

## NOTICE OF MEETING

**Meeting:** AUDIT COMMITTEE

**Date and Time:** FRIDAY, 29 JANUARY 2021, AT 10.45 AM\*

**Place:** MICROSOFT TEAMS - ONLINE

**Enquiries to:** E-mail: [andy.rogers@nfdc.gov.uk](mailto:andy.rogers@nfdc.gov.uk)  
Tel: 023 8028 5070

### **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 Audit 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 no later than 12.00 noon on Wednesday, 27 January 2021. This will allow the Council to provide public speakers with the necessary joining instructions for the Microsoft Teams Meeting.

**Bob Jackson**  
Chief Executive

Appletree Court, Lyndhurst, Hampshire. SO43 7PA  
[www.newforest.gov.uk](http://www.newforest.gov.uk)

**This Agenda is also available on audio tape, in Braille, large print and digital format**

---

## AGENDA

### **Apologies**

#### **1. 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.

#### **2. PUBLIC PARTICIPATION**

To note any issues raised during the public participation period.

- 3. ANNUAL AUDIT LETTER FOR THE YEAR ENDED 31 MARCH 2020**  
(Pages 5 - 32)  
  
To receive the Annual Audit Letter for the year ended 31 March 2020.
- 4. HOUSING BENEFIT EXTERNAL AUDIT OPINION - VERBAL UPDATE**  
  
To receive a verbal update from KPMG on the Housing Benefit External Audit Opinion
- 5. INTERNAL AUDIT PROGRESS REPORT 2020/21** (Pages 33 - 48)  
  
To receive an update on progress with the Internal Audit for 2020/21.
- 6. TREASURY MANAGEMENT STRATEGY REPORT 2021/22** (Pages 49 - 68)  
  
To note the Treasury Management Strategy 2021/22 and to agree a delegation to the Section 151 Officer as set out in the report.
- 7. INVESTMENT STRATEGY 2021/22** (Pages 69 - 76)  
  
To consider a proposed Investment Strategy for 2021/22.
- 8. STRATEGIC RISK REGISTER** (Pages 77 - 80)  
  
To consider the proposed Strategic Risk Register and to provide feedback on its content.
- 9. THE REGULATION OF INVESTIGATORY POWERS ACT 2000** (Pages 81 - 124)  
  
To note a summary of the Council's use of its powers under the Regulation of Investigatory Powers Act 2000 (RIPA).
- 10. AUDIT COMMITTEE WORK PLAN** (Pages 125 - 126)  
  
To consider the Audit Committee's Work Plan.
- 11. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT**

## **NEW FOREST DISTRICT COUNCIL – VIRTUAL MEETINGS**

### **Background**

This meeting is being held virtually with all participants accessing via Microsoft Teams.

A live stream will be available on YouTube to allow the press and public to view meetings in real time and can also be found at the relevant meeting page on the Council's website, with this published agenda.

### **Principles for all meetings**

The Chairman will read out Ground Rules at the start of the meeting for the benefit of all participants. All normal procedures for meetings apply as far as practicable, as the Government Regulations do not amend any of the Council's existing Standing Orders.

The Ground Rules for all virtual meetings will include, but are not limited to, the following:-

- All participants are reminded that virtual public meetings are being broadcast live on YouTube and will be available for repeated viewing. Please be mindful of your camera and microphone setup and the images and sounds that will be broadcast on public record.
- All participants are asked to mute their microphones when not speaking to reduce feedback and background noise. Please only unmute your microphone and speak when invited to do so by the Chairman.
- Councillors in attendance that have not indicated their wish to speak in advance of the meeting can make a request to speak during the meeting by using the “raise hand” feature in Microsoft Teams. Requests will be managed by the Chairman with support from Democratic Services. Please remember to “lower hand” when you have finished speaking.
- The chat facility should not be used unless raising a point of order or providing the wording for a motion.
- All participants are asked to refer to the report number and page number within the agenda and reports pack so that there is a clear understanding of what is being discussed at all times.

### **Voting**

When voting is required on a particular item, each councillor on the committee will be called to vote in turn by name, expressing their vote verbally. The outcome will be announced to the meeting. A recorded vote will not be reflected in the minutes of the meeting unless this is requested in accordance with the Council’s Standing Orders.

By casting their vote, councillors do so in the acknowledgement that they were present for the duration of the item in question.

### **Technology**

If individuals experience technical issues, the meeting will continue providing that it is quorate and it is still practical to do so. The Chairman will adjourn the meeting if technical issues cause the meeting to be inquorate, the live stream technology fails, or continuing is not practical.

### **Public Participation**

Contact details to register to speak in accordance with the Council’s Public Participation Procedures are on the front page of this agenda.

In order to speak at a virtual meeting, you must have the facility to join a Microsoft Teams Meeting. Joining instructions will be sent to registered speakers in advance of the meeting.

The Council will accept a written copy of a statement from registered speakers that do not wish to join a Microsoft Teams Meeting, or are unable to. The statement will be read out at the meeting and should not exceed three minutes. Please use the contact details on the agenda front sheet for further information.

To:	<b>Councillors:</b>	<b>Councillors:</b>
	Alan O'Sullivan (Chairman)	Mahmoud Kangarani
	Emma Lane (Vice-Chairman)	Martyn Levitt
	Alan Alvey	Ann Sevier
	Hilary Brand	John Ward

This page is intentionally left blank

# New Forest District Council

Annual Audit Letter for the year  
ended 31 March 2020

December 2020

5

The EY logo consists of the letters 'EY' in a bold, white, sans-serif font. A yellow triangle is positioned above the 'Y', pointing downwards towards the letter.

Building a better  
working world

Agenda Item 3

# Contents

		Page
Section 1	Executive Summary	3
Section 2	Purpose and Responsibilities	7
Section 3	Financial Statement Audit	10
Section 4	Value for Money	17
Section 5	Other Reporting Issues	19
Section 6	Focused on your future	22
Appendices		
Appendix A	Audit Fees	24

## 9

Public Sector Audit Appointments Ltd (PSAA) have issued a 'Statement of responsibilities of auditors and audited bodies'. It is available from the Chief Executive of each audited body and via the PSAA website ([www.psa.co.uk](http://www.psa.co.uk)).

This 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 (updated April 2018)' 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 Audit Results Report is prepared in the context of the Statement of responsibilities of the Engagement. It is addressed to the Members of the audited body, and is prepared for their sole use. We, as appointed auditor, take no responsibility to any third party.

Our Complaints Procedure – If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, you may take the issue up with your usual partner or director contact. If you prefer an alternative route, please contact Hywel Ball, 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.



Section 1

# Executive Summary

# Executive Summary

We are required to issue an annual audit letter to New Forest District Council (the Council) following completion of our audit procedures for the year ended 31 March 2020. Covid-19 had an impact on a number of aspects of our 2019/20 audit. We set out these key impacts below:

Area of impact	Commentary
<b>Impact on the delivery of the audit</b>	
▶ Changes to reporting timescales	As a result of Covid-19, new regulations, the Accounts and Audit (Coronavirus) (Amendment) Regulations 2020 No. 404, have been published and came into force on 30 April 2020. This announced a change to publication date for final, audited accounts from 31 July to 30 November 2020 for all relevant authorities. We worked with the Council to deliver our audit in line with the revised reporting timescale.
<b>Impact on our risk assessment</b>	
▶ Valuation of Property Plant and Equipment	The Royal Institute of Chartered Surveyors (RICS), the body setting the standards for property valuations, issued guidance to valuers highlighting that the uncertain impact of Covid-19 on markets might cause a valuer to conclude that there is a material uncertainty. Caveats around this material uncertainty have been included in the year-end valuation reports produced by the Council's valuer. We consider that the material uncertainties disclosed by the valuer gave rise to an additional risk relating to disclosures on the valuation of property, plant and equipment.
▶ Disclosures on Going Concern	Financial plans for 2020/21 and medium term financial plans will need revision for Covid-19. We considered the unpredictability of the current environment gave rise to a risk that the council would not appropriately disclose the key factors relating to going concern, underpinned by managements assessment with particular reference to Covid-19 and the Council's actual year end financial position and performance.
▶ Events after the balance sheet date	We identified an increased risk that further events after the balance sheet date concerning the current Covid-19 pandemic may need to be disclosed. The amount of detail required in the disclosure would need to reflect the specific circumstances of the event and the Council.
<b>Impact on the scope of our audit</b>	
▶ Information Produced by the Entity (IPE)	We identified an increased risk around the completeness, accuracy, and appropriateness of information produced by the entity due to the inability of the audit team to verify original documents or re-run reports on-site from the Council's systems. We undertook the following to address this risk: <ul style="list-style-type: none"> <li>• Used the screen sharing function of Microsoft Teams to evidence re-running of reports used to generate the IPE we audited; and</li> <li>• Agree IPE to scanned documents or other system screenshots.</li> </ul>
▶ Consultation requirements	Additional EY consultation requirements concerning the impact on auditor reports. The changes to audit risks and audit approach changed the level of work we needed to perform.



# Executive Summary (cont'd)

The tables below set out the results and conclusions on the significant areas of the audit process.

Area of Work	Conclusion
Opinion on the Council's:	
▶ Financial statements	Unqualified – the financial statements give a true and fair view of the financial position of the Council as at 31 March 2020 and of its expenditure and income for the year then ended
▶ Consistency of other information published with the financial statements	Other information published with the financial statements was consistent with the Annual Accounts
▶ Concluding on the Council's arrangements for securing economy, efficiency and effectiveness	We concluded that you have put in place proper arrangements to secure value for money in your use of resources

6

Area of Work	Conclusion
Reports by exception:	
▶ Consistency of Governance Statement	The Governance Statement was consistent with our understanding of the Council
▶ Public interest report	We had no matters to report in the public interest.
▶ Written recommendations to the Council, which should be copied to the Secretary of State	We had no matters to report.
▶ Other actions taken in relation to our responsibilities under the Local Audit and Accountability Act 2014	We had no matters to report.

# Executive Summary (cont'd)

Area of Work	Conclusion
Reporting to the National Audit Office (NAO) on our review of the Council's Whole of Government Accounts return (WGA).	The Council is below the specified audit threshold of £500m. Therefore, we did not perform any audit procedures on the consolidation pack.

As a result of the above we have also:

Area of Work	Conclusion
Issued a report to those charged with governance of the Council communicating significant findings resulting from our audit.	Our Audit Results Report was issued on 13 October 2020
Issued a certificate that we have completed the audit in accordance with the requirements of the Local Audit and Accountability Act 2014 and the National Audit Office's 2015 Code of Audit Practice.	Our certificate was issued on 27 November 2020

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

Kevin Suter  
Associate Partner  
For and on behalf of Ernst & Young LLP

Section 2

# Purpose and Responsibilities



# Purpose

## The Purpose of this Letter

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

We have already reported the detailed findings from our audit work in our 2019/20 Audit Results Report to the 23 October 2020 Audit Committee, representing those charged with governance. We do not repeat those detailed findings in this letter. The matters reported here are the most significant for the Council.

# Responsibilities

## Responsibilities of the Appointed Auditor

Our 2019/20 audit work has been undertaken in accordance with the Audit Plan that we issued on 9 January 2020 and is conducted in accordance with the National Audit Office's 2015 Code of Audit Practice, International Standards on Auditing (UK), and other guidance issued by the National Audit Office.

As auditors we are responsible for:

- ▶ Expressing an opinion:
  - ▶ On the 2019/20 financial statements; and
  - ▶ On the consistency of other information published with the financial statements.
- ▶ Forming a conclusion on the arrangements the Council has to secure economy, efficiency and effectiveness in its use of resources.
- ▶ Reporting by exception:
  - ▶ If the annual governance statement is misleading or not consistent with our understanding of the Council;
  - ▶ Any significant matters that are in the public interest;
  - ▶ Any written recommendations to the Council, which should be copied to the Secretary of State; and
  - ▶ If we have discharged our duties and responsibilities as established by the Local Audit and Accountability Act 2014 and Code of Audit Practice.

Alongside our work on the financial statements, we also review and report to the National Audit Office (NAO) on your Whole of Government Accounts return. The Council is below the specified audit threshold of £500mn. Therefore, we did not perform any audit procedures on the return.

## Responsibilities of the Council

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

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

Section 3

# Financial Statement Audit



# Financial Statement Audit

## Key Issues

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

We audited the Council's Statement of Accounts in line with the National Audit Office's 2015 Code of Audit Practice, International Standards on Auditing (UK), and other guidance issued by the National Audit Office and issued an unqualified audit report on 27 November 2020.

Our detailed findings were reported to the 23 October 2020 Audit Committee.

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

Significant Risk	Conclusion
<p>Misstatements due to fraud or error</p> <p>The financial statements as a whole are not free of material misstatements whether caused by fraud or error.</p> <p>As identified in ISA (UK) 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. We identify and respond to this fraud risk on every audit engagement.</p>	<p>We performed the following:</p> <ul style="list-style-type: none"> <li>▪ tested the appropriateness of journal entries recorded in the general ledger and other adjustments made in preparing the financial statements;</li> <li>▪ assessed accounting estimates for evidence of management bias, and</li> <li>▪ evaluated the business rationale for significant unusual transactions.</li> </ul> <p>In addition, we:</p> <ul style="list-style-type: none"> <li>▪ inquired of management about risks of fraud and the controls put in place to address those risks, as well as gaining an understanding the oversight given by those charged with governance of management's processes over fraud, and</li> <li>▪ we have considered the effectiveness of management's controls designed to address the risk of fraud.</li> </ul> <p>We did not identify any material weaknesses in controls or evidence of material management override.</p> <p>We did not identify any instances of inappropriate judgements being applied.</p> <p>We did not identify any other transactions during our audit which appeared unusual or outside the Council's normal course of business.</p> <p>We have not identified any unusual or unsupported journals, or other adjustments made in preparing the financial statements.</p>

# Financial Statement Audit (cont'd)

The key issues identified as part of our audit were as follows: (cont'd)

Significant Risk	Conclusion
<p>Risk of fraud in revenue and expenditure recognition - inappropriate capitalisation of revenue expenditure</p> <p>Auditing standards also required us to presume that there is a risk that revenue and expenditure may be misstated due to improper recognition or manipulation.</p> <p>From our risk assessment, we have assessed that the risk manifests itself through the potential to inappropriately capitalise revenue expenditure to improve the financial position of the general fund.</p>	<p>We performed the following:</p> <ul style="list-style-type: none"><li>▪ We selected a sample of PPE additions to test and confirm the item was appropriate to capitalise through agreement to evidence such as invoices and capital expenditure authorisations.</li><li>▪ We selected a sample of REFCUS items to test to confirm the appropriateness of the classification of these items</li><li>▪ When performing journals testing, we analysed entries that would be classed as high risk transactions, such as items originally recorded as revenue expenditure and subsequently capitalised or reclassified as REFCUS.</li></ul> <p>We have not identified any material weaknesses in controls or evidence of material management override.</p> <p>PPE additions met the capitalisation requirements under IAS16</p> <p>At year end the total value of REFCUS items were below our materiality threshold and therefore specific testing in this area was not required.</p> <p>We have not identified any instances of inappropriate judgements being applied.</p> <p>We did not identify any other transactions through our test of journals or our other audit procedures which appeared unusual or outside the Council's normal course of business.</p>



# Financial Statement Audit (cont'd)

The key issues identified as part of our audit were as follows: (cont'd)

