

## NOTICE OF MEETING

**Meeting:** AUDIT COMMITTEE

**Date and Time:** FRIDAY, 24 MARCH 2017, AT 9.30 AM\*

**Place:** COMMITTEE ROOM 1, APPLETREE COURT,  
LYNDHURST

**Telephone enquiries to:** Lyndhurst (023) 8028 5000  
023 8028 5588 - ask for Andy Rogers  
E-mail: [andy.rogers@nfdc.gov.uk](mailto:andy.rogers@nfdc.gov.uk)

### **PUBLIC PARTICIPATION:**

\*Members of the public may speak in accordance with the Council's public participation scheme:

- (a) immediately before the meeting starts, on items within the Committee's terms of reference which are not on the public agenda; and/or
  - (b) on individual items on the public agenda, when the Chairman calls that item.
- Speeches may not exceed three minutes. Anyone wishing to speak should contact the name and number shown above.

**Bob Jackson**  
Chief Executive

Appletree Court, Lyndhurst, Hampshire. SO43 7PA  
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**This Agenda is also available on audio tape, in Braille, large print and digital format**

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## AGENDA

### **Apologies**

#### **1. MINUTES**

To confirm the minutes of the meeting held on 27 January 2017 as a correct record.

#### **2. DECLARATIONS OF INTEREST**

To note any declarations of interest made by members in connection with an agenda item. The nature of the interest must also be specified.

Members are asked to discuss any possible interests with Democratic Services prior to the meeting.

**3. PUBLIC PARTICIPATION**

To note any issues raised during the public participation period.

**4. AUDIT COMMITTEE BRIEFING (Pages 1 - 12)**

To note the Local Government Audit Committee Briefing prepared by Ernst and Young, the Council's external auditor.

**5. 2016/17 EXTERNAL AUDIT PLAN (Pages 13 - 20)**

To note the external auditor's proposed audit plan for the year 2016/17.

**6. PROGRESS AGAINST THE 2016/17 AUDIT PLAN (Pages 21 - 30)**

To note progress against the 2016/17 internal audit plan, which was approved in March 2016.

**7. INTERNAL AUDIT CHARTER, ASSURANCE FRAMEWORK AND INTERNAL AUDIT PLAN 2017/18 (Pages 31 - 48)**

To review the Internal Audit Plan for 2017/18.

**8. LOCAL CODE OF GOOD GOVERNANCE - THE NEW FRAMEWORK (Pages 49 - 58)**

To consider the new Local Code of Good Governance.

**9. THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) - ANNUAL REPORT (Pages 59 - 100)**

To note the RIPA annual report.

**10. WRITE OFF POLICY (Pages 101 - 108)**

To consider an updated code of practice for write offs, and to make a recommendation to the Cabinet.

**11. AUDIT COMMITTEE WORK PLAN (Pages 109 - 110)**

To consider the Audit Committee's Work Plan.

**12. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT**

To:

**Councillors:**

**Councillors:**

A D O'Sullivan (Chairman)  
J G Ward (Vice-Chairman)  
W G Andrews  
M R Harris

J D Heron  
Mrs E L Lane  
R A Wappet  
C A Wise

## Local government audit committee briefing

### Contents at a glance

#### Government and economic news

#### Accounting, auditing and governance

#### Key questions for the audit committee

#### Find out more

This sector briefing is one of the ways that we support you and your organisation in an environment that is constantly changing and evolving.

It covers issues which may have an impact on your organisation, the Local Government sector, and the audits that we undertake.

The briefings are produced by our public sector audit specialists within EY's national Government and Public Sector (GPS) team, using our public sector knowledge, and EY's wider expertise across UK and international business.

The briefings bring together not only technical issues relevant to the Local Government sector but wider matters of potential interest to you and your organisation.

Links to where you can find out more on any of the articles featured can be found at the end of the briefing.

We hope that you find the briefing informative and should this raise any issues that you would like to discuss further please contact your local audit team.



# Government and economic news

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## EY item club winter forecast

In its latest forecast the EY Item Club cautions that, whilst it may look like the economy is taking the referendum in its stride, the impression could be deceptive. A timely reminder that trouble may lie ahead is provided by Sterling's recent performance.

The UK economy is forecast to undergo a gradual dip and recovery over the coming four years, with GDP growth slowing to 1.3% in 2017 and just 1.0% next year, before picking up to 1.4% in 2019 and 1.8% in 2020. The ability of the economy to deliver against this forecast is seen as highly dependent on its foreign trade performance, the expectation is that this will improve this year as consumer spending slows down.

In terms of inflation as measured by the Consumer Prices Index it is expected to rise in excess of 3% by the end of 2017, before falling back towards the Bank of England's 2.0% target in 2018. With the economy slowing down and wage inflation remaining subdued, the forecast is that base interest rates will be held at 0.25% by the Monetary Policy Committee until the spring of 2018.

Looking ahead, the UK's trade performance and output growth in 2019 and beyond will depend critically on the exit terms that can be agreed with the EU27 and other countries. Whilst there is greater clarity about the UK's negotiating position, elections coming up later this year in several European countries mean that the negotiating position of the EU27 will take longer to get a clear picture of. Additionally, the US election result complicates Britain's exit from the EU due to uncertainty over the US economic and foreign policy.

## Social Care Precept and New Homes Bonus

The 'Provisional local government finance settlement 2017/18' announced that an additional £900mn would be used to fund the social care system over the next two years. This will be made up of two parts:

- ▶ £240mn transfer from the new homes bonus
- ▶ £652mn from increasing the social care precept (£208mn in 2017/18 and £444mn in 2018/19)

### New Homes Bonus

The consultation for the new homes bonus ended and the Government made a number of revisions to the grant. The transfer from the new homes bonus represents a change that ensures that councils will only receive funding for housing built above the national housing growth baseline of 0.4%. There will also be a movement to five year payments from 2017/18 and four year payments from 2018/19.

There are no proposals to withhold grants for those authorities without a local plan in 2017/18 but this will be revisited for 2018/19. The bonus will continue to be unringfenced as in previous years.

### Social Care Precept

Councils will have the flexibility to increase the dedicated social care precept by up to 3% in 2017/18 and 2018/19 (this was previously capped at 2% for each of the three years 2017/18 to 2019/20). If this is chosen it will be equivalent to an increase of £1 a month on an average Band D Council Tax bill. However the social care precept would need to remain at 6% over the next three years, therefore if the increased 3% was taken in 2017/18 and 2018/19 it could not be increased again in the following year.



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Within the 'Provisional local government finance settlement 2017/18' It has been highlighted that increased funding is not the only way to improve social care but better integration of the health service and local government is needed. In Oxfordshire this has led to a 40% fall in delayed discharges in 6 months and in Northumberland increased work between the council and the health service has led to a 12% reduction in demand on residential care.

### Local Government Funding Settlement

The four year funding settlement has been agreed to by 97% of councils. This will mean councils will have £7.6bn in total dedicated social care funding over the four years up to 2019/20. In return they will have to publish efficiency plans online.

It is expected that top-tier authorities are likely to benefit most from the settlement as they have high-demand critical services and will therefore receive more funding. However district councils will see a greater squeeze on their budgets due to the reduction in the new homes bonus.

This comes as a step towards devolution. The introduction of fully retained business rates will also bring about more power for councils to serve their local communities. However this does open councils up to more risk. For this to be beneficial the economy will need to grow and more houses will need to be built. Councils therefore need to think about how they will ensure that this does not leave them in a worse position than through central government funding.

### Funding for new care model vanguards

In order to support and spread the work of new care model vanguard projects, NHS England has announced over £100mn of funding being made available. NHS England sees that the existing vanguards, partnerships of NHS, local government, voluntary, community and other organisations are improving the healthcare people receive, preventing ill health, and saving funds.

They are seen as key to the delivery of Sustainability and Transformation Plans (STPs) which are being developed across the country and, in addition to funding, the vanguards receive support to implement their plans from both NHS England and other national bodies. This includes how they harness new technology including apps and shared computer systems, and to develop their workforce so that it is focused around patients and their local populations. Vanguards are required to meet a number of conditions to obtain funding, including:

- ▶ Demonstrating clear improvements in quality and costs/savings
- ▶ Spreading their new care models, both within their STP and sharing with others (including producing guidance and materials for others to use)

The announcement highlights examples of areas the latest funding will be used on, and examples of work done to date. These include:

- ▶ **Fylde Coast Local Health Economy vanguard** – a new 'extensive care service' bringing together different health professionals offering targeted support for older patients with multiple conditions, this has contributed to significant reductions in areas such as non-elective admissions (25%) and A&E attendances (13%)
- ▶ **Mid Nottinghamshire Better Together vanguard** – joined-up community teams are working with patients and their families/carers, providing physical, mental and social care support to ensure people are wherever possible cared for at home. The vanguard has reported reductions in long term admissions to care homes and acute bed days, together with significant year-on-year reductions in avoidable patient attendances (20.5% for patients aged 80 years and above compared to 2015/16)



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- ▶ **East and North Hertfordshire Clinical Commissioning Group vanguard** – employing pharmacists to work with GPs, care home staff and other healthcare professionals to provide detailed medicine reviews for residents. Working with the care homes, the vanguard has already reviewed over 900 patients and the use of 8,000 medicines. Of these over 1,000 medicines have been stopped, including nearly 200 which could have increased the risk of falls. The estimated direct cost savings are in excess of £160,000

### Financial Sustainability of Schools

The Department of Education has predicted that mainstream schools will have to find savings of £3bn (8%) by 2019/20. This is expected to come from efficiencies from the following:

- ▶ £1.3bn from better procurement
- ▶ £1.7mn from using staff more efficiently

The Government has proposed to increase the schools budget over the next four years, and by 2019/20 the increase will be 7.7% compared to the 2015/16 level. However the increase in pupil number is expected to be 3.9% in the same period, once inflation is taken into account; this is a real time reduction in funding per pupil.

The Department continues to publish advice on financial management and efficiency savings.

The proportion of secondary schools overspending rose from 34% in 2010/11 to 59% in 2014/15. For academies this rose from 39% to 61%. The reasons for this are unclear, and the sustainability of this spending is unknown.

### Highway Network Assets

The depreciated replacement cost accounting for Highway Network Assets is expected to come into effect from 1 April 2017, but is subject to confirmation from CIPFA. EY has run a number of workshops for clients and there are a range of levels of confidence over the accounting treatment for the asset. It can however be seen that the levels of confidence have increased from this time last year.

The key question for councils to consider will be how can we demonstrate that their Highways Asset Management System is complete and that all assets exist.

By following the DREAM approach set out below we believe the task will run smoother.

**Document highways systems:** Almost all highways and engineering IT inventory information has not been subject to audit and lack detailed procedure manuals/notes. Full documentation of the key core data systems should be completed as one of the initial tasks that an authority carries out.

**Reports and reconciliations:** Assess the information requirements of the task and whether the existing systems can produce the required reports and reconciliations or will new reports and reconciliations be needed? Identify any corrective action required.

**Evidential based:** The quality of the inventory is key to the change. So as well as documentation of inventory systems, establish how you will evidentially prove that the inventory is complete and the named assets exist. This includes key asset dimensions. However, before engaging expensive external contractors to do this consider all the processes that you currently have in place that actually do this ranging from routine cyclical inspections to independent system reviews. Use this to identify areas where 'top-up' work is required.



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**Audit:** Early and regular engagement with both internal audit (IA) and external audit (EA) is a key determinant of successful implementation. IA can assist in establishing documentation procedures and can carry out system audits of those systems. Sharing your proposals with EA in advance will reduce the risk of abortive work. Decisions on what work you actually do are a matter for the authority, but the EA will provide comments on proposed approaches.

**Materiality:** This is a key concept both to the authority as the accounts are stated to include all material items and EA who audit to a calculated materiality level. Materiality has both quantitative and qualitative aspects. In simple terms the quantitative identifies the level at which consideration needs to be given to whether omission of an item or inclusion of an error requires correction. The qualitative level is where a professional judgement is made as to whether correction of that item would influence decisions of the users of the accounts.

As the Highway Network Asset is to be classed as a single asset the materiality is based upon the total value and not the constituent parts. Due to the importance of this amount discussions around the level at which the authority is considering setting it at should take place with your external audit team at an early stage to ensure that this will not lead to problems in the audit process.

For further information please consult with your audit team

### Sustainability and Transformation Plans

Sustainability and Transformation Plans (STP) have now been produced and are designed to articulate how individual organisations will play their part in delivering their locally agreed STP objectives, including sustainable financial balance across the health economy.

From April 2017, access to NHS transformation funding will be linked to effecting delivery of the STP. These include meeting control totals to reduce deficits and meeting certain performance requirements. STPs represent a shift in focus from the role of competition within the health system to one of collaboration – referred to as ‘place-based planning’. NHS organisations are telling us that the changing needs of their populations are best met through integrated models of care, with the delivery of care being best met by different areas of the NHS working in a co-ordinated way. The King’s Fund has argued that a place based approach to planning and delivering health and social care services is the right approach – and that this should also include collaborating with other services and sectors outside the NHS – with the aim of improving the health and wellbeing of local populations.

Development and delivery of STPs is a complex task, with large footprints, involving many different organisations, in an already stretched environment in terms of finances and capacity. There are further challenges with the need to address weaknesses in NHS incentives to work together and to avoid organisations focussing on individual goals rather than the effective implementation of STP objectives – for example, NHS Trusts are closely monitored on their own performance targets.

The Plans have been delivered in a relatively short timeframe and propose major changes to services. With the growing financial challenges in the system, the Plans are required to show how they will bring the NHS back into financial balance. Given the short timeframes, the submitted Plans will need further development and engagement before they can be effectively implemented.



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All parties to the STP will need to collaborate to ensure the plans take full account of the pressures faced by the individual parties. Whilst the process provides opportunities for areas with challenging finances to identify solutions, there will be difficult decisions to be made about the range, type and location of services that are delivered. Per the NHS Confederation, the important element of prevention requires a strong role from public health as well as wider Council services such as housing, leisure and recreation, planning and children's services.

The leadership of the STP is critical to the success of the plan. The role of the STP leaders needs to be clarified with many leads finding it difficult to manage their original responsibilities alongside their leadership role. There are plans for some leaders to share leading more formally in the future. However where there are a large number of organisations involved this may be more difficult to do.

### Priorities for social care in 2017

The Kings Fund has set out what it believes the five priorities should be for social care in the current year as follows:

- ▶ **Supporting new care models centred on the needs of patients** – Giving greater priority to public health and prevention, through partnerships between local government, the NHS, and other organisations, focused on both supporting people to remain in good health for as long as possible and engaging the public in tackling the causes of ill health. Additionally, they emphasise the need for continued support for vanguards both in delivering in their areas and spreading that good practice across the system
- ▶ **Strengthening and implementing sustainability and transformation plans** – The Kings Fund suggests that, to ensure that the service changes and the financial plans that underpin them are credible, all STPs need to be stress

tested. It also highlights that STPs have 'no basis in statute' and suggests that their governance is formalised to align their work with the responsibilities of the boards running NHS organisations

- ▶ **Improving productivity and delivering better value** – With the need for increasing productivity becoming more urgent as funding decreases and deficits amongst NHS providers increases, the fund suggests that the priority for every NHS organisation should be to support clinical teams to reduce unwarranted variations in care and to improve care. It sees the boards of NHS organisations as having a key role in leading this work, ensuring that developing the cultures in which improvement is supported and valued and making resources available to support implementation
- ▶ **Developing and strengthening leadership at all levels** – It is clear that clinical leaders have a crucial role, working with operational managers, to deliver high-quality care. This is where many of the productivity opportunities arising from changes in clinical practice can be realised. They argue that this requires leaders who are (in their words) 'comfortable with chaos' because they can work within fluid and often rapidly changing organisational arrangements and that the NHS can learn from local government
- ▶ **Securing adequate funding for health and social care** – They refer to the need for a debate about a new settlement for health and social care, building on the work of the Barker Commission, and going further than short-term interventions that have sought to shore up the system. They argue that an equitable and sustainable system would be one in which public funding is increased (paid for by increases in taxes and National Insurance and changes to some existing benefits), and a closer alignment between entitlements to social care and health care





# Accounting, auditing and governance

## PSAA Audit Services Procurement Strategy for the appointment of local auditors

The PSAA is entering into contracts with audit firms to make auditor appointments by 31 December 2017. There are a total of 493 eligible authorities who have been invited to opt in. These include local authorities, combined authorities, police and crime commissioners, chief constables, fire and rescue authorities, waste authorities, passenger transport executives and national park authorities.

The timetable for the appointment is as follows:

Key milestone	Target date
Issue OJEU Contract Notice and Selection Questionnaire (SQ) available on request	16 February 2017
Deadline for eligible bodies to notify PSAA of their decision to opt-into the scheme for audits of 2018/19 accounts	9 March 2017
Deadline of submission of SQs	21 March 2017
Issue ITT to short-listed suppliers	6 April 2017
Deadline for submission of tenders	10 May 2017
PSAA board approves contract award	30 June 2017

The contract will be awarded for five years to suppliers but PSAA may extend this contract by two years. It is expected that opting-in will achieve lower audit fees than those authorities that choose to negotiate alone. Fees are expected to be published in March 2018.

## Report on the results of auditors work LG bodies 2015/16

In December 2016 PSAA published its first report on the results of auditors' work across 497 principal local government bodies, including 357 councils, 31 fire and rescue authorities, 76 police bodies and 33 other local government bodies, and 9,756 small bodies, with a turnover of less than £6.5mn, including 9637 parish councils. The results within the report cover audit work on the financial statements, the WGA return, arrangements to secure value for money and any exercise of the auditor's statutory reporting powers.

The timeliness and quality is broadly consistent with prior year, however the number of early unqualified opinions (issued by 31 July 2016) doubled compared to those issued in respect of 2014/15.

96% of auditors issued an opinion on the accounts by 30 September 2016 and for the third year in a row there were no qualified opinions on principal bodies. The proportion of qualifications on value for money arrangements increased from 4% to 6%.

With faster close in place from the 2017/18 financial year, there is a need for efficiencies from both local government bodies and their auditors in order to maintain the level of performance shown in this report. EY have produced an article on 'Accelerating your financial close arrangements', this can be found by following this link [http://www.ey.com/Publication/vwLUAssets/EY\\_-\\_Accelerating\\_your\\_financial\\_close\\_arrangements/\\$FILE/EY-accelerating-your-financial-close-arrangements.pdf](http://www.ey.com/Publication/vwLUAssets/EY_-_Accelerating_your_financial_close_arrangements/$FILE/EY-accelerating-your-financial-close-arrangements.pdf). The report provides suggestions such as reviewing the format of the accounts, reviewing the approach to estimates and managing members' expectations, amongst others.



## Key questions for the audit committee

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### **What questions should the Audit Committee be asking itself?**

Has the Authority made a decision on whether or not to opt into the PSAA sector-led arrangements for the local appointment of auditors from 2018-19? Has the authority decided whether they will use the revised flexibility on the social care precept for 2017/18 and 2018/19?

