53	0	0.0%
0	HR Organisation al Develop	0	0	0	0	0	0	0	0.0%
0	ICT	3,519	0	0	0	3,519	3,519	0	0.0%
0	Total Finance & Resources	3,572	0	0	0	3,572	3,572	0	0.0%

Details of Variation requests and explanations of significant Forecast Variances, Slippage or Reprofiles are given below:

Detail Type	£'000	Project	Description	Mitigation Strategy
Finance & Resources				
No changes to report for month 5.				

Note: There are currently no capital budgets to report on for Strategy, Governance & Law and Corporate Services.

New schemes to be added to the Capital Programme in 2016/17 to be approved

New Capital Project Approval Request				
Unit:	Schools			
Project title:	Upgrade of Fitness Suite Equipment - Longhill School			
Total Project Cost (All Years):	£44,220			
Purpose, benefits and risks:				
<p>The upgrade of the fitness equipment for the Fitness Suite at Longhill School Sports Centre will be met from capital borrowing. Expected shelf life of fitness equipment is ordinarily five years but it is anticipated that this will have an extended life of up to seven years. The current equipment is of poor quality, and has reduced reliability which is why the upgrade is essential.</p>				
Capital expenditure profile (£'000):				
Year	This Year	Next Year	Year After	TOTAL
Borrowing	44			44
Total estimated costs and fees	44			44
Financial implications:				
<p>The total cost of the borrowing for this scheme is £0.050m repayable over five years. Longhill School has traditionally used borrowing to finance the update of computer equipment. The school is experiencing financial difficulties, and has a licensed deficit agreement in place until 2020/21. However, the costs of the repayments are included within the revenue budget plan submitted for this five year period.</p>				

New Capital Project Approval Request				
Unit:	Schools			
Project title:	Upgrade of Computers - Longhill School 2016/17			
Total Project Cost (All Years):	£31,170			
Purpose, benefits and risks:				
Borrowing will be used to purchase the school's annual computer upgrade. The school replaces computers every five years using borrowing with the financing costs being met from within existing schools revenue budgets.				
Capital expenditure profile (£'000):				
Year	This Year	Next Year	Year After	TOTAL
Borrowing	31			31
Total estimated costs and fees	31			31
Financial implications:				
The total cost of the borrowing for this scheme is £0.035m repayable over five years. The school is experiencing financial difficulties, and has a licensed deficit agreement in place until 2020/21. However, the costs of the repayments are included within the revenue budget plan submitted for this five year period.				

New Capital Project Approval Request				
Unit:	Schools			
Project title:	Hertford Junior School Interactive TVs			
Total Project Cost (All Years):	£16,080			
Purpose, benefits and risks:				
The purchase of Interactive TVs will offer stimulation and inspiration to the curriculum, and replacing out dated, poor quality equipment. The equipment will offer better viewing opportunities for pupils - especially for two visually impaired pupils in the school. The new equipment will reduce maintenance and replacement costs as the new technology only has one screen, no projector and is back lit in order to reduce glare.				
Capital expenditure profile (£'000):				
Year	This Year	Next Year	Year After	TOTAL
Unsupported Borrowing	10.00			10.00
Revenue Contributions	0.29			0.29
Devolved Formula Capital	5.79			5.79
Total estimated costs and fees	16.08			16.08
Financial implications:				
The collective purchase of 8 screens will ensure that training costs will be reduced as all the CPD (Continued Professional Development) will happen at once. This will allow a contribution from the CPD revenue budget toward the investment cost as well as contribute toward the annual financing costs of borrowing. The TVs have less maintenance needs so the repayments will also be supported by the curriculum/maintenance budget for ICT. Interactive resources are available with the screens so more funds will be released to pay off the loan through other parts of the curriculum budget. A contribution toward the initial cost will also be met from the Devolved Formula Capital grant.				

New Capital Project Approval Request				
Unit:	City Environmental Management			
Project title:	The Manor Road Gym - Sports Facilities Project (3g Pitch and MUGA)			
Total Project Cost (All Years):	£173,220			
Purpose, benefits and risks:				
<p>The purpose of the project is to provide local residents with upgraded and modern facilities which will offer them increased opportunities to participate in sport. The facility will offer free community usage as well as free/heavily subsidised sessions for school children. There is a lack of 3g pitch facilities in the city, which were identified in the Sports Facilities Plan (2012-2022). It is likely that the project will increase the value of the asset, increase the extent to which the asset can be used and will provide additional revenue due to the service improvement.</p>				
Capital expenditure profile (£'000):				
Year	This Year	Next Year	Year After	TOTAL
External Contribution (inc S106)	173			173
Total estimated costs and fees	173			173
Financial implications:				
<p>Funded by S106 contributions. All ongoing costs for this project will be revenue costs. There will be no direct financial implications for BHCC.</p>				

New Capital Project Approval Request				
Unit:	City Environmental Management			
Project title:	Saltdean Lido S106 - External Pool Project			
Total Project Cost (All Years):	£170,000			
Purpose, benefits and risks:				
<p>The purpose of the project is to restore an iconic and historical Grade 2 listed landmark and provide local residents with upgraded and modern facilities which will offer them increased opportunities to participate in swimming in their local community. Swimming pool provision in the city is insufficient (Sports Facilities Plan 2012-2022) and the refurbishment of the lido and associated external areas will increase the value of the asset and provide a much needed community facility.</p>				
Capital expenditure profile (£'000):				
Year	This Year	Next Year	Year After	TOTAL
External Contribution (inc S106)	170			170
Total estimated costs and fees	170			170
Financial implications:				
<p>Funded by S106 contributions. All ongoing costs for the pool project will be revenue costs. There should be no direct financial implications for BHCC.</p>				

New Capital Project Approval Request				
Unit:	Transport			
Project title:	Walking network - dropped kerbs (pedestrian improvements)			
Total Project Cost (All Years):	£56,000			
Purpose, benefits and risks:				
<p>Funding was allocated as part of a decision made by June 2016 PR&G Committee as a one-off allocation resulting from 2015/16 carry-forwards. It is to be used for dropped kerbs, where there is currently a long waiting list of requests. A programme of investment in this type of infrastructure has been a regular priority for many years, in both the council's Local Transport Plan (LTP) capital programmes and the sums of money secured from development to provide adequate accessibility and mobility, primarily for disabled people. It is consistent with the primary objective within the approved (2015) LTP to achieve Equality, Mobility & Accessibility by creating an accessible and inclusive transport system for everyone.</p>				
Capital expenditure profile (£'000):				
Year	This Year	Next Year	Year After	TOTAL
Revenue Contributions	56			56
Total estimated costs and fees	56			56
Financial implications:				
<p>All associated costs will be met from within existing revenue and capital budgets available to the Transport Division.</p>				

New Capital Project Approval Request				
Unit:	Royal Pavilion & Museums			
Project title:	Ready to Borrow Arts Council Grant			
Total Project Cost (All Years):	£420,000			
Purpose, benefits and risks:				
<p>Royal Pavilion & Museums have been provided with a restricted grant of up to £0.420m from Arts Council England to fund the purchase of capital assets by a number of Accredited museums or museums formally working towards Accreditation in our region to help the selected museums increase their resilience for the period 1st June 2016 to 31 March 2018. Brighton & Hove will be the accountable body for the grant funding and will ensure that the programme is managed in line with the Arts Council funding conditions.</p>				
Capital expenditure profile (£'000):				
Year	This Year	Next Year	Year After	TOTAL
Grant (Arts Council England)	210	210		420
Total estimated costs and fees	210	210		420
Financial implications:				
<p>Arts Council England have confirmed the grant funding available of up to £0.210m for 2016/17 and £0.210m for 2017/18. Brighton & Hove are the accountable body for the funding and the co-ordination of the grant funding programme will be met from within existing staffing resources.</p>				

New Capital Project Approval Request				
Unit:	Integrated Commissioning - Health and Adult Social Care			
Project title:	40 Valley Road			
Total Project Cost (All Years):	£0.068m			
Purpose, benefits and risks:				
<p>Purpose: A property is required to create a service for a young person with a learning disability and autism who is currently living in a council-run home. They are now 18 and need to move on, but require an environment that can meet their particular needs. 40 Valley Road has been identified as a property that has the potential to be re-furnished to create a capable environment to meet their needs. To date it has not been possible to find an existing service that meets these particular needs within the city. This case has been to the Court of Protection who have given a judgement that the local authority agrees a plan with the family, to move the young person to an environment that meets their specific needs. The young person is on the risk register of people at risk of an admission to a specialist hospital placement, should the current placement break down. In seeking to accommodate within the local area and local community the council are adhering to the Transforming Care National Plan, developed in the wake of the Winterbourne View case. The purpose of this plan is to a) facilitate discharge from hospitals and b) to develop community services that will prevent future admissions. Benefits: The current property has been used as a group home for adults with learning disabilities for 25+ years. The current layout, fixtures, fittings, external areas are in need of updating. Carrying out this work would not only provide a service for the young person in question, thus meeting the requirements of the Court of Protection, but would also provide a more modern and well equipped property more able to meet the increasing complex needs of young people with learning disabilities in the city. This would help meet the strategic plans in relation to the Transforming Care agenda. Risks: New fencing and a new parking space are required, these are subject to planning permission, subsequently there is a risk planning approval may not be granted. Failure to secure a property that can be developed into a suitable service may result in the local authority being asked to return to the Court of Protection. Failure to develop a service may result in placement breakdown at their current home which may lead to a hospital admission (the authority has targets set by NHS England to keep specialist hospital admissions below a set figure). Failure to develop new capable environments in the city will make it harder to meet strategic aims under Transforming Care.</p>				
Capital expenditure profile (£'000):				
Year	This Year	Next Year	Year After	TOTAL
Grant (Department of Health)	68			68
Total estimated costs and fees	68			68

Financial implications:

This project is being funded through the Adult Personal Social Services: Specific Capital Allocation for 2016/17 allocated by the Department of Health. The cost of adapting this property will secure a service that provides best value for money and keep costs down for the future. The intention would be for the Housing Adaptations Team to use a contractor from their framework agreement to manage costs within the budget available.

Subject:	Ernst & Young – Annual Audit Letter 2015/16		
Date of Meeting:	15 November 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 The purpose of the Annual Audit Letter is to communicate to the Members of the Council and external stakeholders, including members of the public, the key issues arising from our work which we consider should be brought to their attention.
- 1.2 Detailed findings from our 2015/16 audit have already been reported to the 27 September meeting of the Committee in our 2015/16 Audit Results Report. The matters reported in the Annual Audit Letter are the most significant for the Council.

2. RECOMMENDATIONS:

- 2.1 To note the 2015/16 Annual Audit Letter and ask questions as necessary.

Brighton & Hove City Council

Annual Audit Letter for the year ended 31 March 2016

October 2016

Ernst & Young LLP



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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.psa.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 Annual Audit Letter is prepared in the context of the Statement of responsibilities. It is addressed to the Members of the audited body, and is prepared for their sole use. 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.

Executive Summary

Executive Summary

We are required to issue an annual audit letter to Brighton & Hove City Council (the Council) following our audit for the year ended 31 March 2016.

Below are the results and conclusions on the significant areas of the audit.

Area of Work	Conclusion
Opinion on the Council's: ▶ Financial statements	Unqualified - the financial statements give a true and fair view of the financial position of the Council as at 31 March 2016 and of its expenditure and income for the year then ended.
▶ Consistency of other information published with the financial statements	Other information published with the financial statements was consistent with the Annual Accounts.
Concluding on the Council's arrangements for securing economy, efficiency and effectiveness	We concluded that you have put in place proper arrangements to secure value for money in your use of resources.
Area of Work	Conclusion
Reports by exception:	
▶ Consistency of Governance Statement	The Governance Statement was consistent with our understanding of the Council.
▶ Public interest report	We had no matters to report in the public interest.
▶ Written recommendations to the Council, which should be copied to the Secretary of State	We had no matters to report.
▶ Other actions taken in relation to our responsibilities under the Local Audit and Accountability Act 2014	Under the Accounts and Audit Regulations 2015 members of the public can, for a period of 30 working days, ask questions of the Council and raise objections with external auditors. The period ran from 15 June to 26 July 2016 and we received one objection to the 2015/16 accounts from a member of the public. The objection is on the grounds that the Lender Option Borrower Option (LOBO) loans that the Council have entered into are unlawful, on the grounds that the decision to take out the loans was unreasonable and irrational.

We accepted this objection as it met the criteria for consideration. We have been able to conclude that the objection raised does not have an impact on our financial statement opinion or our value for money conclusion.

Our work on the objection is ongoing and we will report to both the Council and objector once we have completed our consideration.

Area of Work	Conclusion
Reporting to the National Audit Office (NAO) on our review of the Council's Whole of Government Accounts return (WGA).	We had no matters to report.

As a result of the above we have also:

Area of Work	Conclusion
Issued a report to those charged with governance of the Council communicating significant findings resulting from our audit.	Our Audit Results Reports was issued on 27 September 2016.
Issued a certificate that we have completed the audit in accordance with the requirements of the Local Audit and Accountability Act 2014 and the National Audit Office's 2015 Code of Audit Practice.	We cannot issue our certificate of completion of the audit until the objection has been determined.

We would like to take this opportunity to thank the Council staff for their assistance during the course of our work.

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

Purpose



Purpose

The Purpose of this Letter

The purpose of this annual audit letter is to communicate to Members and external stakeholders, including members of the public, the key issues arising from our work, which we consider should be brought to the attention of the Council.

We have already reported the detailed findings from our audit work in our 2015/16 Audit Results Report to the 27 September meeting of the Audit & Standards Committee, representing those charged with governance. We do not repeat those detailed findings in this letter. The matters reported here are the most significant for the Council.



Responsibilities

Responsibilities

Responsibilities of the Appointed Auditor

Our 2015/16 audit work has been undertaken in accordance with the Audit Plan that we issued in February 2016 and is conducted in accordance with the National Audit Office's 2015 Code of Audit Practice, International Standards on Auditing (UK and Ireland), and other guidance issued by the National Audit Office.

As auditors we are responsible for:

- ▶ Expressing an opinion:
 - ▶ on the 2015/16 financial statements; and
 - ▶ on the consistency of other information published with the financial statements.
- ▶ Forming a conclusion on the arrangements the Council has to secure economy, efficiency and effectiveness in its use of resources.
- ▶ Reporting by exception:
 - ▶ if the annual governance statement is misleading or not consistent with our understanding of the Council;
 - ▶ any significant matters that are in the public interest;
 - ▶ any written recommendations to the Council, which should be copied to the Secretary of State; and
 - ▶ if we have discharged our duties and responsibilities as established by thy Local Audit and Accountability Act 2014 and Code of Audit Practice.

Alongside our work on the financial statements, we also review and report to the National Audit Office (NAO) on your Whole of Government Accounts return. The extent of our review and the nature of our report are specified by the NAO.

Responsibilities of the Council

The Council is responsible for preparing and publishing its statement of accounts accompanied by an Annual Governance Statement (AGS). In the AGS, the Council reports publicly each year on how far it complies with its own code of governance, including how it has monitored and evaluated the effectiveness of its governance arrangements in year, and any changes planned in the coming period.