Significant Risk	Conclusion
<p data-bbox="129 405 797 437">Valuation of Property, including Investment Property</p> <p data-bbox="129 453 848 580">The valuation of property is complex and subject to several assumptions and judgements. A small movement in these assumptions can have a material impact on the financial statements.</p> <p data-bbox="129 612 913 868">Following the Covid-19 pandemic and resulting lockdown in late March 2020, valuers had less access to evidential data which would help to underpin their valuations. In light of this, RICs guidance recommended the use of a "material valuation uncertainty" clause in all 31 March 2020 asset valuations. This was applied in the Council's accounts. While this clause does not mean a valuation cannot take place, there is an increased risk that the valuation may be materially misstated.</p> <p data-bbox="129 900 907 1059">We have therefore increased this to a significant risk, compared to our original risk assessment. We focus this enhanced risk on assets valued under Existing Use Value or Fair Value methodologies as these methods take into account comparative market information.</p>	<p data-bbox="943 405 1290 437">We performed the following:</p> <ul data-bbox="943 469 2085 948" style="list-style-type: none"> <li>▪ Considered the work performed by the Council's valuer, this included a review of the adequacy of the scope of the work performed, their professional capabilities and the results of their work;</li> <li>▪ Sample tested key asset information used by the valuer in performing their valuation (e.g. floor plans to support valuations based on price per square metre);</li> <li>▪ Instructed our own Property valuation team (EY Real Estates) to review a sample of EUV and FV valuations performed by the Council's Valuer;</li> <li>▪ Considered the annual cycle of valuations to ensure that assets have been valued within a 5 year rolling programme as required by the Code for PPE;</li> <li>▪ Reviewed assets not subject to valuation in 2019/20 to confirm that the remaining asset base is not materially misstated;</li> <li>▪ Considered changes to useful economic lives as a result of the most recent valuation;</li> <li>▪ Tested accounting entries have been correctly processed in the financial statements; and</li> <li>▪ We reviewed the adequacy of the "material valuation uncertainty" disclosure in the Council's accounts.</li> </ul> <p data-bbox="943 995 2085 1187">Our initial findings requested a change in asset valuation technique relating to cemeteries. The Council agreed to amend these assets to be based on a Historic Cost valuation rather than Depreciated Replacement Cost, as they are considered to be community assets. We also challenged the number of high value assets initially not being revalued in 19/20, which could have led to a material misstatement as these assets were not subject to annual indexation. Therefore the valuer performed additional testing at year end.</p> <p data-bbox="943 1235 2085 1331">Based on our sample testing of a number of Property, Plant &amp; Equipment and Investment Property assets, we were satisfied with the key asset information used, the useful lives of the assets tested and the accounting entries were correctly processed.</p> <p data-bbox="943 1362 2085 1390">We are satisfied with the material valuation uncertainty disclosure in the Council's accounts.</p>

# Financial Statement Audit (cont'd)

Other areas of audit focus	Conclusion
<p>Going Concern</p> <p>Covid-19 has created a number of financial pressures throughout Local Government. There is currently not a clear statement of financial support from MHCLG that covers all financial consequences of Covid-19.</p> <p>There have been a number of media stories in both the national press and trade publications raising the possibilities of an increase in Chief Financial Officers using their s114 powers. This could be under s114(3), insufficient resources to fund likely expenditure.</p> <p>CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom 2019/20 sets out that organisations that can only be discontinued under statutory prescription shall prepare their accounts on a going concern basis.</p> <p>However, International Auditing Standard 570 Going Concern, as applied by Practice Note 10: Audit of financial statements of public sector bodies in the United Kingdom, still requires auditors to undertake sufficient and appropriate audit procedures to consider whether there is a material uncertainty on going concern that requires reporting by management within the financial statements, and within the auditor's report. We are obliged to report on such matters within the section of our audit report 'Conclusions relating to Going Concern'.</p> <p>To do this, the auditor must review management's assessment of the going concern basis applying IAS1 Presentation of Financial Statements.</p>	<p>We sought a documented and detailed consideration to support management's assertion regarding the going concern basis.</p> <p>Our audit procedures to review these included consideration of:</p> <ul style="list-style-type: none"> <li>- Current and developing environment;</li> <li>- Liquidity (operational and funding);</li> <li>- Mitigating factors;</li> <li>- Management information and forecasting; and</li> <li>- Sensitivities and stress testing.</li> </ul> <p>We received management's Going Concern assessment along with a cashflow forecast spanning at least 12 months from the approval date of the accounts. We are satisfied with the conclusion that the Council remains a Going Concern, based on reasonable and supportable assumptions.</p> <p>We are satisfied that the Council's Going Concern Disclosure is sufficiently detailed, transparent and accurately reflects managements underlying Going Concern assessment.</p>

# Financial Statement Audit (cont'd)

## Other areas of audit focus

### Conclusion

#### Pension Liability

In order to produce their report the pension actuary takes data from earlier in the year, and estimates the value of the pension assets and liabilities as at the year-end.

Our testing has no material misstatements.

We have concluded that we could rely on the work of the Pension Fund actuary. The values and entries from the actuarial report were correctly reflected in the Council's financial statements.

We have obtained the final relevant assurances from Hampshire Pension Fund auditors which raised no material issues from their review of the IAS19 protocol procedures.

Events after the year-end, the McCloud consultation and the Goodwin judgement, do not have a material impact on pension liability and do not require disclosure.

## Other Key Findings

### Summary of adjusted and unadjusted differences

We reported to you one uncorrected misstatement in our Audit Results report relating to the following:

- Pension Asset Overstatement - £901k

Following the completion of our audit procedures, we noted a further uncorrected misstatement:

- HRA depreciation Overstatement - £283k

This difference occurred due to an error in the workbook, which calculated the depreciation based on year end 19/20 figures rather than 18/19 figures.

As these differences individually and in aggregate are not above our materiality level, we conclude that the balances are materially fairly stated and we did not modify our audit opinion in respect of this matter.

# Financial Statement Audit (cont'd)

## Our application of materiality

When establishing our overall audit strategy, we determined a magnitude of uncorrected misstatements that we judged would be material for the financial statements as a whole.

Item	Thresholds applied
Planning materiality	<p>We determined planning materiality to be £2.45m (2019: £2.38m), which is 2% of Gross Revenue Expenditure reported in the accounts.</p> <p>We consider Gross Revenue Expenditure to be one of the principal considerations for stakeholders in assessing the financial performance of the Council.</p>
Reporting threshold	<p>We agreed with the Audit Committee that we would report to the Committee all audit differences in excess of £0.12m (2019: £0.12m)</p>

We also identified the following areas where misstatement at a level lower than our overall materiality level might influence the reader. For these areas we developed an audit strategy specific to these areas. The areas identified and audit strategy applied include:

- ▶ Remuneration disclosures including any severance payments, exit packages and termination benefits:
  - Strategy applied:
    - Obtain management's workings and disclosures
    - Agree disclosures to supporting documentation
    - Test a sample of calculations for accuracy
    - Consider whether disclosures are complete in light of our existing knowledge and experience and are in line with code requirements
- ▶ Related party transactions.
  - Strategy applied:
    - Obtain client's supporting documentation of related parties,
    - Check members and senior officer's interests against the transactions in the general ledger.
    - Review a sample of members and senior officers to external data such as Companies House to confirm accuracy of register or interests.
    - Consider whether disclosures are complete in light of our existing knowledge and experience and are in line with code requirements

We evaluate any uncorrected misstatements against both the quantitative measures of materiality discussed above and in light of other relevant qualitative considerations.

Section 4

# Value for Money



# Value for Money

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

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

- ▶ Take informed decisions;
- ▶ Deploy resources in a sustainable manner; and
- ▶ Work with partners and other third parties.

On 16 April 2020 the National Audit Office published an update to auditor guidance in relation to the 2019/20 Value for Money assessment in the light of Covid-19. This clarified that in undertaking the 2019/20 Value for Money assessment auditors should consider Local Authority's response to Covid-19 only as far as it relates to the 2019-20 financial year; only where clear evidence comes to the auditor's attention of a significant failure in arrangements as a result of Covid-19 during the financial year, would it be appropriate to recognise a significant risk in relation to the 2019-20 VFM arrangements conclusion.

We did not identify any significant risks in relation to these criteria.

We have performed the procedures outlined in our audit plan. We did not identify any significant weaknesses in the Council's arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people.



A photograph of a business meeting in progress. Several people are seated around a dark wooden conference table, looking at documents. A woman with blonde hair is in the foreground, resting her chin on her hand and looking intently at the papers. Other participants are visible in the background, some standing and some seated. The scene is brightly lit, suggesting a modern office environment.

Section 5

# Other Reporting Issues

# Other Reporting Issues

## Whole of Government Accounts

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

The Council is below the specified audit threshold of £500m. Therefore, we were not required to perform any audit procedures on the consolidation pack.

## Annual Governance Statement

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

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

## Report in the Public Interest

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

We did not identify any issues which required us to issue a report in the public interest.

## Written Recommendations

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

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



# Other Reporting Issues (cont'd)

## Objections Received

We did not receive any objections to the 2019/20 financial statements from members of the public.

## Other Powers and Duties

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

## Independence

We communicated our assessment of independence in our Audit Results Report at the Audit Committee Meeting on 23 October 2020. In our professional judgement the firm is independent and the objectivity of the audit engagement partner and audit staff has not been compromised within the meaning regulatory and professional requirements.

## Control Themes and Observations

As part of our work, we obtained an understanding of internal control sufficient to plan our audit and determine the nature, timing and extent of testing performed. Although our audit was not designed to express an opinion on the effectiveness of internal control, we are required to communicate to you significant deficiencies in internal control identified during our audit.

We have adopted a fully substantive audit approach and have therefore not tested the operation of controls.

Our audit did not identify any controls issues to bring to the attention of the Audit Committee.

Section 6

# Focused on your future



# Focused on your future

The Code of Practice on Local Authority Accounting in the United Kingdom introduces the application of new accounting standards in future years. The impact on the Council is summarised in the table below.

Standard	Issue	Impact
IFRS 16 Leases	It is currently proposed that IFRS 16 will be applicable for local authority accounts from the 2022/23 financial year, following a recent further deferral announced in December 2020.	Whilst the adoption of IFRS 16 has been deferred for a further year, we encourage the Council to undertake a detailed exercise to identify all of its leases during 21/22 and capture the relevant information for them. The Council must ensure that all lease arrangements are fully documented.

Appendix A

# Audit Fees

# Audit Fees

Our fee for 2019/20 is set out in the table below.

Description	Final Fee 2019/20 £	Planned Fee 2019/20 £	Scale Fee 2019/20 £	Final Fee 2018/19 £
Total Audit Fee – Code work	£42,721	£42,721	£42,721	£44,103
Scale Fee Rebasing: Changes in work required to address professional and regulatory requirements and scope associated with risk (see next page)	£19,543			
Revised Proposed Scale Fee	£62,264			
19/20 Scale Fee Variation*	£10,881			
Total Audit Fee	£73,145	£42,721	£42,721	£44,103

All fees exclude VAT

We confirm we have not undertaken any non-audit work

\*An additional scale fee of £10,881 has been applied to the planned fee based on the following items:

- 1) An additional Scale Fee Variation of £801 has been submitted for IAS 19 Protocol Assurance provided by the Hampshire Pension Fund Auditors
- 2) The identification of the Valuation of PPE and Investment properties as a significant risk resulted in additional work, notably larger sample sizes to be tested. This additional time has been recorded at £1,907.
- 3) As part of the significant risk work over PPE and Investment property valuation, we were required to engage with EY Real Estates to test a sample of assets. Based on the number of hours charged by EYRE, the additional cost is £2,491.
- 4) The identification of Going Concern being identified as an additional risk due to Covid-19 resulted in additional work including discussions, review/challenge of documents, cash flow forecasts, consideration of proposed disclosure. This additional time has been recorded at £3,872. An additional cost of £629 has also been charged as we were required to consult with our professional practise department over the going concern disclosure in the accounts.
- 5) Delayed delivery of the collection fund working papers required us to book additional resource to complete our testing, total cost £799.
- 6) Additional procedures required relating to Housing Benefit expenditure – same SFV as recorded in 18/19, £382.

# Audit Fees continued

Scale Fee Rebasing: Changes in work required to address professional and regulatory requirements and scope associated with risk

Janet Dawson, our Government & Public Sector Assurance Lead, wrote to all Chief Finance Officers and Audit Committee (or equivalent) chairs on 11 February 2020 on the subject of the sustainability of UK local public audit. Amongst other issues her letter stated that we did not believe the existing scale fees provide a clear link with both a public sector organisation's risk and complexity, and the audit profession's context for cost and fee increases, including the attractiveness of audit, investment in technology, innovation and the regulatory environment.

Around the same time, PSAA consulted on its 2020/21 audit fees ([PSAA fee consultation](#)), discussing the challenging environment, new standards and regulatory requirements. They noted an appropriate forum for fee discussions from these impacts would be between the auditor and Chief Financial Officer, to take place as soon as possible as part of planning discussions for 2019/20 audits.

The subsequent review by Sir Tony Redmond ([Redmond Review](#)) has also highlighted that audit fees in the local authority sector have dropped significantly at the same time that audit fees in other sectors have significantly risen, and that no assessment of the amount it would cost to audit each local authority based on their level of audit risk has been made in the past ten years due to the methods applied by the Audit Commission and then PSAA. As such there is no guarantee that the fee paid by each local authority accurately reflects the risk profile or amount of audit work required for their external audit.

To address these issues we undertook an analysis of the changes in professional and regulatory requirements since our last tender to PSAA was submitted, and any other known changes in audit risk. For instance, where applicable, significant commercial property investments, creation of joint ventures, subsidiaries and other similar arrangements.

We identified the proposed fee rebasing under the headings of:

- Changes in risk;
- Increased regulatory requirements; and
- Client readiness and ability to support a technologically enabled audit.

As requested by PSAA, we discussed this with management on 22 May 2020, delayed from March 2020 due to the impact of the coronavirus pandemic.

We did not reach agreement. While management recognised many of these pressures and can see how they are reflected in the changes in the audit work, their view was that this is a decision for PSAA.

Having not reached agreement, and in light of managements comments, we will now submit the proposed rebasing to PSAA for their review and decision. We would like to thank management for their contribution to this debate and the positive manner in which they engaged with us, although we did not reach agreement

#### About EY

EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit [ey.com](http://ey.com).

© 2018 EYGM Limited.  
All Rights Reserved.

ED None

EY-000070901-01 (UK) 07/18. CSG London.



In line with EY's commitment to minimise its impact on the environment, this document has been printed on paper with a high recycled content.

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

[ey.com](http://ey.com)

This page is intentionally left blank



**EMT – 12 JANUARY 2021**  
**AUDIT COMMITTEE – 29 JANUARY 2021**

## **INTERNAL AUDIT PROGRESS REPORT 2020-21 – JANUARY 2021**

### **1. INTRODUCTION**

- 1.1. The purpose of this report is to provide the Audit Committee with an overview of internal audit activity completed in accordance with the approved audit plan and to provide an overview of the status of 'live' reports.

### **2. SUMMARY**

- 2.1. Under the Accounts and Audit (England) Regulations 2015, the Council is responsible for:

- ensuring that its financial management is adequate and effective and that it has a sound system of internal control which facilitates the effective exercise of functions and includes arrangements for the management of risk; and
- undertaking an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control.

- 2.2. In accordance with the Public Sector Internal Audit Standards and the Council's Internal Audit Charter, the Chief Internal Auditor is required to provide a written status report to the Audit Committee, summarising:

*'communications on the internal audit activity's performance relative to its plan.'*

- 2.3. Appendix A summarises the performance of Internal Audit for 2020-21 to 15 January 2021.