How confident is the authority about its preparation for the introduction of Highway Network Assets? Have there been discussions with the external audit team on the key issues and plans for implementation?

Has the authority engaged positively with health and other partners in the development of Sustainability and Transformation Plans?

Has the Authority put plans in place to meet the faster close requirements for 2017/18?



## Find out more

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### **EY Item Club winter forecast**

<http://www.ey.com/uk/en/issues/business-environment/financial-markets-and-economy/item---forecast-headlines-and-projections>

### **Social Care, Precept and New Homes Bonus**

[http://www.publicfinance.co.uk/news/2016/12/council-tax-precept-and-new-homes-bonus-deployed-stem-social-care-crisis?utm\\_source=Adestra&utm\\_medium=email&utm\\_term](http://www.publicfinance.co.uk/news/2016/12/council-tax-precept-and-new-homes-bonus-deployed-stem-social-care-crisis?utm_source=Adestra&utm_medium=email&utm_term)

<https://www.gov.uk/government/news/dedicated-adult-social-care-funding-forms-key-part-of-continued-long-term-funding-certainty-for-councils>

<https://www.gov.uk/government/consultations/new-homes-bonus-sharpening-the-incentive-technical-consultation>

### **Four year funding settlement**

<http://www.publicfinance.co.uk/news/2015/12/local-government-settlement-offers-councils-four-year-funding-deals>

### **Funding for new care model vanguards**

<https://www.england.nhs.uk/2016/12/vanguard-funding/>

### **Financial Sustainability of Schools**

<https://www.nao.org.uk/report/financial-sustainability-in-schools/>

### **Sustainability and Transformation Fund**

<https://www.kingsfund.org.uk/blog/2016/11/will-steps-deliver-changes-we-wish-see-our-health-and-care-services>

<https://www.england.nhs.uk/wp-content/uploads/2016/02/stp-footprints-march-2016.pdf>

<https://www.kingsfund.org.uk/projects/sustainability-and-transformation-plans>

### **Priorities for social care in 2017**

<https://www.kingsfund.org.uk/publications/priorities-nhs-social-care-2017>

### **PSAA Audit Services Procurement Strategy for the appointment of local auditors**

<http://www.psaa.co.uk/supporting-the-transition/appointing-person/procurement-strategy/>

### **Report on the results of auditors work LG bodies 2015/16**

<http://www.psaa.co.uk/appointing-auditors/terms-of-appointment/reports-on-the-results-of-auditors-work/>

[http://www.ey.com/Publication/vwLUAssets/EY\\_-\\_Accelerating\\_your\\_financial\\_close\\_arrangements/\\$FILE/EY-accelerating-your-financial-close-arrangements.pdf](http://www.ey.com/Publication/vwLUAssets/EY_-_Accelerating_your_financial_close_arrangements/$FILE/EY-accelerating-your-financial-close-arrangements.pdf)





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# New Forest District Council

## Audit Committee Progress Report

24 March 2017







24 March 2017

Dear Committee Member

## **Audit Progress Report**

We are pleased to attach our Audit Progress Report.

It sets out the work we have completed since our last report to the Committee. Its purpose is to provide the Committee with an overview of the progress that we have made with the work that we need to complete during the 2016/17 audit. This report is a key mechanism in ensuring that our audit is aligned with the Committee's service expectations.

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

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

Yours faithfully

Helen Thompson  
Executive Director  
For and behalf of 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.psaa.co.uk](http://www.psaa.co.uk))

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

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

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

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

## 2016/17 audit

### Financial statements

We are required to give an audit opinion on whether the financial statements of the Council give a true and fair view of the financial position as at 31 March 2017 and of the income and expenditure for the year then ended.

We adopt a risk based approach to the audit and as part of our ongoing continuous planning we continue to meet key officers and other stakeholders.

#### Audit Plan

We included the risks associated with the Council's financial statements and the value for money assessment in our 2016/17 Audit Plan which we presented to the Audit Committee in January.

#### Interim audit

Our audit timetable is summarised in section two of this report. During our interim audit, in February, we identified and walked through your material income and expenditure systems.

#### Post statements visit

Our post statements visit for four weeks, from 3 July 2017, involves substantively testing the entries in the financial statements and other audit procedures required by both our audit approach and international standards on auditing. We have discussed our working paper requirements with officers.

Our conclusions will be set out in the Audit Results Report for the Council which we will discuss and agree with officers on 31 July. We will present our findings to the Audit Committee on 25 August.

### Value for money assessment

We are required to give a statutory conclusion on the Council's arrangements to secure economy, efficiency and effectiveness. The Public Sector Audit Appointments (PSAA) Ltd has revised the specified criterion for the value for money conclusion for the 2016/17 audit to be:

***In all significant respects, the audited body had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people.***

We carried out our initial risk assessment in early 2017. We identified the "Delivery of a sustainable medium term financial plan" as a significant value for money risk at the Council. We will carry out our fieldwork in March and April. Our approach will focus on:

- ▶ reviewing the progress made in achieving the planned budget and required savings for 2016/17;
- ▶ assessing whether the Council has good systems and processes in place to manage their financial risks and opportunities effectively;
- ▶ assessing the robustness of financial plans for 2017/18 and in the medium term.

## Timetable

We set out below a timetable showing the key stages of the audit, including the value for money work, and the deliverables we will provide to you through the 2016/17 committee cycle.

Audit phase	EY Timetable	Deliverable	Reported	Status
High level planning	<b>Ongoing</b>	Audit Fee Letter	June 2016	Complete
Risk assessment and setting of scope of audit	<b>January 2017</b>	Audit Plan	January 2017	Complete
Testing of routine processes and controls	<b>March 2017</b>	Progress Report	March 2017	Complete
Year-end audit	<b>July - August 2017</b>	<p>Audit results report to those charged with governance</p> <p>Audit report (including our opinion on the financial statements and a conclusion on your arrangements for securing economy, efficiency and effectiveness in your use of resources)</p> <p>Whole of Government Accounts Submission to NAO based on their group audit instructions</p> <p>Audit Completion certificate</p>	August 2017	<p>Year end audit work, on the Council's financial statements, will be carried out for four weeks commencing 3 July 2016.</p> <p>We will present the findings of our audit to the Committee on 25 August 2017.</p>

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EMT – 7<sup>th</sup> March 2017

AUDIT COMMITTEE – 24<sup>th</sup> March 2017

## PROGRESS AGAINST THE 2016/17 AUDIT PLAN

### 1. INTRODUCTION

- 1.1. The purpose of this report is to inform members of the Audit Committee of progress made against the 2016/17 audit plan, which was approved in March 2016.

### 2. RESOURCES

- 2.1 The Audit team is fully resourced (with the exception of the Apprentice position) and accommodated at Appletree Court. A request to appoint a shared Accountancy & Audit apprentice will be submitted to EMT for their consideration.
- 2.2 Additional income of £15k has been earned during the last quarter due to an ICT Audit being completed for Rushmoor Borough Council and additional Internal Auditor days being provided to Purbeck District Council.

### 3. INTERNAL AUDIT PLAN 2016/17 PROGRESS

- 3.1. Appendix 1 shows the progress made against the 2016/17 internal audit plan to end of February 2017. Progress is demonstrated by recording the current status of each audit assignment, the audit opinion and a summary of the number of recommendations made.
- 3.2. The internal audit plan is timetabled to ensure the audit assignments can be undertaken at the most effective time. Appendix 1 shows the audits planned for each quarter of the year. The following scheduling amendments have been made to the audit plan:
- Elections - To be moved to 2017/18 due to May election and availability of the team.
  - Health and Safety - Service Manager responsibility has recently changed for this area and extensive work has been undertaken by the service to produce an action plan for improvement. The majority of actions needed have an implementation date of March 2017. The timing of the audit has been moved to 2017/18 to avoid duplication of work.
  - Health and Leisure Centres and Domestic Refuse - These areas have service reviews planned in 2017/18, both of which audit will be involved in. Time is still allocated within 2016/17 but further time has also been allocated within 2017/18. This allows for Audit inclusion within service reviews but also time to undertake key assurance testing which will enable an audit report to be produced in 2017/18.

The majority of work undertaken includes:

- Assurance and risk based service areas
- Real time exception testing (creditors)
- Attendance at projects including Affordable Housing, Garden Waste and Procurement Review, including the implementation of purchasing cards.
- Review of contract payment certificates
- Stock takes, cash ups and petty cash checks
- Keyhaven Income Returns
- Car Park Income Reconciliation
- Follow up of audit recommendations
- Work with third parties including:
  - Completed two Town Council audits
  - External Auditor's Subsidy testing
  - Dorset Audit Partnership
  - New Forest National Park audits

#### **4. PROGRESS ON HIGH PRIORITY RECOMMENDATIONS**

- 4.1. Internal Audit monitors progress made against agreed audit recommendations. Appendix 2 details all high priority recommendations that have resulted from Audits undertaken during 2016/17.
- 4.2. Progress on the implementation of high priority recommendations is monitored and any uncompleted recommendations are reported to Audit Committee. Currently the following high priority recommendations are outstanding:
- **Payment Card Industry Data Security Standards (PCI DSS) compliance**  
Action: Agresso have recently released an upgrade for Income Manager which will comply with the requirements of PCI DSS. The Agresso team are currently investigating the cost and impact of the upgrade. An upgrade plan and details of all associated costs will be in place by the end of May 2017. New guidance documents on scoping and segmentation specifically around voice-over-IP installations (telephone systems) are due to be released mid-2017 and it could result in significant changes to compliance requirements. It has been decided to wait until the new guidance is issued before any further action with regard to telephone payments is taken.
  - **Business Continuity**  
To ensure that all business units, that are deemed to have Critical Activities, have up to date Business Continuity Plans  
To ensure Disaster Recovery Plans are created for each Critical System  
High level of responsibility needs to be taken for creating and implementing business continuity plans and ensuring they are kept up to date  
Action: The Service Manager for Business Improvement and Customer Services became responsible for this area in December. An audit of Business Continuity will take place during 2017/18.
  - **Grounds Maintenance**  
It is recommended that the spraying equipment and materials either undergo a formal tender process or obtain a waiver to ensure that the service are adhering to Contract Standing Orders.  
Action – Service Manager to undertake required procurement exercise.



## **5. CORPORATE FRAUD**

- 5.1. Appendix 3 details the Fraud Allegations received that required action and also includes action to date.

## **6. FINANCIAL IMPLICATIONS & CRIME AND DISORDER IMPLICATIONS**

- 6.1. There are no direct implications arising from this report, however inadequate audit coverage may result in areas of control weakness, unacceptable risks or governance failings as well as the increased potential for error and fraud.

## **7. ENVIRONMENTAL MATTERS & EQUALITY AND DIVERSITY IMPLICATIONS**

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

## **8. RECOMMENDATION**

- 8.1. The Audit Committee note the content of the report and raise any further areas of assurance coverage that they require.

### **For Further Information Please Contact:**

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### **Background Papers:**

Internal Audit Plan 2016/17

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Audit Area	Est Days	Q1	Q2	Q3	Q4	Assurance Level	No. of High Priority	No. of Medium Priority	No. of Low Priority	No. of VFM
<b>Key Financials</b>										
Main Accounting System inc bank reconciliation	15				WIP					
Treasury Management	5				Mar/Apr					
Accounts Payable	15			WIP						
Asset Management	15			WIP						
Payroll (inc NFNPA testing, T&S, Members Allowances & Expenses)	25				WIP					
Income	10			WIP						
Accounts Receivable	15			WIP	WIP					
Council Tax	15			Final		Reasonable	1	6	7	3
Business Rates	10			Draft						
Benefits	10				Draft					
Landlord Services (Rents)	15				Mar/Apr					
<b>Governance and Regulation</b>										
Procurement - Contract Management Audit	15		Final			N/A	0	3	0	0
Information Governance	15					N/A				
Governance and corporate risks inc new standards	15	Final				N/A	N/A	N/A	N/A	N/A
Safeguarding	10	Final				Reasonable	0	6	0	3
Estates and Valuation	10		Final			Reasonable	1	8	2	4
Environmental Health - Commercial and Pollution	15				Mar/Apr					
<b>Resources</b>										
IT Audit (PSN/Security/DR)	20				Mar/Apr					
IT Audit (Inventory/Purchases/Contracts/Maintenance/Licences etc)	15				Mar/Apr					
Building Works - Reactive and Gas Servicing	15	WIP	WIP	Draft						3
Property Services and Building Works (Housing and Non Housing)	15									
<b>Economy, Planning and Housing</b>										
Housing Needs/Homelessness/Housing Register/B&B	15	Final				Reasonable	0	7	3	6
Land Charges	10		Final			Reasonable	1	3	8	1
<b>Operations</b>										
Health and Leisure Centres	15				Cont 17/18					
Domestic Refuse and Commercial Waste and Recycling	15				Cont 17/18					
Engineering Design and Land Drainage	15				Mar/Apr					
Engineering Works	15									
Ground Maintenance	15		Final			Reasonable	1	10	1	1
Beach Huts	10		Final							
Cemeteries and Amenities	10	Final				Reasonable	0	9	0	8
Landscape and Open Spaces	10	WIP	WIP	WIP	WIP					

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**High Priority Recommendations**

<b>Audit</b>	<b>Weakness Found</b>	<b>Risk Exposure</b>	<b>Priority</b>	<b>Recommended Action</b>	<b>Management Response</b>	<b>Officer Responsible</b>	<b>Agreed Date of Action</b>	<b>Follow up Comment</b>
Grounds Maintenance	Spraying equipment and materials have not been procured in line with Contract Standing Orders	Contract Standing Orders are breached	High	It is recommended that the spraying equipment and materials either undergo a formal tender process or obtain a waiver to ensure that the service are adhering to Contract Standing Orders	We will await the results from the HCC Highways Term Maintenance Contract as this will impact on the amount of spraying equipment required. We will then assess the situation and look to comply with Contract Standing Orders	Service Manager – Open Spaces	January 2017	
Land Charges	The Service Manager (Planning & Building Control) has been advised, by legal, that he needs to now start the process for setting new charges to come into effect, from 1 <sup>st</sup> April 2017, as part of fees and charges.	Non-compliance with Statutory legislation	High	1.1 That both the Local Authorities (England) (Charges for Property Searches) Regulations 2008 regulations and the DCLG Local Authority Property Search Services – Costing and Charging Guidance are reviewed and that fees and charges are set and reported accordingly.	Agreed, this will be done following advice from legal.	Service Manager – Planning & Building Control	31.03.17	
Estates and Valuations	Work on the IPF Action points has revealed a backlog of reviews and renewal work.	Financial loss to the Authority. Reputation al damage.	High	That the backlog of outstanding Action points is addressed urgently, by looking at highest value agreements at the first point.	A list in value order has been produced and addressing this is the main task for the new Band 5 post holder. Cases have all been allocated to the Trainee Valuation Officer who will work on them with support from the E&V Team. High value cases are getting priority.  There are now 67 cases on the list and not 127 as referred to above.	Estates & Valuation Manager	Work in progress to be completed by 31.3.18	Audit understands that this is time consuming work. About 20 cases out of the list have been identified as high priority and will be dealt with first.

Audit	Weakness Found	Risk Exposure	Priority	Recommended Action	Management Response	Officer Responsible	Agreed Date of Action	Follow up Comment
Council Tax	<p>IA are unable to place assurance that there are sound process documents and procedure notes for all Council tax process (which are kept up to date and accessible to all staff) on this basis policies and procedures should be documented to enable a consistent approach is applied to accounts. Within the 2015-16 audit report management comments confirmed that office procedures for three key areas; refunds, checking the summons prelist and the backdating of discounts would be completed, to date this remains outstanding.</p>	<p>Inconsistency across accounts. Significant delays in continuing Service (in Business Continuity terms).</p>	High	<p>1.1 It is recommended that procedure notes and relevant policies are created and updated where necessary.</p>	<p>Agreed, the 3 outstanding policies will be completed</p>	<p>Revenues Manager</p>	<p>31<sup>st</sup> May 2017</p>	

**APPENDIX 3**

Type	Date	Reported by	Action	Outcome
CTRS - Undeclared Earnings		Member of Public	Under Investigation	Employer response - No longer employed passed to benefits team to adjust previous benefit payment
CTRS - Household	08-Nov-16	Member of Public	Under Investigation	Visit undertaken - No further action at this stage
CTRS - Undeclared Property	14/11/2016	Member of Public	Under Investigation	CTRS claim ended
HB only - Undeclared Income	22/11/2016	Member of Public	No investigation needed as HB claim only. Passed to benefits team for DWP referral.	n/a
Tenancy - Subletting	23/11/2016	Member of Public	Under Investigation	Enquiries have led to no further action at this stage
False application Housing & CTRS	23/11/2016	Benefit Officer	Under Investigation	Awaiting responses from third parties
False Waiting List Application Form	24/11/2016	NFDC Officer	Under Investigation	Interview undertaken and application withdrawn
CTRS undeclared partner & earnings	21/12/2016	NFDC Officer	Under Investigation	Awaiting further response
CTRS Undeclared Partner	21/12/2016	NFDC Officer	Under Investigation	
Non-Residency	21/12/2016	NFDC Officer	Under Investigation	
Right to Buy	05/01/2017	NFDC Officer	Internal error - No further action	n/a
Working & living together	18/01/2017	Member of Public	Universal Credit- Passed to Benefits for referral to DWP	
Right to Buy	18/01/2017	NFDC Officer	Resolved - No further action	
Working & claiming benefits	08/02/2017	Member of Public	Passed to Benefits for referral to DWP	
Housing Costs	24/01/2017	HCC Officer	Under Investigation	
Business Rates	13/02/2017	Member of Public	Under Investigation	
Business Rates	21/02/2017	Member of Public	Passed to business rates to get rated & charged.	

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**EMT 7 MARCH 2017  
AUDIT COMMITTEE – 24 MARCH 2017**

## **INTERNAL AUDIT CHARTER, ASSURANCE FRAMEWORK AND INTERNAL AUDIT PLAN 2017/18**

### **1. INTRODUCTION**

- 1.1 The purpose of this report is to review and agree the Internal Audit Plan 2017/18 (Appendix 1) which is compiled following an evaluation of the risks to the Council and local factors as recorded in the Internal Audit Charter.
- 1.2 The main functions of the Internal Audit Charter, Assurance Framework and Audit Plans are to ensure the work of internal audit:
  - supports the Council by underpinning the Section 151 Officer's financial responsibilities
  - supports the Annual Governance Statement signed by the Leader of the Council and the Chief Executive Officer
  - has clear objectives, standards and ethical working
  - has a defined "control environment" on which assurance is given
  - assesses where assurance can be provided by other bodies
  - is defined within a work programme which can be monitored for performance

### **2. INTERNAL AUDIT CHARTER**

- 2.1 The Internal Audit Charter has been reviewed and there are no recommended changes to be made at this time. (Appendix 2)

### **3. ASSURANCE FRAMEWORK**

- 3.1 The Assurance Framework has been reviewed and updated. (Appendix 3)

### **4. INTERNAL AUDIT PLAN 2017/18**

- 4.1 The audit plan covers the following areas:
  - Key Financial audits, these are systems which could have a material impact on the Councils' Statement of Accounts and are included annually
  - Other risk based service or operational areas or key assurance areas
  - ICT audit
  - Procurement / Contract Management
  - Governance
  - Counter Fraud
  - Project/Consultancy/Advisory time
  - Fee earning work
  - Contingency time
  - Audit Management and Staff training and development time

- 4.2 To provide additional service to the Council, time has been specifically set aside to support corporate projects and undertake Value for Money reviews.
- 4.3 Fee earning work is estimated to be £50,000 for 2017/18. This audit partnership work provides for the NFDC Internal Audit team, to act as the Internal Auditor for local Town Councils and the New Forest National Park Authority through an SLA. There will also be the continuation of a management role and shared audit resource with East Dorset DC, Christchurch BC, Purbeck DC (and Poole BC with the new Stour Valley and Poole Partnership (SVPP)).
- 4.4 Internal Audit works closely with the external auditor, Ernst & Young. It has been agreed that Internal Audit will continue to undertake the Benefit grant claim work, saving external audit fees of approximately £6,000.