The Council is also responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

Financial Statement Audit

Financial Statement Audit

Key Issues

The Council's Statement of Accounts is an important tool for the Council to show how it has used public money and how it can demonstrate its financial management and financial health.

We audited the Council's Statement of Accounts in line with the National Audit Office's 2015 Code of Audit Practice, International Standards on Auditing (UK and Ireland), and other guidance issued by the National Audit Office. We issued an unqualified audit report on 29 September 2016.

Our detailed findings were included in our Audit Results Reports presented to the 27 September 2016 meeting of the Audit & Standards Committee.

The key issues identified as part of our audit were as follows:

Significant Risk	Conclusion
<p>Management override of controls</p> <p>A risk present on all audits is that management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly, and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively.</p> <p>Auditing standards require us to respond to this risk by testing the appropriateness of journals, testing accounting estimates for possible management bias, reviewing accounting policies and obtaining an understanding of the business rationale for any significant unusual transactions.</p>	<p>We completed our testing in respect of the procedures set out in our Audit Plan. In respect of these procedures we noted no:</p> <ul style="list-style-type: none">• indicators of inappropriate journal entries recorded in the general ledger or inappropriate adjustments made in the preparation of the financial statements;• indicators of management bias within accounting estimates or judgments;• inappropriate accounting policies; or• transactions lacking appropriate business rationale. <p>We have not identified any material weaknesses in controls or evidence of material management override.</p>

Significant Risk	Conclusion
<p>Valuation of property, plant and equipment (PPE)</p> <p>Land and building valuations are based upon valuation reports issued by a range of internal and external professional valuers used by the Authority. In 2014/15 our testing identified a material amendment to the valuation of PPE and we considered these issues to be a significant risk to the 2015/16 financial statements.</p>	<p>Our audit plan identified a significant risk in relation to the timing and scope of the PPE valuations and the subsequent checks undertaken by central Financial Services to assess the reasonableness of the valuations provided. We also confirmed that we would use our own internal experts in this area.</p> <p>On receipt of the draft financial statements our initial analytical procedures identified a reduction in the value of PPE of some £500 million. We challenged this movement both generally and within specific asset categories, including the valuation of land. We held lengthy discussions with the Council's finance staff, internal valuer, and external valuer.</p> <p>Consequently, a revised external valuation report was provided, which increased the value of PPE by £92.2 million, this change reflected local knowledge of the availability and value of land in Brighton & Hove.</p> <p>As a result of our work we made the following recommendations that the Council:</p> <ul style="list-style-type: none"> · undertake a more robust exercise to challenge the reasonableness of asset valuations; and · ensure that there is early communication with any external valuers with regard to the timeline for 2016/17 and that any specific local information that should be taken into consideration is shared with them in a timely manner. <p>The need for this challenge and additional work will mean an additional fee, which we will calculate at the conclusion of the audit and agree with the Council and will then be subject to determination by PSAA Ltd.</p>
<p>Other Risks</p>	<p>Conclusion</p>
<p>Minimum Revenue Provision (MRP)</p>	<p>We commissioned an EY expert to review the changes proposed by the</p>

Local authorities are required each year to set aside some of their revenues as provision for capital expenditure financed by borrowing or credit arrangements. This provision is known as MRP.

MRP is a real charge that impacts on the general fund and therefore the council tax financing requirement. The Council made changes to the basis on which it has charged MRP and its future approach to calculating the provision and as such we considered this a risk to our audit opinion.

Council in this area.

Our testing highlighted some minor changes to the underlying arrangements of the Council but these did not have an impact on the council tax financing requirement.

A close-up, shallow depth-of-field photograph of a stack of coins. The coins are stacked vertically, with some showing their edges and others showing their faces. The lighting is dramatic, highlighting the metallic texture and the ridges on the edges. A bright yellow rectangular box is overlaid on the left side of the image, containing the text 'Value for Money'.

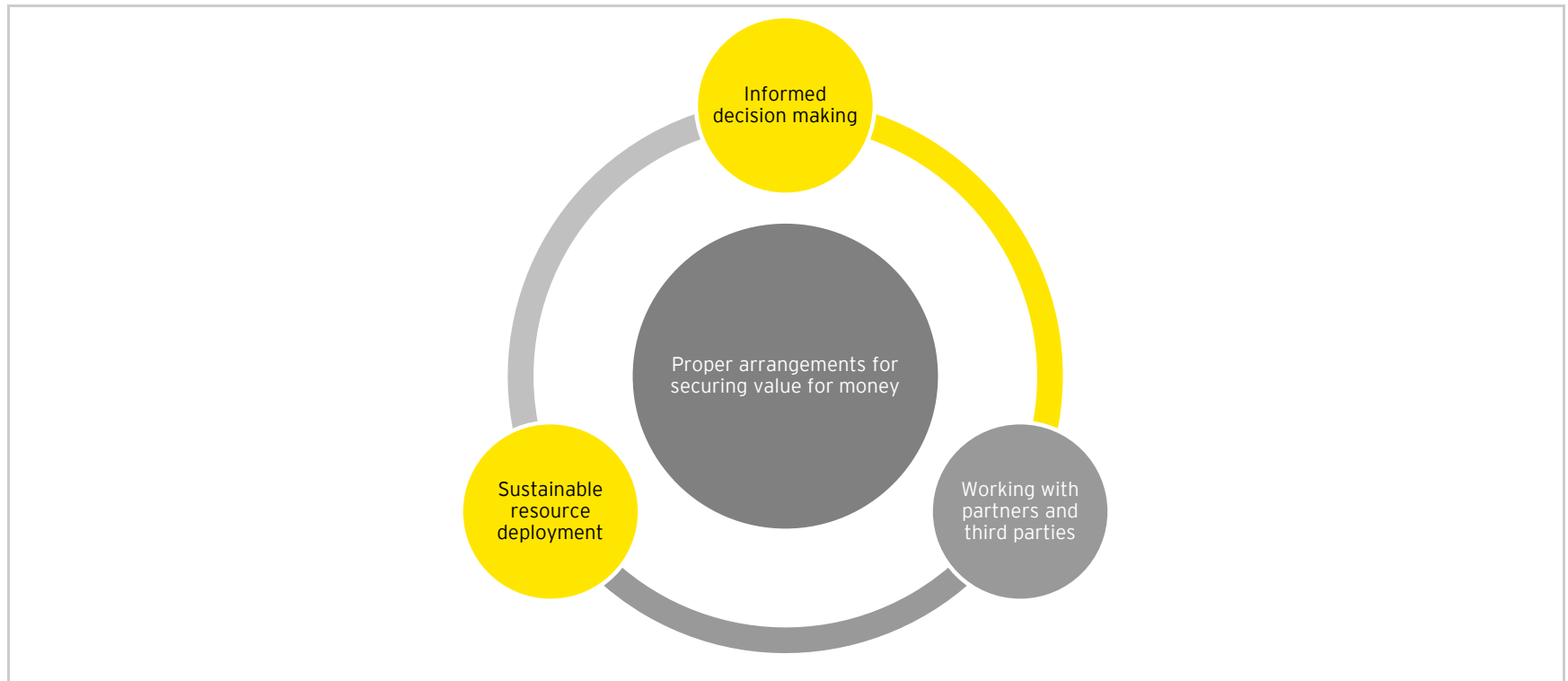
Value for Money

Value for Money

We are required to consider whether the Council has put in place 'proper arrangements' to secure economy, efficiency and effectiveness on its use of resources. This is known as our value for money conclusion.

Proper arrangements are defined by statutory guidance issued by the National Audit Office. They comprise your arrangements to:

- take informed decisions;
- deploy resources in a sustainable manner; and
- work with partners and other third parties.



We issued an unqualified value for money conclusion on 29 September 2016.

We identified a significant risk that the Council would not be able to plan its finances effectively to support the sustainable delivery of strategic priorities and maintain statutory functions.

We reported our detailed findings in our Audit Results Report. The overall conclusion from our procedures was that the Council is financially resilient for the foreseeable future. However, it is important that the Council continues its track record of delivering its planned budget and savings, in particular progressing the overall transformation programme and identifying clearly supported savings plans. This is critical to the Council's finances and the balance it has to strike between the funding available against the level of services it can provide.

Other Reporting Issues

Other Reporting Issues

Whole of Government Accounts

We performed the procedures required by the National Audit Office on the accuracy of the consolidation pack prepared by the Council for Whole of Government Accounts purposes.

We had no issues to report.

Annual Governance Statement

We are required to consider the completeness of disclosures in the Council's Annual Governance Statement, identify any inconsistencies with the other information of which we are aware from our work, and consider whether it is misleading.

We completed this work and did not identify any areas of concern.

Report in the Public Interest

We have a duty under the Local Audit and Accountability Act 2014 to consider whether, in the public interest, to report on any matter that comes to our attention in the course of the audit in order for it to be considered by the Council or brought to the attention of the public.

We have not identified any issues to date which require us to issue a report in the public interest.

Written Recommendations

We have a duty under the Local Audit and Accountability Act 2014 to designate any audit recommendation as one that requires the Council to consider it at a public meeting and to decide what action to take in response.

We did not identify any issues which required us to issue a written recommendation.

Objections Received

We received one objection to the 2015/16 accounts from a member of the public. The objection is on the grounds that the Lender Option Borrower Option (LOBO) loans that the Council have entered into are unlawful, on the grounds that the decision to take out the loans was unreasonable and irrational.

We accepted this objection as it met the criteria for consideration. We have been able to conclude that the objection raised does not have an impact on our financial statement opinion or our value for money conclusion.

Our work on the objection is ongoing and we will report to both the Council and objector once we have completed our consideration.

Other Powers and Duties

We have identified no issues during our audit that have to date required us to use our additional powers under the Local Audit and Accountability Act 2014.

Independence

We communicated our assessment of independence in our Audit Results Report to the Audit & Standards Committee meeting on 27 September 2016. In our professional judgement the firm is independent and the objectivity of the audit engagement partner and audit staff has not been compromised within the meaning regulatory and professional requirements.

Control Themes and Observations

As part of our work, we obtained an understanding of internal control sufficient to plan our audit and determine the nature, timing and extent of testing performed. Although our audit was not designed to express an opinion on the effectiveness of internal control, we are required to communicate to you significant deficiencies in internal control identified during our audit. We did not identify any significant deficiencies in the design or operation of an internal control that might result in a material misstatement in your financial statements.

A close-up photograph of a person's face as they look through a pair of black binoculars. The person's eyes are focused on the lenses, and their hands are visible holding the device. A bright yellow rectangular box is overlaid on the left side of the image, containing the text "Focused on your future".

Focused on your
future

Focused on your future

Area	Issue	Impact
EU referendum	<p>Following the majority vote to end the UK's membership of the European Union (EU) in the EU Referendum held on 23 June 2016 there is a heightened level of volatility in the financial markets and increased macroeconomic uncertainty in the UK. For entities in the public sector, there is likely to be an impact on investment property valuations if confidence in the wider UK property market falls; and the valuation of defined benefit pension obligations may also be affected. It is too early to estimate the quantum of any impact of these issues, but there is likely to be significant ongoing uncertainty for a number of months while the UK renegotiates its relationships with the EU and other nations.</p>	<p>Many of the issues and challenges that face the UK public sector will continue to exist, not least because continued pressure on public finances will need responding to. Additionally it may well be that the challenges are increased if the expected economic impacts of the referendum and loss of EU grants outweigh the benefits of not having to contribute to the EU and require even more innovative solutions.</p> <p>We are committed to supporting our clients through this period, and help identify the opportunities that will also arise. We will engage with you on the concerns and questions you may have, provide our insight at key points along the path, and provide any papers and analysis of the impact of the referendum on the Government and Public Sector market.</p>
Highways Network Asset (HNA)	<p>The Code of Practice on Transport Infrastructure Assets (TIA Code) was first published in 2010 and updated in 2013. The key aim of this document was to improve the asset management of TIA. During 2016, this guidance has been renamed and updated, with the Highways Network Asset (HNA) Code, Guidance Notes and Accounting Guidance being published. Local Government has historically used depreciated historic cost (DHC) as the valuation approach for infrastructure assets. The introduction of the HNA Code will see this valuation basis change to depreciated replacement cost with effect from 1 April 2016. The change will be applied prospectively from that date, so Highways Authorities are not required to disclose comparative information.</p> <p>This is a fundamental change in approach which will require new accounting and estimation approaches as well as amendments to existing systems, or implementation of new systems.</p>	<p>The impact on the Council's balance sheet will be highly significant. The impact on the audit will also be significant, as auditors will need to obtain sufficient assurance over the material accuracy of this asset.</p> <p>We will work closely with the Council at both the local level, regarding system implementation, valuation procedures and accounting, and at the wider level through the continuation of our HNA Client Workshops.</p>

Area	Issue	Impact
<p>Appointment of auditors</p>	<p>The current audit contracts expire on the completion of the 2017/18 audit. The expiry of contracts also marks the end of the current mandatory regime for auditor appointments.</p> <p>After this, the Council can exercise choice about whether they decide to opt in to the authorised national scheme, or whether to make other arrangements to appoint its own auditors.</p> <p>In July 2016, the Secretary of State for Communities and Local Government specified Public Sector Audit Appointments limited (PSAA) as an appointing person under regulation 3 of the Local Audit (Appointing Person) Regulations 2015.</p> <p>PSAA will be able to appoint an auditor to relevant authorities that choose to opt into its national collective scheme.</p>	<p>Appointment of auditors for the 2018/19 financial year is required by 31 December 2017.</p> <p>The Council should consider whether they intend to opt into the appointed person scheme to appoint your auditors from 2018/19 or if they should make their own arrangements following the legislative requirements.</p>

Appendix A

Audit Fees



Appendix A Audit Fees

Our fee for 2015/16 is in line with the scale fee set by the PSAA and reported in our Audit Plan and Audit Results Report.

Description	Final Fee 2015/16 £	Planned Fee 2015/16 £	Scale Fee 2015/16 £	Final Fee 2014/15 £
Total Audit Fee - Code work	TBC*	158,550	158,550	215,878
Total Audit Fee - Certification of claims and returns	15,957**	15,957	15,957	18,531
Non-audit work	0	0	0	0

We confirm we have not undertaken any non-audit work outside of the PSAA's requirements.

** In 2015/16 we have undertaken additional work outside the scope of the scale fee in relation to the PPE valuation significant risk and in dealing with the objection that we have received. We are still assessing the impact of this additional work on the fee and will agree this with the Director of Finance and report the final agreed fee to the Audit & Standards Committee via our regular progress reports.*

***Our work on the certification of the Council's claims and returns is ongoing, our final fee for this work will be reported to those charged with governance in December 2016 within the Annual Certification Report for 2015/16.*

EY | Assurance | Tax | Transactions | Advisory

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ED None

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Subject:	Developing the Audit & Standards Committee – progress report		
Date of Meeting:	15 November 2016		
Report of:	Executive Director, 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 on implementing the development plan for the Audit & Standards Committee. This outline plan was developed by members with support from the Head of Internal Audit and Ian Young of EY and approved by Committee on 21 June 2016. Since then the plan has been further developed by members working with the Head of Internal Audit

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the action taken to date and agrees the proposed actions set out in paragraph 4.2.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Audit functions of the Committee relate to the Council's arrangements for the discharge of its powers and duties in connection with financial governance and stewardship, risk management and audit. The Committee makes recommendations to the Council, Policy & Resources Committee, Officers or other relevant body within the Council.
- 3.2 The Standards functions of the Committee seek to ensure that the Members, Co-opted Members and Officers of the Council observe high ethical standards in performing their duties. These functions include advising the Council on its Codes of Conduct and administering related complaints and dispensation procedures.
- 3.3 In addition to the Councillors who serve on the Committee, the Committee includes at least two independent persons who are not Councillors. They are appointed under Chapter 7 of the Localism Act, or otherwise co-opted, and act in an advisory capacity with no voting powers.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 The Committee meets many of the key characteristics of good practice and added value set out by CIPFA. In particular members consider that the committee:

- supports risk management and internal audit
- helps the council to implement values
- promotes good governance.