### **3. FINANCIAL IMPLICATIONS**

- 3.1. The audit plan consists of 470 audit days including 18 audit days provided to the New Forest National Park Authority under the current Service Level Agreement. The Council's budget for 2020-21 reflects these arrangements.

### **4. CRIME AND DISORDER IMPLICATIONS**

- 4.1. There are no crime and disorder implications arising directly 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.

**5. ENVIRONMENTAL MATTERS & EQUALITY AND DIVERSITY IMPLICATIONS**

5.1. There are no matters arising directly from this report.

**6. RECOMMENDATION**

6.1. The Audit Committee note the content of the progress report.

**For Further Information Please Contact:**

Antony Harvey  
Deputy Head of Partnership (SIAP)  
Tel: 07784 265289  
E-mail: [antony.harvey@hants.gov.uk](mailto:antony.harvey@hants.gov.uk)

**Background Papers:**

Internal Audit Plan 20-21

## Internal Audit Progress Report (January 2021)

New Forest District Council



**Southern Internal  
Audit Partnership**

Assurance through excellence  
and innovation

**Contents:**

1.	Role of Internal Audit	3
2.	Purpose of report	4
3.	Performance dashboard	5
4.	Analysis of 'Live' audit reviews	6-8
5.	Executive summaries 'Limited' and 'No' assurance opinions	9
6.	Planning and resourcing	9
7.	Rolling work programme	9-11
Annexe 1	Adjustments to the plan	12-13
Annexe 2	Pre 2020-21 Audit Opinion Definitions	14

## 1. Role of Internal Audit

The requirement for an internal audit function in local government is detailed within the Accounts and Audit (England) Regulations 2015, which states that a relevant body must:

*‘Undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.’*

The standards for ‘proper practices’ are laid down in the Public Sector Internal Audit Standards [the Standards – updated 2017].

The role of internal audit is best summarised through its definition within the Standards, as an:

*‘Independent, objective assurance and consulting activity designed to add value and improve an organisations’ 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 processes’.*

New Forest District Council is responsible for establishing and maintaining appropriate risk management processes, control systems, accounting records and governance arrangements. Internal audit plays a vital role in advising the Council that these arrangements are in place and operating effectively.

The Council’s response to internal audit activity should lead to the strengthening of the control environment and, therefore, contribute to the achievement of the organisations’ objectives.

## 2. Purpose of report

In accordance with proper internal audit practices (Public Sector Internal Audit Standards), and the Internal Audit Charter the Chief Internal Auditor is required to provide a written status report to ‘Senior Management’ and ‘the Board’, summarising:

- The status of ‘live’ internal audit reports;
- an update on progress against the annual audit plan;
- a summary of internal audit performance, planning and resourcing issues; and
- a summary of significant issues that impact on the Chief Internal Auditor’s annual opinion.

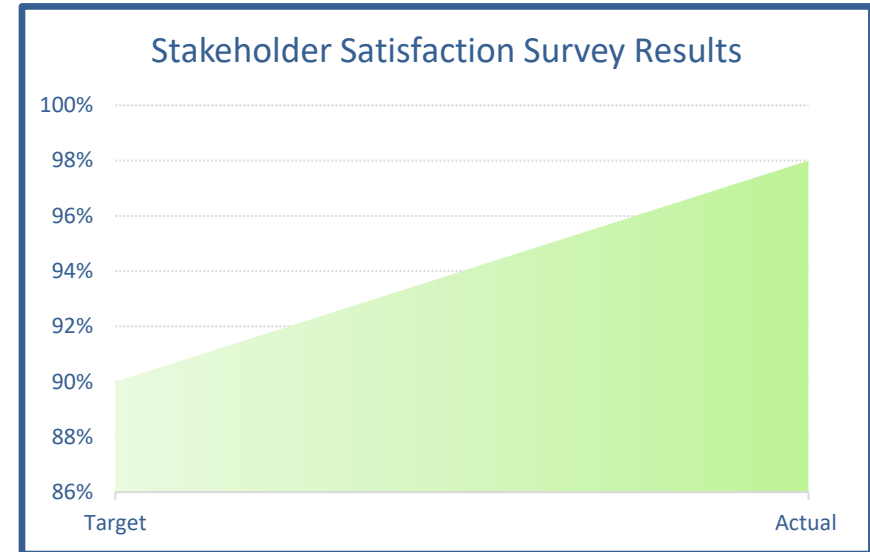
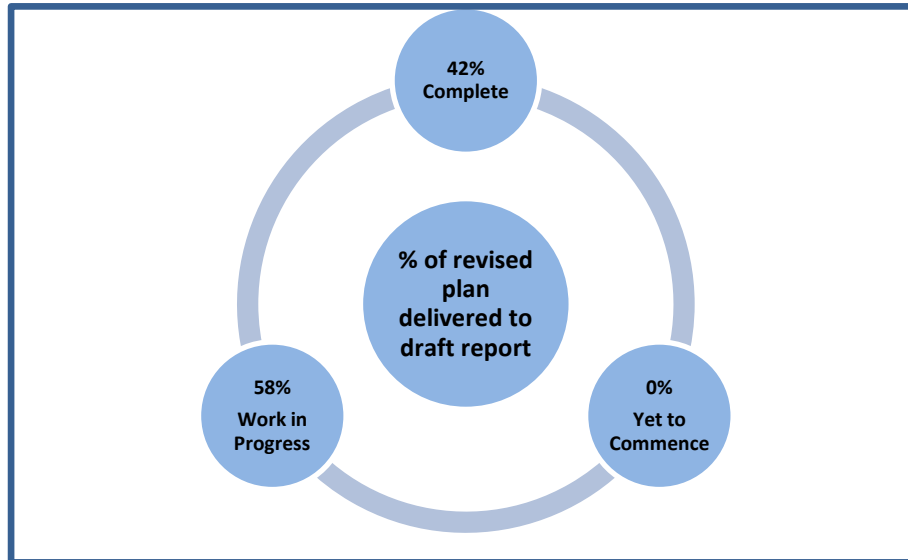
Internal audit reviews culminate in an opinion on the assurance that can be placed on the effectiveness of the framework of risk management, control and governance designed to support the achievement of management objectives of the service area under review.

CIPFA have recently released a paper which examined the case for standardising the terminology and definitions used in internal audit engagements across the whole of the public sector and has subsequently recommended a standard set of opinions and supporting definitions for internal audit service providers to use. To ensure we continue to conform to the best practice principles, we will be adopting the standard definitions for our 2020-21 work and moving forwards. The assurance opinions are categorised as follows:

<b>Substantial</b>	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
<b>Reasonable</b>	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
<b>Limited</b>	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
<b>No</b>	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

*\* Some reports listed within this progress report (pre 2020-21 audit plan) refer to categorisations used by SIAP prior to adoption of the CIPFA standard definitions, reference is provided at Annex 2*

### 3. Performance dashboard



39

#### Compliance with Public Sector Internal Audit Standards

An External Quality Assessment of the Southern Internal Audit Partnership was undertaken by the Institute of Internal Auditors (IIA) in September 2020. The report concluded:

*'The mandatory elements of the IPPF include the Definition of Internal Auditing, Code of Ethics, Core Principles and International Standards. There are 64 fundamental principles to achieve with 118 points of recommended practice. We assess against the principles.*

*It is our view that the Southern Internal Audit Partnership conforms to all 64 of these principles.*

*We have also reviewed SIAP conformance with the Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN).*

*We are pleased to report that SIAP conform with all relevant, associated elements.'*

#### 4. Analysis of 'Live' audit reviews

There are 14 outstanding actions (including four high priority actions) relating to two audits completed by the in-house team prior to the move to SIAP (unchanged from the previous reported position). The current progress to resolve the actions is:-

- Payment Card Industry Data Security Standards (PCI DSS) Compliance. The replacement of the legacy financial system, website update and replacement of the telephony system should help to resolve the PCI DSS non-compliance issues.
- Business Continuity. Following an external review of the Council's Business Continuity and Emergency Planning arrangements, actions is being taken to improve the arrangements and address outstanding issues. This will be followed up by Internal Audit once implemented and embedded.

There are four overdue high priority actions relating to audit reviews completed since the move to SIAP. The status of these actions are:-

- Programme and Project Management – The three high priority actions relate to updating the programme / project management framework and promoting a consistent approach across the Council. Due to responding to the COVID-19, progress with updating and implementing the revised framework has not progressed within the originally intended timescales. This will be followed up by Internal Audit once implemented and embedded.
- Community Safety/CCTV. The overdue high priority action relates to updating policies and operational procedures which has slipped due to prioritising essential, front line activities during the pandemic. The policy update is anticipated during the spring of 2021.

Audit Review	Report Date	Audit Sponsor	Assurance Opinion	Total Management Action(s)	Not Accepted	Not Yet Due	Complete	Overdue		
								L	M	H
Risk Management	Mar 19	SM (E&BI)	Adequate	1	0	0	0	1		
Main Accounting	Mar 19	HoF	Substantial	4	0	0	3		1	
Income Collection	May 19	SM (E&BI)	Adequate	1	0	0	0		1	
<b>Working in Partnership **</b>	<b>Jun 19</b>	<b>SM (E&amp;BI)</b>	<b>Adequate</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>5</b>			
<b>Environmental and Regulation – (Food &amp; Safety and Environmental Protection) *</b>	<b>Oct 19</b>	<b>SM (E&amp;R)</b>	<b>Adequate</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>			
Programme and Project Management	Nov 19	HoF	Adequate	9	0	0	4	1	1	3



Parking and Enforcement	Nov 19	SM (S)	Adequate	6	0	0	0	1	5	
<b>Land charges *</b>	<b>Mar 20</b>	<b>CPO</b>	<b>Adequate</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>8</b>			
<b>Service Desk &amp; Incident Management *</b>	<b>Apr 20</b>	<b>SM (ICT)</b>	<b>Adequate</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>6</b>			
Accounts Receivable / Debt Management	May 20	SM (R&B)	Adequate	1	0	0	0		1	
P-Card Taxation (VAT)	May 20	HoF	Adequate	2	0	0	0		2	
Fleet Management	May 20	SM (W&T)	Limited	18	0	9	9			
<b>Software licensing / Management of assets *</b>	<b>May 20</b>	<b>SM (ICT)</b>	<b>Limited</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>12</b>			
Main Accounting	May 20	HoF	Adequate	5	0	0	0		5	
<b>Housing Finance (Right-to-Buy) *</b>	<b>Jun 20</b>	<b>SM (HO)</b>	<b>Adequate</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>			
Community Safety - CCTV	Jun 20	SM (EM&S)	Adequate	4	0	0	3			1
Information Governance	Jun 20	SM (L&P)	Adequate	3	0	2	1			
<b>Lease Income *</b>	<b>Jun 20</b>	<b>SM (EV&amp;IP)</b>	<b>Adequate</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>			
Planning (incl. Community Infrastructure Levy)	Jun 20	SM (PMD)	Adequate	4	0	2	2			
Health & Safety	Jul 20	SM (E&R)	Adequate	6	0	6	0			
Fraud Governance	Sep 20	SM (R&B)	Substantial	2	0	2	0			
Governance – Decision Making (COVID)	Oct 20	SM (L&P)	Reasonable	7	0	2	3	1	1	
<b>Gas Inspections *</b>	<b>Oct 20</b>	<b>SM (HMAC)</b>	<b>Substantial</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>3</b>			
<b>HMO Licencing *</b>	<b>Nov 20</b>	<b>SM (HO)</b>	<b>Substantial</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>			
Recruitment	Jan 21	SM (HR)	Reasonable	2	0	1	1			
<b>Total</b>								<b>4</b>	<b>17</b>	<b>4</b>

\* Denotes audits where all actions have been completed since the last progress report

\*\* Working in Partnership – Three overdue actions (including one high priority action) are superseded as they relate to the New Forest Business Partnership which is now established as a Community Interest Company (CIC) and are therefore no-longer within the Council's remit to implement. These will be excluded from future progress reports.

<b>Audit Sponsor</b>		<b>Audit Sponsor</b>	
Service Manager (Elections & Business Improvement)	SM (E&BI)	Service Manager (Housing Maintenance - Operations)	SM (HMO)
Head of Finance	HoF	Service Manager (Housing Maintenance – Asset and Compliance)	SM (HMAC)
Service Manager (Estates & Valuation)	SM (E&V)	Service Manager (Environmental & Regulation)	SM (E&R)
Service Manager (Human Resources)	SM (HR)	Service Manager (Health & Leisure)	SM (H&L)
Service Manager (Legal & Procurement)	SM (L&P)	Service Manager (Waste & Transport)	SM (W&T)
Service Manager (Democratic Services & Member Support)	SM (DS&MS)	Service Manager (Coastal & Public Facilities)	SM (C&PF)
Service Manager (Estate Management & Support)	SM (EM&S)	Service Manager (Open Spaces)	SM (OS)
Service Manager (Revenues & Benefits)	SM (R&B)	Service Manager (Planning Management Development)	SM (PMD)
Service Manager (ICT)	SM (ICT)	Service Manager (StreetScene)	SM (S)
Service Manager (Housing Options)	SM (HO)	Service Manager (Estates, Valuation & Investment Property)	SM (EV&IP)
Chief Planning Officer	CPO		

## 5. Executive Summaries of reports published concluding a ‘Limited’ or ‘No’ assurance opinion

There have been no ‘Limited’ or ‘No’ assurance opinion reports issued during 2020-21.

## 6. Planning & Resourcing

The Internal Audit Plan for 2020-21 was discussed by EMT and circulated to the Audit Committee in March 2020. The audit plan remains fluid to provide a responsive service that reacts to the changing needs of the Council. Progress against the plan is detailed within section 7.

## 7. Rolling Work Programme

Audit Review	Sponsor	Scoping	Audit Outline	Fieldwork	Draft Report	Final Report	Assurance Opinion	Comment
<b>2019-20</b>								
Housing Asset Management (Planned Maintenance)	SM (HMAC)	✓	✓	✓	May 20	Jul 20	Adequate	2019-20 Opinion
Licensing	SM (E&R)	✓	✓	✓	Jun 20	Jul 20	Substantial	2019-20 Opinion
<b>2020-21</b>								
<b>Corporate / Governance Framework</b>								
Corporate Plan / Performance Management	SM (E&BI)	✓	✓	✓	Sep 20	Oct 20	n/a	Advisory role on the developing framework.
Information Governance	SM (L&P)	✓	✓	✓				
Procurement	SM (L&P)	✓	✓	✓				
Contract Management	SM (L&P)	✓	✓	✓				
Fraud Governance	SM (R&B)	✓	✓	✓	Aug 20	Sep 20	Substantial	
Fraud Training – P-Cards	SM (R&B)	✓	n/a	✓	n/a	n/a	n/a	
Health and Safety (COVID)	SM (E&R)	✓	✓	✓	Oct 20			
Governance – Decision Making (COVID)	SM (L&P)	✓	✓	✓	Oct 20	Oct 20	Reasonable	

Audit Review	Sponsor	Scoping	Audit Outline	Fieldwork	Draft Report	Final Report	Assurance Opinion	Comment
<b>Human Resources</b>								
Recruitment	SM (HR)	✓	✓	✓	Dec 20	Jan 21	Reasonable	
Travel, Expenses and Overtime	SM (HR)	✓	✓	✓				
Payroll Increments **	SM (HR)	✓						
<b>Core Financial Systems</b>								
Council Tax	SM (R&B)	✓	✓	✓				
NNDR	SM (R&B)	✓	✓	✓				
Accounts Payable	SM (R&B)	✓	✓					
Accounts Receivable and Debt Management	SM (R&B)	✓	✓	✓				
Main Accounting and Reconciliations	SM (R&B)	✓	✓					
Income Collection and Banking	SM (R&B)	✓						
Busines Grants (COVID)	SM (R&B)	✓	✓	✓	Aug 20	Sep 20	Substantial	
<b>Information Technology</b>								
Northgate Application Review	SM (ICT)	✓	✓	✓				
Cyber Security	SM (ICT)	✓						
PCI DSS Advice	SM (ICT)	n/a	n/a	✓	n/a	n/a	n/a	Advisory role
IT Disaster Recovery and Business Continuity Planning Advice	SM (ICT)	n/a	n/a	✓	n/a	n/a	n/a	Advisory role
<b>Portfolio Themes</b>								
Housing Rents	SM (HO)	✓						
Housing Asset Management	SM (HMAC)	✓						
Housing Finance Management – Tenancies	SM (HO)	✓	✓	✓	Jan 21			
HMO Licencing	SM (HO)	✓	✓	✓	Oct 20	Nov 20	Substantial	

Audit Review	Sponsor	Scoping	Audit Outline	Fieldwork	Draft Report	Final Report	Assurance Opinion	Comment
Gas Inspections	SM (HMAC)	✓	✓	✓	Oct 20	Oct 20	Substantial	
Disabled Facilities Grants	SM (HO)	✓	✓	✓	Dec 20			
Development Management	CPO	✓						
Regeneration / Economic Development	CPO	✓						
Health and Leisure	SM (H&L)	✓						
Coastal Management and Protection	SM (C&PF)	✓	✓	✓				
Fleet Management	SM (W&T)	✓						Follow-up review Q4
LG Income Compensation Scheme	HoF	n/a	n/a	✓				Certification work in three phases.