**5. FINANCIAL IMPLICATIONS:**

- 5.1 There are no financial costs arising directly arising from this report. The audit plan has been compiled following a risk assessment to help limit the risk of financial loss. The additional fee earning work and potential savings on external audit fees are detailed.

**6. EQUALITY & DIVERSITY AND ENVIRONMENTAL MATTERS:**

- 6.1 There are no equality and diversity or environmental matters directly associated with this report.

**7. CRIME & DISORDER IMPLICATIONS:**

- 7.1 There are no direct crime and disorder implications arising from this report, however these documents do consider the risk of criminal activity.

**8. RECOMMENDATIONS:**

- 8.1 It is recommended that the Audit Committee approves the Internal Audit Plan 2017/18

For Further Information Contact:

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<b>Auditable Areas</b>		<b>Days</b>
<b>Economy, Housing Planning</b>		
<b>Planning and Building Control</b>		
Development Control (inc planning enforcement and appeals)		15
<b>Policy and Strategy</b>		
Forward Planning - Policy and Plans (inc S106/CIL)		10
Conservation (listed/historic buildings) and Urban Design		10
Leader (on third party behalf)		2
<b>Housing and Community</b>		
Accounts Receivable		5
Council Tax		5
National Non Domestic Rates		5
Benefits & Fraud Investigation (inc subsidy grant work for external audit)		5
Landlord services (rents)		5
Estates Management		15
Resident Involvement		5
<b>Governance and Regulation</b>		
<b>Financial</b>		
Main Accounting System inc bank reconciliation		15
Treasury Management		2
Accounts Payable		5
Income		15
VAT		15
<b>Legal</b>		
Procurement - Contract Management audit		15
Procurement Strategy and Corporate Process and Waivers		15
Procurment - Contract Payments and Financial Assessments		20
Asset Management		10
<b>Demographic Services and Member support</b>		
Electoral Services		10
Community Safety (Inc Anti Social Behaviour)		5
<b>Environment and Regulation</b>		
Health and Safety		10
<b>Resources</b>		
<b>Human Resources</b>		

Payroll (inc NFNPA testing) (includes T&S, Members Allowances & Expenses)		25
<b>ICT Services</b>		
IT Audit (PSN/Security/DR) Network and Other systems		15
IT Audit (Inventory/Purchases/Contracts/Maintenance/Licences etc)		15
<b>Business Improvement and Customer Services</b>		
Business Continuity & Emergency Planning (Assurance)		15
Community Alarms/Lifelines/CCTV		15
<b>Operations</b>		
<b>Health and Leisure</b>		
Health and Leisure Centres		20
Health and Leisure Income Returns		10
<b>Street Scene</b>		
Car Park Income Reconciliaiton		4
Parking & Enforcement		15
Caretakers, Office Cleaning & Building Security (LTH and ATC)		15
Public Conveniences		10
<b>Waste and Transport</b>		
Domestic Refuse and Commerical Waste and Recycling - inc special collections, garden waste & Street Cleansing		20
Vehicle and Plant Maintenance		15
Transport & Fleet Management System		15
<b>Open Spaces</b>		
Keyhaven Income Returns		2
Trees (Council owned)		10
<b>Audit Assurance areas</b>		
Site Visits		10
Benefit Subsidy (for external audit)		45
Counter Fraud to include; Policy review, training, prevention work, NFI overview, general monitoring tools		20
Counter Fraud Work inc NFI and Analytics		30
Counter Fraud Investigation		20
H&L Queries		10
Projects/Consultancy work/VFM		30
Advisory (Financial Regulations)		30
Information Governance Performance/Data Quality/Transparency/Retention & Disposal/Information Assets)		100
Section 151 Officer support and Contingency		30

Audit Management (inc Performance Management, Planning, Supervision/signing off of audits, Meeting and Committee attendance, annual reporting, liaison with external audit etc) and Team training and development, office routine, meetings and Contingency		230
Third Party Work		168

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## INTERNAL AUDIT CHARTER FOR NEW FOREST DISTRICT COUNCIL

### Introduction

The Internal Audit Charter describes the purpose, authority and responsibility of the internal audit activity. The Principal Auditor (Chief Audit Executive) is responsible for reviewing the charter and presenting it to Service Manager – Finance & Audit (Section 151 Officer) and Executive Board (Executive Management Team) and the Audit Committee (Board) at least annually for review and approval.

The charter is split into the following sections;

1. Regulatory basis for Internal Audit
2. Definition of Internal Auditing
3. Scope and Objectives of Internal Audit
4. Reporting Lines and Authority within the Council
5. Independence and Objectivity including Code of Ethics
6. Resourcing and Quality Standards
7. Standards in Audit Delivery and Management

### Regulatory basis for Internal Audit

The Accounts and Audit (England) Regulations 2015, requires that a “relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes.” Regulation 6 specifically requires the organisation to annually review the effectiveness of the system of internal control.

The Regulations also adds that the Authority is required to:

- (a) make available such documents and records; and
- (b) supply such information and explanations;

as are considered necessary by those conducting the internal audit. In this regulation “documents and records” includes information recorded in an electronic form.

Internal Audit also assists the Section 151 Officer in discharging their delegated responsibilities under Section 151 of the Local Government Act 1972 which requires the Council to;

*“make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”.*

The internal audit activity will govern itself by adherence to Public Sector Internal Audit Standards (PSIAS). The PSIAS includes mandatory guidance including the Definition of Internal Auditing, the Code of Ethics, and the *International Standards for the Professional Practice of Internal Auditing (Standards)*. The PSIAS applies to all internal audit service providers, whether in house, shared services or outsourced.

### Council Constitution

Audit arrangements are detailed in the Council’s Constitution, within Financial Regulations.

## **Purpose, Authority and Responsibility (Standards 1000 and 1010)**

### **Purpose (Definition of Internal Auditing)**

**Internal Auditing** is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance issues.

### **Scope and Objectives**

1. To review, appraise and report on the adequacy of internal controls across the whole organisation (Control Environment\*) as a contribution to the proper, economic, efficient and effective use of resources. This includes;
  - a. the completeness, reliability and integrity of information, both financial and operational
  - b. the systems established to ensure compliance with policies, plans, procedures, laws and regulations
  - c. the extent to which the assets and interests are accounted for and safeguarded from loss
  - d. the economy, efficiency and effectiveness with which resources are employed and
  - e. whether operations are being carried out as planned and objectives and goals are being met.
2. To promote Good Governance arrangements and monitor progress made against governance actions
3. To support the risk management process within the Council
4. To advise on internal control implications on new systems
5. To support in relevant corporate or service projects
6. To add value through advice, facilitation and training (subject to there being no impact on the core assurance work, maintaining independence and availability of skills and resources).
7. Provide a quality fraud investigation service and
8. Support the work of the Audit Committee

These objectives will be delivered through maintaining a high quality internal audit function that meets the needs of the Council, supporting the Section 151 Officer and the Audit Committee in discharging their responsibilities and meeting the requirements of the PSIAS.

\*The PSIAS defines the Control Environment as;  
"the attitude and actions of the board and management regarding the importance of control within the organisation. The control environment provides the discipline and structure for the achievement of the primary objectives of the system of internal control".

The control environment includes the following elements:

- Integrity and ethical values.



- Management’s philosophy and operating style.
- Organisational structure.
- Assignment of authority and responsibility.
- Human resource policies and practices.
- Competence of personnel.

The Council has defined its control environment within the Assurance Framework. The detailed work of internal audit is set out within the risk based internal audit plan which is designed to support the Annual Internal Audit Opinion and Council’s Annual Governance Statement. The internal audit plan will be continually reviewed to ensure emerging risks are taken into account throughout the year.

### **Reporting Lines and Relationships**

The Principal Auditor reports to the Section 151 Officer. This enables Internal Audit to remain independent of any service and therefore in its planning and operation.

Internal audit has unrestricted access to the;

- Chief Executive
- Monitoring Officer
- Members including specifically the Chair of the Audit Committee
- all levels of management and
- other Council employees as necessary

CIPFA has published “The Role of the Head of Internal Audit in Public Service Organisations”. The Principal Auditor must comply with these requirements in addition to those set out in the PSIAS.

### **Authority**

Internal Auditors also have access to;

- enter any Council premises or land at any reasonable time, subject to any statutory requirements;
- have access to all records and documents concerning any past or prospective financial transaction of the Council;
- require, and receive, any necessary explanations concerning any matter under examination;
- require any employee of the Council to produce any of the Councils’ property or asset under their control.

### **Independence and Objectivity (Standards 1100, 1110, 1111, 1120 and 1130)**

#### **Code of Ethics**

All Internal Auditors will conform to the Chartered Institute of Internal Auditors (CIIA’s) Code of Ethics. Where members of the Internal Audit team have attained membership with other professional bodies such as: the ICAEW or CIPFA, those officers must also comply with their relevant bodies’ ethical requirements. In addition to this, all Internal Auditors will have regard to the Standards of Public Life’s “Seven Principles of Public Life”. ([www.public-standards.gov.uk](http://www.public-standards.gov.uk))

Each member of the team will receive a copy of the Code Ethics and sign up to an annual declaration to confirm that they will work in compliance with the Code of Ethics as well as

Council's standards and policies. Where potential areas of conflict may arise during the year, the auditor will also be required to disclose this. It is critical that all Auditors maintain high standards of integrity, independence, objectivity, confidentiality and competence.

Where an Internal Auditors' conduct does not comply with these standards or codes, disciplinary action may be taken, either by their Employer or by the individual's professional body.

### **Further Standards and Independence**

Internal Auditors must remain independent; therefore Auditors will be independent of the activities audited to enable staff to perform their duties in a way that allows them to make impartial, objective and effective professional judgements and recommendations. As such, Audit staff will not have any operational responsibilities. Further to this, audit staff will not assess specific operations for which they have had any responsibility within the previous year.

The Principal Auditor will report annually to the Section 151 Officer and to Audit Committee that independence and objectivity has been maintained. If this is not the case, disclosure will be made, this for example may be as a result of resource limitations, conflicts of interest or restricted access to records.

### **Internal Audit Resource Management, Proficiency and Due Professional Care (Standards 1200, 1210, 1220 1230 and 2030)**

#### **Resource Management (Standard 2030)**

For the audit team to fulfill their responsibilities, the team must be appropriately staffed in terms of numbers, professional qualifications, skills and experience. Resources must be effectively deployed to achieve the approved risk based plan. The mix of available knowledge, skills and other competencies will be considered once the risk based plan is drafted to ensure they are sufficient to deliver the plan.

It is the responsibility of the Principal Auditor to report concerns over a lack of resources to the Section 151 Officer and to the Audit Committee.

If necessary the Principal Auditor will agree with the Section 151 Officer additional (specialist) resources.

Employment of staff will be in compliance with HR policies. External resources will be procured in line with the Council's Financial Regulations and Standing Orders and to Contracts policy.

There is a further specific requirement under the PSIAS that approval be sought from the Audit Committee to engage in any significant additional consultancy services not already included within the audit plan.

#### **Proficiency (Standard 1210)**

The Principal Auditor must hold a professional qualification (CMIIA, CCAB or equivalent) and be suitably experienced.

Each job role within the internal audit structure will detail skills and competencies within the approved job description and person specification. In line with New Forest District Council Policy and the PSAIS, each member of the team will be assessed against these predetermined competencies and annual objectives. Any development and training plans will be regularly reviewed, monitored and agreed with officers. This assessment will also take into account competency changes as needed ie. to reflect changing technology and legislation.

Auditors are also required to maintain a record of their continual professional development in line with their professional body. (Standard 1230)

### **Due Professional Care (Standard 1220)**

Internal auditors must exercise due professional care by considering the:

- Extent of work needed to achieve the engagement's objectives;
- Relative complexity, materiality or significance of matters to which assurance procedures are applied;
- Adequacy and effectiveness of governance, risk management and control processes;
- Probability of significant errors, fraud, or non-compliance; and
- Cost of assurance in relation to potential benefits.

Considering various data analysis techniques and being alert to significant risks that may affect the objectives.

### **Quality Assurance and Improvement Programme (Standards 1300, 1310, 1311, 1312, 1320, 1321 and 1322)**

To enable the Principal Auditor to assess the Internal Audit's activity's conformance to the PSIAS and to aid in the annual assessment of Internal Audit's efficiency and effectiveness and identify opportunities for improvement a Quality Assurance and Improvement Programme (QAIP) has been developed.

The QAIP includes both internal and external assessments (Standard 1310)

Assessment against QAIP will form part of the annual assessment of the effectiveness of internal audit (contained within the Annual Auditors Report) which is published to the Section 151 Officer, Executive Management Team and Audit Committee. (Standard 1320)

Where there are instances of non conformances to the PSIAS this is reported to the Section 151 Officer, Executive Management Team and Audit Committee. Any significant deviations will be detailed within the Annual Governance Statement. (Standard 1322)

### **Internal Assessment (Standard 1311)**

All Auditors have access to an up to date electronic audit manual, the Internal Audit Charter, Council policies, the PSIAS and application note as well as other references such as TIS Online. In addition the Principal Auditor shares journals, publications and other relevant articles. Where staff are members of bodies such as the CIIA further guidance is available.

To maintain quality, work is allocated to staff with appropriate skills, competence and experience. All levels of staff are supervised. Work is monitored for progress, assessed for quality and to allow for coaching. (Linked to standard 2340)

Targets are set for individual auditors (such as completion of an audit within a set number of days) as well as for the team (i.e. 100% of all main financial audits to be completed). Audit targets and performance indicators are agreed with the Section 151 Officer and the Audit Committee.

In addition to the QAIP, progress made against the annual audit plan and any emerging issues (i.e. fraud risks or governance issues) are reported regularly to Section 151 Officer, Executive Management Team and the Audit Committee. (Linked to standard 2060)

Ongoing assessment of individuals is carried out through regular one to one meetings, stakeholder feedback from post audit questionnaires and formally in the annual appraisal process.

### **External Assessment (Standard 1312)**

In compliance with the PSAIS, external assessment will be carried out at least once every five years. The preferred method would be through self assessment, with an independent validation from a peer review providing there is no conflict of interest and impairment to objectivity in this arrangement.

This arrangement and scope must be agreed with the Section 151 Officer and Audit Committee.

### **Performance Standards (Standards 2000, 2010, 2020, 2030, 2040, 2050, 2060 and 2070)**

In order to give an evidenced based opinion there is a minimum level of coverage required. When planning the work of internal audit, assurances provided by third parties can be considered.

### **Planning (Standard 2010)**

The Principal Auditor develops a risk based audit plan, which can be updated to reflect changing risks and priorities of the organisation, to enable the production of the annual internal audit opinion.

In order to prepare this risk based audit plan, the Principal Auditor considers both the National (i.e. economic climate) and Local issues (corporate plan, service action plans, Medium Term Financial Plan and risk registers and discussions with Service Managers and the Executive Management Team).

A risk assessment of the "Audit Universe" is undertaken by scoring a number of factors, which are weighted to give an overall score which dictates how often the area should be reviewed. (This assessment and model considers the size of the area, the control environment and Inspection regimes).

The plan will consider;

- the need for specialist auditor skills, where they are not available already
- the balance of the range of reviews and sufficient coverage to ensure that External Audit can place reliance on the work of Internal Audit
- Contingency time for ad hoc reviews or fraud investigations
- Sufficient time for audit management including audit planning, development of the annual opinion and attendance at meetings and maintenance of audit policies and procedures (Standard 2040)
- Staff training and development needs
- Liaison time with other assurance providers to share information (standard 2050), such as the External Auditor. The plan will need to consider the details within the Joint Working Protocol.
- Assurances provided by other bodies (see Assurance Framework)

The Principal Auditor reports the risk based audit plan and resource requirements to the Section 151 Officer, Executive Management Team and the Audit Committee for review and approval. For clarity the Audit Committee can approve but cannot direct the audit plan.

### **Nature of Work (Standards 2100, 2110, 2120 and 2130)**

#### **Governance (Standard 2110)**

Internal audit will assess and make appropriate recommendations for improving the governance process in its accomplishment of the following objectives:

- Promoting appropriate ethics and values within the organisation;

- Ensuring effective organisational performance management and accountability;
- Communicating risk and control information to appropriate areas of the organisation; and
- Coordinating the activities of and communicating information among the board, external and internal auditors and management.

Specifically internal audit;

- evaluates the design, implementation and effectiveness of the organisation's ethics-related objectives, programmes and activities
- assesses whether the information technology governance of the organisation supports the organisation's strategies and objectives

### **Risk Management (Standard 2120)**

Internal audit evaluates the effectiveness and contributes to the improvement of risk management processes.

The PSIAS requires Internal Audit to;

1. evaluate risk exposures relating to the organisation's governance, operations and information systems regarding the:
  - Achievement of the organisation's strategic objectives;
  - Reliability and integrity of financial and operational information;
  - Effectiveness and efficiency of operations and programmes;
  - Safeguarding of assets; and
  - Compliance with laws, regulations, policies, procedures and contracts.
2. address risk consistent with the engagement's objectives and be alert to the existence of other significant risks
3. incorporate knowledge of risks gained from consulting engagements into their evaluation of the organisation's risk management processes.
4. assist management in establishing or improving risk management processes, but refrain from assuming any management responsibility by actually managing risks.

### **Control (Standard 2130)**

Internal audit assists the organisation in maintaining effective controls by evaluating their effectiveness and efficiency and by promoting continuous improvement.

Internal audit evaluates the adequacy and effectiveness of controls in responding to risks within the organisation's governance, operations and information systems regarding the:

- Achievement of the organisation's strategic objectives;
- Reliability and integrity of financial and operational information;
- Effectiveness and efficiency of operations and programmes;
- Safeguarding of assets; and
- Compliance with laws, regulations, policies, procedures and contracts.