4.2 Members also identified three key areas for development and a range of proposed actions. These are set out in table 1.

Table 1 – key areas for development and proposed actions

Key area for development	Agreed actions	Progress to date	Next steps
1 The Audit & Standards Committee has the potential to play a more active role in contributing to a more effective control environment that is trusted by citizens and stakeholders.	1.1 Review terms of reference of the Audit & Standards Committee to ensure that it is clear how its role is distinct from other committees and consider: <ul style="list-style-type: none"> • how other committees (and statutory officers) can refer issues to the Audit & Standards Committee • the role the committee can play in building trust in the council's governance arrangements 	Proposed changes have been considered by a member working group (appendix 1).	Proposed changes to be taken to the Constitutional Working Group with amendments to be submitted to Full Council in May 2017.
	1.2 Develop an internal and external communications strategy to promote the work of the Committee.	Internal and external publicity planned following approval of any changes to the terms of reference to the Committee	Planned internal and external publicity to be delivered.

2 Members would be better placed to discharge their responsibilities if they were supported by more structured information on assurance sources and co-ordinated training.	2.1 Develop and share an assurance framework with the Committee to set out how the council ensures that it delivers its corporate strategy and manages its risks.	Assurance framework currently being developed. Early draft discussed at workshop with Chair of Audit & Standards Committee and Independent Person.	Completed framework to be reported to January Audit & Standards Committee.
	2.2 Ensure members have access to relevant public reports and good practice guides.	Reports and guides shared on an ad hoc basis.	Establish an online library for members.
	2.3 Develop a coordinated training programme to support key activities for the Committee.	Outline training plan proposed which links to the proposed forward plan (appendix 1).	Deliver training as set out in appendix 2.
3 The effectiveness of the Committee could be improved through a more flexible agenda that focusses on the issues that are most important for the council and considering these issues in more depth. . .	3.1 Review Committee dates to ensure that they take place at the most appropriate time, taking account of statutory requirements and dates of other key meetings.	Dates for 2017/18 Committee meetings proposed as part of forward plan (appendix 1)	Dates to be published when finalised.
	3.2 Review and update the forward plan following each Committee meeting to ensure that it: <ul style="list-style-type: none"> • is sufficiently flexible to deal with new and emerging issues • concentrates on reviewing a fewer number of 	Forward plan developed set out in appendix 1. This includes moving to four committee meetings for 2017/18 with one committee meeting replaced by a deep dive to consider reports that feed into the	Continue to update the forward plan following each Audit & Standards Committee

	issues in more detail.	annual governance statement.	
	<p>3.3 Build on the success of private meetings with auditors to explore:</p> <ul style="list-style-type: none"> • further development of the committee • sharing detailed audit reports and other information between committee meetings • examine specific issues in detail to inform a future committee meetings 	<p>Meetings well attended by members, independent persons and auditors.</p> <p>Financial and operational risks associated with adult social care were considered by members and in preparation for the review of strategic risks at the September Audit & Standards Committee.</p> <p>Possible further detailed reviews set out as part of appendix 1.</p>	<p>Continue to hold private meetings between members, independent persons and auditors.</p> <p>Agree programme of further reviews.</p>
	<p>3.4 Provide regular monitoring reports to ensure that actions arising from Committee discussions are implemented.</p>	<p>Twice yearly updates planned:</p> <ul style="list-style-type: none"> - Mid-year - As part of Annual Effectiveness Review 	<p>Deliver planned updates.</p>

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 This review has been carried out by the Committee with support from the Head of Internal Audit and the council's external auditors, EY.

6. CONCLUSION

- 6.1 The Committee has many of the characteristics of a good practice audit committee and is making good progress in implementing its development plan.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are no direct financial implications arising from this report. Support for the areas of development and key actions set out in paragraph 4.2 will be met from within existing council resources. Any material changes to secretariat functions ought however to be considered by the Committee if there are financial implications.

Finance Officer Consulted: Jeff Coates

Date: 31/10/2016

Legal Implications:

- 7.2 The recommendations in the report will assist the Council to meet its responsibilities in relation to governance and audit.

Lawyer Consulted: Elizabeth Culbert

Date:23.10.16

SUPPORTING DOCUMENTATION

Appendices:

1. Forward plan, suggested training and detailed reviews.

Documents in Members' Rooms

1. None

Background Documents

1. None

Audit & Standards Committee

15 November 2016

Developing the Audit & Standards Committee

Appendix 1 - Forward planning

1 Forward plan 2016/17

Date	Regular agenda items	Specific agenda items	Links to Training or Deep Dives
15 November 2016	<ul style="list-style-type: none"> • See current agenda 	<ul style="list-style-type: none"> • See current agenda 	<ul style="list-style-type: none"> • Training on good governance
10 January 2017	<ul style="list-style-type: none"> • Risk map focus • Internal audit progress report • Standards update 	<ul style="list-style-type: none"> • EY certification report • Strategic risk register review • Corporate risk assurance framework (CRAF) 	<ul style="list-style-type: none"> • Training on gaining assurance using the three lines of defence model • Agree deep dive based on revised strategic risk register and review of the CRAF
7 March 2017	<ul style="list-style-type: none"> • Customer feedback • Risk map focus • Internal audit progress report • Standards update 	<ul style="list-style-type: none"> • EY plan • EY fee letter • IA plan • Policy reviews and updates such as <ul style="list-style-type: none"> ○ accounting policies ○ whistleblowing ○ counter-fraud ○ treasury management 	<ul style="list-style-type: none"> • Deep dive as determined above

2 2017/18 outline forward plan

Draft Date	Regular agenda items	Specific agenda items	Links to training and deep dives
25 July 2017	<ul style="list-style-type: none"> • Customer feedback • Risk map focus • Standards update 	<ul style="list-style-type: none"> • EY audit results report • Statements of account • Annual governance statement supported by other annual reports 	<p>Deep dive on 6 June 2017 to review annual reports that feed into the annual governance statement including:</p> <ul style="list-style-type: none"> • Head of Internal Audit annual opinion • Review of Audit & Standards Committee activity <p>Training on financial statements (before formal Committee meeting)</p>
19 September 2017	<ul style="list-style-type: none"> • Customer feedback • Risk map focus • Internal audit progress report • Standards update 	<ul style="list-style-type: none"> • EY annual audit letter • Review of: <ul style="list-style-type: none"> ○ strategic risk register ○ corporate risk assurance framework ○ Targeted Budget Management (TBM) • Annual surveillance report 	<p>Deep dive into Targeted Budget Management (TBM)</p>
9 January 2018	<ul style="list-style-type: none"> • Customer feedback • Risk map focus • Internal audit progress report • Standards update 	<ul style="list-style-type: none"> • EY plan • EY fee letter • IA plan • Policy reviews and updates (part 1) <ul style="list-style-type: none"> ○ Accounting policies ○ Treasury management policy 	<p>Training (to be determined)</p>
27 March 2018	<ul style="list-style-type: none"> • Customer feedback • Risk map focus • Internal audit progress report • Standards update 	<ul style="list-style-type: none"> • EY plan • EY fee letter • IA plan • Policy reviews and updates <ul style="list-style-type: none"> ○ Whistle blowing ○ Counter-fraud 	<p>Deep dive (to be determined)</p>

Subject:	Standards Update		
Date of Meeting:	15th November 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 matters 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, the outstanding complaint referred to in that report has been resolved. There have been two new standards complaints.

4. STANDARDS COMPLAINTS**4.1 Complaint 1**

4.2 **The allegation:** A complaint referred to in the last report as 'Complaint 3' concerned a complaint made about a Member's comments about another person on social media.

4.3 **The outcome:** Having discussed the complaint with both parties and consulted with the Independent Person, the Monitoring Officer took the view that this matter was best resolved by informal resolution at preliminary assessment stage as it was not in the public interest to refer the matter for formal investigation.

4.4 Complaint 2

4.5 **The allegation:** A complaint was received in mid-September 2016, again regarding a comment made by a councillor on social media. It was considered that this might potentially amount to a failure to behave in a way which a reasonable person would regard as respectful and/or to amount to conduct which might reasonably be regarded as bringing the member's office or authority into disrepute.

4.6 Following consultation with one of the Independent Persons, a decision was made at preliminary assessment stage to progress the matter to formal

investigation. That investigation is underway, and will be the subject of a future report to this committee.

4.7 **Complaint 3**

4.8 A further member complaint was received from a member of the public in mid-October 2016. This alleged a failure by each of three ward members to respond to an email communication from the complainant. It was considered that this might potentially amount to a failure to behave in a way which a reasonable person would regard as respectful and/or to amount to conduct which might reasonably be regarded as bringing their office or authority into disrepute.

4.9 This matter is at time of writing the subject of preliminary assessment by the Monitoring Officer in consultation with the Independent Person. It will be the subject of a future report to this committee.

5. **OTHER MATTERS**

5.1 **Review of the Code of Conduct & Member Training**

5.2 The above topics are the subject of a separate report to this committee.

6. **ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

6.1 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.

7. **COMMUNITY ENGAGEMENT & CONSULTATION**

7.1 This report focuses mainly on internal rules and procedures and as a result no need to consult with the local community has been identified.

8. **CONCLUSION**

8.1 Members are asked to note the contents of this Report, which aims to assist the Committee in discharging its responsibilities for overseeing that high standards of conduct which are compliant with local requirements are maintained.

9. **FINANCIAL & OTHER IMPLICATIONS:**

Financial Implications:

10.1 There are no financial implications arising from this report

Legal Implications:

10.2 These are covered in the body of the report

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:	Review of the Code of Conduct for Members		
Date of Meeting:	15 November 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 To comply with its obligations under the Localism Act 2011, the Council adopted a new Code of Conduct for Members in July 2012 and a Procedure for dealing with complaints shortly thereafter. The Code of Conduct for Members was last reviewed in 2014 by a cross party working group and that group's recommendations adopted by full Council.
- 1.2 To ensure the Code of Conduct for Members' ongoing effectiveness, the Audit and Standards Committee directed at its last meeting that a further cross party working group be convened to review the Code of Conduct for Members and related documents and to recommend any changes which it considered necessary to update and/or clarify the existing arrangements.
- 1.3 This Report seeks the Committee's approval for a range of proposed amendments, all of which were agreed unanimously by the cross party working group of Members, Independent Persons and officers. The rationale for the proposed changes are detailed in the body of this Report.
- 1.4 This Report is initially for consideration by the Audit and Standards Committee, whose recommendations will be referred to Council for approval.

2. RECOMMENDATIONS:

- 2.1 That Audit and Standards Committee consider the draft revised Code of Conduct for Members and the Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members set out in Appendices 1 and 2 respectively and approve Appendix 2 while referring Appendix 1 – with any further recommended amendments – to Council for approval.
- 2.2 That Council approve the draft revised Code of Conduct for Members referred by Audit and Standards Committee, for implementation with immediate effect.
- 2.3 That Council grant delegated authority to the Monitoring Officer to take appropriate measures to implement the revised Code and to assist existing and new Members with understanding and applying it, including via training.

3. CONTEXT/ BACKGROUND INFORMATION

PROPOSED CHANGES TO THE CODE OF CONDUCT: additional clarity regarding the application of the Code and the option of members voluntarily declaring those interests which they are not otherwise required to declare, as well as changes to how interests are described in the Code

- 3.1 It is proposed that the Code be amended so as to create an expectation that the Independent Persons appointed to the Audit and Standards Committee observe the Code of Conduct. This is considered to be appropriate given the role of the Independent Persons appointed to this Committee.
- 3.2 It is also proposed that the Introduction to the Code be amended so that it explicitly clarifies the Code's application to meetings of the Council, its committees and sub committees only. This change makes the Council's current arrangements clearer so as to avoid an expectation - as happened recently and gave rise to a member complaint about a perceived failure to declare a Disclosable Pecuniary Interest at a working group - that the Code requires members to formally declare their interests at any informal meeting or gathering, which it does not.
- 3.3 It is also proposed that the current paragraph 1.8 of the Code be amended so as to clarify the expectation that all members who are bound by the Code must co-operate with any investigation - including but not only any investigation into an alleged breach of the Code - as well as with any investigation that takes place into the alleged unauthorised disclosure of confidential information.
- 3.4 A further proposed change is recommended in the form of specific reference to the practice of members choosing to voluntarily declare interests or facts which others may potentially perceive to be relevant to their decision-making, despite there being no requirement that they be declared.
- 3.5 Further structural changes (not substantive amendments) are also recommended to ensure that the Code of Conduct is made as clear as possible. The first of those is the re-naming of all interests caught by the Code which are not Disclosable Pecuniary Interests as 'Other Interests'. Dealing with all types of interests within the Code, at paragraph 3.2, is considered to make the position as to interests easier for members to understand. So too is the use of the term 'prejudicial interest' in order to describe any interest which requires members to leave the room once they have declared their interest as well as the term 'non-prejudicial interest' which describes an interest which allows members to stay and participate in decision-making once they have declared the relevant interest.
- 3.6 Other amendments to the Code shown by tracked changes are considered to be of a relatively minor nature. They include specific reference to the preference that applications for a dispensation be received by the Monitoring Officer in writing and prior to meetings as well as a reminder that it is for Members to keep their interests under review. They also include greater clarity around the expectation that the Code will not apply to those Members who are acting or appearing in the view of a reasonable person to be acting in a purely private capacity.

4. PROPOSED CHANGES TO THE PROCEDURE FOR DEALING WITH ALLGICATIONS OF THE BREACHES OF THE CODE OF CONDUCT FOR MEMBERS: specific reference to the recourse which a subject member has to an Independent Person and a revised set of arrangements regarding the potential for the informal resolution of complaints.