\*\* Denotes proposed plan additions

**Annexe 1 - Adjustments to the plan**

<b>Audit reviews added to the plan (included in rolling work programme above)</b>	
Health and Safety (COVID) *	To review the Council's Health & Safety response to COVID-19 in relation to staff and premises.
Governance – Decision Making (COVID) *	To review the implementation and use of revised governance arrangements brought in as a result of COVID-19.
Business Grants (COVID) *	To review the arrangements for awarding Business Grants to support local businesses through the pandemic.
Gas Inspections *	To review the Council's compliance with statutory obligations as a social landlord during COVID-19.
Cyber Security *	To review user training and website protection, providing the missing third level assurance highlighted in the 19/20 Cyber Security Assurance Mapping report.
Fraud Awareness Training *	To provide training to Council staff in mitigating the risks of fraud with Procurement Card (PCard) usage).
LG Income Compensation Scheme *	Review the appropriateness of 3 claims for the Local Government Income Compensation Scheme for lost sales, fees and charges.
HR – Payroll Increments **	To review the processes for identifying and applying annual increments to staff salaries.

Agreed October 2020 \*

Proposed January 2021 \*\*

<b>Audit reviews removed from the plan (excluded from rolling work programme)</b>	
Programme & Project Management *	Defer review. Development and implementation of a programme and project management framework during 20/21 has been delayed due to responding to COVID-19.
HR – Performance Management *	Performance management module has been implemented during 20/21 with completion of performance appraisals required by 31.03.21 therefore defer to 21/22 to assess full year cycle and utilise audit days to offset plan additions into 20/21.
Housing IT Application Review *	Defer review in order to assess Cyber Security which is of higher risk.
Commercial Activities *	Defer review. Planned developments have been delayed by six months due to COVID-19 therefore review planned activity in 21/22.
Financial Stability **	Defer review to 21/22. The 20/21 emergency budget and updated MTFs have been developed by the COVID-19 Recovery – Finance and Resources Task and Finish Group and presented to Council. The planned rollout of new budget management processes have been delayed.

Environmental Services **	Defer the review in order to align the audit with the implementation of the new Waste Strategy which is expected to be approved by the Spring of 2021.
Business Continuity and Emergency Planning **	Defer review to 21/22 as the actions being taken to improve and document the arrangements has been delayed.
IT Infrastructure Management **	It is planned to have all new infrastructure in place by 31.03.21 therefore defer review to 21/22 and combine with a review of IT disaster recovery once implemented.
Environmental Management / Climate Change (Green Agenda)**	Defer review. Development of the Council's Green Agenda/strategy has not progressed within the originally intended timescales due to reprioritisation of activities in responding to the pandemic.
Risk Management **	The development of new risk registers aligned to the Corporate Plan – Community Matters 2020-2024; the revised risk management framework; and member training has slipped therefore defer the review to 21/22 to enable the framework to become embedded.
Grounds / Tree Maintenance / Open Spaces **	Defer review. It is too early to assess progress against achieving the new Tree Strategy 2020-2025. Consideration was then given to covering the processes and methodologies for assessing developer obligations to open spaces, however on further assessment these were found to be mid review by the Council.
Alternative Delivery Methods / Partnership Working **	Defer the review of the Community Safety Partnership due to resource pressures within the team - the team are undertaking the annual strategic assessment and creation of the annual strategic Partnership plan which requires its completion for the end of March with commencement in April. In addition they are providing all the Councils statutory safeguarding training for all services; assisting with the management of the Covid Ambassadors; undertaking community food shopping for vulnerable persons and providing cover for control room duties.

Agreed October 2020\*

Proposed January 2021 \*\*

**Annexe 2 - Assurance opinions and definitions used by SIAP prior to adoption of the CIPFA standard definitions**

Substantial	A sound framework of internal control is in place and operating effectively. No risks to the achievement of system objectives have been identified
Adequate	Basically a sound framework of internal control with opportunities to improve controls and / or compliance with the control framework. No significant risks to the achievement of system objectives have been identified
Limited	Significant weakness identified in the framework of internal control and / or compliance with the control framework which could place the achievement of system objectives at risk
No	Fundamental weaknesses identified in the framework of internal control or the framework is ineffective or absent with significant risk to the achievement of system objectives.



## AUDIT COMMITTEE – 29 JANUARY 2021

### TREASURY MANAGEMENT STRATEGY REPORT 2021/22

#### 1. INTRODUCTION

- 1.1. Treasury management is the management of the Council's cash flows, borrowing and investments, and the associated risks. The Council has borrowed and invested sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of financial risk are therefore central to the Council's prudent financial management.
- 1.2. Treasury risk management at the Council is conducted within the framework of the CIPFA Code which requires the Council to approve a Treasury Management Strategy Statement (TMSS) before the start of each financial year. This report fulfils the Council's legal obligation under the Local Government Act 2003 to have regard to the CIPFA Code.
- 1.3. Investments held for service purposes or for commercial profit are considered in a different report, the Investment Strategy.

#### 2. POLICIES AND APPROVALS REQUIRED

##### 2.1. Treasury Management Strategy Statement

The Treasury Management Strategy Statement sets out how the Council's treasury service will support the capital expenditure and financing decisions taken over the three year period from 2021/22 to 2023/24. The day to day treasury management function and the limitations on activity through treasury indicators are also set out in the statement.

This report has been prepared prior to the adoption of the Capital Programme for 2021/22 and subsequent years. Therefore, the target indicators may be subject to minor variation. These indicators are targets only and minor adjustments will not be reported.

Any adjustments to the treasury management limits will be reported.

##### 2.2. Treasury Management Investment Strategy

Treasury risk management at the Council is conducted within the framework of the Chartered Institute of Public Finance and Accountancy's Treasury Management in Public Services: Code of Practice 2017 Edition (the CIPFA Code). This report fulfils the Council's legal obligation under the Local Government Act 2003 to have regard to the CIPFA Code.

The Treasury Management investment strategy sets out the Council's criteria for choosing investment counterparties and limiting exposure to the risk of loss.

This strategy is shown in Annex A in Section 5.

The above policies and parameters provide an approved framework within which officers undertake the day to day treasury activities.

This strategy aims to strike a balance between allowing for current investment levels to continue, whilst also considering the Council's intention to directly invest in both commercial and residential property.

### **3. ENVIRONMENTAL IMPLICATIONS**

3.1. There are no environment implications arising from this report.

### **4. CRIME AND DISORDER IMPLICATIONS**

4.1. There are no crime and disorder implications arising from this report.

### **5. RECOMMENDATIONS**

The Audit Committee is recommended to request Council to approve the key element of this report:

5.1. The Treasury Management Strategy 2021/22 to 2023/24 including the Annual Treasury Management Investment Strategy for 2021/22 (and the remainder for 2020/21) and the Treasury Indicators contained within Annex A.

5.2. That authority is delegated to the Section 151 Officer, who in turn delegates to Hampshire County Council's Director of Corporate Resources, as agreed in the Service Level Agreement, to manage all Council investments (other than the high yield investment portfolio) and borrowing according Treasury Management Strategy Statement as appropriate.

## TREASURY MANAGEMENT STRATEGY 2021/22 – 2023/24

### 1. INTRODUCTION

- 1.1. Treasury management is the management of the Council's cash flows, borrowing and investments, and the associated risks. The Council has borrowed and invested sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of financial risk are therefore central to the Council's prudent financial management.
- 1.2. Treasury risk management at the Council is conducted within the framework of the CIPFA Code which requires the Council to approve a Treasury Management Strategy Statement (TMSS) before the start of each financial year. This report fulfils the Council's legal obligation under the Local Government Act 2003 to have regard to the CIPFA Code.
- 1.3. Investments held for service purposes or for commercial profit are considered in a different report, the Investment Strategy.

### 2. EXTERNAL CONTEXT

- 2.1. The following paragraphs explain the economic and financial background against which the TMSS is being set.

#### 2.2. Economic background

The impact of the coronavirus pandemic and the UK's exit from the European Union will continue to be a major influence on the Council's treasury management strategy for 2021/22.

The Bank of England's (BoE) Monetary Policy Committee (MPC) met in December 2020 and voted unanimously to hold Bank Rate at 0.10% and to maintain its Quantitative Easing asset purchase programme at £895m. The MPC identified that the successful trialling of some Covid-19 vaccines was likely to reduce the downside risks to the economic outlook, but that economic activity had been affected by the increase in Covid-19 cases and reimposition of restrictions resulting in an unusually uncertain outlook for the economy, an outlook that will have been further affected by the subsequent national lockdown in January 2021.

Gross Domestic Product (GDP) grew by 16.0% in Quarter 3 after suffering a fall of 18.8% in the previous quarter, reflecting the easing of restrictions throughout the summer of 2020, although this had already slowed to 1.1% in September and 0.4% in October, leaving it 8% below its level in Quarter 4 of 2019.

UK Consumer Price Inflation (CPI) for November 2020 registered 0.3% year on year, down from 0.7% in the previous month and well below the BoE's target of 2%.

The most recent labour market data for the three months to October 2020 showed the unemployment rate was 4.9%, up 0.7% on the previous quarter. The government's employment support schemes may limit near term rises in unemployment, but the BoE predicts a substantial further increase is still likely. The employment rate fell to 72.5% in October and the 3-month average annual growth rate for wages was 2.1% for regular pay in real terms.

### **2.3. Credit outlook**

After spiking in late March 2020 due to the onset of the global pandemic, credit default swap (CDS) prices for the larger UK banks have steadily fallen back to almost pre-pandemic levels. Bank profitability in 2020 is likely to be significantly lower than in previous years as a result of significant provisions for potential losses resulting from the pandemic.

The credit ratings for many UK institutions were downgraded on the back of downgrades to the sovereign rating. Credit conditions more generally though in banks and building societies have tended to be relatively benign, despite the impact of the pandemic.

Looking forward, there remains the potential risk for bank losses to be greater than expected when government and central bank support starts to be removed and Arlingclose therefore advises a cautious approach to bank deposits in 2021/22.

### **2.4. Interest rate forecast**

The Council's treasury management adviser, Arlingclose, is forecasting that BoE Bank Rate will remain at 0.1% until at least the end of 2023. Downside risks remain, however, and may be heightened in the short term as the UK reacts to the escalation in coronavirus infection rates and the end of the Brexit transition period, therefore further cuts to 0% or even into negative territory cannot be completely ruled out.

A more detailed economic and interest rate forecast provided by Arlingclose is attached at Appendix A.

## **3. BALANCE SHEET SUMMARY AND FORECAST**

- 3.1. On 31 December 2020, the Council held £131.1m of borrowing and £78.2m of investments. This is set out in further detail at Appendix B. Forecast changes in these sums are shown in the balance sheet analysis in Table 1.

<b>Table 1: Balance Sheet Summary and Forecast</b>	<b>31/03/20 Actual £m</b>	<b>31/03/21 Estimate £m</b>	<b>31/03/22 Forecast £m</b>	<b>31/03/23 Forecast £m</b>	<b>31/03/24 Forecast £m</b>
General Fund CFR	7.8	10.9	21.8	32.9	33.6
Housing Revenue Account CFR	1.9	5.4	10.4	22.0	33.4
HRA Settlement	130.4	126.3	122.2	118.1	114.0
<b>Total CFR</b>	<b>140.1</b>	<b>142.6</b>	<b>154.4</b>	<b>173.0</b>	<b>181.0</b>
Less: External borrowing *	(131.2)	(126.9)	(122.6)	(118.3)	(114.0)
<b>Internal (over) borrowing</b>	<b>8.9</b>	<b>15.7</b>	<b>31.8</b>	<b>54.7</b>	<b>67.0</b>
Less: GF Usable reserves	(30.3)	(30.8)	(21.8)	(19.3)	(19.6)
Less: HRA Usable reserves	(17.4)	(16.8)	(14.3)	(12.6)	(11.0)
Less: Working capital	(17.7)	(17.7)	(17.7)	(17.7)	(17.7)
<b>Resources for investments</b>	<b>(65.4)</b>	<b>(65.3)</b>	<b>(53.8)</b>	<b>(49.6)</b>	<b>(48.3)</b>
<b>New borrowing (or investments)</b>	<b>(56.5)</b>	<b>(49.6)</b>	<b>(22.0)</b>	<b>5.1</b>	<b>18.7</b>

\* shows only loans to which the Council is committed and excludes optional refinancing

- 3.2. The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment.
- 3.3. The General Fund CFR is showing an increase over the period as the Council looks to roll out its commercial and residential investment strategies. The HRA CFR is also increasing as the Council looks to deliver the accelerated housing programme as per the Housing Strategy to 2026. Table 1 demonstrates that the Council will be internally borrowed beyond the resources available for investment, at this point, an external borrowing position potentially sets in. At the appropriate time, the Council will consult with its treasury advisors on how best to service its borrowing requirements, including the possibility of renewing maturing loans on the HRA.
- 3.4. CIPFA's Prudential Code for Capital Finance in Local Authorities recommends that the Council's total debt should be lower than its highest forecast CFR over the next three years. Table 1 shows that the Council expects to comply with this recommendation during 2021/22.

#### 4. BORROWING STRATEGY

- 4.1. The Council currently holds £131.1m of loans, a decrease of £4.4m on the previous year, predominantly as a result of the HRA refinancing in 2012. The balance sheet forecast in Table 1 shows that the Council

does not expect to need to borrow in 2021/22. The Council may however borrow to pre-fund future years' requirements, providing this does not exceed the authorised limit for borrowing of £206.3m.

#### **4.2. Objectives**

The Council's chief objective when borrowing money is to strike an appropriately low risk balance between securing low interest costs and achieving certainty of those costs over the period for which funds are required. The flexibility to renegotiate loans should the Council's long-term plans change is a secondary objective.