Internal auditors must incorporate knowledge of controls gained from consulting engagements into evaluation of the organisation's control processes.

## Fraud

Whilst it is not a primary role of Internal Audit to detect fraud, it does have a role in providing an independent assurance on the effectiveness of the processes put in place by management to manage the risk of fraud. Internal Audit can do additional work, although it cannot be prejudicial to this primary role. Typical activities may include;

- Investigating the cause of fraud
- Responding to whistleblowers
- Considering fraud in every audit
- Making recommendations to improve processes
- Review fraud prevention controls and detection processes put in place by management

## Audit Delivery

### Engagement Planning (Standards 2200, 2201, 2210, 2220, 2230 and 2240)

For each engagement, a brief should be prepared, discussed and agreed with relevant managers. The brief should establish the objectives, scope and timing for the audit assignment and its resources and reporting requirements. Audit work is undertaken using a risk based audit approach, which will consider the probability of significant errors, fraud and non compliance. Adequate criteria will be needed to evaluate the nature of internal audit's work. Criteria can be extended to consider value for money assessments.

### Performing the Engagement (Standard 2300, 2310, 2320, 2330 and 2340)

Auditors are required to identify, analyse, evaluate and document sufficient information to achieve the engagement's objectives. This evidence supports their conclusions, professional judgements and recommendations and therefore must be factual and accurate. This data is held in compliance with the Councils' retention policies.

### Communicating Results (Standards 2400, 2410, 2420, 2421, 2430, 2431, 2440 and 2450)

The results of all engagements are reported, including the objective, scope, all material facts, conclusions, recommendations, action plans, any limitations and where appropriate contain the internal auditors' opinion.

Table 1 provides the levels of opinion that can be provided with a short description;

Table 1

Opinion	Description
Substantial Assurance	Strong system of control designed and operating effectively. Any weaknesses found were low impact and do not significantly affect the key controls of the objectives of the system.
Reasonable Assurance	A sound system of internal control but minor weaknesses were found in the system design or compliance. Results would not have a material risk to the achievement of the system objectives.
Limited Assurance	Some weakness in the system of control designed or the level of compliance which result in risk to the achievement of system objectives.
No Assurance	Fundamental weaknesses have been identified such that many key controls are absent or not operating effectively which may put at risk the achievement of the corporate control objective.

Table 2 provides a description of the three priority levels given to recommendations, together with an expected timeframe for implementation; (The framework for scoring recommendations is contained within the audit manual).

Table 2

<b>Priority</b>	<b>Description</b>
High	Fundamental weakness which presents immediate risk. Requires urgent attention. Actions are monitored.
Medium	Significant control weakness where the risk is not imminent or only a moderate nature. Needs addressing but not urgent. Actions are monitored.
Low	The weakness or opportunity for improvement where the risk poses no great threat and is relatively minor. Action is only recommended for consideration. Actions followed up six months up or on next audit (whichever is the sooner).

Contents of draft reports are discussed with managers for factual accuracies. It is important to bring significant issues to the attention of management during the course of engagement to allow for immediate action.

Managers are required to give responses to each recommendation, detailing the responsible officer for each action and the target date for completion. Where there is disagreement over the actions to be taken, this is recorded in the action plan with the residual risks highlighted. Where these risks are deemed to be high, they are reported to the Section 151 Officer, Executive Management Team and the Audit Committee and that risk registers are updated where relevant.

Internal Audit reports are available to the public, however no personal data is disclosed in compliance with the Data Protection Act.

**Overall Opinions (Standard 2450)**

The annual Internal Auditors report is prepared by the Principal Auditor. This opinion is used to inform the Annual Governance Statement. This report must conclude on the overall adequacy and effectiveness of the Councils’ framework of governance, risk management and control giving an overall opinion, summary of the work undertaken to support this opinion (including any reliance placed on work by other assurance providers), a statement on the conformance with the PSIAS, the results of the QAIP and any external assessors improvement recommendations, disclosure of any impairments or limitations. If an unfavourable opinion is given, the reasons for this must be given.

**Monitoring Progress (Standard 2500) and Communicating Unacceptable Levels of Risk (Standard 2600)**

Internal Audit tracks progress made on all recommendations. It is the responsibility of the manager to implement and provide relevant evidence of the agreed actions to Internal Audit. Any overdue high priority recommendations are reported to the Audit Committee.

The findings and follow up reviews inform future audit planning.

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## ASSURANCE FRAMEWORK

Assurance	Internal Audit Assurance Work
Internal Audit Reports	Sufficient coverage undertaken, including all fundamental systems and across all service areas. Details provided within Appendix 1 (records opinion of each audit and number of recommendations) Additional non assurance work undertaken, such as supporting Senior Management in key projects. No serious fraud investigations undertaken resulting in prosecutions. Participated in National Fraud Initiative (NFI), a data matching exercise that helps prevent and detect fraud.
Asset Management	A high priority recommendation was outstanding, to ensure all expected leases had been charged and that the charges had been raised correctly. This recommendation was reported as outstanding in last years annual report and the service were awaiting the implementation of a case management system. Although a case management system has not been implemented the Service have now undertaken a reconciliation with IPF (Asset Management system) and Accounts Receivable to identify outstanding lease arrangements and rent reviews. The service are currently working through the outstanding issues.
Financial Management	Budget monitoring is within the main accounting audit scope. No significant issues identified. Financial Regulations must be reviewed, recommended in AGS. Financial Reports provided to Members during the year. Medium Term Financial Plans in place. Performance Management There was performance indicator testing carried out within creditors
Performance Management	There was some performance indicator testing carried out within creditors, Council Tax and Benefits audits with no significant concerns raised. Service Action Plans are also reviewed as part of each audit
Business Continuity	A separate audit was undertaken on this area. The following High priority recommendations remain outstanding: To ensure that all business units, that are deemed to have Critical Activities, have up to date Business Continuity Plans To ensure Disaster Recovery Plans are created for each Critical System High level of responsibility needs to be taken for creating and implementing business continuity plans and ensuring they are kept up to date The Service Manager responsible for this area has recently changed. A full audit will be undertaken during 17/18.
Health and Safety	Covered lone working within all relevant audits. Health and Safety audit will be completed as part of 17/18 audit plan.
Corporate Governance	Local Code review in place which included recommendations made by the Monitoring Officer and review by Performance Improvement Manager. Council minutes in place. Annual complaints report is produced. AGS approved by Section 151 Officer with findings from Internal Audit included.
Information Governance	Data Protection included within all audits where relevant Security of applications tested Physical storage of data assets tested. Accuracy and timeliness of data considered (impact on decisions)
Risk Management	The Strategic risk register reported to Audit Committee. Services consider risks in relation to service plans. Service Risk registers should be completed; this will be tested as part of each audit undertaken.
HR/Recruitment etc	Starters testing undertaken in payroll audit (annual test). Training programmes for Poor performance and Recruitment and Selection are in place. HR included within the risk assessment of all audits.

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EMT – 13<sup>th</sup> March 2017  
 AUDIT COMMITTEE – 24<sup>th</sup> March 2017

## LOCAL CODE OF GOOD GOVERNANCE – THE NEW FRAMEWORK

### 1. INTRODUCTION

- 1.1 Since 2008 the Council has adopted a Local Code of Corporate Governance based on the framework produced by the Chartered Institute for Public Finance and Accountancy (CIPFA) and the Society of Local Authority Chief Executives (SOLACE)
- 1.2 In 2016 CIPFA/SOLACE carried out a review of their framework to ensure that it still reflects the environment in which Councils are operating and to also reflect the International framework which had been developed by CIPFA and the International Federation of Accountants (IFAC) in 2014.
- 1.3 As a result of their review in April 2016 CIPFA/SOLACE published a new framework document “Delivering Good Governance in Local Government Framework 2016 Edition” with the key focus of governance processes and structures centring on the attainment of sustainable economic, societal and environmental outcomes. The new framework centres on the following 7 core principles.

<b>A</b>	Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law.
<b>B</b>	Ensuring openness and comprehensive stakeholder engagement.
<b>C</b>	Defining outcomes in terms of sustainable economic, social and environmental benefits.
<b>D</b>	Determining the interventions necessary to optimize the achievement of the intended outcomes.
<b>E</b>	Developing the entity’s capacity, including the capability of its leadership and the individuals within it.
<b>F</b>	Managing risks and performance through robust internal control and strong public financial management.
<b>G</b>	Implementing good practices in transparency, reporting and audit to deliver effective accountability.

The International Framework notes that principles A and B permeate implementation of principles C to G.

- 1.4 Each Local Authority should have a code that reflects these principles and be committed to improving governance on a continuing basis. The process of evaluation and review will be undertaken annually by the Monitoring Officer (Governance and Regulation Executive Head) and Principal Auditor. This report therefore proposes a revised code for adopting which follows these principles.

### 2. NEW LOCAL CODE OF CORPORATE GOVERNANCE

- 2.1 A revised code has been drafted and is attached as Appendix 1. This code follows the recommended text in the CIPFA/SOLACE framework.

### 3. FINANCIAL IMPLICATIONS

- 3.1 Although there are no direct financial implications arising from this report, good governance arrangements provide assurance in respect of financial management.

#### **4. ENVIRONMENTAL MATTERS**

4.1 There are no environmental matters arising directly from this report.

#### **5. CRIME AND DISORDER IMPLICATIONS**

5.1 Ethical behaviour in terms of avoiding fraud and corruption is an intrinsic element of corporate governance and this report provides assurance in that regard.

#### **6. EQUALITY AND DIVERSITY IMPLICATIONS**

6.1 There are no equality and diversity implications arising directly from this report.

#### **7. RECOMMENDATIONS**

7.1 It is recommended that the new version of the Local Code of Corporate Governance, as attached as Appendix 1, be approved.

#### **For Further Information Please Contact:**

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#### **Background Papers:**

New Code of Good Gov  
- Standards Committee  
28 March 2008



## Local Code of Corporate Governance

New Forest District Council recognises the need for effective corporate governance arrangements and has a range of systems policies and procedures designed to achieve this. The Council also recognises that effective local government relies upon establishing and maintaining the confidence of the public in both the elected members and the officers of the Council.

In adopting this local code, the Council is committing itself to maintaining and improving these arrangements.

**PRINCIPLE A:** This is about how an organisation behaves with integrity, demonstrates strong commitment to ethical values, and respects the rule of law.

<b>Sub-principle</b>	
<b>Behaving with integrity</b>	<p>Ensuring members and officers behave with integrity and lead a culture where acting in the public interest is visibly and consistent.</p> <p>Ensuring members take the lead in establishing specific standard operating principles or values for the organisation and its staff and that they are communicated and understood</p> <p>Leading by example and using the above standard operating principles or values as a framework for decision making and other actions.</p> <p>Demonstrating, communicating and embedding the standard operating principles or values through appropriate policies and processes.</p>
<b>Demonstrating strong commitment to ethical values</b>	<p>Seeking to establish, monitor and maintain the organisation's ethical standards and performance.</p> <p>Underpinning personal behaviour with ethical values.</p> <p>Developing and maintaining robust policies and procedures which place emphasis on agreed ethical values</p> <p>Ensuring that external providers of services on behalf of the organisation are required to act with integrity and in compliance with ethical standards expected by the organisation.</p>
<b>Respecting the rule of law</b>	<p>Ensuring members and staff demonstrate a strong commitment to the rule of the law as well as adhering to relevant laws and regulations.</p> <p>Creating the conditions to ensure that the statutory officers, other key post holders, and members, are able to fulfil their responsibilities in accordance with legislative and regulatory requirements.</p> <p>Dealing with breaches of legal and regulatory provisions effectively.</p> <p>Ensuring corruption and misuse of power are dealt with effectively.</p>

**PRINCIPLE B:** This principle is about demonstrating how an organisation ensures openness and comprehensive stakeholder engagement.

<b>Sub-principle</b>	
<b>Openness</b>	<p>Ensuring an open culture through demonstrating, documenting and communicating the organisation's commitment to openness.</p> <p>Making decisions that are open about actions, plans, resource use, forecasts, outputs and outcomes.</p> <p>Providing clear reasoning and evidence for decisions in both public records and explanations to stakeholders and being explicit about the criteria, rationale and considerations used. In due course, ensuring that the impact and consequences of those decisions are clear.</p> <p>Using formal and informal consultation and engagement to determine the most appropriate and effective interventions/ courses</p>

	of action.
<b>Engaging comprehensively with institutional stakeholders</b>	<p>Effectively engaging with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship are clear so that outcomes are achieved successfully and sustainably.</p> <p>Developing formal and informal partnerships to allow for resources to be used more efficiently and outcomes achieved more effectively.</p> <p>Ensuring that partnerships are based on: trust, a shared commitment to change, a culture that promotes and accepts challenge among partners, and that the added value of partnership working is explicit.</p>
<b>Engaging with individual citizens and service users effectively</b>	<p>Establishing a clear policy on the type of issues that the organisation will meaningfully consult with to ensure that service (or other) provision is contributing towards the achievement of intended outcomes.</p> <p>Ensuring that communication methods are effective.</p> <p>Encouraging, collecting and evaluating the views and experiences of communities, citizens, service users and organisations of different backgrounds including reference to future needs.</p> <p>Implementing effective feedback mechanisms in order to demonstrate how views have been taken into account.</p> <p>Balancing feedback from more active stakeholder groups with other stakeholder groups to ensure inclusivity.</p> <p>Taking account of the impact of decisions on future generations of tax payers and service users.</p>

**PRINCIPLE C:** This principle is about how an organisation defines outcomes in terms of sustainable economic, social and environmental benefits.

<b>Sub-principle</b>	
<b>Defining outcomes</b>	<p>Having a clear vision, which is an agreed formal statement of the organisation's purpose and intended outcomes containing appropriate performance indicators, which provide the basis for the organisation's overall strategy, planning and other decisions.</p> <p>Specifying the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer.</p> <p>Delivering defined outcomes on a sustainable basis within the resources that will be available.</p> <p>Identifying and managing risks to the achievement of outcomes.</p> <p>Managing service users' expectations effectively with regard to determining priorities and making the best use of the resources available.</p>
<b>Sustainable economic, social and environmental benefits</b>	<p>Considering and balancing the combined economic, social and environmental impact of policies and plans when taking decisions about service provision.</p> <p>Taking a longer-term view with regard to decision making, taking account of risk and acting transparently where there are potential</p>

	<p>conflicts between the organisation's intended outcomes and short-term factors such as the political cycle or financial constraints.</p> <p>Determining the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs.</p> <p>Ensuring fair access to services.</p>
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**PRINCIPLE D:** This principle is about how an organisation determines the interventions necessary to optimize the achievement of the intended outcomes.

<b>Sub-principle</b>	
<b>Determining interventions</b>	<p>Ensuring decision makers receive objective and rigorous analysis of a variety of options indicating how intended outcomes would be achieved and associated risks.</p> <p>Considering feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available including people, skills, land and assets and bearing in mind future impacts.</p>
<b>Planning interventions</b>	<p>Establishing and implementing robust planning and control cycles that cover strategic and operational plans, priorities and targets.</p> <p>Engaging with internal and external stakeholders in determining how services and other courses of action should be planned and delivered.</p> <p>Considering and monitoring risks facing each partner when working collaboratively, including shared risks.</p> <p>Establishing appropriate key performance indicators as part of the planning process.</p> <p>Ensuring capacity exists to generate the information required to review service quality regularly.</p> <p>Preparing budgets in accordance with objectives, strategies and the medium term financial plan.</p> <p>Informing medium and long term resource planning by drawing up realistic estimates of revenue and capital expenditure aimed at developing a sustainable funding strategy.</p>
<b>Optimising achievement of intended outcomes</b>	<p>Ensuring the medium term financial strategy integrates and balances service priorities, affordability and other resource constraints.</p> <p>Ensuring the budgeting process is all-inclusive, taking into account the full cost of operations over the medium and longer term.</p> <p>Ensuring the medium term financial strategy sets the context for ongoing decisions on significant delivery issues or responses to changes in the external environment that may arise during the budgetary period in order for outcomes to be achieved while optimising resource usage.</p> <p>Ensuring the achievement of 'social value' through service planning and commissioning.</p>



**PRINCIPLE E:** This principle demonstrates how the organisation develops the entity’s capacity, including the capability of its leadership and the individuals within it.

<b>Sub-principle</b>	
<b>Developing the entity’s capacity</b>	<p>Reviewing operations, performance and use of assets on a regular basis to ensure their continuing effectiveness</p> <p>Improving resource use through appropriate application of techniques such as benchmarking and other options in order to determine how resources are allocated so that defined outcomes are achieved effectively and efficiently</p> <p>Recognising the benefits of partnerships and collaborative working where added value can be achieved</p> <p>Developing and maintaining an effective workforce plan to enhance the strategic allocation of resources</p>
<b>Developing the capability of the entity’s leadership and other individuals</b>	<p>Developing protocols to ensure that elected and appointed leaders negotiate with each other regarding their respective roles early on in the relationship and that a shared understanding of roles and objectives is maintained.</p> <p>Publishing a statement that specifies the types of decisions that are delegated and those reserved for the collective decision making of the governing body.</p> <p>Ensuring the leader and the chief executive have clearly defined and distinctive leadership roles within a structure.</p> <p>Ensuring members and staff have access to appropriate induction tailored to their role and that ongoing training and development is available and encouraged</p> <p>Ensuring that there are structures in place to encourage public participation.</p> <p>Holding staff to account through regular performance reviews which take account of training or development needs</p> <p>Ensuring arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in maintaining their own physical and mental wellbeing.</p>

**PRINCIPLE F:** This principle demonstrates how the organisation manages risks and performance through robust internal control & strong public financial management.

<b>Sub-principle</b>	
<b>Managing risk</b>	<p>Recognising that risk management is an integral part of all activities and must be considered in all aspects of decision making.</p> <p>Implementing robust and integrated risk management arrangements and ensuring that they are working effectively.</p> <p>Ensuring that responsibilities for managing individual risks are clearly allocated.</p>
<b>Managing performance</b>	<p>Monitoring service delivery effectively including planning, specification, execution and independent post implementation review.</p> <p>Making decisions based on relevant, clear objective analysis and advice.</p> <p>Ensuring an effective scrutiny or oversight function is in place which</p>

	<p>provides constructive challenge and debate on policies and objectives before, during and after decisions are made thereby enhancing the organisation's performance and that of any organisation for which it is responsible.</p> <p>Providing members and senior management with regular reports on service delivery plans and on progress towards outcome achievement.</p> <p>Ensuring there is consistency between specification stages (such as budgets) and post implementation reporting (e.g. financial statements).</p>
<b>Robust internal control</b>	<p>Aligning the risk management strategy and policies on internal control with achieving objectives.</p> <p>Evaluating risk management and internal control on a regular basis.</p> <p>Ensuring effective counter fraud and anti-corruption arrangements are in place.</p> <p>Ensuring additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is provided by the internal auditor.</p> <p>Ensuring an audit committee, which is independent of the executive and accountable to the governing body:</p> <ul style="list-style-type: none"> <li>• provides a further source of effective assurance regarding arrangements for managing risk and maintaining an effective control environment.</li> <li>• that its recommendations are listened to and acted upon.</li> </ul>
<b>Managing data</b>	<p>Ensuring effective arrangements are in place for the safe collection, storage, use and sharing of data, including processes to safeguard personal data.</p> <p>Ensuring effective arrangements are in place and operating effectively when sharing data with other bodies.</p> <p>Reviewing the quality and accuracy of data used in decision making and performance monitoring.</p>

**PRINCIPLE G:** This principle demonstrates how an organisation implements good practices in transparency, reporting and audit to deliver effective accountability.