- 4.1 As amended, the Procedure makes specific reference to the potential (which is specifically provided for in the Localism Act) for a member who is the subject of a complaint to consult with one of the Independent Persons. It also clarifies that the provisions as to the publicity of complaints pending their determination apply to all parties to the matter.
- 4.2 The suggested amendments also clarify the Monitoring Officer's existing authority to resolve complaints informally at preliminary assessment stage while also permitting him to resolve matters in this way once formal investigation has commenced where he considers that doing so is in the public interest and has first consulted with one of the Independent Persons.
- 4.3 A further change to existing arrangements is proposed, namely giving the Monitoring Officer the discretion to resolve matters informally where he considers that doing so is in the public interest and has consulted with one of the Independent Persons, this even once the formal investigation has been completed.
- 4.4 The objective of these proposals is to allow the Monitoring Officer the facility to resolve matters informally where there are clear public interest reasons for doing so, this provided that he has considered representations from the parties and consulted with one of the Independent Persons. An example of this might be where matters have proceeded apace since a complaint was first made and then referred for formal investigation and although the member concerned has expressed regret and offered an apology the affected party is not minded to accept it. The Working Group considered that need for the public interest to take precedence was not necessarily compatible with a rule which binds all parties to a hearing with all of the attendant resource and cost implications and without regard to the particular facts of the case.
- 4.5 Substantive breach: although the Monitoring Officer will normally refer matters to a Standards Panel where an investigator's report has concluded that a substantive breach has occurred, it is proposed that he may exceptionally decide that it is not in the public interest to refer the matter to a Panel. This exercise of his discretion is to be enacted only having first 1) recommended to the parties that the matter be resolved informally and given them the opportunity to make representations and also 2) consulted with one of the Independent Persons, who in addition has explicitly agreed with the merits of the Monitoring Officer's recommended course of action. The latter has been designed as an additional safeguard which is appropriate given the stage which proceedings will at that point have reached. This measure aims to provide reassurance to all parties by providing that this additional step is built into this particular situation so as to ensure that fairness is achieved.
- 4.6 Technical but minimal breach: the proposed changes remove the parties' right to have a finding of a technical but minimal breach heard by a Standards Panel.

Again the Monitoring Officer may recommend informal resolution to the parties, having first consulted with the Independent person. These amendments make explicit his discretion to resolve matters informally in cases where one or more party has indicated that they nonetheless wish a Panel to be convened.

- 4.7 No breach: the suggested wording brings the position where there is a finding that no breach has occurred into line with that described above in relation to a finding of a technical but minimal breach: the Monitoring Officer is given an explicit discretion to resolve matters informally, without referral to a Panel, when having consulted with one of the Independent Persons he considers that the public interest is best met by such an outcome.

5. OTHER MATTERS

5.1 Flowcharts

- 5.2 The Working Group also considered two flowcharts, which aim firstly to assist Members in deciding whether they have an interest (appendix 3) and secondly to clarify the process of determining complaints (appendix 4). These two flowcharts - amended to reflect the proposed changes - are attached. If the amendments recommended in this report are agreed they will be circulated for illustrative purposes.

5.3 Member Training

- 5.4 Training of members of the Audit and Standards Committee only was carried out during July 2016.
- 5.5 Refresher training for all Members on the Code - and its interaction with predetermination and/or bias – is considered to be a key means of ensuring that Members are as well-equipped as possible to participate in democratic decision-making in a compliant way.
- 5.6 Training for all members on the revised Code will therefore be scheduled to take place once the Code (and for completeness the accompanying Procedure) has been considered and agreed by full Council.

6. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 6.1 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 proposals outlined in this report and in the appended documents are made with this aim in mind. No alternative options are mooted.

7. COMMUNITY ENGAGEMENT & CONSULTATION

- 7.1 This report focuses mainly on internal rules and procedures and as a result no need to consult with the local community has been identified.

8. CONCLUSION

- 8.1 Members are asked to note the contents of this Report and to approve the Procedure as amended while recommending the suggestions for amendments to the Code of Conduct for Members (which forms part of the Council's Constitution) to full Council for formal approval.

9. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

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

Finance Officer Consulted: Jeff Coates

Date: 04/11/2016

Legal Implications:

- 10.2 These are covered in the body of the report

Lawyer Consulted: Victoria Simpson

Date: 18 October 2016

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:

1. Code of Conduct for Members – showing proposed amendments as tracked changes
2. Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members – showing proposed amendments as tracked changes
3. Flowchart: Guide for Members: do I have an interest?
4. Flowchart: the Procedure for Dealing with Member Complaints

Documents in Members' Rooms:

1. None.

Background Documents:

1. None

CODE OF CONDUCT FOR MEMBERS

Introduction

This Code of Conduct covers all elected members and co-opted members (together referred to in this Code as ‘Member’ or ‘Members’ as appropriate) of Brighton & Hove City Council whenever they are acting as a member or representative of the council or when they claim to act or give the impression of acting as a representative of the council. The Independent Persons who are appointed to the Council’s Audit and Standards Committee are also expected to abide by this Code in terms of the standards of behaviour they observe and by voluntarily declaring any interests they have in any matter under discussion at any meeting.

The requirements outlined in this Code regarding the Declaration of Interests at Meetings apply to formal meetings of the Council, its committees and sub committees and its joint committees and sub committees. Members are however encouraged to voluntarily declare at all meetings, both formal and informal, any facts which they consider may be relevant to the perception of their decision-making, this although they are not required to do so.

The Code does not apply when Members are acting or appearing in the perception of a reasonable person to be acting in a purely private capacity.

When carrying out their public role, Members must adhere to the seven principles of public life – selflessness, integrity, objectivity, accountability, openness, honesty, and leadership, as defined in Appendix B.

This Code of Conduct should be read alongside the Council’s corporate values – respect, collaboration, efficiency, openness, creativity, and customer focus, as defined in Appendix C.

When applying and interpreting this Code of Conduct, Members should have regard to the following policies and documents (as amended from time to time):

- (a) Council Procedure Rules
- (b) Arrangements regarding the Register of Members’ Interests
- (c) Practice Note – Use of Council Facilities
- (d) Protocol for Members regarding planning applications
- (e) Code of Conduct for Member/Officer Relations
- (f) Guidance on use of social media
- (g) Guidance on confidentiality
- (h) Anti-fraud and Corruption Strategy
- (i) Whistleblowing Policy

Behaviour

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- 1.1. Members must behave in such a way that a reasonable person would regard as respectful.
- 1.2. Members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.
- 1.3. Members must not act in a way which a reasonable person would regard as bullying or intimidatory.
- 1.4. Members must not seek to improperly confer an advantage or disadvantage on any person.
- 1.5. Members must not do anything which may cause the council to breach any of its equality duties (in particular as set out in the Equality Act 2010).
- 1.6. Members must only use the resources of the council in accordance with the Practice Note on Publicity and the Use of Council Facilities [*insert hyperlink to Practice Note*].
- 1.7. Members must not disclose information which is confidential or exempt from publication or where disclosure is prohibited by law.
- 1.8. Members must not refuse or fail to –
 - (i) co-operate with ~~official~~ council investigations of any description, including those into alleged breaches of this Code ~~unauthorised disclosures of confidential information (irrespective of which Member may have made such alleged unauthorised disclosures)~~; and/or
 - (ii) provide full access to all material that, in the view of the investigating officer, may be relevant to such an investigation.
- 1.9. Members must respect the impartiality of officers and not act in a way that a reasonable person would regard as bringing an officer's impartiality into question.
- 1.10 When reaching decisions on any matter, Members must have regard to any relevant advice provided to them by the council's—
 - (i) chief finance officer;
 - (ii) monitoring officer; or
 - (iii) chief executive and head of paid servicewhere that officer is acting pursuant to his or her statutory duties.
- 1.11 Where, following a complaint that a Member has breached this Code of Conduct, and the complainant and the Member complained of consent to resolve the matter informally by a particular means, the Member must co-operate and comply with the agreed method of resolution.

Registration of interests

- 2.1. Within 28 days of the Member's election or the co-opted member's appointment (where

that is later), Members must notify the Monitoring Officer of their Disclosable Pecuniary Interests which fall within the categories set out in Appendix A. They must also notify the Monitoring Officer of those of their Other Interests which must be entered on the Register of Interests pursuant to para 3.2 of this Code.

- 2.2. Upon the re-election of a Member, or the re-appointment of a co-opted member, Members must within 28 days ~~re-notify~~ notify the Monitoring Officer of all of their registrable interests which fall within the categories of Disclosable Pecuniary Interests and Other Interests, defined in Appendix A and para 3.2 below whether previously registered or not.
- 2.3. Members must notify the Monitoring Officer of any change to their registrable interests and/or of any new registrable interests as defined by Appendix A and para 3.2 within 28 days of becoming aware of the relevant interest.
- 2.4. While members must notify the Monitoring Officer of all of their registrable interests, the Monitoring Officer may agree not to make public any interest which s/he agrees is a 'sensitive interest'. A sensitive interest is one which, if made public, could lead to the Member or a person connected with the Member being made subject to violence or intimidation.
- 2.5 In the interests of being seen to take decisions in an open and transparent manner and in accordance with the principle of Openness which forms one of the Seven Principles of Public Life (see Appendix B), Members may voluntarily provide written notification to the Monitoring Officer of their membership of any private club, society or organisation (and of any subsequent change or addition to their membership).
- 2.6 Similarly members may request that facts be minuted at any meeting where they consider that their circumstances affect their relationship to the issue under debate, although they are not compulsorily required to declare them as disclosable pecuniary interests or Other Interests under this Code.
- 2.7 While members may choose to make voluntary declarations to assist in ensuring transparency, paragraphs 2.5 and 2.6 are not to be read as creating additional obligations on a member to disclose voluntarily any matter which they are not otherwise obliged to declare under the terms of this Code.

Declaration of interests at meetings

A. Disclosable Pecuniary Interests

N.B. It is a criminal offence to fail to notify the Monitoring Officer of a disclosable pecuniary interest (as defined in Appendix A), to take part in discussion or votes at meetings, or to take a decision, where you have a disclosable pecuniary interest, without reasonable excuse. It is also an offence to knowingly or recklessly provide false or misleading information to the Monitoring Officer in connection with the registration and/or declaration of interests.

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3.1. Where a matter arises at a meeting of the Council, one of its committees or sub committees (or at a joint committee or sub committee), which relates to an interest in Appendix A, Members–

- (i) must declare their interest;
- (ii) may not participate in a discussion or vote on the matter;
- (iii) must, in accordance with council procedure rule 25.4, leave the room where the meeting is held, while any discussion or voting takes place.

B. Other declarable interests, or ‘Other Interests’

3.2 Members may have an interest in a matter under consideration even where they do not have a Disclosable Pecuniary Interest. These other declarable interests are known as ‘Other Interests’ and may be subject to paras 2.1 to 2.4 inclusive in which case they must be notified:

Other Interests which must be notified to the Monitoring Officer:

1. Any body of which the Member is in a position of general control or management, or
2. Any gift or hospitality worth more than an estimated value of £50, which the Member has accepted by virtue of his or her office

Other Interests which need not be notified (but must be declared):

3. Any interest of a financial nature of the Member, their spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they are civil partners which is not a Disclosable Pecuniary Interest.

3.3 Where a matter arises at a meeting which relates to or affects any Other Interest then (whether or not it is a compulsorily notifiable interest) the Member must declare that interest at the meeting.

3.4 Where the Member has an Other Interest as defined above then they must in addition consider whether:
a) their interest is affected by the matter under consideration more than the interests of the majority of people in the area affected by the matter and if so, whether
b) a reasonable member of the public would think the Member’s judgement of the public interest would be adversely affected by the interest.

If the answer to a) and b) above is yes then the Member– (i) must declare the interest at the relevant time;

- (ii) may not participate in a discussion or vote on the matter; and
- (iii) must leave the room where the meeting is held while any discussion or voting takes place.

3.5 Where the Member has an Other Interest pursuant to para 3.2 but they are permitted to
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continue participating in decision-making once they have declared it pursuant to para 3.3 then they will have a declarable **non-prejudicial interest**. Where they are not permitted to participate in decision-making either as a result of an Other Interest or because they have a Disclosable Pecuniary Interest then their interest will be a **prejudicial interest**

3.6 Where a matter arises at a meeting which relates to a sensitive interest defined under paragraph 2.4, Members are not required to disclose the nature of their interest. However they must nonetheless disclose the fact that they have a disclosable pecuniary interest and must follow the rules regarding non-participation.

C. Dispensations

3.7 On a written request made to the council's Monitoring Officer, preferably in advance of the meeting, the Monitoring Officer may – following consultation, where reasonably practicable, with either one of the Independent Persons or the Chair of Audit & Standards Committee – grant a Member a

dispensation to participate in a discussion and/or vote on a matter at a meeting where they would otherwise not be allowed to if the Monitoring Officer believes 1) that the number of Members otherwise prohibited from taking part in the meeting would be so great a proportion of the relevant body as to impede the transaction of the business; or 2) considers that without the dispensation the representation of different political groups would be so upset as to alter the likely outcome of any vote; or 3) considers that it is in the interests of the inhabitants in the council's area to allow the Member to take part; or 4) considers that it is otherwise appropriate to grant a dispensation.

3.8 Members are not required to register or declare an interest that is shared with ordinary members of the public living or working in the area (such as the payment of, or liability to pay, council tax, or having bins collected) or that arises simply from being a Member (such as Members' allowances); or where the interest is otherwise de minimis.

3.9 Accordingly, no Member will need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax reduction schemes, because it is a decision affecting the generality of the public in the council's area, rather than one or more individual.

3.10 It is at all times the responsibility of each individual member to monitor whether they have any disclosed or as yet undisclosed interests in matters under consideration and to declare these where necessary.

Appendix A – Disclosable Pecuniary Interests

The interests defined by regulations made under section 30(3) of the Localism Act 2011 are described in the table below.

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N.B. Interests listed in this Appendix are those of the Member; or those of their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they are civil partners), where the Member is aware that their partner has the interest.

Employment, office, trade, profession or vocation Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship Any payment or provision of any other financial benefit (other than from Brighton & Hove City Council) made or provided in the 12 month period preceding notification of this pecuniary interest in respect of any expenses incurred by the member in carrying out duties as a member, or towards the election expenses of the member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

Contracts Any contract which is made between you or other relevant persons* (or a body in which the relevant person has a beneficial interest**) and the relevant authority –

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

*A “relevant person” is your spouse or civil partner; a person with whom you are living as husband or wife; or a person with whom you are living as if they were a civil partner.

** A “body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest

“Director” includes a member of the committee of management of a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014, other than a society registered as a credit union.

See ‘Securities’ below for definition of ‘securities’.

Land Any beneficial interest in land which is within the area of the relevant authority.

“Land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income.

Licences

Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies

Any tenancy where (to the member’s knowledge) -
(a) the landlord is the relevant authority; and
(b) the tenant is a “body in which the relevant person has a beneficial interest” (see ** under ‘Contracts’ for definition) .

Securities

Any beneficial interest in securities of a body where –

(a) that body (to the member’s knowledge) has a place of business or land in the area of the relevant authority; and

(b) either -

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*”Securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

See ‘Land’ in left column for definition of ‘land’.

Appendix B – the Seven Principles of Public Life

Selflessness

Members should act solely in terms of the public interest.

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Integrity	Members must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
Objectivity	Members must act and take decisions impartially, fairly, and on merit, using the best evidence and without discrimination or bias.
Accountability	Members are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
Openness	Members should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for doing so.
Honesty	Members should be truthful.
Leadership	Members should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix C – the Council’s Corporate Values

Respect	Embrace diversity with kindness and consideration, and recognise the value of everyone
Collaboration	Work together to contribute to the creation of effective and successful decision making forums, working groups and partnerships across the council and beyond
Efficiency	Work in a way that makes the best and most sustainable use of the council’s resources
Openness	Share and communicate with honesty about the council and its decisions and activities
Creativity	Have ideas that challenge the ‘tried and tested’; use evidence of what works; listen proactively to feedback from constituents and others

Customer Focus

Do your part to help the council deliver its 'Customer Promise' to colleagues, partners and customers; the council aims to listen, to be easy to reach, to be clear, to treat everyone with respect, and to get things done.