#### **4.3. Strategy**

Given the significant cuts to public expenditure and in particular to local government funding, the Council's borrowing strategy continues to address the key issue of affordability without compromising the longer-term stability of the debt portfolio. With short-term interest rates currently much lower than long-term rates, if the Council does need to borrow, it is likely to be more cost effective in the short-term to either use internal resources, or to borrow short-term loans instead.

By internally borrowing, the Council is able to reduce net borrowing costs (despite foregone investment income) and reduce overall treasury risk. The benefits of internal and short-term borrowing will be monitored regularly against the potential for incurring additional costs by deferring borrowing into future years when long-term borrowing rates are forecast to rise modestly. Arlingclose will assist the Council with this 'cost of carry' and breakeven analysis. Its output may determine whether the Council borrows additional sums at long-term fixed rates in 2021/22 with a view to keeping future costs low, even if this causes additional cost in the short-term.

The Council has previously raised all of its long-term borrowing from the Public Works Loan Board (PWLB) but will consider long-term loans from other sources including banks, pensions and local authorities, and will investigate the possibility of issuing bonds and similar instruments, in order to lower interest costs and reduce over-reliance on one source of funding in line with the CIPFA Code. PWLB loans are no longer available to local authorities planning to buy investment assets primarily for yield; the Council intends to avoid this activity in order to retain its access to PWLB loans.

Alternatively, the Council may also arrange forward starting loans during 2021/22, where the interest rate is fixed in advance, but the cash is received in later years. This would enable certainty of cost to be achieved without suffering a cost of carry in the intervening period.

In addition, the Council may borrow short-term loans (normally for up to one month) to cover unplanned cash flow shortages.

#### **4.4. Sources of borrowing**

The approved sources of long-term and short-term borrowing are:

- HM Treasury's PWLB lending facility (formerly the Public Works Loan Board)
- any institution approved for investments (see below)
- any other bank or building society authorised to operate in the UK
- any other UK public sector body
- UK public and private sector pension funds (except Hampshire Pension Fund)
- capital market bond investors
- UK Municipal Bonds Agency plc and other special purpose companies created to enable local authority bond issues

#### **4.5. Other sources of debt finance**

In addition, capital finance may be raised by the following methods that are not borrowing, but may be classed as other debt liabilities:

- leasing
- hire purchase
- Private Finance Initiative
- sale and leaseback

#### **4.6. Short-term and variable rate loans**

These loans leave the Council exposed to the risk of short-term interest rate rises, which is monitored through the indicator on interest rate exposure in the treasury management indicators below.

#### **4.7. Debt rescheduling**

The PWLB allows authorities to repay loans before maturity and either pay a premium or receive a discount according to a set formula based on current interest rates. Other lenders may also be prepared to negotiate premature redemption terms. The Council may take advantage of this and replace some loans with new loans, or repay loans without replacement, where this is expected to lead to an overall cost saving or a reduction in risk.

## **5. TREASURY INVESTMENT STRATEGY**

5.1. The Council holds invested funds, representing income received in advance of expenditure plus balances and reserves held. In the past 12 months, the Council's treasury investment balance has ranged between £57.5m and £126.4m, and balances are expected to reduce over the forthcoming year due to internal borrowing in relation to the capital programme.

### **5.2. Objectives**

The CIPFA Code requires the Council to invest its treasury funds prudently, and to have regard to the security and liquidity of its investments before seeking the highest rate of return, or yield. The Council's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income.

### **5.3. Negative interest rates**

The Covid-19 pandemic has increased the risk that the Bank of England will set its Bank Rate at or below zero, which is likely to feed through to negative interest rates on all low risk, short-term investment options, and in some instances negative interest rates are already being seen. Since investments cannot pay negative income, negative rates will be applied by reducing the value of investments. In this event, security will be measured as receiving the contractually agreed amount at maturity, even though this may be less than the amount originally invested.

### **5.4. Strategy**

Given the increasing risk and very low returns from short-term unsecured bank investments, the Council aims to continue hold investments that provide diversification through greater security and/or higher yielding asset classes. This is especially the case for the estimated funds that are available for longer-term investment.

At 31 December 2020 approximately 62% of the Council's surplus cash was invested so that it is not subject to bail-in risk, as it was invested in local authorities, pooled property, equity and multi-asset funds, registered providers, secured bank bonds and with the Debt Management Office. Of the 38% of cash that was subject to bail-in risk, 69% was held in overnight money market funds and cash plus funds which are subject to a reduced risk of bail-in, and 10% was held in very short term notice accounts providing a comparatively favourable rate of interest in exchange for a short notice period within the 35-day maximum recommended by Arlingclose. The remaining 21% of cash subject to bail-in risk was held in overnight bank call accounts for liquidity purposes.



Further detail is provided at Appendix B and this diversification represents a continuation of the strategy adopted in 2015/16.

Under the new IFRS 9 standard, the accounting for certain investments depends on the 'business model' for managing them. The Council aims to achieve value from its internally managed treasury investments through a business model of collecting the contractual cash flows and therefore, where other criteria are also met, these investments will continue to be accounted for at amortised cost.

The Council also invests in pooled property, equity and multi-asset funds, which allow diversification into asset classes other than cash without the need to own and manage the underlying investments. The funds operate on a variable net asset value (VNAV) basis and offer diversification of investment risk, coupled with the services of a professional fund manager; they also offer the potential for enhanced returns over the longer term but are likely to be more volatile in the short-term. All of the Council's pooled fund investments are in the funds' distributing share classes which pay out the income generated.

Table 2 shows the market value of the Council's investments in pooled funds held at 31 December 2020, with valuations continuing to be impacted by the ongoing volatility in markets as a result of the coronavirus pandemic.

<b>Table 2: High yield investments capital value</b>	Principal invested £m	Market value 31/12/2020 £m	Capital yield in 2020 %
Pooled Property Funds	7.6	7.2	(4.9)
Pooled Equity Funds	3.0	2.9	(4.4)
Pooled Multi Asset Funds	3.0	3.0	(1.6)
<b>Total</b>	<b>13.6</b>	<b>13.1</b>	<b>(4.0)</b>

Money can usually be redeemed from pooled funds at short notice however these investments must be viewed as long-term investments from core balances not required for immediate liquidity requirements. This ensures that even in times of market volatility, the Council will not be a forced seller and will not crystallise capital losses.

Changes to International Financial Reporting Standards mean that even if investments are not sold, unrealised capital gains and losses on these investments need to be reflected in the revenue account on an annual basis. There is, however, currently a statutory override in place for local authorities that exempts them from complying with this requirement for the next 3 years meaning that any changes in value continue to be accounted for through an unusable reserve.

The Council's long-term investments in pooled funds are expected to bring benefits to the revenue budget through higher yields than can be achieved on cash investments. As shown in Table 3, without the allocation to pooled funds the weighted average return of the Council's cash investments would have been 0.29%. By investing in pooled funds, the weighted average return at 31 December 2020 was

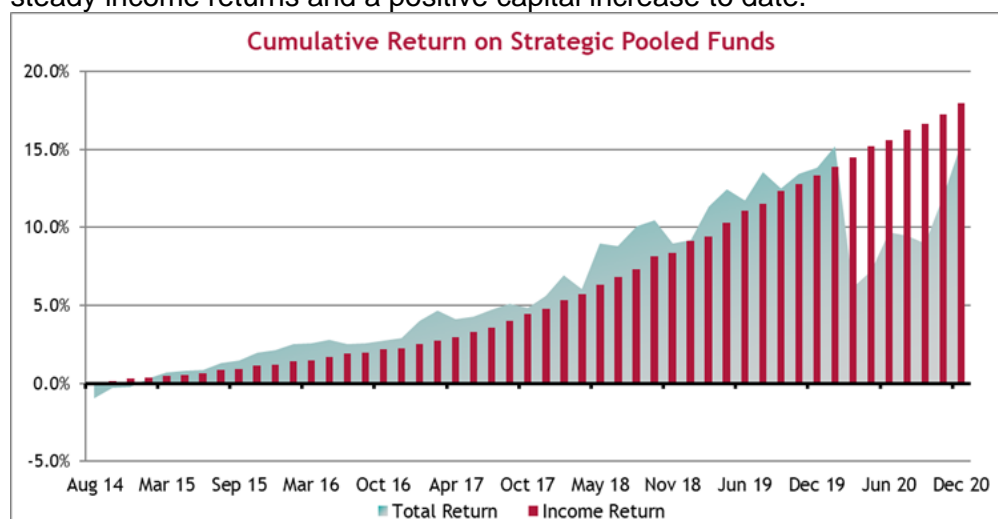
0.91%, meaning the allocation to higher yielding investments has added 0.62% to the average interest rate earned by the remainder of the portfolio.

This benefit to the revenue budget is demonstrated in Table 3, using cash balances and average returns at 31 December 2020. It should be noted however that this is a snapshot at a particular point in time and balances and returns do not remain constant over the course of a year. The actual returns will form part of the outturn report at the conclusion of the financial year.

<b>Table 3: Estimated annual income returns</b>	Cash balance at 31/12/2020 £m	Weighted average return %	Estimated annual income return £m
Short-term and long-term cash investments	64.6	0.29	0.19
Investments targeting higher yields	13.6	3.26	0.44
<b>Total</b>	<b>78.2</b>	<b>0.91</b>	<b>0.63</b>

The performance of these investments and their suitability in meeting the Council's objectives are monitored regularly and discussed with Arlingclose.

The cumulative total return from the Council's investments in pooled equity, property and multi-asset funds since purchase is shown in the graph below. This highlights that despite volatility in the capital value of the funds over 2020, these pooled funds have delivered strong and steady income returns and a positive capital increase to date.



## 5.5. Investment limits

The maximum that will be lent to any one organisation (other than the UK Government) will be £10 million. A group of entities under the same ownership will be treated as a single organisation for limit

purposes. Limits are also placed on fund managers as shown in Table 4.

<b>Table 4: Investment limits</b>	<b>Cash limit</b>
Any single organisation, except the UK Central Government	£10m each
UK Central Government	Unlimited
Any group of pooled funds under the same management	£25m per manager

### 5.6. Approved counterparties

The Council may invest its surplus funds with any of the counterparty types in Table 5, subject to the limits shown.

<b>Table 5: Sector and counterparty limits</b>			
<b>Sector</b>	<b>Time limit</b>	<b>Counterparty limit</b>	<b>Sector limit</b>
The UK Government	30 years	Unlimited	n/a
Local authorities & other government entities	25 years	£10m	Unlimited
Secured investments *	25 years	£10m	Unlimited
Banks (unsecured) *	13 months	£5m	Unlimited
Building societies (unsecured) *	13 months	£5m	£10m
Registered providers	5 years	£5m	£10m
Money market funds *	n/a	£10m	Unlimited
Strategic pooled funds	n/a	£10m	£50m
Real estate investment trusts	n/a	£5m	£10m
Other investments *	5 years	£5m	£10m

This table must be read in conjunction with the notes below

### 5.7. \* Minimum credit rating

Treasury investments in the sectors marked with an asterisk will only be made with entities whose lowest published long-term credit rating is no lower than A-. Where available, the credit rating relevant to the specific investment or class of investment is used, otherwise the counterparty credit rating is used. However, investment decisions are never made solely based on credit ratings, and all other relevant known factors including external advice will be taken into account.

For entities without published credit ratings, investments may be made where external advice indicates the entity to be of similar credit quality.

## **5.8. Government**

Loans, bonds and bills issued or guaranteed by national governments, regional and local authorities and multilateral development banks. These investments are not subject to bail-in, and there is generally a lower risk of insolvency, although they are not zero risk. Investments with the UK Government are deemed to be zero credit risk due to its ability to create additional currency and therefore may be made in unlimited amounts for up to 30 years.

## **5.9. Secured investments**

Investments secured on the borrower's assets, which limits the potential losses in the event of insolvency. The amount and quality of the security will be a key factor in the investment decision. Covered bonds and reverse repurchase agreements with banks and building societies are exempt from bail-in. Where there is no investment specific credit rating, but the collateral upon which the investment is secured has a credit rating, the higher of the collateral credit rating and the counterparty credit rating will be used. The combined secured and unsecured investments with any one counterparty will not exceed the cash limit for secured investments.

## **5.10. Banks and building societies (unsecured)**

Accounts, deposits, certificates of deposit and senior unsecured bonds with banks and building societies, other than multilateral development banks. These investments are subject to the risk of credit loss via a bail-in should the regulator determine that the bank is failing or likely to fail. See below for arrangements relating to operational bank accounts.

## **5.11. Registered providers (unsecured)**

Loans and bonds issued by, guaranteed by or secured on the assets of registered providers of social housing and registered social landlords, formerly known as housing associations. These bodies are regulated by the Regulator of Social Housing (in England), the Scottish Housing Regulator, the Welsh Government and the Department for Communities (in Northern Ireland). As providers of public services, they retain the likelihood of receiving government support if needed.

## **5.12. Money market funds**

Pooled funds that offer same-day or short notice liquidity and very low or no price volatility by investing in short-term money markets. They have the advantage over bank accounts of providing wide diversification of investment risks, coupled with the services of a professional fund manager in return for a small fee. Although no sector limit applies to money market funds, the Council will take care to diversify its liquid investments over a variety of providers to ensure access to cash at all times.

**5.13. Strategic pooled funds**

Shares or units in diversified investment vehicles consisting of bond, equity and property investments. These funds offer enhanced returns over the longer term but are more volatile in the short term and allow the Council to diversify into asset classes other than cash without the need to own and manage the underlying investments. This sector also includes cash plus funds which are also a type of pooled fund, but are used for short-term funds, with a lower risk appetite. Because strategic pooled funds have no defined maturity date, but are available for withdrawal after a notice period; their performance and continued suitability in meeting the Council's investment objectives will be monitored regularly.

**5.14. Real estate investment trusts (REITs)**

Shares in companies that invest mainly in real estate and pay the majority of their rental income to investors in a similar manner to pooled property funds. As with property funds, REITs offer enhanced returns over the longer term, but are more volatile especially as the share price reflects changing demand for the shares as well as changes in the value of the underlying properties.

**5.15. Other investments**

This category covers treasury investments not listed above, for example unsecured corporate bonds and company loans. Non-bank companies cannot be bailed-in but can become insolvent placing the Council's investment at risk.

**5.16. Operational bank accounts**

The Council may incur operational exposures, for example through current accounts, to any UK bank with credit ratings no lower than BBB- and with assets greater than £25 billion. These are not classed as investments but are still subject to the risk of a bank bail-in, and balances will therefore be kept low. The Council's operational bank account is with Lloyds and aims to keep the overnight balances held in current accounts as positive, and as close to £0 as possible. The Bank of England has stated that in the event of failure, banks with assets greater than £25 billion are more likely to be bailed-in than made insolvent, increasing the chance of the Council maintaining operational continuity.

**5.17. Risk assessment and credit ratings**

Credit ratings are obtained and monitored by the Council's treasury advisers, who will notify changes in ratings as they occur. Where an entity has its credit rating downgraded so that it fails to meet the approved investment criteria then:

- no new investments will be made,

- any existing investments that can be recalled or sold at no cost will be, and
- full consideration will be given to the recall or sale of all other existing investments with the affected counterparty.

Where a credit rating agency announces that a credit rating is on review for possible downgrade (also known as “negative watch”) so that it may fall below the approved rating criteria, then only investments that can be withdrawn on the next working day will be made with that organisation until the outcome of the review is announced. This policy will not apply to negative outlooks, which indicate a long-term direction of travel rather than an imminent change of rating.