<b>Sub-principle</b>	
<b>Implementing good practice in transparency</b>	<p>Writing and communicating reports for the public and other stakeholders in a fair, balanced and understandable style appropriate to the intended audience and ensuring that they are easy to access and interrogate</p> <p>Striking a balance between providing the right amount of information to satisfy transparency demands and enhance public scrutiny while not being too onerous.</p>
<b>Implementing good practices in reporting</b>	<p>Reporting at least annually on performance, value for money and stewardship of resources to stakeholders in a timely and understandable way.</p> <p>Ensuring members and senior management own the results reported.</p> <p>Ensuring robust arrangements for assessing the extent to which the principles contained in this Framework have been applied and publishing the results on this assessment, including an action plan for improvement and evidence to demonstrate good governance.</p>

	<p>Ensuring that this Framework is applied to jointly managed or shared service organisations as appropriate.</p> <p>Ensuring the performance information that accompanies the financial statements is prepared on a consistent and timely basis and the statements allow for comparison with other, similar organisations.</p>
<p><b>Assurance and effective accountability</b></p>	<p>Ensuring that recommendations for corrective action made by external audit are acted upon.</p> <p>Ensuring an effective internal audit service with direct access to members is in place, providing assurance with regard to governance arrangements and that recommendations are acted upon.</p> <p>Welcoming peer challenge, reviews and inspections from regulatory bodies and implementing recommendations.</p> <p>Gaining assurance on risks associated with delivering services through third parties.</p> <p>Ensuring that when working in partnership, arrangements for accountability are clear and the need for wider public accountability has been recognised and met.</p>

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## AUDIT COMMITTEE – MARCH 2017

### THE REGULATION OF INVESTIGATORY POWERS ACT 2000

#### 1. INTRODUCTION

- 1.1 The purpose of this report is to provide the Audit Committee with a summary of the Council's use of its powers under the Regulation of Investigatory Powers Act 2000 (RIPA).
- 1.2 RIPA provides a statutory framework whereby certain surveillance and information gathering activities can be authorised and conducted by the Council in a lawful manner where they are carried out for the prevention and detection of crime and, in some cases, for the prevention of disorder.
- 1.3 The Council has adopted two policies relating to its use of RIPA:
  - 1.3.1 Surveillance Policy - updated January 2017 (Appendix 1)
  - 1.3.2 Policy for the Acquisition of Communications Data - updated January 2017 (Appendix 2)
- 1.4 In accordance with these policies the RIPA Monitoring Officer is required to report to the Audit Committee every two years on the Council's use of RIPA unless the specific powers have been used in the first of the two years, in which case a report will be made to the next Audit Committee following use of the powers.
- 1.5 The recent updates to the policy also reflect the changes to the management structure.

#### 2. BACKGROUND

- 2.1 When the Human Rights Act 1998 came into force in 2000 it made the fundamental rights and freedoms contained in the European Convention on Human Rights (ECHR) enforceable in the UK.
- 2.2 Article 8 of the ECHR provides that individuals have the right to respect for private and family life and Article 6 of the ECHR provides that individuals have the right to a fair trial.
- 2.3 The use of covert surveillance techniques is considered to be an interference with this Article 8 right and therefore RIPA provides a framework to render lawful surveillance activities which might otherwise be in breach of the ECHR. It is also aimed at ensuring that evidence obtained against a person to be used in criminal proceedings is obtained in a fair manner.
- 2.4 RIPA regulates three surveillance techniques available to local authorities, namely:
  - 2.4.1 Directed surveillance - covert surveillance which is carried out as part of a specific investigation and is likely to involve the obtaining of private information about the person under investigation;

- 2.4.2 Covert Human Intelligence Sources (CHIS) – use of a person who establishes and maintains a relationship with the person under investigation in order to obtain and disclose information; and
  - 2.4.3 The acquisition and disclosure of communications data - obtaining information from communication service providers (e.g. the postal service, telephone companies and internet companies) about the use made of a service (e.g. itemised billing, internet connections or records of registered post) and user information (e.g. subscriber names, addresses or other customer information).
- 2.5 RIPA provides that the above activities may be authorised by local authorities but must be necessary and proportionate.

### **3. THE COUNCIL'S USE OF RIPA**

- 3.1 The Council uses its powers under RIPA infrequently.
- 3.2 The Council did not authorise any surveillance activities under RIPA in 2016.

### **4. ENVIRONMENTAL IMPLICATIONS**

- 4.1 There are no environmental implications arising from this report.

### **5. CRIME AND DISORDER IMPLICATIONS**

- 5.1 The Council's use of RIPA relates to the prevention and detection of crime and, in some cases, the prevention of disorder. It is essential the Council complies with RIPA if covert surveillance techniques are used in order to prevent legal challenge and ensure that evidence obtained is admissible in criminal proceedings. As stated above, the Council rarely uses its powers under RIPA.

### **6. CONCLUSION**

- 6.1 RIPA provides the Council with a statutory framework to follow so that it may carry out various covert investigatory activities in a lawful manner.
- 6.2 The Council uses its powers under RIPA infrequently, but when use is made of such powers it is essential that this is done in accordance with the law and the Council's policies.

### **7. RECOMMENDATION**

It is recommended that:-

- 7.1 Members note the use made by the Council of its powers under RIPA.

#### **Further Information**

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#### **Background Papers**

Published documents



## **SURVEILLANCE POLICY**

**Human Rights Act 1998,**

**Regulation of Investigatory Powers Act 2000**

**& Protection of Freedoms Act 2012**

**THIS POLICY MUST BE READ IN CONJUNCTION WITH THE CURRENT HOME OFFICE CODES OF PRACTICE: "COVERT SURVEILLANCE AND PROPERTY INTERFERENCE" AND "COVERT HUMAN INTELLIGENCE SOURCES" AND THE OFFICE OF SURVEILLANCE COMMISSIONERS "PROCEDURES AND GUIDANCE" (DECEMBER 2014).**

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## 1 BACKGROUND

- 1.1 When the Human Rights Act 1998 came into force in 2000 it made the fundamental rights and freedoms contained in the European Convention on Human Rights enforceable in UK Courts and Tribunals.
- 1.2 Article 8 of the Convention reads as follows: -
- “Everyone has the right to respect for his private and family life his home and his correspondence.
- There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of public safety, for the protection of order, health or morals, or for the rights and freedoms of others.”
- 1.3 Investigating Officers of the Council may, from time to time, engage in activities which interfere with a person’s right under Article 8 of the Convention to respect for their private and family life. Such interference is only permissible where it complies with the exceptions set out in Article 8.
- 1.4 The Regulation of Investigatory Powers Act 2000 (“RIPA”) provides a statutory framework whereby certain surveillance activities can be authorised and conducted compatibly with Article 8 by public bodies.
- 1.5 Officers of New Forest District Council (“the Council”) may seek authorisation under RIPA to engage in the following types of surveillance: -
- Directed surveillance
  - Use of a Human Covert Intelligence Source
- 1.6 These surveillance techniques can **only** be authorised under RIPA where the use of the surveillance is necessary for the **prevention or detection of crime**, or (in some cases) for the **prevention of disorder**. Since **1 November 2012**, it is **only** possible to authorise directed surveillance under RIPA where the matter under investigation constitutes a **criminal offence** for which the courts could impose a maximum term of at least six months’ imprisonment, **or** where the surveillance is in connection with the sale of alcohol or tobacco to children.
- 1.7 The Council can only authorise surveillance under RIPA in connection with the performance of the specific public functions which it carries out. It cannot use RIPA to authorise surveillance in connection with the ordinary functions (e.g., employment issues) which are carried out by all public authorities.
- 1.8 This Surveillance Policy explains what is involved in each of these two types of surveillance. The policy sets out the relevant responsibilities of the Council and its officers, and is designed to ensure that any such surveillance is conducted in a manner that will comply with the safeguards embodied in the Human Rights Act 1998 and RIPA.
- 1.9 All Investigating Officers and Authorising Officers should be familiar with RIPA, this Surveillance Policy, the Codes of Practice issued by the Home Office relating to the Use of Covert Human Intelligence Sources and Covert Surveillance and Property

Interference, and the Procedures and Guidance issued by the Office of Surveillance Commissioners.

## **2 DEFINITIONS:**

### **2.1 Confidential Information**

This includes:

- Matters subject to legal privilege: Information relating to communications between a professional legal advisor and their client for the purposes of giving advice, in contemplation of legal proceedings or relating to legal proceedings.
- Confidential personal information: Information which relates to the physical or mental health, or spiritual counselling of a person (living or dead) who can be identified from it. For example, information about medical consultations/medical records.
- Confidential constituent information: Information relating to communications between a Member of Parliament and constituent in respect of constituency matters.
- Confidential journalistic information

### **2.2 Collateral Intrusion**

Collateral Intrusion is the likely effect of the use of surveillance on the private and family life of persons who are not the intended subjects of the activity.

### **2.3 Surveillance**

Surveillance includes

- monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications.
- recording anything monitored, observed or listened to in the course of surveillance.
- surveillance by, or with, the assistance of a surveillance device.

Surveillance can be **overt** or **covert**.

### **2.4 Overt Surveillance**

Overt surveillance is surveillance which is not secretive or hidden. It includes surveillance where the subject has been told it will happen.

### **2.5 Covert Surveillance**

Covert surveillance is surveillance carried out in a manner calculated to ensure that subjects of it are unaware that it is or may be taking place.

## 2.6 Directed Surveillance

Directed surveillance is **covert** but **not intrusive** and is undertaken:

- For the purposes of a specific investigation or a specific operation
- In such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation) and
- Otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought for the carrying out of the surveillance

## 2.7 Intrusive surveillance

Intrusive Surveillance occurs when surveillance:

- is covert;
- relates to residential premises and/or 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.

**Intrusive surveillance cannot be carried out or approved by the Council.**

## 2.8 The conduct and use of covert human intelligence sources (CHIS)

The conduct and use of covert human intelligence sources occurs when a person establishes or maintains a personal or other relationship with a person:

- For the covert purpose of using the relationship to obtain information or to provide access to any information to another person or
- To covertly disclose information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.

### 3 DIRECTED SURVEILLANCE

3.1 This paragraph should be read in conjunction with the Home Office Code of Practice “Covert Surveillance and Property Interference” which can be found at <https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

3.2 Directed surveillance is surveillance which meets **all** of the following criteria:

**i. It is covert, but not intrusive surveillance**

Surveillance will be covert if it is carried out in a way calculated to ensure that the subject of the surveillance is unaware that it is taking place.

The Council **cannot** engage in intrusive surveillance.

**ii. It is conducted for the purposes of a specific investigation or operation**

**iii. It is likely to result in the obtaining of private information about a person (whether or not specifically identified for the purposes of the investigation or operation)**

“Private information” includes any information relating to a person’s private or family life, including their relationships with others, their family, and professional or business relationships.

For more information about what constitutes “private information”, see paragraph 5 below.

**iv. It is conducted otherwise than by way of an immediate response to events or circumstances, the nature of which is such that it would not be reasonable for an authorisation under RIPA to be sought.**

For example, if an officer happens to spot an offence taking place, they may stop and take photographs as evidence of that offence, without requiring prior authorisation under RIPA.

3.3 Any officer intending to conduct directed surveillance must seek prior authorisation of that surveillance under RIPA (see paragraphs 8,9 & 10 below, regarding applications and authorisations).

3.4 Since **1 November 2012**, it is **only** possible to authorise directed surveillance under RIPA where the matter under investigation constitutes a **criminal offence** for which the courts could impose a maximum term of at least six months’ imprisonment, **or** where the surveillance is in connection with the sale of alcohol or tobacco to children.

#### 3.5 Examples

3.5.1 Since 1 November 2012, it is no longer possible to authorise directed surveillance under RIPA for the following offences:

- Dog fouling

- Littering
- Planning offences
- Noise abatement notices

As the courts **cannot** impose a maximum term of at least six months' imprisonment.

3.5.2 It is possible to authorise directed surveillance under RIPA for some offences under the following categories:

- Fly tipping
- Benefit fraud
- Trading standards offences
- Financial offences
- Dangerous dogs
- Listed building offences

As the courts **can** impose a maximum term of at least six months' imprisonment.

3.6 It is possible that on rare occasions, officers may need to carry out covert surveillance which falls outside the scope of RIPA, either because it falls outside of the Council's core functions (eg, disciplinary investigations) or because the matter under investigation does not pass the imprisonable crime threshold. Such surveillance may not be unlawful, but would take place without the protection afforded by RIPA. In these situations, officers would normally be expected to use similar procedures and forms to those used for RIPA operations, applying the same tests of necessity and proportionality, in order to protect the Council from allegations that it has acted unfairly. Should you wish to conduct such covert surveillance, advice must first be sought from Legal Services.

## 4 CCTV

4.1 The Council operates a close circuit television system within certain towns in the New Forest District. Use of this system by the council or third parties such as the police for directed surveillance would require authorisation under RIPA.

4.2 Overt CCTV cameras which are permanently sited for the purposes of, for example, monitoring traffic flow or public safety will not generally require RIPA authorisation, since the public will be aware that such systems are in use. However, there may be occasions when the Council wishes to use such CCTV cameras for the purposes of a specific investigation or operation or to target a specific person. In such circumstances (unless as an immediate response to events) consideration must be given as to whether authorisation for directed surveillance is required.

4.3 For example, authorisation for directed covert surveillance is likely to be required if the Council wishes to make use of permanently sited overt CCTV cameras in circumstances where Officers have received reports of unlawful trading at a specific location, and wish to use those existing CCTV systems to keep watch for such activities.

4.4 If another agency – eg the Police – wishes to use the Council’s CCTV cameras for one of their investigations, this must be agreed by the Head of Public Health and Community Safety, or by the Civil Contingencies and CCTV Manager. A copy of the other agency’s RIPA authorisation form must be obtained and the details held with the Council’s central register. In such circumstances, as long as there is a Police RIPA authorisation, there is no separate need for one of the Council’s Authorised Officers to authorise the use of the cameras.

#### 4.5 **Deployable CCTV**

The deployment of mobile surveillance cameras is likely to be directed surveillance in all cases and appropriate RIPA authorisation will be required. Additionally, applicants will be required to complete a “Mobile CCTV Deployment Form”, in accordance with the Council’s Deployable (Mobile) CCTV Camera Policy. This form should be submitted to the Council’s CCTV Manager.

### 5 **PRIVATE INFORMATION**

5.1 The 2000 Act states that private information includes any information relating to a person’s private or family life. Private information should be taken generally to include any aspect of a person’s private or personal relationships with others, including family and professional or business relationships. Private information may include personal data, such as names, telephone numbers and addresses.

5.2 Whilst a person may have a reduced expectation of privacy when in a public place, surveillance of that person’s activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public. For example, two people holding a conversation on a public street or bus may have a reasonable expectation of privacy, even though they are in a public place.

5.3 Private life considerations are particularly likely to arise if several records are to be analysed together in order to establish, for example, a pattern of behaviour. In such circumstances, the totality of information gleaned may constitute private information even if individual records do not. For example, where an officer drives past a restaurant to take a photograph of the exterior, this is unlikely to require authorisation under RIPA, as the officer is not collecting private information. However, if the officer wishes to revisit the restaurant on a number of occasions to try to establish occupancy of the premises, this is likely to result in the obtaining of private information about the occupier, and authorisation for directed surveillance will usually be required.

### 6 **CONDUCT AND USE OF COVERT HUMAN INTELLIGENCE SOURCES (“CHIS”)**

6.1 This paragraph should be read in conjunction with the Home Office Code of Practice “Covert Human Intelligence Sources” which can be found at <https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

6.2 The conduct and use of covert human intelligence sources occurs when a person establishes or maintains a personal or other relationship with a person:

- For the covert purpose of using the relationship to obtain information or to provide access to any information to another person **or**

- To covertly disclose information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.

A person who uses a relationship to obtain information which they then pass to the Council could be a CHIS, even if the Council hasn't asked them to use their relationship in this way (see paragraph 6.5 below).

6.3 The conduct or use of a CHIS may be authorised under RIPA where it is **necessary** for the **prevention or detection of crime**, or **for the prevention of disorder**.

6.4 A relationship is established or maintained for a covert purpose if it is conducted in a manner to ensure that one of the parties is unaware of its purpose. A relationship will only be used covertly and information will only be disclosed covertly if it is used or disclosed in a way which will ensure that one of the parties is unaware of the use or disclosure.

The use of such sources by the Council is essentially the manipulation of a relationship to gain information and can amount to the use of an informant. However, the Council is only likely to use a CHIS in very exceptional circumstances.

6.5 The CHIS will be the person who establishes or maintains the relationship as set out in paragraph 6.2 above.

- The provisions of RIPA are not intended to apply in circumstances where members of the public volunteer information to the Council that is within their personal knowledge, without being induced, asked or tasked by the Council. Therefore, the public can continue to provide information as part of their normal civic duties, or to contact numbers set up by the Council to receive information.
- However, a member of the public providing information **may** be a CHIS if their information is obtained in the course of, or as a consequence of, the existence of a personal or other relationship and they covertly pass that information to the Council. For example, where a member of the public gives repeat information about a suspect and it becomes apparent that the member of the public may be obtaining that information in the course of a family or neighbourhood relationship, it should be considered by the Investigating Officer whether that person is in reality a CHIS.
- This is known as a "status drift". The Council accordingly needs to be alert to the fact that a public informant may in reality be a CHIS even if not tasked to obtain information covertly.
- Where such a "status drift" occurs, advice must be sought from Legal Services before any information received from this member of the public is relied on.

## 6.6 Examples

6.6.1 The following **will not** be a CHIS:

- A member of the public volunteers a piece of information to the Council regarding something he has witnessed in his neighbourhood. He will not be a CHIS as he is not passing on information as a result of a relationship which has been established or maintained for a covert purpose.

- A person complains about excessive noise coming from their neighbour's house and the Council ask them to keep a noise diary. They will not be a CHIS, as they are not required to establish or maintain a relationship for a covert purpose.

6.6.2 The following **will** be a CHIS:

- Intelligence received by the Council suggests that a local public house will sell alcohol to minors if they are familiar with them. A person under the age of 18 is engaged and trained by the Council and deployed to attend the licensed premises on a number of occasions and then try and purchase alcohol. In this situation a relationship has been established and maintained for the covert purpose and therefore a CHIS authorisation will be required.
- Without being asked, a person provides regular information to the Council about their neighbours' working hours and income as they believe their neighbour is committing benefit fraud. The person regularly visits their neighbour and engages in conversations about their work for the purpose of obtaining this information and passing it to the Council.