Brighton & Hove City Council

Procedure for Dealing with Allegations of Breaches of the Code of Conduct for Members

1. Introduction and legal framework

- 1.1 This procedure is made in accordance with section 28(6) of the Localism Act 2011 which requires the council to have in place arrangements for investigating and determining allegations that a member or co-opted member of the council has failed to comply with its Code of Conduct for Members.
- 1.2 This version of the procedure supersedes all previous versions.
- 1.3 The Code of Conduct to which this procedure relates was originally adopted by the Council in 2012 in accordance with section 27 of the Localism Act 2011, has undergone minor revision since then, and is set out at 8.1 in the [Council's constitution](#)

2. Principles

The principles underpinning the procedure are:

- (i) a drive to engender member and public confidence that allegations of member misconduct will be dealt with effectively and efficiently;
- (ii) that Standards Panels reach their findings fairly and independently;
- (iii) that Standards Panel hearings be conducted openly, wherever possible

3. Making a complaint

- 3.1 If a person wishes to make a complaint about Member conduct, they should write to:

The Monitoring Officer
c/o Standards and Complaints
Brighton & Hove City Council

Hove Town Hall
Norton Road
Hove
BN3 3BQ

Or via the following link: [Councillor Complaint](#)

- 3.2 The complainant will be asked to provide their name and a postal or email address. Only complaints from named individuals will be accepted.
 - 3.3 Council officers wishing to complain about Member conduct are recommended to use the Code of Conduct for Member/Officer Relations but still have the option of using the complaints procedure set out here.
 - 3.4 The Monitoring Officer will inform the complainant that their complaint will be assessed against the Code of Conduct for Members and that they may if they wish seek the views of one of the Council's Independent Persons.
 - 3.5 The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it, and will send the complainant standard information about the Council's policy on disclosing their identity, as set out in paragraph 4.2 below; and will require the complainant to confirm their agreement to this policy, in order for the complaint to proceed.
 - 3.6 The Council aims to complete the complaint process within a maximum of three months from receipt.
 - 3.7 Once a complaint has been filed with the Monitoring Officer, it may not be withdrawn without the consent of the complainant, the subject member and the Monitoring Officer.
 - 3.8 At an early stage in communications, the Council will discourage all parties – both the complainant and the subject member, as well as any other parties - from seeking actively to publicise the matter before the complaint has been fully determined.
4. Information provided to the Member complained about
 - 4.1 The Member against whom the complaint is directed (the 'subject member') will be notified that a complaint has been received as soon as possible and in any event within 5 working days of the council receiving it, unless the Monitoring Officer considers that doing so may prejudice any investigation into the complaint.
 - 4.2 The Monitoring Officer will provide the subject member with all documentation relevant to the complaint, including the identity of the

complainant except where doing so might compromise the complainant's safety. (See also paragraph 6.2 below)

4.3

5. Preliminary assessment

- 5.1 Subject to paragraph 5.2, the Monitoring Officer will, in consultation with one of the Independent Persons, carry out a preliminary assessment in order to determine what action should be taken.
- 5.2 The Monitoring Officer reserves the right to refer the preliminary assessment to the Standards Panel in respect of any complaint.
- 5.3 The Monitoring Officer will seek to complete his/her assessment within 10 working days of receiving a valid complaint, although the process may take longer if more information is required from the complainant or subject member (or both) for a proper assessment to be made.
- 5.4 Pursuant to paragraph 5.3, the Monitoring Officer may – having regard to the views of the relevant Independent Person – undertake small-scale preliminary enquiries directly related to the complaint, to help determine whether a formal investigation is required.
- 5.5 Based on the preliminary assessment, the Monitoring Officer may decide **not** to progress the complaint where –
- (i) the complaint is vexatious or frivolous in nature;
 - (ii) if proven, the complaint would not amount to a breach of the code of conduct for members; or
 - (iii) it would not be in the public interest to do so.
- 5.6 Where the circumstances in paragraph 5.5 do not apply, the Monitoring Officer may:
- (i) seek to resolve the complaint informally;
 - (ii) arrange for the complaint to be formally investigated;
- 5.7 An informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or some other action on their part. Where the Member makes a reasonable offer of informal resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation. In any event, the Monitoring Officer retains the discretion to resolve matters informally having consulted with the parties as well as with one of the Independent Persons.
- 5.8 Where the complainant and subject member have consented to resolve the complaint informally by a particular means (for example, by written

apology), the member should co-operate with and adhere to that measure.

- 5.9 Complaints settled informally, whether at this stage or during the course of a formal investigation, will be reported to the Audit & Standards Committee but without naming the parties involved.
- 5.10 Where the parties attempt to resolve the matter informally but fail to reach a mutually agreeable outcome, the matter will, subject to 5.7 above, be referred for investigation. In the subsequent report to a Standards Panel, it will be stated that informal resolution was attempted but did not succeed. Details of the negotiations comprising those attempts will not be published.
- 5.11 If the complaint identifies conduct which, on the face of it, is a criminal offence or regulatory breach by any person, the Monitoring Officer may refer the matter to the Police and/or appropriate regulatory body as well as, or in lieu of, an investigation by the council.
- 5.12 On completion of the assessment, the Monitoring Officer will inform the complainant and subject member of his/her decision, with reasons.

6. Formal Investigation

- 6.1 If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another officer of the council, an officer of another local authority or an external investigator. The Investigating Officer will, subject to any direction from the Monitoring Officer, have discretion as to how the investigation is carried out.
- 6.2 The Investigating Officer will ask the complainant and the Member to provide their explanation of events, and will identify what documents he/she needs to see and whom he/she needs to interview. In exceptional cases, it may be appropriate to keep the identity of the complainant, witnesses, or key documents confidential where disclosure might prejudice the investigation.
- 6.3 The Investigating Officer will produce a draft report and send copies, in confidence, to the complainant and subject member, to give both an opportunity to identify any matter in the report which they feel requires more consideration.
- 6.4 Having received and taken account of any comments on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer. If the Monitoring Officer is not satisfied that the investigation has been conducted properly or that aspects of the report require revision or clarification, he/she may ask the Investigating Officer to reconsider his/her report.

- 6.5 Copies of the final report will be sent to the complainant and the member concerned.
- 6.6 At any point during the investigation, the Monitoring Officer may consult the parties as to whether they would accept an informal settlement rather than continue with the formal investigation. Having regard to the wishes of the parties and the views of the Independent Person, the Monitoring Officer may halt the investigation and seek to resolve the matter informally. Should that course of action prove unsuccessful, the formal investigation would normally be resumed. However the Monitoring Officer retains the discretion to resolve matters informally having consulted with the parties as well as with one of the Independent Persons where s/he considers that doing so to be in the public interest.

7. Investigation Outcomes

- 7.1 On completion of a formal investigation, the findings available to the Investigating Officer in respect of each element of the Code of Conduct considered relevant are:

- (i) A substantive breach
- (ii) A technical but minimal breach
- (iii) No breach

7.2 **Substantive breach.**

Where the Investigating Officer finds that the subject member has substantively breached one or more elements of the code of conduct, the Monitoring Officer will normally refer the complaint to the Standards Panel for determination.

However where the Monitoring Officer considers exceptionally that it would not be in the public interest to refer the breach to a Standards Panel and has consulted with one of the Independent Persons, then provided that that Independent Person agrees, the Monitoring Officer may recommend to the parties that the matter be settled informally and invite the parties to make representations regarding whether or not they agree. While either the complainant or the subject member may request that the matter be referred to a Panel for determination, the Monitoring Officer will retain the discretion to resolve matters informally having consulted with all of the parties.

7.3 **Technical but minimal breach.**

- 7.3.1 This finding reflects a set of circumstances where the conduct

complained of does – on a strict interpretation – amount to a breach of the code, but little or no culpability attaches to the subject member. This could occur, for example, where the member had made an unintentional and minor administrative error on their declaration of interests by recording relevant information but under the wrong class of interest.

7.3.2 Where the Monitoring Officer, after consultation with one of the Independent Persons, considers that it would not be in the public interest to refer a technical but minimal breach to a Standards Panel, he will recommend to the parties that the matter be settled informally. While either party may request that the matter is referred to a Panel for determination, the Monitoring Officer will retain the discretion to resolve matters informally having consulted with all of the parties.

7.4 **No breach**

7.4.1 If the Investigation finds no breach of the code of conduct, and the Monitoring Officer considers – after consultation with the Independent Person – that there is no public interest in pursuing the matter further, he will contact both parties to ask if they accept the finding and are willing to end the matter there. If they respond in the affirmative, the Monitoring Officer will confirm to the parties in writing that the complaint will be taken no further. If either party rejects the finding or is not willing to conclude the matter, they may make representations to the Monitoring Officer as to why the complaint should nonetheless be referred to the Standards Panel. However the Monitoring Officer retains the discretion to decide to resolve the matter informally, without referral to a Panel.

7.4.2 Similarly the Monitoring Officer may, having consulted one of the Independent Persons, refer the complaint to the Standards Panel, even where the investigation finds no breach and the parties are willing to terminate the matter.

8. Standards Panel

8.1 As soon as reasonably practicable after referring a completed investigation to the Standards Panel for hearing and determination, the Monitoring Officer shall convene a meeting of the Panel.

8.2 The Monitoring Officer shall select the persons to comprise a Standards Panel, in accordance with the following criteria:

8.2.1 Membership of a Standards Panel is restricted to persons who –

- (a) are a member of Audit & Standards Committee; and
- (b) have attended the necessary training and re-training sessions specific to these Panels

8.2.2 The Panel shall consist of 3 or 5 elected members, appointed on a cross-party basis, plus one Independent Person who shall chair the Panel but not vote.

8.2.3 If more than the minimum number of qualified persons (pursuant to paragraph 8.2.1) are available for a particular Panel, selection will be based on (i) the criteria specified in 8.2.2 and (ii) in such a way that ensures a spread of experience across the Panel.

9. Arrangements for and Conduct of the Standards Panel Hearing

9.1 There is a presumption of openness with regard to Panel hearings. Hearings will be conducted in open session unless the Panel resolve that the public be excluded on one or more of the grounds permitted under Part VA of the Local Government Act 1972.

9.2 Where the hearing itself is open to the public, the Panel's deliberations following the hearing will be held in private..

9.3 Care is needed to ensure that the published report detailing the allegation and investigation does not unlawfully disclose personal or sensitive personal data of any party. Accordingly, the Monitoring Officer shall have discretion to redact material from the published report where necessary for data protection purposes.

9.4 Where the complaint concerns the use of an offensive word or expression, the wording will not be repeated in the Panel report more than is necessary and in any event placed within inverted commas, to indicate the words were those allegedly used by the subject member.

9.5 To coincide with the publication of the hearing report, the Council shall (unless the Panel is being advised to consider excluding the public from the hearing) issue a press release about the hearing, which shall include an explanation of the Independent Person's role. Advice will be sought from the council's Head of Communications as to the precise content of the release.

9.6 The Independent Person, in his/her capacity as Panel chair, may – after consulting the Monitoring Officer – issue directions as to the manner in which the hearing is to be conducted.

9.8 Adequate security must be in place throughout the hearing, to protect Panel members and other parties actively involved in the hearing against threats or intimidation.

9.9 Arrangements must be made to ensure the privacy of the Panel while in recess following the hearing.

9.10 Arrangements must enable the Panel to conduct their deliberations in recess without feeling pressurised to reach a decision within a set time.

10. Reaching a Decision

- 10.1 In accordance with statutory requirements, the voting members of the Panel must seek and take into account the views of the Independent Person before reaching their decision in respect of the allegation.
- 10.2 The Panel should, where possible, reach their decision by consensus and vote by acclamation. Where there is disagreement, the matter shall be put to a vote with Members voting for or against the proposal..
- 10.3 The decision of the majority of the Panel Members shall constitute the decision of the Panel. The Chair, being an Independent Person, shall not be permitted to vote or exercise a casting vote.
- 10.4 In the event that no majority decision can be reached (e.g. where one voting member felt unable to decide the allegation), the Panel will make no finding and a fresh Panel shall be appointed to re-hear the complaint.
- 10.5 The decision of the Panel should be owned collectively by all its Members and Panel Members should, as far as reasonably practicable, avoid statements or actions that undermine public confidence in the complaints process.

11. Range of decisions available to the Standards Panel

- 11.1 Having heard the allegation, the Standards Panel may –
- (i) find that the subject member **did fail** to comply with the council's code of conduct for members in one or more respects;
 - (ii) find that the subject member **did not fail** to comply with the council's code of conduct for members;
 - (iii) make no finding in respect of the allegation. It is open to the Panel merely to note the issues raised by the complaint and, if appropriate, to make recommendations which address them.
- 11.2 Even where the Panel finds a breach, it is not obliged to take action in respect of the member. In accordance with section 28(11) of the Localism Act, it must have regard to the failure in deciding *whether* to take action and, if so, what action to take.
- 11.3 Neither the Standards Panel nor any other body of the council has power to suspend or disqualify a member or to withdraw their basic or special responsibility allowance.

- 11.4 Actions the Panel may take in relation to a member who has failed to comply with the code of conduct include:
- (i) publishing its findings in respect of the member's conduct;
 - (ii) writing a formal letter to the member, which could include recommended actions such as an apology;
 - (iii) reporting its findings to Council for information; or recommending to Council that it takes one or more of the actions listed here;
 - (iv) formal censure;
 - (v) recommending to the member's Group Leader that he be removed from any or all of the council's committees or sub-committees;
 - (vi) recommending that the Monitoring Officer offer appropriate training

12. Publicising the Panel's Decision

At the end of the hearing, the Chair will state the decision of the Standards Panel as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Standards Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Standards Panel, send a copy to the complainant and the member, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Audit and Standards Committee.

13. Right of Appeal

- 13.1 Subject to paragraphs 13.2 to 13.4, the complainant and subject member may each appeal the decision of the Standards Panel.
- 13.2 A request for an appeal must be made in writing to the Monitoring Officer and set out reasons for the request, with reference to the grounds set out in paragraph 13.4.
- 13.3 The appeal request must be received by the Monitoring Officer within 10 working days of the original Panel hearing.
- 13.4 The appeal request will only be granted if one or more of the following criteria are met:

- (i) the hearing was procedurally flawed; a relevant consideration was not taken into account; or an irrelevant consideration was taken into account;
- (ii) new evidence or material has arisen with a direct and significant bearing on the allegation; or
- (iii) the Panel's decision was irrational, meaning it was so unreasonable that no sensible Standards Panel, having applied its mind to the complaint, could have arrived at that decision.