#### **5.18. Other information on the security of investments**

The Council understands that credit ratings are good, but not perfect, predictors of investment default. Full regard will therefore be given to other available information on the credit quality of the organisations in which it invests, including credit default swap prices, financial statements, information on potential government support and reports in the quality financial press and analysis and advice from the Council’s treasury management adviser. No investments will be made with an organisation if there are substantive doubts about its credit quality, even though it may otherwise meet the above criteria.

When deteriorating financial market conditions affect the creditworthiness of all organisations, as happened in 2008 and 2020, this is not generally reflected in credit ratings, but can be seen in other market measures. In these circumstances, the Council will restrict its investments to those organisations of higher credit quality and reduce the maximum duration of its investments to maintain the required level of security. The extent of these restrictions will be in line with prevailing financial market conditions. If these restrictions mean that insufficient commercial organisations of high credit quality are available to invest the Council’s cash balances, then the surplus will be deposited with the UK Government, via the Debt Management Office or invested in government treasury bills for example, or with other local authorities. This will likely lead to investment returns falling but will protect the principal sum invested.

#### **5.19. Liquidity management**

The Council has due regard for its future cash flows when determining the maximum period for which funds may prudently be committed. Historic cash flows are analysed in addition to significant future cash movements, such as payroll, grant income and council tax precept. Limits on long-term investments are set by reference to the Council’s medium term financial position (summarised in Table 1) and forecast short-term balances.

The Council will spread its liquid cash over at least four providers (e.g. bank accounts and money market funds) to ensure that access to cash is maintained in the event of operational difficulties at any one provider, except in cases of extreme market stress whereby the Council will be able to invest all of its liquid cash in one provider only, being the Debt Management Office.

## 6. TREASURY MANAGEMENT INDICATORS

6.1. The Council measures and manages its exposures to treasury management risks using the following indicators.

### 6.2. Interest rate exposures

The following indicator shows the sensitivity of the Council's current investments and borrowing to a change in interest rates. Fixed rate investments maturing during the year are assumed to be variable for the remainder of the year.

<b>Table 6: Interest rate risk indicator</b>	<b>31 December 2020 £m</b>	<b>Impact of +/-1% interest rate change £m</b>
Sums subject to variable interest rates		
Investment	78.2	+/-0.8
Borrowing	(0.0)	+/-0.0

### 6.3. Maturity structure of borrowing

This indicator is set to control the Council's exposure to refinancing risk. The upper and lower limits on the maturity structure of borrowing will be:

<b>Table 7: Refinancing rate risk indicator</b>	<b>Upper</b>	<b>Lower</b>
Under 12 months	25%	0%
12 months and within 24 months	25%	0%
24 months and within 5 years	25%	0%
5 years and within 10 years	25%	0%
10 years and above	100%	0%

Time periods start on the first day of each financial year. The maturity date of borrowing is the earliest date on which the lender can demand repayment.

### 6.4. Principal sums invested for periods longer than a year

The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. The limits on the long-term principal sum invested to final maturities beyond the period end will be:

<b>Table 8: Price risk indicator</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>
Limit on principal invested beyond a year	£40m	£30m	£25m

## **7. RELATED MATTERS**

7.1. The CIPFA Code requires the Council to include the following in its TMSS.

### **7.2. Financial derivatives**

Local authorities have previously made use of financial derivatives embedded into loans and investments both to reduce interest rate risk (e.g. interest rate collars and forward deals) and to reduce costs or increase income at the expense of greater risk (e.g. LOBO loans and callable deposits). The general power of competence in Section 1 of the Localism Act 2011 removes much of the uncertainty over local authorities' use of standalone financial derivatives (i.e. those that are not embedded into a loan or investment).

The Council will only use standalone financial derivatives (such as swaps, forwards, futures and options) where they can be clearly demonstrated to reduce the overall level of the financial risks that the Council is exposed to. Additional risks presented, such as credit exposure to derivative counterparties, will be taken into account when determining the overall level of risk. Embedded derivatives, including those present in pooled funds and forward starting transactions, will not be subject to this policy, although the risks they present will be managed in line with the overall treasury risk management strategy.

Financial derivative transactions may be arranged with any organisation that meets the approved investment criteria, assessed using the appropriate credit rating for derivative exposures. An allowance for credit risk calculated using the methodology in the Treasury Management Practices document will count against the counterparty credit limit and the relevant foreign country limit.

In line with the CIPFA Code, the Council will seek external advice and will consider that advice before entering into financial derivatives to ensure that it fully understands the implications.

### **7.3. Housing Revenue Account**

On 1st April 2012, the Council notionally split each of its existing long-term loans into General Fund and HRA pools. In the future, new long-term loans borrowed will be assigned in their entirety to one pool or the other. Interest payable and other costs/income arising from long-term loans (e.g. premiums and discounts on early redemption) will be charged/credited to the respective revenue account. Differences between the value of the HRA loans pool and the HRA's underlying need to borrow (adjusted for HRA balance sheet resources available for investment) will result in a notional cash balance which may be positive or negative. This balance will be measured each month and



interest transferred between the General Fund and HRA at the average % Local Authority 7 day rate.

#### **7.4. Markets in Financial Instruments Directive**

The Council has opted up to professional client status with its providers of financial services, including advisers, brokers and fund managers, allowing it access to a greater range of services but without the greater regulatory protections afforded to individuals and small companies. Given the size and range of the Council's treasury management activities, the s151 Officer believes this is the most appropriate status.

#### **7.5. Financial Implications**

The budget for investment income in 2021/22 is £0.515m, based on an average investment portfolio of £69m at an interest rate of 0.75%. The budget for debt interest paid in 2021/22 is £4.162m, based on an average debt portfolio of £124m at an average interest rate of 3.36%. If actual levels of investments and borrowing, or actual interest rates, differ from those forecast, performance against budget will be correspondingly different.

Where investment income exceeds budget, e.g. from higher risk investments including pooled funds, or debt interest paid falls below budget, e.g. from cheap short-term borrowing, then up to 50% of the revenue savings will be transferred to a treasury management reserve to cover the risk of capital losses or higher interest rates payable in future years.

## Appendix A – Arlingclose Economic & Interest Rate Forecast December 2020

Underlying assumptions:

- The medium-term global economic outlook has improved with the distribution of vaccines, but the recent upsurge in coronavirus cases has worsened economic prospects over the short term.
- Restrictive measures and further lockdowns are likely to continue in the UK and Europe until the majority of the population is vaccinated by the second half of 2021. The recovery period will be strong thereafter, but potentially longer than previously envisaged.
- Signs of a slowing UK economic recovery were already evident in UK monthly GDP and PMI data, even before the second lockdown and Tier 4 restrictions. Employment is falling despite an extension to support packages.
- The need to support economic recoveries and use up spare capacity will result in central banks maintaining low interest rates for the medium term.
- Brexit will weigh on UK activity. The combined effect of Brexit and the after-effects of the pandemic will dampen growth relative to peers, maintain spare capacity and limit domestically generated inflation. The Bank of England will therefore maintain loose monetary conditions for the foreseeable future.
- Longer-term yields will also remain depressed, anchored by low central bank policy rates, expectations for potentially even lower rates and insipid longer-term inflation expectations. There is a chance yields may follow a slightly different path in the medium term, depending on investor perceptions of growth and inflation, or the deployment of vaccines.

Forecast:

- Arlingclose expects Bank Rate to remain at the current 0.10% level.
- Our central case for Bank Rate is no change, but further cuts to zero, or perhaps even into negative territory, cannot be completely ruled out.
- Gilt yields will remain low in the medium term. Shorter term gilt yields are currently negative and will remain around zero or below until either the Bank expressly rules out negative Bank Rate or growth/inflation prospects improve.
- Downside risks remain, and indeed appear heightened, in the near term, as the government reacts to the escalation in infection rates and the Brexit transition period ends.

	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24
<b>Official Bank Rate</b>													
Upside risk	0.00	0.00	0.15	0.15	0.15	0.15	0.30	0.30	0.30	0.30	0.30	0.30	0.30
Arlingclose Central Case	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
Downside risk	0.30	0.40	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
<b>3-month money market r.</b>													
Upside risk	0.05	0.05	0.10	0.10	0.15	0.20	0.30	0.30	0.30	0.30	0.30	0.30	0.30
Arlingclose Central Case	0.10	0.10	0.15	0.15	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20
Downside risk	0.30	0.40	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
<b>1yr money market rate</b>													
Upside risk	0.05	0.05	0.10	0.10	0.15	0.20	0.40	0.40	0.40	0.40	0.40	0.40	0.40
Arlingclose Central Case	0.15	0.15	0.25	0.25	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30
Downside risk	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15
<b>5yr gilt yield</b>													
Upside risk	0.40	0.40	0.45	0.45	0.50	0.50	0.55	0.60	0.60	0.65	0.65	0.70	0.70
Arlingclose Central Case	0.00	0.00	0.05	0.10	0.15	0.20	0.20	0.20	0.25	0.25	0.25	0.25	0.25
Downside risk	0.40	0.45	0.50	0.55	0.60	0.60	0.60	0.60	0.60	0.60	0.60	0.60	0.60
<b>10yr gilt yield</b>													
Upside risk	0.30	0.35	0.40	0.45	0.50	0.50	0.55	0.60	0.60	0.65	0.65	0.70	0.70
Arlingclose Central Case	0.25	0.30	0.35	0.35	0.40	0.40	0.45	0.45	0.50	0.55	0.55	0.55	0.60
Downside risk	0.50	0.50	0.55	0.55	0.55	0.55	0.55	0.55	0.55	0.55	0.55	0.55	0.55
<b>20yr gilt yield</b>													
Upside risk	0.40	0.40	0.45	0.45	0.50	0.50	0.55	0.60	0.60	0.65	0.65	0.70	0.70
Arlingclose Central Case	0.70	0.70	0.75	0.75	0.75	0.80	0.80	0.85	0.85	0.85	0.85	0.90	0.90
Downside risk	0.30	0.30	0.35	0.35	0.35	0.40	0.40	0.40	0.40	0.40	0.40	0.40	0.40
<b>50yr gilt yield</b>													
Upside risk	0.40	0.40	0.45	0.45	0.50	0.50	0.55	0.60	0.60	0.65	0.65	0.70	0.70
Arlingclose Central Case	0.60	0.60	0.65	0.65	0.65	0.70	0.70	0.75	0.75	0.75	0.75	0.80	0.80
Downside risk	0.30	0.30	0.35	0.35	0.35	0.40	0.40	0.40	0.40	0.40	0.40	0.40	0.40

**PWLB Certainty Rate (Maturity Loans) = Gilt yield + 0.80%**

**PWLB Infrastructure Rate (Maturity Loans) = Gilt yield + 0.60%**

## Appendix B – Existing Investment &amp; Debt Portfolio Position

Investment Position (Treasury Investments)	30/09/2020 Balance £m	Movement £m	31/12/2020 Balance £m	31/12/2020 Rate %	31/12/2020 WAM* years
<b>Short term Investments</b>					
Banks and Building Societies:					
- Unsecured	2.9	0.5	9.4	0.06	0.0
Money Market Funds	37.9	(19.2)	18.7	0.01	0.0
Local Authorities	15.0	(0.5)	14.5	0.45	0.2
Debt Management Office	-	13.0	13.0	0.01	0.1
Registered Providers	4.0	-	4.0	1.93	0.2
Cash Plus Funds	2.0	-	2.0	1.23	0.0
	<b>67.8</b>	<b>(6.2)</b>	<b>61.6</b>	<b>0.28</b>	<b>0.1</b>
<b>Long term investments</b>					
Banks and Building Societies:					
- Secured	3.0	-	3.0	0.47	2.1
	<b>3.0</b>	<b>-</b>	<b>3.0</b>	<b>0.47</b>	<b>2.1</b>
<b>High yield investments</b>					
Pooled Property Funds**	7.6	-	7.6	3.88	N/A
Pooled Equity Funds**	3.0	-	3.0	4.11	N/A
Pooled Multi-Asset Funds**	3.0	-	3.0	3.68	N/A
	<b>13.6</b>	<b>-</b>	<b>13.6</b>	<b>3.26</b>	<b>N/A</b>
<b>TOTAL INVESTMENTS</b>	<b>84.4</b>	<b>(6.2)</b>	<b>78.2</b>	<b>0.91</b>	<b>0.2</b>

\* Weighted average maturity

\*\* The rates provided for pooled fund investments are reflective of the average dividend return over the last 12 months.

Treasury Management Position	31/12/2020 Balance £m	31/12/2020 Rate %
<b>External Borrowing</b>		
PWLB	(131.1)	(3.25)
<b>Investments</b>		
Total Investments	78.2	0.91
<b>Net Debt</b>	<b>(52.9)</b>	

AUDIT COMMITTEE – 29 JANUARY 2021

## INVESTMENT STRATEGY 2021/22

### 1. INTRODUCTION

- 1.1. The Council currently holds, and intends to increase, its exposure in a variety of Investments held in part for the purpose of generating commercial profit.
- 1.2. By producing this strategy report, the Council is following statutory guidance issued by the Government in January 2018.

### 2. OVERVIEW OF WHAT IS INCLUDED IN THE INVESTMENT STRATEGY

#### 2.1. Treasury Management Investments

The Investment Strategy has regard to the Treasury Management Strategy, which sets out in detail how the Council's treasury service will invest surplus cash, taking into consideration the requirements of the Council's capital programme, and other financing needs. The balance of treasury management investments fluctuate and can exceed £100m at given points during a fiscal period.

#### 2.2. Commercial Investments

The Commercial investments section of the strategy brings together properties which have been in NFDC ownership for several years, as well as the accumulation of property investment strategies that have been adopted more recently by this Council. Although the primary purpose of these adopted strategies is to support the economic sustainability and regeneration within the District and provide additional housing to support New Forest residents and communities, the strategies also generate a revenue return, hence being prevalent to this investment strategy.

The strategy considers the contribution made by these investments, the security, the risk assessment process and liquidity.

The strategy sets out various performance indicators, designed to assist readers understand the implications of the Council's investing activities on the general fund, and the forecast yields expected from the differing investment categories.

### 3. ENVIRONMENTAL / CRIME AND DISORDER IMPLICATIONS

- 3.1. There are no implications arising from this report.

### 4. RECOMMENDATIONS

- 4.1. The Audit Committee is recommended to request Council approve the Investment Strategy 2021/22.

**For Further Information Please Contact:**

Alan Bethune  
Chief Finance Officer (S151 Officer)  
Telephone: (023) 8028 5001

E-mail: [Alan.Bethune@nfdc.gov.uk](mailto:Alan.Bethune@nfdc.gov.uk)

**Background Papers:**

Treasury Management Strategy  
2021/22  
Capital Strategy 2021/22

## Investment Strategy 2021/22

### 1.0 Introduction

The Authority invests its money for two broad purposes:

- because it has surplus cash as a result of its day-to-day activities, for example when income is received in advance of expenditure (known as **treasury management investments**),
- to invest in a sustainable and vibrant New Forest Economy supporting employment and industry; investment income is also earned (known as **commercial investments**).

This investment strategy was a new report for 2019/20, meeting the requirements of statutory guidance issued by the government in January 2018, and predominately focuses on the second of these categories.

### 2.0 Treasury Management Investments

The Authority typically receives its income in cash (e.g. from taxes and grants) before it pays for its expenditure in cash (e.g. through payroll and invoices). It also holds reserves for future expenditure and collects local taxes on behalf of other local authorities and central government. These activities, plus the timing of borrowing decisions, lead to a cash surplus which is invested in accordance with guidance from the Chartered Institute of Public Finance and Accountancy. The balance of treasury management investments fluctuate and in the 6 months between April – September 2020, the Council's investment balance has ranged between £77.3m and £126.4m. The larger than usual peak balance was attributed to a large one-off business support fund paid to the Council for distribution to businesses across the New Forest impacted by the Coronavirus.