6.7 If a CHIS is used, both the use of the CHIS and their conduct require prior authorisation.

- **Conduct** is establishing or maintaining a personal or other relationship with a person for the covert purpose of (or incidental to) obtaining and passing on information.
- **Use** includes actions inducing, asking or assisting a person to act as a CHIS.

6.8 The Investigating Officer should apply for such authorisation as soon as the conduct or use of a CHIS is contemplated (see paragraphs 8,9 & 10 below, regarding authorisations and applications).

## 6.9 Handling and Controlling the CHIS

6.9.1 If an authorisation is provided the Investigating Officer must ensure that they are aware of the extent and limits of what the CHIS is allowed to do and make sure that the CHIS is advised of this.

6.9.2 The Investigating Officer will be responsible for the day to day handling of the CHIS (they will be the "handler"). This will involve dealing with the CHIS on behalf of the Council, directing the day to day activities of the CHIS, recording information supplied by the CHIS and monitoring the CHIS's security and welfare.

6.9.3 It will be good practice for the Investigating Officer to carry out a risk assessment on the use of the CHIS.

6.9.4 The safety and welfare of a CHIS both during the operation and after the authorisation has been cancelled should be taken into account by the investigating officer. Every application for authorisation should therefore include a detailed risk assessment of the risk to the CHIS and the likely consequences should the role of the CHIS become known.



6.9.5 The Authorising Officer will be responsible for the management and supervision of the “handler” and the general oversight of the use of the CHIS.

6.9.6 A record must also be made of the use made of the CHIS (see paragraph 16 below for the information which must be held in the Central Log).

#### 6.10 **Records**

Records of relevant documentation relating to every CHIS should be kept for a period of at least five years in accordance with paragraph 17 of this Policy.

#### 6.11 **Special considerations**

6.11.1 Special care should be taken where the use of CHIS may involve confidential information (see paragraphs 2.1 & 11).

6.11.2 Special safeguards should be put in place where the CHIS is under the age of 18. A child under the age of 16 may not be authorised to give information against his parents. The Regulation of Investigatory Powers (Juveniles) Order 2000 contains the special provisions which should be followed where the CHIS is a minor. In such cases the only Authorising Officer is the Chief Executive (or in his absence a Director).

6.11.3 Special safeguards should also be used where the CHIS is a vulnerable individual. A vulnerable individual is defined by the Code of Practice as “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.” The use of a vulnerable individual is only permitted in exceptional circumstances. In such cases the only Authorising Officer is the Chief Executive (or in his absence a Director).

## 7 ONLINE COVERT ACTIVITY

- 7.1 The use of the internet (including social and business networking sites) may be required to gather information prior to and/or during an operation (including a CHIS operation). This may amount to directed surveillance.
- 7.2 In addition, a CHIS may communicate online.
- 7.3 Even if something is posted on a publicly-accessible networking site, it may still be private information. Where the use of the internet is intended as part of an investigation, the investigating officer must consider whether the proposed activity is likely to interfere with a person's Article 8 right to private and family life. The potential for collateral intrusion should also be considered. Such activity should only be contemplated if it is necessary and proportionate to the specific operation. If private information is likely to be obtained a directed surveillance authorisation must be obtained.
- 7.4 Advice should be sought from Legal Services on the use of the internet as part of an investigation.

## 8 AUTHORISATIONS, RENEWALS, REVIEWS AND CANCELLATIONS

- 8.1 Prior authorisation is required for the use of **directed surveillance** or the **conduct or use of a CHIS**.

### 8.2 Procedure for Authorisations

- 8.2.1 Each officer who undertakes investigations on behalf of the Council must seek authorisation in **writing** for any directed surveillance or the conduct and use of a CHIS.
- 8.2.2 A full list of Authorising Officers, along with their functions, is shown at **Appendix 1**. Authorising Officers **must not** delegate their powers under RIPA.
- 8.2.3 A checklist for the respective duties of the Investigating Officer and the Authorising Officer is set out in **Appendix 2**. Further detail is provided on some of these duties in this Policy.
- 8.2.4 All applications for authorisations should be made on the applicable standard form (See paragraph 9).
- 8.2.5 The Authorising Officer must describe explicitly in the authorisation what is being authorised. This should be in the Authorising Officer's own words rather than merely by reference to the terms of the application.
- 8.2.6 The Authorising Officer may add a proposed activity to the application if it is deemed necessary, and the Authorising Officer may authorise only some of what is being requested by the Investigating Officer. Where only part of the application is being authorised, the Authorising Officer should state the reason for this decision.
- 8.2.7 Authorising Officers should not normally be responsible for authorising operations in which they are directly involved as the Authorising Officer should be independent of

the investigations. Where this is unavoidable this must be highlighted on the authorisation.

8.2.8 Every authorisation must state the rank of the person providing it.

### 8.3 Authorisations Requiring Judicial Approval

8.3.1 Since **1 November 2012**, where an authorisation has been granted for directed surveillance or the conduct or use of a CHIS, that authorisation shall not have effect until it has been **approved** by a justice of the peace at the local Magistrates Court. **No directed surveillance or the use of a CHIS can take place until this approval has been obtained.**

8.3.2 Legal Services should be instructed to prepare the application to the justice of the peace.

### 8.4 Duration

8.4.1 The time limit for a standard **written** authorisation for directed surveillance is 3 months from the day of the authorisation.

8.4.2 The time limit for a standard **written** authorisation for a CHIS is 12 months from the day of the authorisation.

8.4.3 It should be noted that even if an authorisation is only required for a limited time, it must still be for the statutory periods outlined above. However, the authorisation can be reviewed and/or cancelled if it is no longer necessary and proportionate.

8.4.4 No further operations can be carried out after the expiry of the relevant authorisation unless it has been renewed.

8.4.5 It will be the responsibility of the Investigating Officer to ensure that direct surveillance or the conduct or use a CHIS is only undertaken under an appropriate and valid authorisation. It will be the Investigating Officer's responsibility to diarise when the authorisation expires.

### 8.5 Reviews

8.5.1 The Authorising Officer will be responsible for reviewing each authorisation at regular intervals. The Authorising Officer shall determine how often a review should take place at the outset and each review should be conducted by the predetermined date. As a guide, reviews should take place on a monthly basis. However, the Authorising Officer may determine that they should take place more or less frequently (if so, the reasons should be recorded).

8.5.2 Reviews should take place as often as necessary and practicable and this will need to be determined on a case by case basis. More frequent reviews should take place where surveillance results in collateral intrusion or access to confidential information. (see paragraphs 2.1, 2.2 & 11).

- 8.5.3 Reviews should also be held in response to changing circumstances and must take into account any subsequent action by the Council arising from the product of the surveillance, which may be in the form of the issue of notices, orders, or determinations by the Council, or the bringing of criminal or civil proceedings, or any other action.
- 8.5.4 It will be the responsibility of the Authorising Officer to diarise when reviews should be held.
- 8.5.5 All reviews should be recorded on the correct form (See paragraph 9).

## 8.6 **Renewal**

- 8.6.1 An authorisation may be renewed **before** it ceases to have effect if an Authorising Officer considers it necessary for the authorisation to continue. The renewal takes effect at the time at which the authorisation would have ceased to have effect. If necessary a renewal can be made more than once.
- 8.6.2 Before a renewal of an authorisation for the conduct or use of a CHIS the Authorising Officer must be satisfied that a review has taken place of:
- the use made of the source in the period since the grant or, as the case may be, latest renewal of the authorisation; and
  - the tasks given to the source during that period and the information obtained from the conduct or the use of the source.
- 8.6.3 Since **1 November 2012**, where renewal of an authorisation has been granted for directed surveillance or a CHIS that renewal shall not have effect until it has been **approved** by a justice of the peace at the local Magistrates Court.
- 8.6.4 Where the renewal relates to the conduct or use of a CHIS the Justice of the Peace will need to be satisfied that a review has taken place of the matters listed in paragraph 7.6.2.
- 8.6.5 All renewals must be made on the correct form. (See paragraph 9).

## 8.7 **Cancellations**

- 8.7.1 All authorisations must be cancelled **as soon as** they are no longer required.
- 8.7.2 Even if an authorisation has expired it will not lapse and should be formally cancelled.
- 8.7.3 The Authorising Officer who granted or last renewed the authorisation must cancel the authorisation if the grounds for granting the authorisation no longer apply e.g. the aims have been met; risks have changed and authorisation is no longer appropriate.
- 8.7.4 If the Authorising Officer is not available, this duty will fall on one of the other Authorising Officers.
- 8.7.5 When cancelling an authorisation, the Authorising Officer should (where applicable):
- Record the date and times (if at all) that surveillance took place, and that the order to cease the activity was made.

- Record reason for the cancellation.
- Ensure that surveillance equipment has been removed and returned.
- Provide directions for the management of the material obtained as a result of the investigation.
- Ensure that the detail of persons subjected to surveillance since the last review or renewal is properly recorded.
- Record the value of the surveillance and interference (i.e. whether the objectives as set out in the authorisation were met.)

8.7.6 Authorisations may be cancelled orally. When and by whom this was done should be endorsed on the cancellation form when it is completed and recorded on the central record of authorisations. However, best practice will be for the authorisation to be cancelled in writing.

8.7.7 The Authorising Officer should also advise those involved in the surveillance or the CHIS to stop their actions with immediate effect.

8.7.8 Where necessary, when cancelling the use of a CHIS, the Authorising Officer should consider the safety and welfare of the CHIS, and should satisfy themselves that all safety and welfare matters are addressed.

8.7.9 All cancellations must be completed on the correct form (See paragraph 9).

## 9 APPLICATION FORMS

9.1 The standard forms issued by the Office of Surveillance Commissioners can be found at [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). The person completing the form is responsible for ensuring that the form used is the most up-to-date version issued by the Home Office.

9.2 The forms for applications, renewals, reviews and cancellations should be completed in as much detail as possible.

9.3 For guidance on what should be included in the application for authorisation the Investigating Officer should refer to paragraph 5.8 of the 2014 Covert Surveillance and Property Interference Code of Practice (for direct surveillance) or paragraph 5.11 in the 2014 Authorisation Procedures for Covert Human Intelligence Sources Code of Practice (for CHIS).

9.4 Each investigation or operation should be given a unique reference number (“URN”) on the application form by the Monitoring Officer. Any reviews, renewals or cancellation forms should be identified by the same URN.

9.5 The URN should be obtained from the Monitoring Officer (see paragraph 18).

9.6 Any application (or other) form which is not completed in full will be rejected by the Authorising Officer.

9.7 The role of the Investigating Officer is to present the facts and evidence to the Authorising Officer. They must also set out in detail why they consider the directed surveillance/use of a CHIS to be **necessary** and **proportionate** (see paragraph 10). The application should include consideration of any potential collateral intrusion (see

paragraph 2.2) and measures taken to limit this. The application must state whether the Investigating Officer expects the investigation to result in the obtaining of confidential information (see paragraphs 2.1 & 11).

- 9.8 Having reviewed the application, the Authorising Officer must decide whether they consider the activities applied for are **necessary** and **proportionate** (see paragraph 10). If so, they should decide whether to authorise some or all of the activities applied for. If they decide to authorise the application, they must record in detail the reasons that they have reached this decision, including the reasons that they have concluded the activities are necessary and proportionate.

## 10 THE NECESSITY AND PROPORTIONALITY TEST

- 10.1 No directed surveillance or use of a CHIS can be authorised under RIPA unless it can be demonstrated that it is necessary and proportionate.

- 10.2 The Authorising Officer must be satisfied that the proposed surveillance is **necessary and proportionate**.

### 10.3 Necessary

- 10.3.1 The use of the directed surveillance or conduct and use of a CHIS must be **necessary** for the **purpose of preventing or detecting crime or of preventing disorder**.

- 10.3.2 In order for the Authorising Officer to be satisfied that the surveillance is necessary, the Investigating Officer must clearly identify in the application the conduct that it is aimed to prevent or detect, and an explanation of why covert techniques are required.

### 10.4 Proportionate

- 10.4.1 The intrusion into the private and family life of the subject of the operation must be **balanced** against what the activity seeks to achieve. The intrusion must not be excessive or arbitrary.

- 10.4.2 The authorisation should therefore demonstrate how the Authorising Officer reached the conclusion that the act is proportionate

- 10.4.3 The activities will not be proportionate if the activities are excessive in the circumstances of the case or if the information could be obtained by a less intrusive means.

- 10.4.4 The following elements of proportionality must be considered by the Authorising Officer and should be addressed in the authorisation:

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;

- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

10.4.5 When authorising a CHIS, the Authorising Officer must also:

- be satisfied that the conduct and/or use of the CHIS is proportionate to the objective sought to be achieved;
- be satisfied that appropriate arrangements are in place for the management and oversight of the CHIS. These arrangements must address health and safety issues by the carrying out of a formal and recorded risk assessment;
- consider the likely degree of intrusion for all those potentially affected;
- consider any adverse impact on community confidence that may result from the use or conduct of the CHIS or the information obtained; and
- ensure that records contain the required particulars of the CHIS and that these are not available except on a 'need to know' basis.

#### 10.4.6 Risk of Collateral Intrusion

The Authorising Officer should consider the likely effect of the use of the direct surveillance or the conduct and use of a CHIS on the private and family life of persons who are not the intended subjects of the activity. The Authorising Officer must consider the risk of collateral intrusion and have a plan for managing any such risk.

If the impact on other persons cannot be avoided altogether, then any collateral intrusion must be proportionate.

The person carrying out the surveillance must inform the Authorising Officer if the investigation or operation unexpectedly interferes with the privacy of individuals not covered by the authorisation. The Authorising Officer must then consider whether the authorisation ought to continue or whether a new authorisation is required.

## 11 CONFIDENTIAL MATERIAL

11.1 Particular care should be taken where the subject of the investigation or operation might reasonably expect a high degree of privacy, for example in their home, and where it is envisaged that the investigation may cause the Council to come into possession of Confidential Information (see definition at paragraph 2.1). In these cases, the surveillance can only be authorised by the Chief Executive (or in his absence a Director). Applications which are calculated to obtain confidential information will only be authorised in very exceptional and compelling circumstances.

11.2 Where an Investigating Officer comes into possession of confidential material during the course of an investigation, s/he should seek legal advice from a member of the

Council's Legal Services Section before taking any action in connection with that material.

- 11.3 Where it is envisaged that surveillance may cause the Council to come into possession of material which is subject to legal privilege, the Investigating Officer must seek legal advice from a member of the Council's Legal Services Section before the application for authorisation is made.

## **12 ACTIVITIES BY OTHER PUBLIC AUTHORITIES**

The Investigating Officer must make enquiries of other public authorities whether they are carrying out similar activities, if he considers that there is such a possibility, in order to ensure that there is no conflict between the activities of the Council and those other public authorities.

## **13 JOINT INVESTIGATIONS**

- 13.1 From time to time, Council officers may carry out investigations with officers from another public authority, for example:

- The police;
- The Department of Work and Pensions;
- The Environment Agency;
- The Food Standards Agency; or
- The Health and Safety Executive

- 13.2 Where one authority is acting on behalf of another, the tasking authority should normally obtain the RIPA authorisation. If an authorisation has been obtained by another agency, who wish the Council to carry out surveillance in accordance with that authorisation, an Authorising Officer must view that authorisation to ensure that Council officers, and the activities which they are being asked to carry out, are covered by that authorisation.

## **14 DATA PROTECTION**

Private information collected as a result of surveillance may include personal data. It is the responsibility of the Authorising Officer to ensure that personal data is processed (including handling, dissemination, storage, retention and destruction) in accordance with the Data Protection Act 1998 and the Council's Data Protection Policy.



## **15 DESTRUCTION OF WHOLLY UNRELATED MATERIAL**

15.1 Surveillance may result in officers obtaining the following categories of material:

- i. material which is wholly unrelated to the investigation (for example, information about persons who are not the subject of the surveillance, and have no relevant involvement with the subject of the surveillance);
- ii. material regarding the subject(s) of the surveillance, which is unlikely to be used in connection with the investigation or any subsequent proceedings;
- iii. material which is relevant to the investigation, and may be used in connection with subsequent proceedings

15.2 Material which is **wholly unrelated** to the investigation (category i. above) should be destroyed promptly and securely. As the material will have been collected in connection with the investigation of a criminal offence, advice should be sought from the Council's Legal Services section prior to the destruction of evidence.

15.3 All other material should be retained until the investigation is concluded and a decision is taken regarding what action, if any, will be taken in connection with the investigation. At that stage, the Authorising Officer will determine which materials are to be retained, and for how long.

15.4 Where criminal proceedings are contemplated, all material (save for wholly unrelated material) is potentially relevant. It must therefore be retained and will be disclosable in those proceedings.

## **16 TRAINING**

16.1 Each officer of the Council with responsibilities for the conduct of an investigation, operation or authorisation under RIPA, will undertake training every two years to ensure that any such investigations, operations and authorisations undertaken are conducted according to the statutory requirements and the Codes of Practice.

16.2 Each officer who undertakes training in connection with their responsibilities under RIPA must keep a personal training record, and must send a copy of this training record every two years to the Monitoring Officer.

## **17 RECORDS OF AUTHORISATIONS**

17.1 A centrally retrievable record of all authorisations will be held by the Legal Services Manager. This will contain the following information:

- the URN
- the dates that the authorisation was granted, reviewed, renewed or cancelled and the date of the Magistrates' Approval.

- the name and rank of the Authorising Officer for the initial authorisation and any reviews, renewals or cancellations.
  - whether the Authorising Officer is involved in the investigation.
  - the file reference for the investigation.
  - whether the authorisation was likely to result in the obtaining of confidential material.
- 17.2 This centrally retrievable record will be stored in a manner which is confidential and secure. It will be retained for a period of at least **three years** from the date of cancellation of the authorisation for directed surveillance, and at least **five years** from the date of cancellation of the authorisation of a CHIS.
- 17.3 In addition, the Legal Services Manager will keep the following documents, where applicable, for a period of at least **three years** from the date of cancellation of the authorisation for directed surveillance, and at least **five years** from the date of cancellation of the authorisation of a CHIS:
- The application, authorisation, reviews, renewals, cancellations and the approval from the Magistrates Court.
  - The frequency of the reviews prescribed by the authorising officer.
  - The date and time when any instruction to cease directed surveillance or use of a CHIS was given.
  - The date and time when any other instruction was given by an Authorising Officer.
- 17.4 In relation to the use of a CHIS the Monitoring Officer will also maintain the following documents:
- Any risk assessment in relation to the CHIS.
  - The circumstances in which tasks were given to the CHIS.
  - The value of the CHIS to the Council.
- 17.5 Investigating Officers and Authorising Officers may keep copies of relevant documentation but any such copies should be stored in a manner which is confidential and secure.