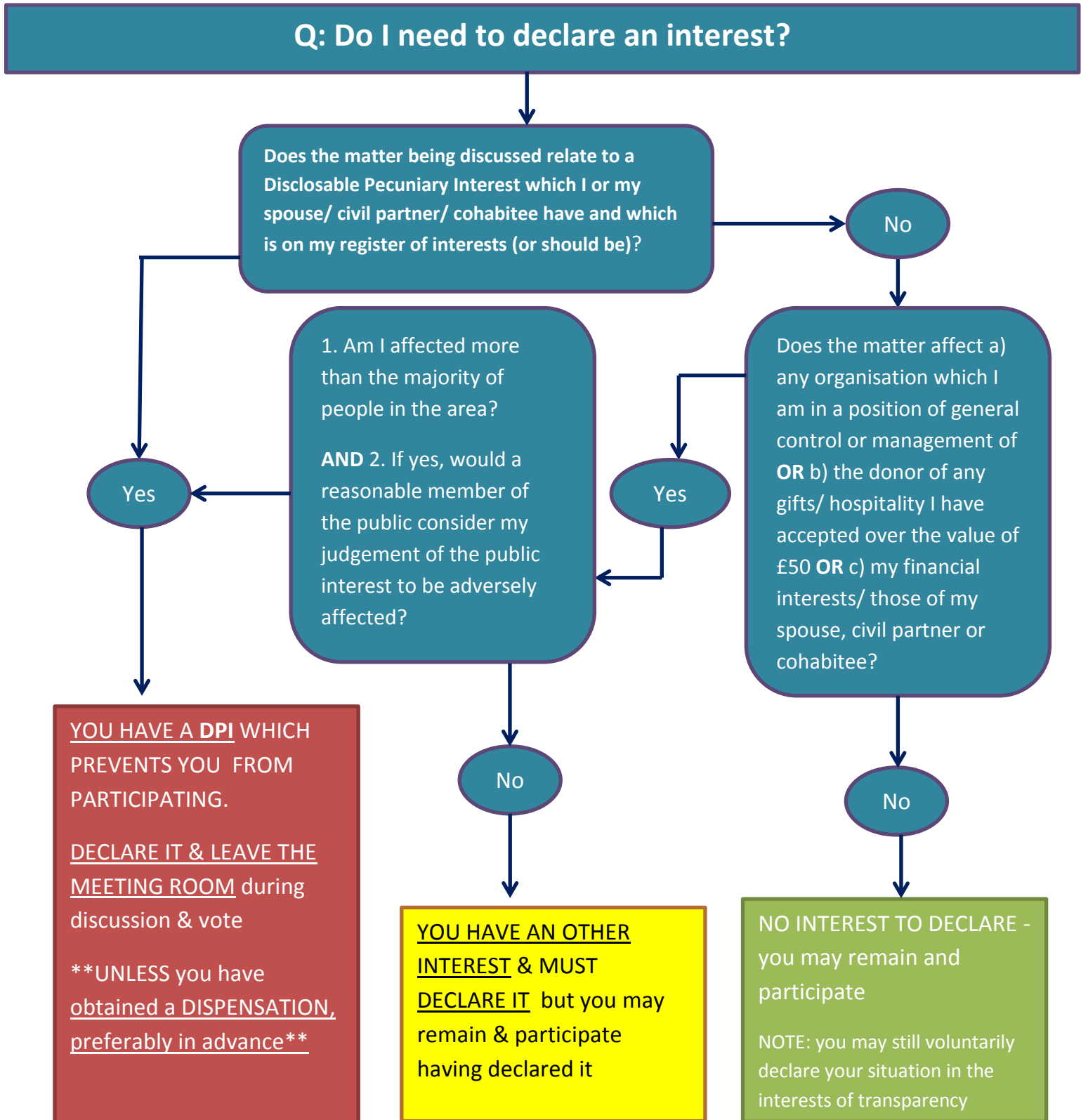
13.5 The decision as to whether the appeal request does fulfil one or more of the above criteria, resulting in the request being granted, shall be in the sole discretion of the Monitoring Officer, in consultation with the Independent Person.

13.6 In the event that an appeal is granted, a Standards Panel composed of different members to the one that heard the original case will consider the entire case. The appeal Panel may dismiss or uphold the appeal. If they uphold the appeal, they may substitute the original decision with a new decision. If the appeal Panel considers that essential information was not included in the investigation, they may refer the complaint back to the investigation stage.

13.7 There is no internal right of appeal from the decision of the appeal Panel.

Guide for members: Do I need to declare an interest at this meeting?

NOTE: this flowchart is not intended to replace the Code of Conduct for members but must be read alongside it. Any queries or requests for a dispensation should be raised with the Monitoring Officer/ the legal team prior to the meeting.



Explanatory notes to interests flowchart: the Code of Conduct for Members outlines the standards of conduct expected of members in relation to the declaring of interests. This flowchart is not a substitute for the Code and must be read alongside it.

.....

1) Disclosable Pecuniary Interests must be registered and also declared at the meeting. **If you/ your spouse/ civil partner/ cohabitee has a DPI in a matter under consideration then you must not participate unless you have been granted a dispensation by the Monitoring Officer.**

Your DPIs include:

- any **sponsorship** received in connection with my election or my duties as a member
- any **employment/trade /office/profession/ vocation** carried out for **profit** or for **gain**
- any **contract not yet fully discharged** between me/my spouse, civil partner or cohabitee OR any body of which I (or my spouse, partner etc) are partner or director OF or have a beneficial interest in
- any **land** I have a beneficial interest in or **licence to occupy**, incl jointly OR **any corporate tenancy** where the Council is the landlord and the tenant is a body in which I (or my spouse, civil partner, cohabitee) have a beneficial interest
- any beneficial interest in (ie a right to profit from) the **securities** (ie shares, stocks, bonds) of a body which has a place or business in the authority's area and exceeds the threshold value*

For the full definition of a DPI, see the [Code of Conduct](#). This also defines your **Other Interests** (any body of which you are in a position of general control or management or gifts or hospitality of an estimated value of £50 or more), including financial interests which aren't DPIs but nonetheless are held by you, your spouse, civil partner or cohabitee.

Dispensations: please be aware of the need to apply to the Monitoring Officer in writing in advance for a **dispensation** where you wish to participate despite having a DPI/ Other Interest.

Voluntary disclosure: while you may not have a DPI or Other Interest in the matter under consideration, you may a) choose voluntarily to disclose an interest or fact before participating or b) decide not to participate on the grounds that there is a potential perception of bias or pre-determination because of an interest held by you/ a relative not covered by the Code or friend. Advice is always available, preferably in advance of the meeting, from your Monitoring Officer or Committee lawyer.

2) FAQs:

1 If I am an ordinary member of a trade union, do I have an interest in matters affecting eg trade union facilities?

The Disclosable Pecuniary Interests which members must declare are prescribed by regulations made under the Localism Act 2011. As BHCC has adopted a Code of Conduct which reflects the definition of DPIs prescribed by regulation, a BHCC member will have a DPI only where they have received financial sponsorship during the qualifying period toward either their election expenses or the carrying out of their duties. Where an ordinary union member has not received financial sponsorship, then a DPI will not arise from the fact of their membership.

Members holding office in a union for which they are unpaid/ receive paid expenses only are unlikely to have a DPI. They may however have an interest which is not a DPI – either a financial or 'Other

Interest’ – in which case they will need to declare that interest and decide whether or not to participate, depending on their assessment of whether a reasonable member of the public would think their judgement of the public interest adversely affected.

2 What about if I own land in the area – can I still participate in the setting of Council tax?

All interests in land (whether freehold, leasehold or some other interest) must be registered as DPIs. At Brighton & Hove, all members are invited to apply to the Monitoring Officer in advance for a dispensation to enable them to participate in setting the Council Tax, precept, or local arrangements for Council Tax. When applying for a dispensation, members are invited to draw attention to any circumstances particular to them/ their spouse or partner (for instance where their spouse’s employment is at risk) additional to their interest in land. That interest must be declared (as an Other Interest) in the normal way even where a dispensation has been granted to allow participation.

3. What if I or my spouse hold an ordinary bank account, for instance a current account with one of the high street banks?

There is no requirement to register ordinary bank accounts as DPIs. Such accounts will not normally be deemed to be an Other Interest under the de minimis rule and so need not be declared.

4. My daughter is a schoolteacher employed by the Council – do I need to declare that?

The Code does not require members to declare any interests which are held by anyone other than themselves or their spouse, cohabitee or civil partner. You are therefore not required to declare interests which affect only your friends or other relatives.

However in a situation which is sensitive – perhaps because there is an obvious financial interest at stake which affects those close to you and/or information relating to your associate/ relative is in the public domain - then you may choose to declare an interest in the interests of transparency. While this sort of declaration is normally voluntary and therefore at the individual member’s discretion, it will be in the authority’s best interests in certain situations, particularly where a Committee is exercising a quasi-judicial function and/or there is a risk of bias or predetermination if you participate in decision-making.

.....

Input regarding your responsibilities under the Code and how to approach the declaration of interests is always available from the Monitoring Officer or the Deputy Head of Law.

October 2016.

The Member complaints process

Complaint received in

criteria for MO when determining whether to investigate:
 Vexatious/Frivolous
 Complaint outside scope of Code
 Not in Public Interest

Preliminary Assessment stage:
 Monitoring Officer decides in consultation with one of the Independent Persons

Formal investigation by Investigating Officer

Informal Resolution

No Investigation

Investigating Officer's report to MO

Investigation finds a breach

Investigation finds no breach

Substantive Breach

Technical but minimal breach

MO determines the best outcome in the public interest having consulted with the parties

Does MO Consider - **and the IP agree** - that exceptional reasons in the public interest apply?

Does the Monitoring Officer consider that it is in the public interest to refer to Panel?

Standards Panel

Informal resolution

Yes

No

Yes

No

Standards Panel

MO may resolve via informal settlement having consulted with the parties

MO has discretion to resolve matters informally in the public interest having first consulted/obtained the agreement of one of the IPs

Note: whenever the MO is making a decision as to next steps, he must consult with one of the IPs. In the event that he is exceptionally considering not referring to a Standards Panel a matter in which an investigator considers that a substantive breach has occurred, he may exercise his discretion to resolve matters informally only with the IP's express agreement.

Subject:	Customer Feedback Report		
Date of Meeting:	15 November 2016		
Report of:	Executive Lead Officer – Strategy Governance & Law		
Contact Officer:	Name:	Brian Foley	Tel: 29-3109
	Email:	Brian.foley@brighton-hove.gov.uk	
Ward(s) affected:	All		

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

- 1.1 To provide assurance to the Committee that the Council has an effective Customer Feedback system which is able to ensure that:
- Complaints from members of the public are dealt with promptly and efficiently.
 - Appropriate performance targets are set and monitored to ensure there is continued improvement in the way customer and service user dissatisfaction is dealt with.
 - Where corrective action is required this is addressed.
 - Analysis of complaints and compliments are used to improve the way services are provided.
- 1.2 To provide assurance that any major areas of concern that might require further investigation are being considered.

2. RECOMMENDATIONS:

- 2.1 That the Committee note the report
- 2.2 That the Committee should receive a similar report four times a year

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Customer Feedback is important to the Council. The feedback we receive from customers and service users about what disappoints or delights them provides insight on what members of the public value and can inform decisions on where improvements should be made.

- 3.2 A failure to deal with complaints promptly and effectively can affect levels of customer satisfaction and present a level of risk to organisational reputation. The Customer Feedback Team are working with key services to promote and improve the way customer dissatisfaction is dealt with.
- 3.3 The information within the Appendix to this report is taken from the council's performance reporting system and is shared with the Executive Leadership Team's Performance Board.
- 3.4 The following set of Key Performance Indicators are used to measure Customer Feedback.
- Number of Stage One complaints received
 - Number of Stage One complaints upheld
 - Number of Stage Two complaints upheld
 - Number of Ombudsman complaints upheld
 - Number of compliments

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Results for the full year 2015/16 showed a 20% decrease in Stage One complaints and an increase of 20% in compliments received. Numerically, complaints reduced from 1957 to 1567 and compliments increased from 648 to 781.
- 4.2 We have set a target for a further 5% reduction in complaints throughout 2016/17 which is 372 in each quarter. In Quarter One (Q1) the result was 460, which was Red, the direction of travel was worsening.
- 4.3 In Quarter Two (Q2) the result was 407, which continues to be Red but the direction of travel is improving compared to Q1.
- 4.4 Stage One complaints can be reduced by addressing the underlying issues that give rise to customer dissatisfaction and by giving front line teams the means to resolve issues at first point of contact.
- 4.5 There were two teams, City Parks and Sport & Leisure where complaint levels increased compared to Q1, in all other teams there were improvements or no change.
- 4.6 In comparison to 2015/16 the time taken to reply to complaints is taking longer. The percentage of complaints replied to within 10 working days has reduced and a greater percentage took more than 20 working days.
- 4.7 The Customer Feedback Team produce a weekly chase up list for members of the Corporate Management Team. The Directors for the teams where there are the most significant delays have given their assurances this is being dealt with.
- 4.8 The proportion of complaints upheld at Stage One is an indicator of how well teams are resolving dissatisfaction at point of contact. If a matter becomes a formal complaint and is upheld we question why it was not possible to resolve it without recourse to the complaints process.

- 4.9 The proportion of upheld formal complaints steadily reduce from 39% in 2014/15 to 31% in 2015/16, to continue the improvement we have set a target of 28% for 2016/17.
- 4.10 In Q1 there were 460 Stage One complaints of which 155 were upheld or partially upheld. This gives a figure of 34%, and a Red rating. The direction of travel was worsening. For Q2 there were 407 complaints of which 168 were upheld or partially upheld. This gives a figure of 41% and continues to have a Red rating and a direction of travel which is worsening.
- 4.11 Teams with higher than the target level of upheld complaints and where their direction of travel was worsening were City Clean, City Parks, Children's Social Care, Adult Social Care, Repairs & Maintenance, and Life Events.
- 4.12 Stage Two complaints are investigated by the Customer Feedback Managers who are independent of services. A low percentage of upheld or partially upheld results at Stage Two is interpreted as showing that on the whole team managers carrying out Stage One investigations have reached a fair and reasonable decision.
- 4.13 The target result for 2016/17 Stage 2 complaints upheld or partially upheld is 15%. The result for Q1 was 21% which was Amber, there was a slight improvement on the 2015/16 figure. The result for Q2 is 13% and is Green. The direction of travel is improving.
- 4.14 The Local Government Ombudsman's Annual Review of Local Government Complaints stated that nationally it upheld 51% of detailed investigations in 2015/16, up from 46% the previous year.
- 4.15 The Council's target result for 2016/17 of 20% aims for continued improvement in resolving complaints before they are referred to the Ombudsman.
- 4.16 In Q1 there were 9 complaints to the Ombudsman with one complaint upheld, the result was 11% which is Green. In Q2 there were 15 complaints to the Ombudsman with 3 complaints upheld. The result was 20% which is Green however the direction of travel of worsening.
- 4.17 Compliments are a valued source of feedback and help teams understand what customers really appreciate about the way they are delivering their services.
- 4.18 For 2015/16 the total number of compliments recorded was 781, a 10% improvement for the year is 860 (215 per quarter). For 2016/17 Q1 there were 214 compliments, this is an Amber rating. In Q2 there were there were 216 and this slight increase turns the rating Green.
- 4.19 We record compliments from members of the public and from other professionals. By professionals we mean colleagues from other departments and people working in other agencies or partner organisations. In Q2 we have started to separate the external and internal professionals' compliments.