**Contribution:** The contribution that these investments make to the objectives of the Authority is to support effective treasury management activities.

**Further details:** Full details of the Authority's policies and its plan for 2021/22 for treasury management investments are covered in a separate document; the Treasury Management Strategy.

### 3.0 Commercial Investments: Property

**Contribution:** The Council invests in commercial and residential property with the intention of supporting the New Forest economy and community and making a profit that will be spent on local public services. The Council has established a £30m fund for the purposes of investment in commercial property inside, or within areas immediately adjacent to the District boundary, and a £10m fund exists for investment in residential property inside, or within areas immediately adjacent to the District boundary. Both funds have been established to support the local New Forest economy and community and both also have the intention of generating a profit.

The Council can own commercial property directly and has established a wholly owned group of companies for the purposes of investment in residential property. The Council intends to make equity investments into the group of companies and issue loans, on the latter of which the Council will receive interest payments. Both strategies have socio-economic benefits, such as stimulation of local economies through investment in commercial premises and growth in the supply of housing throughout the District.

**Security:** In accordance with government guidance, the Authority considers a property investment to be secure if its accounting valuation is at or higher than its purchase cost including taxes and transaction costs. Three out of the six investment properties owned by this Council as at 31/03/20 have been in the Council's ownership for well over a decade. The first acquisition under the Council Commercial Property Investment Strategy was completed in December 2017 and two further acquisitions were completed in 2019/20.

The main risk when making loans is that the borrower will be unable to repay the principal lent and/or the interest due. In order to limit this risk, and ensure that total exposure to service loans remains proportionate to the size of the Authority, upper limits on the outstanding loans to each category of borrower have been set as follows:

*Table 1: Loans in £millions*

Category of borrower	31.3.2020 actual			2021/22
	Balance owing	Loss allowance	Net figure in accounts	Approved Limit
Subsidiaries	0.304	0.000	0.304	10.000
<b>TOTAL</b>	<b>0.304</b>	<b>0.000</b>	<b>0.304</b>	<b>10.000</b>

*Table 2: Shares in £millions*

Category of company	31.3.2020 actual			2021/22
	Amounts invested	Gains or losses	Value in accounts	Approved Limit
Subsidiaries	0.227	(0.021)	0.206	4.000
<b>TOTAL</b>	<b>0.227</b>	<b>(0.021)</b>	<b>0.206</b>	<b>4.000</b>

The figures as included in tables 1 and 2 above are in relation to the wholly owned group of housing companies. The total initial investment made up of debt and equity is to total £10m. The mix of debt and equity will be fluid, and so for the purposes of setting individual limits, the potential maximum in each instance has been shown hence equating to more than £10m.



Table 3: Commercial Property held generating income in £millions

Property	31.3.19	31.3.2020 actual			2020/21
	Value in Accounts	Gains or (losses)	Additions or (Disposals)	Value in accounts	Additions to date
Hythe Marina	2.540	0.156		2.696	
Hardley Industrial Estate	3.395	0.031		3.426	
New Forest Enterprise Centre	0.775			0.775	
New Milton Health Centre	2.331			2.331	
Land at Beaumont Park Ringwood			2.010	2.010	
Ampress Car Park			2.100	2.100	
The Parade, Salisbury Road Totton					1.450
Queensway, New Milton					1.100
Unit 1 Nova Business Park, New Milton					0.530
<b>TOTAL</b>	<b>9.041</b>	<b>0.187</b>	<b>4.110</b>	<b>13.338</b>	<b>3.080</b>

**Note:** The table above includes material properties denoted in the accounts as Other Land & Buildings (not used operationally by the Council) and Investment Properties, to reflect different statutory accounting definitions of these assets which all have a wider socio-economic purpose.

**Risk assessment:** The Authority assesses the risk of loss before entering into and whilst holding property investments. Market research is undertaken regularly, and potential opportunities objectively evaluated by the in-house estates team, utilising external expertise as and when necessary.

The Authority assesses the risk of loss in its residential holdings before entering into and whilst holding loans through regular communication via the board of directors and the Council. The board has the freedom to engage with specialist consultants as and when required.

Purchases of properties and development opportunities are only completed once a full business case has been prepared and signed off by the investment panel, or board, or by the Council if above delegated financial parameters.

**Liquidity:** Compared with other investment types, property can be relatively difficult to sell and convert to cash at short notice, and can take a considerable period to sell in certain market conditions. The Council will ensure to keep suitable minimum cash balances available, for example to repay capital borrowed.

## **4.0 Proportionality**

The Council is expecting investment activity to assist in achieving a balanced revenue budget. Table 4 below shows the extent to which the expenditure planned to meet the service delivery objectives of the Authority is dependent on achieving the expected net profit from investments over the lifecycle of the Medium -Term Financial Plan. Should it fail to achieve the expected net profit, the Council will continually review and evaluate its services, and their delivery models, ensuring the most efficient service is provided to the residents of the New Forest. Prudent use of reserves can also be considered as a suitable contingency plan for continuing to provide these services in the short term.

*Table 4: Proportionality of non-treasury Investments (£millions)*

	2019/20 Actual	2020/21 Forecast	2021/22 Budget	2022/23 Budget	2023/24 Budget
Gross service expenditure	44.000	42.000	42.000	42.000	42.000
Investment income	0.715	0.901	1.160	1.450	1.740
Proportion	1.6%	2.1%	2.8%	3.5%	4.1%

## **5.0 Capacity, Skills and Culture**

### **Elected members and statutory officers:**

Commercial Property investments are made pursuant to the Asset Investment Strategy approved by the Council in 2017. An experienced team formed from the Council's finance, estates and valuation and legal departments prepare initial assessments and recommendations concerning suitable properties. Prior to entry into a bidding process, approval must be secured from the Portfolio Holder: Finance, Investment and Corporate Services, the Executive Head of Governance and Regulation and the s151 Officer. Prior to entry into binding legal agreements, final approval must be secured from the Chief Executive, the Executive Head of Governance and Regulation and the s151 Officer in consultation with the Portfolio Holder: Finance, Investment and Corporate Services and the Chairman of the Corporate Overview and Scrutiny Panel for transactions up to £5M, and the approval of Cabinet for transactions above £5M. This detailed process of scrutiny and decision making by key senior officers and members ensures the strategic objectives, risk profiles and overall risk exposure for the Council are considered and fully understood.

### **Commercial deals:**

The Cabinet report dated 20<sup>th</sup> February 2017 is clear (at para 3.8) the Council will take a prudent approach to the management of financial risk and the assessment of possible investments. The criteria for selecting investment assets set out in the Asset Investment Strategy and the steps for selecting assets set out above accord with prudent investment principles and the key decision makers, including the S151 Officer, are involved in the process to ensure compliance.

## Corporate governance:

The Asset Investment Strategy makes express reference (at para 2.1) to the Council's Corporate Plan 2016 – 2020 and was prepared in the context of seeking to deliver on those priorities. The objectives remain valid in the context of the updated Community Matters Corporate Plan 2020 – 2024. The process for selecting assets is set out above to ensure accountability, responsibility and authority for decision making on investment activities within the context of the local authority's corporate values.

### **6.0 Investment Indicators**

The Authority has set the following quantitative indicators to allow elected members and the public to assess the Authority's total risk exposure as a result of its investment decisions.

**Total risk exposure:** The first indicator shows the Authority's total exposure to potential investment losses. This includes amounts the Authority is contractually committed to lend but have yet to be drawn down and guarantees the Authority has issued over third party loans.

*Table 5: Total investment exposure in £millions*

Total investment exposure	31.03.2020 Actual	31.03.2021 Forecast	31.03.2022 Budget	31.03.2023 Budget	31.03.2024 Budget
Pooled Fund T M investments	13.60	13.60	13.60	10.00	10.00
Other T M investments	44.30	36.40	10.00	1.80	0.00
Subsidiary investments: Loans	0.31	0.91	2.25	4.09	5.93
Subsidiary investments: Shares	0.20	0.60	1.50	2.73	3.95
Commercial investments: Property	13.34	14.91	23.42	30.42	37.42
<b>TOTAL INVESTMENTS</b>	<b>71.75</b>	<b>66.42</b>	<b>50.77</b>	<b>49.03</b>	<b>57.30</b>
Commitments to lend		-	-	-	-
Guarantees issued on loans		-	-	-	-
<b>TOTAL EXPOSURE</b>	<b>71.75</b>	<b>66.42</b>	<b>50.77</b>	<b>49.03</b>	<b>57.30</b>

**How investments are funded:** Government guidance is that these indicators should include how investments are funded. Since the Authority does not normally associate particular assets with particular liabilities, this guidance is difficult to comply with. However, the following investments can be described as being funded by borrowing. The remainder of the Authority's investments are funded by usable reserves and income received in advance of expenditure.

All investments made to date, up to and including purchases made in 2020/21 are funded through internal borrowing. Internal borrowing is also forecast to be the source of finance for acquisitions during 2021/22.

*Table 6: Investments funded by borrowing in £millions*

Investments funded by borrowing	31.03.2020 Actual	31.03.2021 Forecast	31.03.2022 Budget	31.03.2023 Budget	31.03.2024 Budget
Subsidiary investments: Loans	0.31	0.91	2.25	4.09	5.93
Commercial investments: Property	5.15	7.62	13.22	18.82	24.42
<b>TOTAL FUNDED BY BORROWING</b>	<b>5.46</b>	<b>8.52</b>	<b>15.47</b>	<b>22.91</b>	<b>30.35</b>

**Rate of return received:** This indicator shows the investment income received less the associated costs, including the cost of external borrowing where appropriate, as a proportion of the sum initially invested.

*Table 7: Investment rate of return (net of costs)*

Investments net rate of return	2019/20 Actual	2020/21 Forecast	2021/22 Budget	2022/23 Budget	2023/24 Budget
Treasury management investments	1.73%	0.87%	0.75%	1.00%	1.25%
Subsidiary investments: Weighted Average	3.15%	3.15%	3.15%	3.15%	3.15%
Commercial investments: Property	5.24%	5.27%	4.44%	3.99%	3.71%

Notes to table 7:

So as to not distort the annual percentages, investment purchases are assumed to take effect on the first day of a financial year. The reduction in the rate of return for Commercial Property is due to the expectation of external financing costs from 2022/23.

As already outlined, the authority does not associate direct borrowing with individual assets. An overall level of borrowing however was assumed to be required to assist in financing the Commercial Investment Strategy. This is the reason for the lower return in comparison to say the investment in the Council's subsidiary, despite the Initial Gross Yield on Commercial Property (typically c5%) being higher than in Residential property typically c4%).

## AUDIT COMMITTEE – 29 JANUARY 2021

### STRATEGIC RISK REGISTER

#### 1. INTRODUCTION AND PURPOSE

- 1.1 The Council's Strategic Risk Register was reviewed following the development of the Council's new 'Community Matters Corporate Plan 2020-2024'.
- 1.2 The Coronavirus Pandemic then necessitated a review of the Council's Strategic Risk Register, proving the need for this to be a fluid document, and not just something that will be drawn up once and 'put on the shelf'.
- 1.3 The Strategic Risk Register now included within this report contains the significant risks, as identified by senior and executive council officers in consultation with the Portfolio Holders, in the Council achieving the priorities set out in the 'Community Matters Corporate Plan 2020-24'.

#### 2. BACKGROUND

- 2.1 Risk management aims to identify the risks that may impact on the Council achieving its objectives. Its purpose is to evaluate, design and implement effective measures to reduce both the likelihood and potential impact of these risks occurring.
- 2.2 The Council has a statutory responsibility to have in place arrangements for managing risks under the Accounts and Audit Regulations; which require a sound system of internal control, facilitates the effective exercise of the body's functions and includes arrangements for the management of risk. As such it features strongly in the Council's Local Code of Practice for Corporate Governance and is one of the primary assurance strands in the Annual Governance Statement, which places significant reliance on a robust risk management framework.

#### 3. STRATEGIC RISK REGISTER

- 3.1 The revised Strategic Risk Register (Appendix 1) captures the most significant risks to the delivery of the current Corporate Plan and the proposed actions to mitigate these risks.
- 3.2 These risks have been identified with senior and executive council officers working alongside the Portfolio Holders to ensure a joined-up approach in capturing and documenting these risks. The risks are listed within the Portfolio Holder Dashboards, now regularly shared with the relevant scrutiny panels (commenced January 2021). The mitigation offered is closely aligned to portfolio resource and service plans and, in some cases, relies on working with partners to help achieve the objectives. Other risks specific to service delivery and their mitigations are considered within individual Service Manager Dashboards.

#### 4. FINANCIAL IMPLICATIONS

- 4.1 There are none arising directly from this report, although strong risk management and a solid understanding of risk helps to support robust financial management.

**5. ENVIRONMENTAL MATTERS AND EQUALITY & DIVERSITY IMPLICATIONS**

- 5.1 There are no direct environmental or equality and diversity implications arising from this report.

**6. RECOMMENDATIONS**

- 6.1 The Audit Committee are requested to offer any feedback on the Strategic Risk Register.