## 18 **MONITORING**

- 18.1 The Legal Services Manager will have responsibility for overseeing the authorising process to ensure good quality control of RIPA and will be referred to as the Legal Services Manager for the purposes of this Policy (see **Appendix 3**).
- 18.2 The Legal Services Manager will be responsible, along with the Senior Responsible Officer, for ensuring corporate awareness of RIPA.
- 18.3 The Legal Services Manager will be responsible for issuing each application with a URN.
- 18.4 All completed RIPA forms; applications (whether granted or refused), authorisations, reviews, renewals and cancellations, and approvals from the Magistrates' Court should be forwarded to the Legal Services Manager within **five working days** of the relevant decision. The Legal Services Manager will hold these documents securely.

- 18.5 The Legal Services Manager will also be responsible for the day to day management of the authorising process, and any initial queries from Investigating Officers or Authorising Officers should be addressed to the Legal Services Section.

## **19 SENIOR RESPONSIBLE OFFICER**

- 19.1 The Senior Responsible Officer will be the Chief Executive (see **Appendix 3**).
- 19.2 The Senior Responsible Officer will be responsible for the following:
- The integrity of the process in place within the Council for the management of CHIS and Directed Surveillance.
  - Compliance with RIPA and with the Codes of Practice.
  - Ensuring all Authorising Officers are of an appropriate standard.
  - Oversight of the reporting of errors to the relevant oversight Commissioner and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors.
  - Engagement with the Office of Surveillance Commissioners (OSC) inspectors when they conduct their inspections, where applicable.
  - Where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.

## **20 POLICY AND IMPLEMENTATION**

- 20.1 The Policy is operational from **13 May 2015** and replaces any previous policies and procedures relating to surveillance.
- 20.2 The Legal Services Manager will report every two years to the Audit Committee regarding the use made by the Council of its powers under RIPA, unless RIPA powers have been used in the first of the two years, in which case a report will be taken to the first Audit Committee following use of the powers.
- 20.3 The Audit Committee will review the Council's Surveillance Policy every two years.

## **21 APPENDICES**

Appendix 1 – Functions that may be undertaken by Authorising Officers

Appendix 2 - Application and Authorisation Checklist

Appendix 3 – Monitoring and Senior Responsible Officers

## APPENDIX 1

### FUNCTIONS THAT MAY BE UNDERTAKEN BY AUTHORISING OFFICERS:

1. Authorise an **application** for authority to carry out directed surveillance or for the conduct or the use of a CHIS.
2. **Review** an authorisation to carry out directed surveillance or the conduct or use of a CHIS on or before the specified date.
3. Authorise **renewal** of an application for authority to carry out directed surveillance or for the conduct or use of a CHIS.
4. Authorise **cancellation** of an application for authority to carry out directed surveillance or for the conduct or use of a CHIS.
5. Authorise **destruction** of wholly unrelated material arising from surveillance or from the conduct or use of a CHIS, with advice from the Legal Services Section where appropriate.
6. **Monitor** the produce of the surveillance or from the conduct or use of a CHIS.
7. Authorise an application where the likely consequence of directed surveillance or conduct or use of a CHIS would be intrusion on another person other than the target (**collateral intrusion**).
8. Authorise an application where the likely consequence of the directed surveillance or conduct or use of a CHIS would result in Council obtaining **confidential material**.
9. Authorise the use of a CHIS who is a minor.
10. Authorise the use of a CHIS who is a vulnerable person.

<b>RANK/TITLE</b>	<b>AUTHORISED FUNCTIONS</b>
Chief Executive	1-10
Executive Heads	1-7 (8,9,10 in Chief Executive's absence)
Service Manager	1-7

**APPLICATION AND AUTHORISATION CHECKLIST**

**Investigating Officer must:**

Read the Surveillance Policy document and be aware of any other relevant guidance.	
Determine that directed surveillance and/or a CHIS is required.	
For directed surveillance , assess whether the authorisation will be in accordance with Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 and be able to demonstrate that the suspected offence is subject to a custodial sentence of 6 months or more or that the surveillance is in connection with the sale of alcohol or tobacco to children (see paragraph 3.4 of this Policy).	
Assess whether authorisation is necessary under RIPA and whether the surveillance could be done overtly.	
Consider whether surveillance will be proportionate.	
Consider all less intrusive options which may be available and practicable <b>and use that option first.</b>	
If authorisation is <b>necessary and proportionate</b> , request a URN from the Monitoring Officer, prepare and submit an application to carry out directed surveillance or conduct or use of a CHIS to an Authorising Officer.	
<b>REVIEW REGULARLY</b> and submit to Authorising Officer on date set.	
If operation is no longer necessary or proportionate, complete <b>cancellation form</b> and submit to Authorising Officer.	

**Authorising Officer must:**

Consider in detail whether all options have been duly considered, including taking into account the Surveillance Policy document and any other relevant guidance.	
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For directed surveillance, confirm that the offence is subject to a custodial sentence of 6 months or more or the surveillance is in connection with the sale of alcohol or tobacco to children (see paragraph 3.4 of this Policy).	
Consider whether surveillance can be considered to be in accordance with the law and is <b>necessary and proportionate</b> to the offence being investigated.	
Authorise <b>only</b> if an overt or less intrusive option is not practicable.	
<b>Ensure the relevant judicial authority has made an order approving the grant of the authorisation.</b>	
If surveillance is necessary and proportionate: <ul style="list-style-type: none"> <li>• Review authorisation</li> <li>• Set review timetable (at least monthly)</li> </ul>	
Cancel authorisation when it is no longer necessary or proportionate.	

**ESSENTIAL:**

- Officers must use the correct RIPA forms (which can be found on the Home Office website [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk) ).
- A URN must be obtained from the Legal Services Manager before submitting an application for authorisation.
- Once authorised, approval must be obtained from a Magistrates Court before any surveillance commences.
- All RIPA application forms (whether authorised or rejected) must be sent to the RIPA Monitoring Officer **within 5 working days**. This must include reviews, renewals and cancellations
- If in any doubt, seek advice from the Legal Services Manager **before** any directed surveillance and/or CHIS is authorised, renewed, cancelled, or rejected.

**MONITORING AND SENIOR RESPONSIBLE OFFICERS**

<b>Name</b>	<b>Job Title</b>	<b>RIPA Role</b>
Andrew Kinghorn	Legal Services Manager	Legal Services Manager
Bob Jackson	Chief Executive	Senior Responsible Officer





## **POLICY FOR THE ACQUISITION OF COMMUNICATIONS DATA**

**Human Rights Act 1998,  
Regulation of Investigatory Powers Act 2000  
& Protection of Freedoms Act 2012**

**THIS POLICY MUST BE READ IN CONJUNCTION WITH THE CURRENT HOME OFFICE  
CODE OF PRACTICE: "ACQUISITION AND DISCLOSURE OF COMMUNICATIONS  
DATA".**

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## 1 BACKGROUND

- 1.1 When the Human Rights Act 1998 came into force in 2000 it made the fundamental rights and freedoms contained in the European Convention on Human Rights enforceable in UK Courts and Tribunals.
- 1.2 Article 8 of the Convention reads as follows: -

*“Everyone has the right to respect for his private and family life his home and his correspondence.*

*There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of public safety, for the protection of order, health or morals, or for the rights and freedoms of others.”*
- 1.3 Investigating Officers of the Council may, from time to time, engage in activities which interfere with a person’s right under Article 8 of the Convention to respect for their private and family life. Such interference is only permissible where it complies with the exceptions set out in Article 8.
- 1.4 The Regulation of Investigatory Powers Act 2000 (“RIPA”) provides a statutory framework whereby certain investigations can be carried out in a lawful, regulated and proportionate manner so that an individual’s Article 8 rights are not infringed.
- 1.5 This Policy is concerned with the provision in RIPA enabling certain communications data to be acquired by public authorities in a manner which is compatible with Article 8. This Policy sets out the relevant responsibilities of the Council and its officers, and is designed to ensure that any acquisition of communications data is conducted in a manner that will comply with the safeguards embodied in the Human Rights Act 1998 and RIPA. (The Council has a separate Surveillance Policy which deals with Directed Surveillance and Covert Human Intelligence Sources).
- 1.6 The acquisition of communications data can **only** be authorised by the Council under RIPA where the use of the surveillance is necessary for the **prevention or detection of crime** or for the **prevention of disorder**.
- 1.7 All officers who apply for communications data to be obtained or disclosed should be familiar with RIPA, this Policy, and the Home Office “Code of Practice for the Acquisition and Disclosure of Communications Data” which can be found at <https://www.gov.uk/government/publications/code-of-practice-for-the-acquisition-and-disclosure-of-communications-data>.
- 1.8 Acquiring communications data without authorisation or outside the scope of an authorisation will mean that the “protective umbrella” of RIPA is unavailable, and could expose the Council to the risk of legal action. It may also result in disciplinary action being taken against the officer/officers involved.

## 2 NATIONAL ANTI-FRAUD NETWORK

- 2.1 The Council uses the National Anti-Fraud Network (“NAFN”) to deal with all applications for the acquisition of communications data. The application process, and NAFN’s role in this process, is detailed below under “Applications and Authorisations”.
- 2.2 NAFN provides a service whereby all applications are checked by an accredited individual (a “Single Point of Contact” or “SPoC”) to ensure compliance with RIPA. NAFN has direct access to the databases of a number of Communications Service Providers (“CSPs”). This means that if an authorisation is granted to allow a person to engage in conduct required to obtain communications data (see paragraph 4.1.1 below), and NAFN has access to the database of the relevant CSP, the NAFN SPoC will be able to obtain that data directly.
- 2.3 In order to access the NAFN secure website to make an application for communications data, an Applicant will require a username, password and PIN.
- 2.4 Should a manager consider that it is necessary for a Council employee to use the NAFN secure website to make applications for communications data, this must be authorised in writing by the employee’s Service Manager. Where the Service Manager has provided their authorisation, the manager should notify NAFN of the details of the employee who requires log in details for the system.

## 3 WHAT TYPES OF DATA CAN BE ACQUIRED?

- 3.1 “Communications data” is generated, held or obtained by CSPs and may relate to use of the following services:-
  - 3.1.1 Postal service
  - 3.1.2 Email
  - 3.1.3 Landline telephone
  - 3.1.4 Mobile telephone
  - 3.1.5 Internet
- 3.2 Local authorities may **NOT** acquire any information about the content of communications (eg, what was said, or what data was passed on), or the location of a mobile device used to make a call.
- 3.3 Local authorities may acquire communications data of the following types: -
  - 3.3.1 ‘**Service use information**’. This is information about the services provided to an individual. It will include information about:
    - a) the use made by any person of any postal service or communications service;

- b) the use made by any person of any part of a telecommunications system, in connection with the provision to or use of any telecommunications service.

Service information might include, for example, information regarding itemised billing (numbers called, timing and duration of service usage), use of call diversions/forwarding, itemised records of connections to internet services, information about amounts of data downloaded or uploaded, information about selection of preferential numbers or discount calls, records of registered post and parcel consignment.

- 3.3.2 **‘Subscriber information’**. This is information about the person who uses a service. It will include any information held by the provider of a postal or telecommunications service, regarding the persons to whom they provide the service.

This might include subscriber details, including names, addresses and other customer information, for example, the identity of the subscriber to telephone number 01234 567891, or email address [example@example.co.uk](mailto:example@example.co.uk), or who is entitled to post to web space [www.example.co.uk](http://www.example.co.uk).

- 3.4 The above examples are not exhaustive lists of the communications data which may be acquired. If officers are in any doubt about the types of data which they may be able to acquire, or the ways in which this might be acquired, they should seek advice from a SPoC (see paragraph 5.3 below).
- 3.5 Applicants and Designated Persons (see paragraph 5.4 below) should bear in mind that it may be appropriate to obtain subscriber information (ie, to check that the person who subscribes to a service is a person relating to their investigation) before they can determine whether it is necessary and proportionate to go on to acquire service use information, such as itemised billing.

## 4 AUTHORISATIONS AND NOTICES

- 4.1 Communications data can be acquired in two ways: by Authorisation or by Notice:
  - 4.1.1 An Authorisation enables the authorised person (generally the SPoC) to engage in conduct required to obtain the communications data;
  - 4.1.2 A Notice requires a CSP to disclose the data in their possession, or to obtain and disclose the data.
- 4.2 The SPoC will be able to advise which of these methods will be most appropriate in relation to a particular investigation. In the majority of cases, the Council will use an Authorisation, authorising the SPoC to obtain the data required from the relevant CSP.

## 5 DIFFERENT ROLES

- 5.1 There are four key roles relevant to the acquisition of communications data:

- Applicant
- Single Point of Contact (SPoC)
- Designated Person
- Senior Responsible Officer

## 5.2 Applicant

The Applicant will generally be the investigating officer, who will complete the application form, setting out for consideration by the Designated Person the necessity and proportionality of acquiring the communications data.

## 5.3 Single point of contact

A SPoC must have formal accreditation, and is trained to facilitate the lawful acquisition of communications data and effective cooperation between a public authority and CSPs. In this way, the SPoC provides a “guardian and gatekeeper” function. The SPoC provides objective judgement and advice to both the Applicant and Designated Person.

The Council does not have an internal Single Point of Contact (SPoC), but uses the SPoCs at NAFN, who hold the necessary accreditation.

## 5.4 Designated Person

The Designated Person is the person within the Council who reviews the application and authorises the grant of an Authorisation, or the giving of a Notice, where they consider the acquisition to be necessary and proportionate.

Designated Persons must be independent from the operation or investigation to which the application relates, ie, they should have had no prior involvement with the operation or investigation. If the Designated Person is a Service Manager, they should not authorise applications from within their own Service.

In an exceptional, urgent situation (for example, if there is an immediate threat to life, or an urgent operational requirement for the prevention or detection of serious crime), if there is no independent Designated Person available, the involvement of a non-independent Designated Person must be recorded, and the justification for their involvement explained in their recorded considerations. The involvement of a non-independent Designated Person must be reported to the Commissioner at their next inspection, and the details and reasons may be published by the Commissioner.

The Council’s Designated Persons are currently the Chief Executive and Executive Heads.

## 5.5 Senior Responsible Officer

The Senior Responsible Officer is responsible for: -

- 5.5.1 Ensuring the integrity of the processes in place within the authority to acquire communications data;

- 5.5.2 Ensuring compliance with RIPA and with the Code of Practice;
- 5.5.3 Oversight of the reporting of errors to the Interception of Communications Commissioner's Office (IOCCO), the identification of the reasons for the errors, and the implementation of processes to minimise repetition of errors;
- 5.5.4 Engagement with IOCCO inspectors, and oversight of the implementation of any post-inspection plans.

The Council's Senior Responsible Officer is currently the Chief Executive.

## **6 NECESSITY AND PROPORTIONALITY**

The obtaining or disclosure of communications data (by Authorisation or Notice) should only be authorised if the Designated Person is satisfied that:

- 6.1 The action is **NECESSARY** for the prevention or detection of crime or the prevention of disorder. An application should cover three main points, and should demonstrate the link between these three aspects:

- The event under investigation (ie, the crime or disorder);
- the person (eg, the suspect) and how they are linked to the event; and
- the communications data, and how this relates to the person and the event.

- 6.2 The action is **PROPORTIONATE**. It should: -

- 6.2.1 be no more than is required in the circumstances;
- 6.2.2 impinge as little as possible on the rights and freedoms of the individual concerned and of innocent third parties;
- 6.2.3 be carefully designed to meet the objectives in question;
- 6.2.4 not be arbitrary, unfair or based on irrational considerations.

## **7 APPLICATIONS AND AUTHORISATIONS**

### **7.1 APPLICATION FORM**

- 7.1.1 The Applicant must complete the NAFN application form, which is a standard form approved by the Home Office. As the Council uses the NAFN application process, the Applicant will access the application form by logging onto the NAFN website using their username, password and PIN.
- 7.1.2 The Applicant should have reference to the Home Office document: "Acquisition and Disclosure of Communications Data; Guidance for the Layout

of a Chapter II Application Form and Guidance for Applicants and Designated Persons Considering Necessity and Proportionality”.

7.1.3 The application form must include the following information: -

- i) name, rank and position of the Applicant;
- ii) a unique reference number (which will be generated automatically by the NAFN website);
- iii) the operation name, if applicable;
- iv) specify that the communications data is required in connection with the purpose of **preventing or detecting crime or disorder**;
- v) describe the communications data required, specifying the time periods for which the data is sought, including (where relevant) any historic or future dates. Any time period specified should be the shortest period in which the objective for which the data is sought can be achieved;
- vi) describe whether the communications data relates to a victim, a witness, a complainant, a suspect, next of kin, vulnerable person or other person relevant to the investigation or operation;
- vii) explain why the acquisition of the communications data is **necessary** and **proportionate** (see paragraph 6 above);
- viii) consider and, where appropriate, describe any collateral intrusion (ie, explain the extent to which the privacy of an individual not under investigation may be infringed, and why that infringement is justified in the circumstances);
- ix) consider and, where appropriate, describe any potential unintended consequences of the application;
- x) identify and explain the timescale within which the data is required.

## 7.2 SPoC REVIEW

- 7.2.1 Once the Applicant has completed the application form, this must be submitted electronically to the SPoC, who will check that the application is compliant with RIPA, that the acquisition intended is practical and lawful, and that the tests of proportionality and necessity have been properly considered and detailed.
- 7.2.2 If the SPoC considers that there are any problems with the application, or that further information is required, he will provide advice to the Applicant about the application. This may include, for example, advice about whether it is lawful, possible, or practical to obtain communications data of the nature sought by the applicant, and whether the tests of necessity and proportionality have been properly applied and explained. Where appropriate, the Applicant can make amendments to the application, and can re-submit the application to the SPoC.



- 7.2.3 Once the SPoC is satisfied with the application, he will complete the relevant sections of the application form, identifying the data to be acquired, and how it may be acquired. The SPoC will then notify the Designated Persons at the Council by email that there is an application pending which requires review.

### **7.3 AUTHORISATION BY DESIGNATED PERSON**

- 7.3.1 The Designated Person must review the application in detail, before deciding whether to: -

- a) authorise the application;
- b) reject the application;
- c) request further information.

- 7.3.2 Before deciding whether to authorise an application, the Designated Person should have reference to the Home Office document: "Acquisition and Disclosure of Communications Data; Guidance for the Layout of a Chapter II Application Form and Guidance for Applicants and Designated Persons Considering Necessity and Proportionality".

- 7.3.3 The Designated Person should consider the proportionality and necessity of the Authorisation/Notice applied for (see paragraph 6 above), and the potential for collateral intrusion. The Designated Person should not simply "rubber stamp" the application. Their reasons for authorising/declining the application should be clear and detailed, and demonstrate that they have considered the substantive merits of the application. If the Designated Person requires further information in order to decide whether to approve an application, they should notify the SPoC that more information is required.

- 7.3.4 The standard form requires the Designated Person to tick a box to confirm whether they are authorising a person to engage in conduct to acquire communications data, or whether they are authorising a Notice to be served on a CSP, requiring them to obtain/disclose data. The Notice or Authorisation documents themselves will be completed by the SPoC.