4.20 In Q2 91% (196) of compliments received were from members of the public and 9% (20) from professionals.

4.21 Further information about the results and the actions being taken by teams to address red ratings is given in the appendices.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 The information in the report is derived from feedback received directly from members of the public. The results obtained have been shared with senior officers in the services referred to and their comments have been incorporated.

6. CONCLUSION

6.1 We are able to assure the Committee that:

- The concerns about the timeliness of responses have been addressed with Directors and corrective action is being taken.
- Performance targets have been set, are regularly monitored and reported to the Council's Executive Performance Board.
- Services take account of the customer feedback they receive and have identified ways to improve their performance and the services they offer.
- The Customer Feedback process is robust and is able to identify when and where any major areas of concern arise and can bring this to the attention of relevant senior officers to act upon.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 The costs of Customer Feedback in terms of administration and compensation awards (where appropriate) are met within existing allocated budgets.

Finance Officer Consulted: James Hengeveld

Date: 17/10/16

Legal Implications:

7.2 The Council follows statutory complaints procedures for complaints about Adult and Children's Social Care and a corporate complaints procedure under which complaints about other council services are dealt with. .

Lawyer Consulted: Victoria Simpson

Date: 17/10/16

Equalities Implications:

7.3 There are no direct Equalities implications.

Sustainability Implications:

7.4 There are no direct Sustainability implications.

Any Other Significant Implications:

7.5 There are no other significant implications

SUPPORTING DOCUMENTATION

Appendices:

Documents in Members' Rooms

1. None

Background Documents

1. None

Appendix 1: Number of Stage One complaints received

Position:

This information relates to complaints from members of the public about all services delivered by the Council including statutory Adult Social Care, Children Social Care and Corporate Complaints.

The target for 2016/17 is to drive continued improvement with a 5% reduction on the result of the preceding twelve months. The annual result for 2015/16 was 1567, the green target is 1488, which is 372 per quarter. The result for Q1 (March to May) was 460 which was Red, and for Q2 (June to Aug) there were 407 complaints and remains a Red rating. The direction of travel is improving.

For key services in Q2 the number of complaints, direction of travel compared to Q1 and main issues of complaint were:

- City Parks = 21 (Red/Worsening); Grass Verges, Weeding
- Sport & Leisure = 10 (Red/Worsening); Disagree with decision
- Cityclean = 108 (Red/Improving); Recycling missed, Refuse collection missed, Failure to provide bins, Street cleaning not done
- Parking = 27 (Green/Improving); PCN, Parking Permits, Pay & Display
- Highways = 13 (Green/Improving); Road Safety, Road Repairs, Streetlighting
- Development Management = 4 (Green/Improving); Disagree with decision
- Tourism & Venues = 0 (Green / Level)

- Revenues & Benefits = 29 (Green/Improving); Legal Action, Incorrect Assessment,

- Childrens Social Care = 17 (Green/Worsening) Unhappy with SW, Not supporting parent
- Health & Disability = 2 (Green/Level); Delay, Unhappy with decision
- Education & Skills = 1 (Green/Improving); Unhappy with decision

- ASC = 12 (Green/Improving); Quality of services

- Repairs & Maintenance = 72 (Red/Level) Delay completing repair, Communication
- Regulatory Services = 8 (Red/Level); Failure to take action, disagree with decision
- Housing Services = 31 (Red/Improving); Low level ASB, Lack of action
- Housing Needs = 23 (Green/Improving); Banding, Disagree with decision

- Life Events = 5 (Green/Improving); Poor delivery of service

Few other local authorities provide their annual complaints data and where they do the corporate complaints processes used often differ so that direct comparisons are not easily made.

For 2015/16 67% of replies were sent within 10 working days, 12% took longer than 20 working days. In Quarter 1 2016/17 61% of replies were sent within 10 working days, 18% took longer than 20 working days. In Q2 61% were replied to within 10 working days, 17% have taken longer than 20 working days but at the time of writing 24 complaints had not been replied to and the final figure will be adjusted when the results are available. Response times are clearly taking longer than in 2015/16.

The Customer Feedback Team issues weekly reminders to all members of CMT which show what complaints have not been replied to. The teams that are having the greatest difficulty responding in a timely manner are City Clean, Housing Options and Development Management.

Commentary:

The Customer Feedback Team review Customer Feedback results with all major teams. There are six teams where the number of complaints received have been classified as Red (City Clean, City Parks, Sports & Leisure, Repairs & Maintenance, Housing Services and Regulatory Services) and of this group there are three teams (City Parks, Sports & Leisure, and Children's Social Care) where the number of complaints have increased compared to Q1. In all other services the complaint numbers are either level or reducing.

Comments from the services where there are increased complaints were:

- City Parks are looking at different options for the ways in which the service they provide can be funded.
- Sports & Leisure, the Head of Service considered the increased complaint numbers was understandable in the context of the increased numbers of visitors during the summer season. There are a whole range of improvements being made to the seafront and one of the latest improvements will be to the Volks Railway following the securing of external funding. As reported in Q1 much work is done by event organisers to minimise the impact of events on local people and visitors who do not wish to take part in the events.
- Children's Social Care saw a significant decrease in complaints in Q1 as a result of their new delivery model, there has been a very small increase in Q2 but this may be considered a minor fluctuation in complaint levels and is not indicative of an increasing trend. This service are now communicating recommendations arising from customer feedback to all their practitioners.

Actions:

1. City Clean. Priority has been given to the introduction of income generating commercial work. This may impact on previously planned work to improve in-cab communications using mobile technology. Action Date: Ongoing Action Lead: Waste Contracts & Projects Manager

2. City Clean. Online ordering process and assessment of qualification for larger refuse bins being reviewed. Action Date: Ongoing. Action Lead: Waste Contracts & Projects Manager
3. City Clean. Greater emphasis has been placed on Enforcement and dealing with Fly Tipping, 800 fines have been issued in the city since April compared to 80 in the whole of last year. This has had a positive impact on littering and street waste in the city and will enable investment in moveable cctv to be located at fly tipping hotspots and improving the environment for residents. Action Date: Ongoing. Action Lead: Waste Contracts & Projects Manager.
4. Housing Repairs & Maintenance: There is a new text service for responsive repairs. A text is automatically sent out when a job order is closed asking for feedback. The resident can respond by text and if they raise any outstanding issues or concerns, they will receive a call within 24 hours and a resolution will be found. Action Date: September 2016. Action Lead: Head of Housing Strategy Property & Investment
5. Implementation of system to create better understanding of repair requirements to housing stock to be implemented. Action Date: March 2017. Action Lead: Business & Performance Manager.
6. Revised tenant repairs handbook. Action Date: March 2017. Action Lead: Customer Service Manager.
7. Housing Services: The re-organisation of the service with a more efficient structure and improved focus on vulnerable people and the need for residents to contact fewer people. It is anticipated this will lead to fewer complaints. Action Date: October 2016. Action Lead: Assistant Director – Housing
8. Benefits & Revenues: A set of measures with a digital focus appear to have had an impact on reducing the number of complaints received. These include student discounts, exemptions, direct debits, an online benefit form, and online questions. A text service now reminds people when they are late in making payments. People are being encouraged to make use of online services and eBilling will be introduced for next financial year. Action date: April 2017, Action lead: Head of Benefits & Revenues.
9. Parking: A “self serve” system is being introduced where customers can access information online when they are issued with a PCN . It will enable people to fully understand why a PCN has been issued and help them understand if they are likely to be successful in an appeal. Action date: November 2016. Action Lead: Parking Strategy Manager.
10. All overdue complaints are made known to senior managers in a weekly publicised list. Action Date: Ongoing. Action Lead: Customer Experience Lead
11. Quarterly meetings with heads of service to review complaints performance. Action Date: Ongoing. Action Lead: Customer Feedback Managers

Appendix 2: Number of Stage One complaints upheld

Position:

Teams should endeavour to avoid issues of dissatisfaction becoming formal complaints by resolving the matter with their customers. This is good customer service and avoids the cost of engaging the complaint process. If a team identifies there has been a mistake team members should have the skills, the knowledge and be empowered to resolve the issue.

The average percentage of complaints upheld or partially upheld over the two year period 2013/14 and 2014/15 was 39% across all services. Result for the year 2015/16 was 31.0% (468/1567). For 2016/17 a target of 28% will continue that trend by setting a 10% improvement.

In the reporting period 2016/17 Q1 there were 460 Stage One complaints of which 155 were upheld or partially upheld. This gives a figure of 34%, and had a Red rating. The direction of travel was worsening. For the period 2016/17 Q2 there were 407 complaints of which 168 were upheld or partially upheld. This gives a figure of 41% and continues to have a Red rating and a direction of travel which is worsening.

There is no comparator information available from other authorities.

Commentary:

We have complaints data about all service teams but more closely monitor and report on the activity of a group of services who have a high profile or significant levels of complaint. Services with higher than the target level of upheld or partially upheld complaints and where the trend was not improving in Q2 were:

- City Clean: In Q2 there were 108 complaints of which 74 were upheld (=68%) compared to 38% in Q1. The issues driving complaints are Missed recycling collection, Missed refuse collection, and Failure to provide bins. Problems with call handling have impacted on dealing with missed collections, the Service Level Agreement for missed collections is 24hrs, but many email reports were not being picked up within that time. Difficulties with staffing levels are contributing to the increased percentage of valid complaints. Permanent recruitment is now taking place and this should help resolve the underlying issues.
- City Parks: In Q2 there were 21 complaints of which 8 were upheld (=38%) compared to 20% in Q1. The key issues have been growth of weeds and lack of verge cutting. City Parks accept this has been an issue for them and there are greater issues they face regarding the upkeep of, allotments, parks and sports pitches. City Parks are working with sports clubs, governing bodies and other interested parties to identify how grounds maintenance can be funded.
- Children's Social Care: In Q2 there were 17 complaints of which 7 were upheld (=40%) compared to 33% in Q1. Complaints about Children's Social Care are often complex and multi-stranded and the issues are highly emotional. It frequently follows that in the course of resolving a complaint Managers will

identify areas of the service which could have been better delivered. CSC have developed and are using a system for communicating service improvements to all practitioners on a quarterly basis.

- Adult Social Care: In Q2 there were 21 complaints of which 9 were upheld (=42%) compared to 43% in Q1. Similarly to Children's Social Care the complaints are often complex and multi-stranded and it is often found that a part of the overall complaint is upheld. ASC are about to introduce Electronic Self Assessment which will minimise the double handling of data, freeing staff to focus on other tasks and reducing waiting times.
- Repairs & Maintenance: In Q2 there were 72 complaints of which 41 were upheld (=57%) compared to 53% in Q1. A new text service for responsive repairs seeking feedback on all closed works. If any outstanding issues or concerns are raised the tenant will be called within 24 hours and a resolution arranged. This should reduce complaints and the percentage of upheld issues.
- Life Events: In Q2 there were 5 complaints of which 3 were upheld (=60%) compared to 38% in Q1. A modernisation programme for Bereavement Services has begun which will streamline processes for booking and tracking events for customers and provide a legal register.

Actions:

1. City Clean: Permanent recruitment of staff for the contact centre will bring improvements in the communication and reporting of missed collections. Action Date: November 2016. Action Lead: Head of Business Support and Projects.
2. City Parks: Discussions are taking place to identify alternative ways in which grounds can be maintained. Action Date: Ongoing. Action Lead Policy and Major Projects Manager.
3. Adults Social Care: Introduction of Electronic Self Assessment will stream line process. Action Date: December 2016. Action Lead: General Manager.
4. Repairs & Maintenance: A new text service to check if there are outstanding issues following repairs work has gone live. Action Date: October 2016. Action Lead: Head of Housing Strategy Property & Investment.
5. Life Events: Modernisation programme for Bereavement Services. Action Date: Ongoing. Action Lead: City Services Manager

Appendix 3: Number of Stage Two complaints upheld

Position

Stage 2 complaints are investigated by the Customer Feedback Managers who are independent of services. A low percentage of upheld or partially upheld results at Stage 2 can indicate that service managers carrying out Stage 1 investigations have reached a fair and reasonable decision.

The target result for 2016/17 Stage 2 complaints upheld or partially upheld is 15%. The Q1 (March – May) result was been 21% which was Amber and showed a slight improvement on the 2015/16 figure. The result for Q2 (June – August) is 13% and is Green. The direction of travel is improving.

There is no comparator information available from other authorities about the percentage of Stage 2 complaints upheld.

Commentary

Heads of Service tell us that greater effort is being placed on resolving customer dissatisfaction by their managers. To assist in this Customer Feedback Managers hold quarterly meetings with Heads of Services and Senior Managers where there is discussion about the quality of responses. Additionally, the Customer Feedback Team offer training in developing investigations skills and identifying service improvement as part of the Council wide learning programme and on an ad-hoc basis where a learning need is identified. Feedback received from delegates who have attended is that the workshops are very informative and useful. This appears to be having a positive effect on the quality of Stage 1 complaints and is reducing the cases upheld at Stage 2.

The challenge for the future will be to continue to improve the skills of all managers and their teams so that people who have raised complaints at Stage 1 can recognise that their issue has been fairly investigated and that they have been treated with empathy and respect. Recognising when something has gone wrong, giving an explanation and a meaningful apology in a timely manner is really important for improving overall customer satisfaction.

Progress has been good in Q2 and only a few teams have higher than the target level of upheld or partially upheld complaints at Stage 2 and a trend which was not improving. However it should be noted that as there are only a small number of Stage 2 cases for each team an increase of a single upheld case can cause a big percentage change.

- **City Clean:** In Q2 there were 108 Stage 1 complaints which have resulted in 5 Stage 2 complaints (Escalation rate=4.6%). Of those 5 complaints 2 were upheld (40%). In Q1 there were 5 Stage 2 and 1 was upheld (20%).
- **Parking:** In Q2 there were 25 Stage 1 complaints which have resulted in 4 Stage 2 complaints (Escalation rate=16%). Of those 4 complaints 1 was upheld (25%). In Q1 there were 3 Stage 2 and 0 were upheld (0%).

- **Housing Needs:** In Q2 there were 23 Stage 1 complaints which have resulted in 4 Stage 2 complaints (Escalation rate=17.3%). Of those 4 complaints 1 was upheld (25%). In Q1 there were 8 Stage 2 and 2 were upheld (25%).
- **Revenues & Benefits:** In Q2 there were 29 Stage 1 complaints which have resulted in 4 Stage 2 complaints (Escalation rate=13.7%). Of those 4 complaints 1 was upheld (25%). In Q1 there were 4 Stage 2 and 0 were upheld (0%).

Actions:

1. The Customer Feedback Team will continue to provide support, advice and training to enable service managers to give high quality response to complaints which focus on either resolving matters or giving clear explanations why service have to be delivered as they are. (Action Date: Ongoing. Action Lead: Customer Experience Lead)
2. The Customer Feedback Managers will continue to meet with service managers to identify service improvements and to improve the quality of Stage One replies. (Action Date: Ongoing. Action Lead: Customer Experience Lead)

Appendix 4: Number of Local Government Ombudsman complaints upheld

Position

The target result for 2016/17 for complaints referred to the Ombudsman which are upheld or partially upheld is 20%. In the reporting period Q1 (March to May) there were 9 complaints with one complaint upheld, the result was 11% which is Green. In the reporting period Q2 (June to July) there have been 15 complaints referred to the Ombudsman with 3 complaints upheld. The result was 20% which is Green however the direction of travel is worsening.