**For further information**























James Clarke

Insurance and Risk Officer

Tel: 023 8028 5002





















Email: [James.Clarke@nfdc.gov.uk](mailto:James.Clarke@nfdc.gov.uk)

79

Portfolio	Risk	Risk rating	Actions to mitigate risk	Residual risk rating
<b>Leader and Corporate Affairs</b> <i>Delivering a prosperous New Forest and putting our communities first</i>	Sickness levels increasing due to COVID-19		<ul style="list-style-type: none"> <li>Where appropriate some staff have been able to self-isolate and work from home, minimising the impact on service delivery. We were also able to redeploy staff during lockdown from Health and Leisure to Waste Refuse to minimise the impact on service delivery.</li> </ul>	
<b>Planning and Infrastructure</b> <i>Encouraging development that meets local needs and enhances the special qualities of the environment</i>	Competitors in the private sector take more of the Building Control market share		<ul style="list-style-type: none"> <li>Install new Information Technology systems to enable enhanced mobile working and give officers on-site access to all Building Control. Forge links with local builders and architects and form working relationships by offering expertise and advice to enable building regulation standards are met. Continue to provide unrivalled service and charge only for the service provided to ensure value for money for the customer.</li> </ul>	
	Changes to Government Guidance, Regulations and Legislation		<ul style="list-style-type: none"> <li>None - unavoidable.</li> </ul>	
<b>Housing Services</b> <i>Creating balanced communities and housing options that are affordable and sustainable</i>	Increase in homelessness		<ul style="list-style-type: none"> <li>Prevention focussed service, Landlord Liaison Role and Forum, Partnerships, Housing Support Team.</li> </ul>	
	Loss of annual Government Homeless, Rough Sleeper Initiative (RSI) and Discretionary Housing Payments (DHP) funding		<ul style="list-style-type: none"> <li>Reduction in Bed and Breakfast costs, proposed restructures, reduction in Private Rented Sector (PRS) funding, lobbying to Government.</li> </ul>	
	Loss of Housing Revenue Account (HRA) income through increase in rent arrears and void rent loss		<ul style="list-style-type: none"> <li>New Arrears Management software procured, new arrears recovery initiatives. Void Project Team, external contractors procured to carry out works.</li> </ul>	
	Compliance with property safety inspections (Gas, Electric, Legionella etc.)		<ul style="list-style-type: none"> <li>Inspection routines planned, monitored and audited. 10 month cycles for annual inspections to build in additional time. Access escalation process.</li> </ul>	
	Changes in the Housing Market, valuations and legislation affecting housing development programmes		<ul style="list-style-type: none"> <li>Maintain close liaison links with affordable housing providers and Homes England. Flexible approach to rent designation of properties and Shared Ownership/rent designation.</li> </ul>	
<b>Community Affairs</b> <i>Keeping our communities safe and listening to their needs</i>	Lack of investment in technology and/or the wrong technology results in an inability to move towards digital service delivery		<ul style="list-style-type: none"> <li>Website delivery included in Information and Communication Technology work programme.</li> </ul>	
	Inability for the council to deliver on its key priorities as set out within its Safer New Forest strategic plan		<ul style="list-style-type: none"> <li>Combined resources of the Community Safety Partnership (CSP).</li> <li>Partners sharing responsibility and collaborative working enabled ongoing delivery and actions on key priorities.</li> </ul>	
	Lack of understanding of community needs and the ability to provide support for the needs, including with the impact of COVID-19		<ul style="list-style-type: none"> <li>Community Strategy under development.</li> <li>Community COVID-19.</li> <li>Recovery Task and Finish Group recommendations.</li> <li>Community Grant.</li> </ul>	

# Strategic Risk Register 2020 - 2024

08

Portfolio	Risk	Risk rating	Actions to mitigate risk	Residual risk rating
<b>Finance, Investment and Corporate Services</b> <i>Enabling service provision and ensuring value for money for the council tax payer</i>	Lack of suitable commercial property investment opportunities in the district		<ul style="list-style-type: none"> <li>Good links with local agents, responsiveness to opportunities that arise.</li> </ul>	
	Lack of suitable residential property opportunities		<ul style="list-style-type: none"> <li>Good links with local agents, responsiveness to opportunities, stronger residential property market than expected during the period of restrictions.</li> </ul>	
	Delays in the delivery of new depot facilities		<ul style="list-style-type: none"> <li>Contingent on operational needs being clarified as part of the proposed waste strategy.</li> </ul>	
	Financial uncertainty arising from ongoing COVID-19 crisis and one year only financial settlement		<ul style="list-style-type: none"> <li>Robust financial monitoring and reporting arrangements, prudent financial planning, government grants/support.</li> </ul>	
<b>Leisure and Wellbeing</b> <i>Improving the health and wellbeing of our community</i>	Constant threat of potential closures of Leisure Centres due to local COVID-19 restrictions		<ul style="list-style-type: none"> <li>Communications with users. Maintaining membership loyalty by freezing payments.</li> </ul>	
<b>Environment and Regulatory Services</b> <i>Working to tackle climate change and enhancing our special environment</i>	Coronavirus pandemic - reallocation of resources to high priority areas results in regulatory activity not being undertaken i.e. food hygiene inspections		<ul style="list-style-type: none"> <li>Recruiting to vacant posts in all critical areas of the service, increasing the hours of part time officers where agreed, report to Executive Management Team for additional funding to temporarily increase resources within the Service.</li> </ul>	
	Insufficient resources to provide frontline services to the same staffing levels		<ul style="list-style-type: none"> <li>Completion of business cases and recruiting to vacant posts.</li> </ul>	
	Insufficient resources and key skills within coastal team to respond to the impacts of storm damage on coastal defences		<ul style="list-style-type: none"> <li>Consider partnership working.</li> </ul>	
	Fluctuations in market values of Mixed Recycling and Dry Mixed Recycling		<ul style="list-style-type: none"> <li>Monitoring of tonnages and market values, to ensure that income forecasts are as accurate as possible. Regular revision of forecasts throughout year.</li> </ul>	
<b>Economic Development</b> <i>Helping local businesses to grow and prosper</i>	COVID-19 impact on the local economy		<ul style="list-style-type: none"> <li>Close liaison and working with the business partnership.</li> </ul>	



## AUDIT COMMITTEE – 29 JANUARY 2021

### 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 two policies ('the policies') relating to its use of RIPA:
  - 1.3.1 Surveillance Policy – updated January 2019 (**Appendix 1**)
  - 1.3.2 Policy for the Acquisition of Communications Data – updated January 2019 (**Appendix 2**)
- 1.4 The Legal Services Manager is required to report to the Audit Committee annually on the Council's use of RIPA.

#### 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 since the last report to the Audit Committee in January 2020.

### **4 TRAINING**

- 4.1 50 employees with responsibilities related to RIPA were trained by Legal Services during the course of January/ February 2019.
- 4.2 In accordance with the policies further training will take place in 2022. However, where a RIPA investigation is contemplated, the relevant officers are required to contact Legal Services in advance so an update training session can be provided.

### **5 INVESTIGATORY POWERS COMMISSIONER INSPECTION**

- 5.1 The Investigatory Powers Commissioner's Office (IPCO) provides independent oversight of the use of investigatory powers by public authorities and the Council was subject to a remote assessment in December 2018.
- 5.2 The next inspection will be due in 2021.

### **6. ENVIRONMENTAL IMPLICATIONS**

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

### **7. CRIME AND DISORDER IMPLICATIONS**

- 7.1 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.

### **8. CONCLUSION**

- 8.1 RIPA provides the Council with a statutory framework to follow so that it may carry out various covert investigatory activities in a lawful manner.
- 8.2 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.

## 9. RECOMMENDATION

It is recommended that:-

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

### **Further Information**

Andrew Kinghorn  
Legal Services Manager  
Telephone: 02380 285191  
Email: [andrew.kinghorn@nfdc.gov.uk](mailto:andrew.kinghorn@nfdc.gov.uk)

Amanda Wilson  
Solicitor  
Telephone: 02380 285306  
Email: [amanda.wilson@nfdc.gov.uk](mailto:amanda.wilson@nfdc.gov.uk)

### **Background Papers**

Published documents

This page is intentionally left blank



## **SURVEILLANCE POLICY**

**Human Rights Act 1998**

**Regulation of Investigatory Powers Act 2000**

**Protection of Freedoms Act 2012**

**Investigatory Powers Act 2016**

**THIS POLICY MUST BE READ IN CONJUNCTION WITH THE REVISED HOME OFFICE CODES OF PRACTICE: "COVERT SURVEILLANCE AND PROPERTY INTERFERENCE" AND "COVERT HUMAN INTELLIGENCE SOURCES" (AUGUST 2018) AND ANY GUIDANCE ISSUED BY THE INVESTIGATORY POWERS COMMISSIONER'S OFFICE**

**CONTENTS****Page**

<b>1.</b>	<b>Background</b>	<b>3</b>
<b>2.</b>	<b>Definitions</b>	<b>4</b>
<b>3.</b>	<b>Directed Surveillance</b>	<b>5</b>
<b>4.</b>	<b>CCTV</b>	<b>7</b>
<b>5.</b>	<b>Private Information</b>	<b>8</b>
<b>6.</b>	<b>Control and Use of Covert Human Intelligence Sources</b>	<b>8</b>
<b>7.</b>	<b>Online Covert Activity</b>	<b>11</b>
<b>8.</b>	<b>Authorisations, Renewals, Reviews and Cancellations</b>	<b>12</b>
<b>9.</b>	<b>Application Forms</b>	<b>15</b>
<b>10.</b>	<b>The Necessity and Proportionality Test</b>	<b>16</b>
<b>11.</b>	<b>Confidential Material</b>	<b>17</b>
<b>12.</b>	<b>Activities By Other Public Authorities</b>	<b>18</b>
<b>13.</b>	<b>Joint Investigations</b>	<b>18</b>
<b>14.</b>	<b>Data Protection</b>	<b>18</b>
<b>15.</b>	<b>Destruction of Wholly Unrelated Material</b>	<b>18</b>
<b>16.</b>	<b>Training</b>	<b>19</b>
<b>17.</b>	<b>Records of Authorisations</b>	<b>19</b>
<b>18.</b>	<b>Monitoring</b>	<b>20</b>
<b>19.</b>	<b>Senior Responsible Officer</b>	<b>21</b>
<b>20.</b>	<b>Policy and Implementation</b>	<b>21</b>
<b>21.</b>	<b>Appendices</b>  <b>Appendix 1: Functions that may be undertaken by Authorised Officers</b>  <b>Appendix 2: Application &amp; Authorisation Checklist</b>  <b>Appendix 3: Legal Services Manager &amp; Senior Responsible Officer</b>	<b>22</b>

## 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. RIPA is also supplemented by the relevant provisions of the Investigatory Powers Act 2016.
- 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 Covert Human 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

## 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 Revised 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 (i.e. its specific public functions) and is therefore an ordinary function undertaken by all authorities (e.g., 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 Revised 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.
- 6.5 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.. It should be noted that the use or conduct of a CHIS is a particularly intrusive and high risk covert technique. Therefore, where the use of a CHIS is envisioned there should be sufficient resources dedicated to the oversight and management of the operation. The Council is only likely to use a CHIS in very exceptional circumstances.
- 6.6 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.

## 6.7 Examples

### 6.7.1 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.

6.7.2 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.

6.8 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.

6.9 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).

## 6.10 Handling and Controlling the CHIS

6.10.1 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.

6.10.2 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.

6.10.3 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.

6.10.4 The line manager of the "handler" will be the CHIS "controller" and they will be responsible for the management and supervision of the "handler" and the general oversight of the use of the CHIS.

6.10.5 A record must also be made of the use made of the CHIS (see paragraph 17 below for the information which must be held in the Central Log).

## 6.11 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.

## 6.12 Special considerations

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

6.12.2 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 an Executive Head).

6.12.3 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 an Executive Head).

## 7 ONLINE COVERT ACTIVITY

7.1 The extent of the information that is now available online, presents new opportunities to view or gather information which may assist in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and engaging with the public.

7.2 It is important that the Council is able to make full and lawful use of this information for its statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual’s online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered.

7.3 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.

7.4 In addition, a CHIS may communicate online.

7.5 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.

- 7.6 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, 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 can be found at <https://www.gov.uk/government/collections/ripa-forms--2>
- 9.2 The person completing the form is responsible for ensuring that the form used is the most up-to-date version issued by the Government.
- 9.3 The forms for applications, renewals, reviews and cancellations should be completed in as much detail as possible.
- 9.4 For guidance on what should be included in the application for authorisation the Investigating Officer should refer to paragraph 5.6 of the 2018 Covert Surveillance and Property Interference Revised Code of Practice (for direct surveillance) or paragraph 5.11 in the 2018 Covert Human Intelligence Sources Revised Code of Practice (for CHIS).
- 9.5 Each investigation or operation should be given a unique reference number (“URN”) on the application form by the Legal Services Manager. Any reviews, renewals or cancellation forms should be identified by the same URN.
- 9.6 The URN should be obtained from the Legal Services Manager (see paragraph 18).
- 9.7 Any application (or other) form which is not completed in full will be rejected by the Authorising Officer.
- 9.8 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).
- 9.9 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 conduct to be authorised will have any implications for the privacy of others, and an explanation of why (if relevant) it is nevertheless proportionate to proceed with the operation
- 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 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 an Executive Head). 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 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 General Data Protection Regulation, the Data Protection Act 2018 and the Council's Data Protection Policy, Law Enforcement (Data Protection) Policy and the Protection of Special Category Data 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 three years to ensure that any such investigations, operations and authorisations undertaken are conducted according to the statutory requirements and the Codes of Practice. However, where a RIPA investigation is contemplated, the relevant officers are required to contact Legal Services in advance so an update training session can be provided.
- 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 Legal Services Manager.

## 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 type of authorisation
  - the URN
  - the dates that the authorisation was granted, reviewed, renewed or cancelled.
  - details of attendances at the Magistrates' Court to include date of attendances, the determining Magistrate, the decision of the Court and the time and date of that decision.
  - 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 Legal Services Manager 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.
- 18.6 Adherence to the requirements of RIPA, the Codes of Practice and this Policy should reduce the scope for making errors. The Legal Services Manager will conduct a regular review of errors and a record must be made of each review.



## **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 Investigatory Powers Commissioner's Office (IPCO) 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 **15 January 2019** and replaces any previous policies and procedures relating to surveillance.

20.2 The Legal Services Manager will report annually to the Audit Committee regarding the use made by the Council of its powers under RIPA.

20.3 The Audit Committee will review the Council's Surveillance Policy annually.

## **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.

RANK/TITLE	AUTHORISED FUNCTIONS
Chief Executive	1-10
Executive Heads	1-7 (8,9,10 in Chief Executive's absence)
Service Managers for: Planning Environmental and Regulation Street Scene Revenue and Benefits Housing Estates Management & Support.	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 Legal Services Manager, 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.	
---	--

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 Legal Services Manager **within 5 working days**. This must include reviews, renewals and cancellations
- If in any doubt, seek advice from the Legal Services Manager or the Senior Responsible Officer **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>
Bob Jackson	Chief Executive	Senior Responsible Officer
Andrew Kinghorn	Legal Services Manager	Monitoring



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

**Human Rights Act 1998,**

**Regulation of Investigatory Powers Act 2000**

**Protection of Freedoms Act 2012**

**Investigatory Powers Act 2016**

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

<b>CONTENTS</b>	<b>Page</b>
<b>1. Background.....</b>	<b>3</b>
<b>2. National Anti-Fraud Network.....</b>	<b>4</b>
<b>3. What types of data can be acquired?.....</b>	<b>4</b>
<b>4. Authorisations and Notices.....</b>	<b>5</b>
<b>5. Different Roles:.....</b>	<b>5</b>
Applicant	
Single Point of Contact (SPoC)	
Designated Person	
Senior Responsible Officer	
<b>6. Necessity and Proportionality.....</b>	<b>7</b>
<b>7. Applications and Authorisations:.....</b>	<b>7</b>
Application form	
SPoC Review	
Authorisation by Designated Person	
<b>8. Judicial Approval.....</b>	<b>9</b>
<b>9. Data Protection and Handling the data acquired.....</b>	<b>10</b>
<b>10. Duration, renewal and cancellation.....</b>	<b>11</b>
<b>11. Record keeping.....</b>	<b>12</b>
<b>12. Errors.....</b>	<b>12</b>
<b>13. Policy and Implementation.....</b>	<b>13</b>



## 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 an Executive Head, they should not authorise applications from within their own Services.

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 Investigatory Powers Commissioner's Office (IPCO), the identification of the reasons for the errors, and the implementation of processes to minimise repetition of errors;
- 5.5.4 Engagement with IPCO 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 Legal Services 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 General Data Protection Regulation (GDPR), the Data Protection Act 2018 and the Council's Data Protection Policy, Law Enforcement (Data Protection) Policy and the Protection of Special Category Data Policy . In particular, the information obtained must be handled and stored securely. Any queries regarding an officer's obligations under the Data Protection Act or the GDPR should be directed to the Council's 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 IPCO. 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 IPCO 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 IPCO has been made.
- 12.6 A record of all Recordable Errors will be held by NAFN, and made available for inspection by the IPCO 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 15 January 2019 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 annually regarding the use made by the Council of its powers under RIPA.

This page is intentionally left blank

# Agenda Item 10

## Audit Committee Draft Work Plan 2020/21

### DATE

### WORK / REPORTS

---

26 March 2021

Internal Audit Progress Report 2020/21  
Internal Audit Charter 2021/22  
Internal Audit Plan 2021/22  
20/21 External Audit Plan  
Bad Debt/Write-offs  
Overview of Workflow and Approval Levels

This page is intentionally left blank