- 7.3.5 The authorised or rejected Application is then submitted back to the SPOC via the NAFN secure website.

## **8 JUDICIAL APPROVAL**

- 8.1 From 1 November 2012 a person may not engage in the conduct authorised, or serve a Notice on a CSP requiring them to provide communications data, unless and until the Authorisation/Notice has been approved by a Justice of the Peace.

- 8.2 Before approving an Authorisation or Notice, a Justice of the Peace must be satisfied that: -

At the time of granting the Authorisation, or giving the Notice: -

- i) There were reasonable grounds for believing that the Authorisation/Notice was necessary and proportionate;

- ii) The person who granted the Authorisation/Notice was an appropriate Designated Person; and
- iii) At the time when the Justice of the Peace is considering the matter, there remain reasonable grounds for believing that the Authorisation/Notice is necessary and proportionate.

8.3 The procedure for obtaining judicial approval is as follows: -

- i) After the Designated Person has completed the authorisation on the NAFN secure website, NAFN will send an application pack to the Applicant;
- ii) The application pack should be forwarded to the Legal Services Manager;
- iii) A member of the Legal Services section will prepare the Magistrates' Court application, and will represent the Council at the Magistrates' Court hearing. The Applicant may be asked to prepare a witness statement and may be required to attend the hearing;
- iv) If the Authorisation/Notice is approved, Legal Services will pass the approval to the Applicant. The Applicant will then liaise with the SPoC who will obtain the communications data from the CSP.
- v) If the Authorisation/Notice is not approved, or is quashed by a Justice of the Peace, Legal Services will inform the Applicant. The Applicant must inform the SPOC and Designated Person that the Authorisation/Notice was not approved, or was quashed.

8.4 **No action may be taken under the Authorisation or Notice unless and until it has been approved by a Justice of the Peace.**

## **9 DATA PROTECTION AND HANDLING THE DATA ACQUIRED**

- 9.1 When the communications data has been acquired, it will be made available to the Applicant on the NAFN secure website.
- 9.2 Information collected through acquisition of communications data may include personal data. It is the responsibility of the Applicant to ensure that personal data is processed (including handling, dissemination, storage, retention and destruction) in accordance with the Data Protection Act 1998, and the Council's Data Protection Policy and Retention and Destruction Policy. In particular, the information obtained must be handled and stored securely. Any queries regarding an officer's obligations under the Data Protection Act should be directed to the Council's Data Protection Officer or Assistant Data Protection Officer.

## 10 DURATION, RENEWAL AND CANCELLATION

### Duration

- 10.1 All Authorisations and Notices should specify the time period in relation to which the communications data are to be obtained. For example, it might authorise the SPOC to obtain information regarding all calls made from a specified number to another specified number in the two weeks immediately following the Authorisation. Or a Notice might require a CSP to confirm the subscriber details for a specific email account between two specified dates in the past. An authorisation: -
- 10.1.1 Cannot authorise or require any data to be obtained more than one month after the Authorisation or Notice is granted; and
- 10.1.2 In the case of a Notice, cannot authorise or require any disclosure of data not already in the possession of the CSP after the end of one month from the date of the grant of the Notice or Authorisation.

### Renewal

- 10.2 RIPA provides that an Authorisation or Notice may be renewed for a period of up to one month by the grant of a further Authorisation or the giving of a further Notice. A renewed Authorisation or Notice takes effect upon the expiry of the Authorisation or Notice it is renewing.
- 10.3 Where the Applicant believes that a renewal is necessary and proportionate, they should complete an addendum to the original application, setting out their reasons for seeking renewal. They should then submit this to the SPoC, who will review it in the same way as a new application. Once the SPoC is happy with the application for renewal, they will notify the Designated Person that an application requires review.
- 10.4 Where a Designated Person is granting a further Authorisation or giving a further Notice to renew an earlier Authorisation or Notice, they should: -
- 10.4.1 consider and record in writing the reasons that it is necessary and proportionate to continue with the acquisition of the data being generated; and
- 10.4.2 record the date (and where appropriate the time) when the Authorisation or Notice is renewed.
- 10.5 A renewal **must** be approved by a Justice of the Peace before it will take effect. Any renewal must therefore be submitted to the SPOC in plenty of time to enable it to be reviewed and forwarded to the Designated Person for approval, and for approval to be sought from a Justice of the Peace. Where a renewal has been approved by a Designated Person, Legal Services must be notified at least **seven** working days before expiry of the original Authorisation or Notice, so that they have sufficient time to seek approval from a Justice of the Peace.
- 10.6 In practice, given the requirement to obtain the approval of a Justice of the Peace and the time constraints this imposes, it will often be more practical to begin a new application, rather than to renew an existing Authorisation or Notice. Applicants

who have not obtained, or do not expect to obtain, the data required within one month of grant of the Authorisation or Notice should discuss with the SPoC the best way to deal with this.

## **Cancellation**

- 10.7 Where a Notice has been given to a CSP, and a Designated Person determines that it is no longer necessary or proportionate for the CSP to comply with the Notice, the Designated Person shall cancel the Notice,, and must ensure that the CSP is notified of the cancellation.
- 10.8 Where an Authorisation has been given and a Designated Person determines that it should cease to have effect because the conduct authorised is no longer necessary or proportionate, the Designated Person shall withdraw the Authorisation, and inform the person authorised by the Authorisation of the withdrawal.
- 10.9 The cancellation or withdrawal must: -
  - 10.9.1 be in writing;
  - 10.9.2 identify, by reference to its unique reference number, the Notice or Authorisation being cancelled;
  - 10.9.3 record the date (and, where appropriate the time) when the Notice or Authorisation was cancelled;
  - 10.9.4 record the name, office and rank/position held by the Designated Person.
- 10.10 Normally, it will be the Applicant who realises that a Notice or Authorisation is no longer necessary or proportionate (for example, because they have obtained the information required from elsewhere, or because the investigation has concluded for some reason). In this situation, the Applicant should notify the SPoC immediately. The SPoC will then alert the Designated Person that the Authorisation or Notice should be cancelled. The Designated Person should log on to the NAFN secure website to cancel the Authorisation or Notice. Where necessary, the SPoC will notify the CSP that the Authorisation or Notice has been cancelled.
- 10.11 Where the Designated Person who authorised the Application is unavailable, one of the other Designated Persons should cancel or withdraw the Authorisation or Notice so that no undue delay is caused.

## **11 RECORD KEEPING**

NAFN keeps a full, electronic record of all applications on the Council's behalf, in accordance with the requirements of RIPA.

## **12 ERRORS**

- 12.1 Where an error occurs in the grant of an Authorisation, the giving of a Notice, or as a consequence of any authorised conduct, or conduct undertaken to comply with a Notice, a record must be kept.
- 12.2 There are two types of error: -

- i) an error which results in communications data being wrongly acquired or disclosed. This type of error is known as a “Reportable Error”.
  - ii) an error which is identified after the Authorisation or Notice is given, but without data being wrongly obtained or disclosed. This type of error is known as a “Recordable Error”.
- 12.3 If an Applicant or Designated Person identifies a Reportable or Recordable Error, they must notify the SPoC immediately.
- 12.4 A Reportable Error must be reported to the Interception of Communications Commissioner’s Office (IOCCO). This report will be made by the SPoC at NAFN. It is **essential** that the Council’s Senior Responsible Officer and the SPoC is informed about any Reportable Error **immediately**, as the error must be investigated, the facts ascertained and the report made to the IOCCO within five working days of discovery of the error. If a SPoC requests assistance from the Applicant or another Council officer in connection with the investigation of an error, all reasonable assistance should be provided promptly.
- 12.5 If the Council receives material from a CSP which has no relevance to any investigation or operation by the Council, the material should be securely destroyed as soon as the report to the IOCCO has been made.
- 12.6 A record of all Recordable Errors will be held by NAFN, and made available for inspection by the IOCCO on request. The record will contain details of the error, how the error occurred, and an indication of what steps have been or will be taken to prevent the error from occurring again. The SPoC will notify the Designated Person and the Council’s Senior Responsible Officer of all Recordable and Reportable Errors.

### **13 POLICY AND IMPLEMENTATION**

- 13.1 The Policy is operational from 13 April 2013 and replaces any previous policies and procedures relating to the acquisition of communications data.
- 13.2 The Legal Services Manager will report to the Audit Committee every two years regarding the use made by the Council of its powers under RIPA.

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**AUDIT COMMITTEE – 24 MARCH 2017**  
**CABINET – 5 APRIL 2017**

## **WRITE OFF POLICY**

### **1. INTRODUCTION**

- 1.1 Following the recent senior management restructure, officer delegations and authorisations have been reviewed. The review highlighted the need to update the process for writing off debt.
- 1.2 This report seeks approval for the adoption of a new write off code of practice, principally to ensure the limits are reasonable and appropriate and to ensure the delegations fit with the new senior management structure.

### **2. BACKGROUND**

- 2.1 The write off procedure falls under Financial Regulations which states that:
  - the S151 Officer is authorised to write off uncollectable or cancelled debt;
  - prior to write off all debts must be submitted with full details; and
  - all written off debt must be reported to the Audit Committee annually.

### **3. EXISTING ARRANGEMENTS**

- 3.1 The following ten service areas are responsible for the collection of income and administration of debt write offs:
  - Council Tax
  - Business Rates
  - Overpaid Council Tax Benefit and Housing Benefit
  - Accounts Receivable
  - Housing Rents
  - Garages
  - Penalty Charge Notices
  - Stores
  - Health and Leisure Centres
  - Estates and Valuations
- 3.2 The S151 Officer delegates to the relevant Service Manager the approval of debt write offs that fall within a pre-agreed set of parameters and circumstances.
- 3.3 The code of practice (Appendix 1) requires the ten service areas to prepare write off schedules for approval in the same way but ensuring the write off is coded against criteria for write off. The criteria are listed in Appendix 2.
- 3.4 Where a write off is requested outside of the standard reasons the account with full supporting paperwork must be submitted to the S151 Officer via Internal Audit (which may highlight possible system failures) for approval.

3.5 The effectiveness of these arrangements are reported on as follows:

- Annually each Service Manager arranges for a full system reconciliation to demonstrate write offs have been processed accurately and report collection performance and the annual amount and breakdown of write off reasons to the S151 Officer.
- From this information a single report is submitted to the Audit Committee by the S151 Officer. (Example of pro forma at Appendix 3)

Additionally, Internal Audit will complete an annual systems audit on write offs processed.

#### **4. PROPOSED FRAMEWORK**

4.1 The existing arrangements as outlined above are being adhered to, and the annual reporting process is deemed as sufficient and appropriate.

4.2 Some minor housekeeping is required to update the Code of Practice (Appendix 1) to take into consideration the new Senior Management structure. A couple of minor changes are also proposed to the established policy:

- The delegated 'upper limits per debtor' values are in need of updating, as outlined within Appendix 2.
- The Section 151 officer may be required to agree appropriate write-off limits, if new lines of income are generated, not covered by the list of service areas in paragraph 3.1.

#### **5. FINANCIAL IMPLICATIONS**

5.1 There are no direct budget implications. Whilst write offs impact on the level of revenue received, this is not affected by this report.

#### **6. EQUALITY & DIVERSITY, ENVIRONMENT AND CRIME & DISORDER IMPLICATIONS**

6.1 There are none arising directly from this report.

#### **7. RECOMMENDATIONS**

It is recommended that the Cabinet approve the updated code of practice for write offs as per appendix 1 and 2, effective from 5 April 2017.

**For further information please contact:**

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**Background Papers:**



**1.0 INTRODUCTION**

- 1.1 Section 151 of the Local Government Act 1972 requires that “every local authority shall make arrangements for the proper administration of financial affairs and shall secure that one of their Officers has responsibility for the administration of those affairs”. This responsibility is vested with the Section 151 Officer. This code of practice seeks to ensure that the role of the Section 151 Officer is not compromised.
- 1.2 To ensure this proper administration, the Section 151 Officer has an obligation under the Authority’s Financial Regulations for write offs. The Section 151 Officer may authorise an officer (Service Manager) to authorise an uncollectable or cancelled debt to be written off. This delegation carries with it accountability.
- 1.3 The previously established Code of Practice has now been updated with the intention of formalising procedures and to maintain consistency across the Authority.

**2.0 POLICY**

- 2.1 The code of practice will set out standards to act as a guide for each Service Manager to follow. Appendix 2 sets out the service area, the maximum amount per debtor and criteria for the write off that each Service Manager can approve.
- 2.2 Each of the **ten** identified service areas in appendix 2 will prepare write off schedules.
- 2.3 A summary page will show the total amount to be written off or on and the number of accounts by criteria. Accompanying paperwork will show the account to be written off **or on**, the value, which of the criteria the write off falls under and any background information or evidence.
- 2.4 The Senior Manager within the service is then responsible for checking the summary details and carrying out spots checks, with exception to the Accounts Receivable team, who will send individual schedules to BRO’s for approval and spot checks, before signing the schedule. Any queries should be raised at this time. Once satisfied the Senior Manager will sign the schedule.
- 2.5 The signed schedule is passed to the relevant Service Manager for approval. Authorised Service Managers for each service are listed in appendix 2.
- 2.6 Where the write off is for an exceptional item or over the maximum amount per debtor as listed on appendix 2, the Service Manager must submit the account to the Section 151 Officer for approval via Internal Audit.
- 2.7 Approved accounts for write off should be sent to the relevant Systems Officer for action who will retain all paperwork.
- 2.8 Collection performance and write offs approved to be reported to the S151 Officer.

**Year End Process**

- 2.9 Each Service Manager to ensure that the approved accounts to be written off **or on** have been actioned correctly through system reconciliations.
- 2.10 Following the reconciliation (attached as appendix 3), a nominated Service Manager or a delegated officer, to compile and submit a report by 31<sup>st</sup> May each year, to include write offs for all services, to the Section 151 Officer (for the annual report to Audit Committee) showing;
- the total amount (£) and
  - the number of accounts written off by agreed criteria

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**APPENDIX 2**

<b>SERVICE AREA</b>	<b>SERVICE MANAGER RESPONSIBLE</b>	<b>WRITE OFF / ON CRITERIA</b>	<b>UPPER £ LIMIT PER DEBTOR</b>
Council Tax	Housing & Community	Bankruptcy Abscond Small Balance (up to £500) Deceased Bailiff unable to collect/no goods on which to levy Indiv. Vol. Agreement / Debt Relief Order	£3,500
Business Rates	Housing & Community	Bankruptcy/Liquidation Abscond Small Balance (up to £500) Deceased Bailiff unable to collect / no goods on which to levy Indiv. Vol. Agreement / Debt Relief Order	£3,500
Council Tax and Housing Benefit (including Fraudulent cases)	Housing & Community	Bankruptcy Abscond Small Balance (up to £500) Deceased LA Error DWP Error Collection Agency unable to collect Indiv. Vol. Agreement / Debt Relief Order	£3,500
Housing Rents	Housing & Community	Bankruptcy Abscond Small Balance (up to £500) Deceased Collection Agency unable to collect Indiv. Vol. Agreement / Debt Relief Order	£3,500
Accounts Receivable	Housing & Community	Bankruptcy Abscond Small Balance (up to £500) Deceased Uneconomic to pursue through the court Indiv. Vol. Agreement / Debt Relief Order	£1,500
Penalty Charge Notices	Street Scene	Bankruptcy Abscond Deceased Bailiff unable to collect / no goods on which to levy Foreign Vehicle	£1,500
Garages	Housing Property & Performance	Bankruptcy Abscond Small Balance Deceased	£1,500
Stores	Building Works	Obsolete / Damaged Stock Picking Error	£1,500
Health and Leisure Centres	Health & Leisure	Small Balance (up to £500) Missing Membership Proofs	£1,500
Estates & Valuations	Legal / Estates	Bankruptcy Abscond Small Balance (up to £500) Deceased	£1,500
All	Section 151 Officer	Any write off/on including; Partial write offs of live accounts, paying accounts, large balances, any other exceptional reason	NO LIMIT

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Example of the Annual Submission and Quarterly Report

Service Area	Reason for Write off	Amount Written off £'000	No of Accounts	Annual Income / Turnover £M	Provision Made 31/3/xx £'000	Arrears Balance as at 31/3/xx £'000	Write Off as % of Turnover %
Council Tax	Bankruptcy						
	Abscond						
	Small balance						
	Deceased						
	Bailiff unable to collect / no goods on which to levy						
	Indiv. Vol. Agreement / Debt Relief Order						
	<b>Total</b>						

Service Area	Reason for Write off	Amount Written off Q1 £'000	No of Accounts Q1	Amount Written off Q2 £'000	No of Accounts Q2	Amount Written off Q3 £'000	No of Accounts Q3	Amount Written off Q4 £'000	No of Accounts Q4
Council Tax	Bankruptcy								
	Abscond								
	Small balance								
	Deceased								
	Bailiff unable to collect / no goods on which to levy								
	Indiv. Vol. Agreement / Debt Relief Order								
	<b>Total</b>								

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## AUDIT COMMITTEE – 24 MARCH 2017

### AUDIT COMMITTEE - WORK PLAN

#### 1.0 WORK PLAN

- 1.1 This report details the draft work plan for the Audit Committee for 2017/18.
- 1.2 The work plan may evolve during the year, due to, for example, any changes in legislation, change relating to the External Auditor timetables, or new reports which need to be brought to the attention of the Committee.

#### 2.0 FINANCIAL IMPLICATIONS

- 2.1 There are no financial consequences directly arising from this report.

#### 3.0 EQUALITY & DIVERSITY, CRIME AND DISORDER AND ENVIRONMENTAL MATTERS

- 3.1 There are no equality and diversity, crime or disorder or environmental matters directly associated with this report.

#### 4.0 RECOMMENDATIONS

- 4.1. That the Audit Committee considers and approves the Work Plan as appended and informs Officers of any requested changes.

For Further Information Contact:

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## Audit Committee Work Plan 2017/18

DATE	WORK / REPORTS
23 June 2017	External Audit Progress Report Annual Work Programme Treasury Management Outturn Report 2016/17 Review of the Local Code of Good Governance Response to the external auditor on the management and controls in the organisation Annual Internal Auditors Report Annual Governance Statement Internal Audit Progress report against Q1 Write-Offs Draft Annual Financial Report 2016/17 Audit Committee Annual Report
25 August 2017	External Auditor – Audit Results Reports External Auditor - Opinion on the Statement of Accounts & Value for Money Statement of Accounts Annual Governance Statement Governance Action Plan Follow up Treasury Management Mid Year Monitoring Report 2017/18 Internal Audit Progress report against the audit plan Q2 Outstanding high priority audit recommendations Annual Waivers - Procurement
26 January 2018	External Auditor Grant Claim Certification External Audit 2017/18 Audit Plan External Auditor's Annual Audit Letter Treasury Management Strategy 18/19 Internal Audit Progress report against the audit plan Q3 Outstanding high priority audit recommendations Annual RIPA Report Strategic Risk Register