There is no quarterly comparator information available from other authorities about the percentage of LGO complaints upheld.

Commentary

The cases which the Ombudsman upheld were in:

- **Blue Badge** assessment: Ms X was unhappy with Council's decision not to renew her Blue Badge. The Ombudsman found that, while the assessor failed to record some information in the assessment report, this did not result in an injustice to Ms X.
 - The Council agreed the Ombudsman's recommendation and has reminded its mobility assessors to ensure they complete all the relevant sections of the mobility assessment form.
- **Library**: The Council failed to review its decision to keep Mr X on its Clients of Concern register which banned him from Library Y. This fault did not cause Mr X significant injustice.
 - The Council has developed a process to ensure Client of Concern reviews should not be missed and have a longer term aim of making this a fully automated process.
- **Housing Needs**: The Council was not at fault for refusing Ms X's request to be placed in the top priority band for housing transfer. It considered relevant information and applied its criteria for housing allocations properly when it decided to place her in Band B. Its stage two complaint response wrongly told Ms X it had not received any recommendation or advice to support her application. It also wrongly advised Ms X it had placed her in Band A.
 - The Council has apologised to Ms X for the distress caused by these mistakes.
 - Additionally, the Council has identified that information was stored on separate systems and now has a procedure to ensure that the correct information is being placed on the correct system.

Actions:

1. The Customer Feedback Team will continue to provide support, advice and assistance to services to enable managers to give high quality responses to the Ombudsman which reflect the service and their attempts to resolve complaints in the best possible light. (Action Date: Ongoing. Action Lead: Customer Experience Lead)
2. Actions identified by the Ombudsman for service improvement will be communicated to the relevant team and will be monitored to ensure they are carried out. (Action Date: Ongoing. Action Lead: Customer Experience Lead)

Appendix 5: Number of Compliments

Position

For 2015/16 the total number of compliments recorded was 781, a 10% improvement for the year is 860 (215 per quarter). For 2016/17 Q1 there were 214 compliments, this is an Amber rating. In Q2 there were there were 216 which is Green and improving.

In Q1 88% of compliments received were from members of the public and 12% from professionals.

In Q2 91% (196) of compliments received were from members of the public and 9% (20) from professionals.

By professionals we mean colleagues from other departments and people working in other agencies or partner organisations. In Q2 we have started to separate the external and internal professionals' compliments.

The reasons for compliments from members of the public were:

Customer Focus	Q2= 83(42%)	Q1=89(47%)	15/16=21(33%)
Personal Qualities	Q2= 27(13%)	Q1=40(21%)	15/16=132(20%)
Good Processes	Q2= 65(33%)	Q1=33(18%)	15/16=112(17%)
Quality of Outcome	Q2=11(6%)	Q1=17(9%)	15/16=107(16%)
Quality of Input	Q2=10 (6%)	Q1=9(5%)	15/16=79(12%)

The reasons for compliments from professionals were:

Customer Focus	Q2=10(50%)	Q1=10(40%)	15/16=18(14%)
Quality of Input	Q2=5(25%)	Q1=6(24%)	15/16=36(29%)
Personal Qualities	Q2=1(5%)	Q1=4(16%)	15/16=30(24%)
Quality of Outcome	Q2=3(15%)	Q1=3(12%)	15/16=10(8%)
Good Process	Q2=1(5%)	Q1=2(8%)	15/16=31(25%)

In Q2 the results by Directorate were:

• Economy, Environment & Culture	Q2=80	Q1=59
• Families, Children & Learning	Q2=23	Q1=34
• Finance & Resources	Q2=10	Q1=20
• Health & Adult Social Care	Q2=56	Q1=47
• Neighbourhoods, Communities & Housing	Q2=38	Q1=46
• Strategy Governance & Law	Q2=9	Q1=8

There is no comparator information available from other authorities.

Commentary

The guidance we are giving to help people understand what we mean by compliments is:

“A compliment is when someone makes a proactive attempt to congratulate a service provider and explains why they appreciated the service provided.”

During Customer Service week we published a selection of compliments on the wave (intranet) to encourage services to tell us about the compliments they receive so we can review them and identify and share the good things customers comment on.

Compliments are included in the quarterly discussions between service leads and Customer Feedback Managers to inform service improvements.

Some service areas have reported a significant increase in the compliments they receive.

Actions:

1. The Customer Feedback Team will continue to encourage and remind teams to send their compliments to CustomerFeedback using the generic email address as this will enable us to build a picture of what customers find valuable. (Action Date: Ongoing. Action Lead: Customer Experience Lead)
2. The value of Compliments is promoted in the Complaints Investigation and Service Improvement workshops. (Action Date: Ongoing. Action Lead: Customer Experience Lead)
3. Analyse compliments received and discuss with services leads in quarterly meetings to inform service improvements (Action Date: Ongoing, Action Lead: Customer Feedback Managers)

Subject:	Annual Surveillance Report 2016		
Date of Meeting:	15th November 2016		
Report of:	Executive Director, Finance and Resources		
Contact Officer:	Name:	Jo Player	Tel: 29-2488
	Email:	Jo.player@brighton-hove.gcsx.goc.uk	
Ward(s) affected:	All		

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

- 1.1 The purpose of this report is appraise 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 January 2016.

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 the necessity and proportionality rules are stringently applied.
- 2.2 That the surveillance activity undertaken by the authority since the report to Committee in January 2016 as set out in paragraph 3.3 is noted.
- 2.3 That the continued use of the Policy and Guidance document as set out in Appendix 1 be approved.

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 1998. RIPA requires that public authorities only use covert techniques to obtain information about someone when doing so is deemed to be necessary and where the surveillance is deemed to be a justifiable interference with the human rights of those affected by it.
- 3.2 RIPA regulates the interception of communications, directed and intrusive surveillance and the use of covert human intelligence sources (informants). Local authorities may not intercept communications or conduct intrusive surveillance and may only carry out directed surveillance, access certain communications data and use informants subject to stringent safeguards.

- 3.3 The Council has carried out no surveillance activity since the last report to Committee in January 2016.
- 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/or 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 restriction will not apply is in regard to the investigation of underage sales of tobacco or alcohol.
- 3.6 The Policy and Guidance document attached at Appendix 1 was updated to take into consideration recommendations made by the Surveillance Commissioner in June 2015 and the introduction of the Protection of Freedoms Act. It has recently been updated to reflect changes to personnel within the authority.

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. 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 and it is this function which this Committee are being asked to carry out.

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': a process which is designed to ensure that powers are not 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 within existing resources.

Finance Officer Consulted: Michael Bentley

Date: 04/10/16

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. Adherence to the Council's policy and procedures – which are subject to annual review by this Committee - ensures that the Council's powers are exercised lawfully and proportionately.

Lawyer Consulted: Victoria Simpson

Date: 5/10/16

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 has been completed.

Sustainability Implications:

- 7.4 There are no sustainability implications

Any Other Significant Implications:

- 7.5 None

SUPPORTING DOCUMENTATION

Appendices:

1. Policy and Guidance Document version June 2016

Documents in Members' Rooms

1. None.

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 2016

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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>	<ul style="list-style-type: none"> ▪ 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. ▪ 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><u>Intrusive</u></p>	<ul style="list-style-type: none"> ▪ Planting a listening or other device (bug) in a person's home or in their private vehicle. <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.

<p>Examples of a CHIS may include:</p> <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
Environmental Health Manager	Annie Sparks
Environmental Health Manager	Nick Wilmot

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

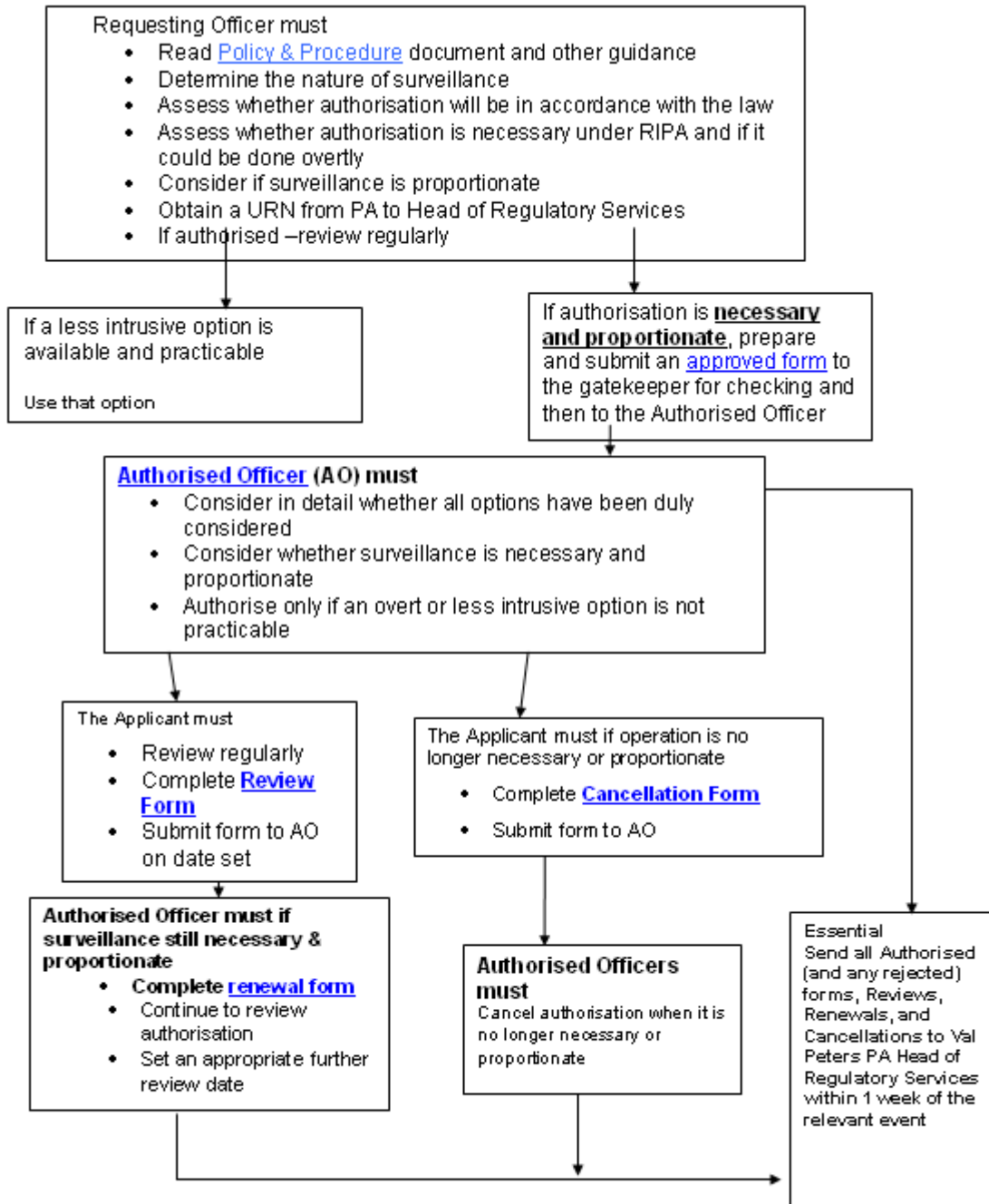
Trading Standards Manager Jo Player

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/>

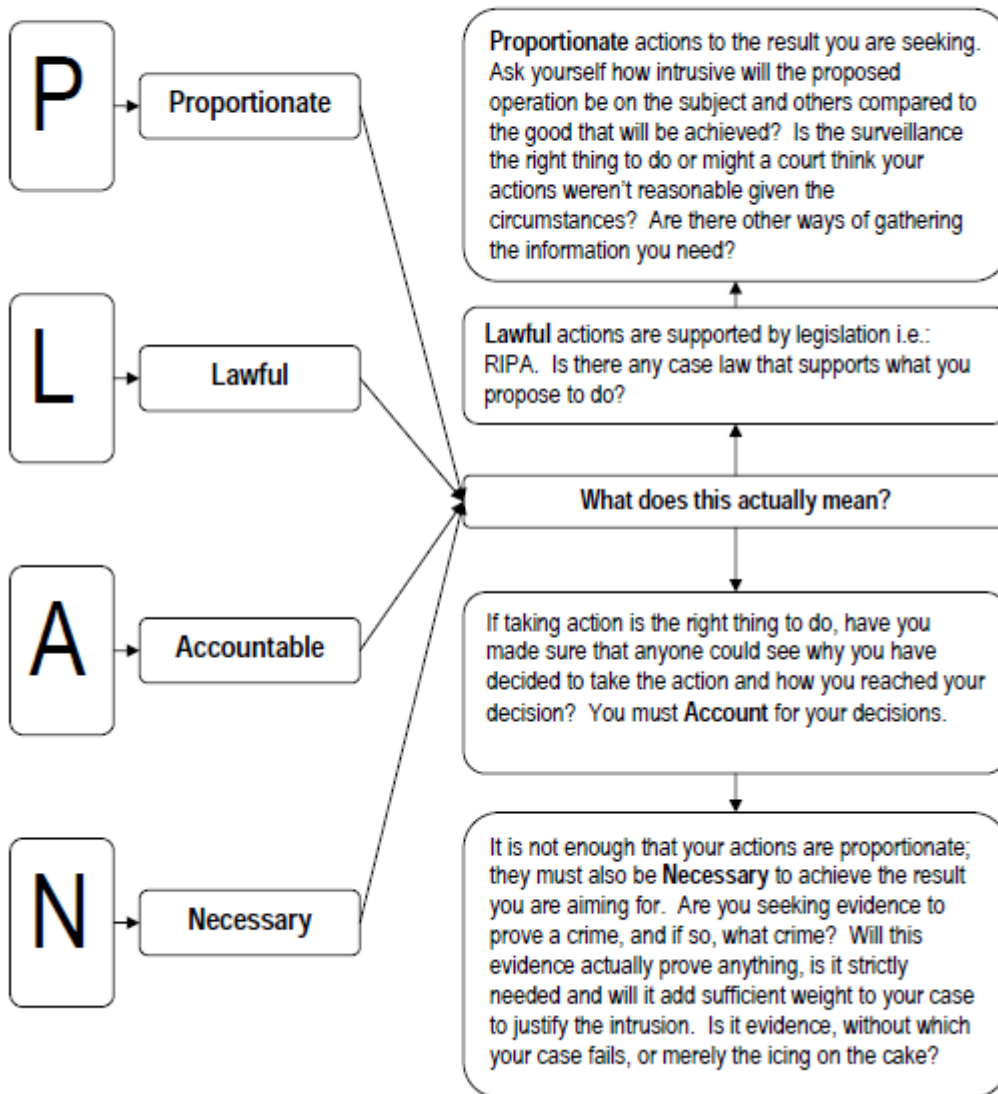
- The Act is available here:

<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/>

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 is 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 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.
<p>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.</p>		
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	
<p>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.</p>		<p>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.)</p>
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]

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)

Record your name. Not the name of the officers carrying out the surveillance (unless that is you).

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 authorities 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.

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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.

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<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. Ensure that you know which of these grounds you are entitled to rely on. (SI 2003 No 3171)</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>		

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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)

How intrusive might it be by the need for evidence? (Code paragraph 2.6)

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.

