

# NON-CONFIDENTIAL



## **Borough of Tamworth**

4 December 2017

Dear Councillor

You are hereby summoned to attend a **meeting of the Council of this Borough** to be held on **TUESDAY, 12TH DECEMBER, 2017** at 6.00 pm in the **TOWN HALL, MARKET STREET, TAMWORTH**, for the transaction of the following business:-

### **AGENDA**

#### **NON CONFIDENTIAL**

- 1 Apologies for Absence**
- 2 To receive the Minutes of the previous meeting** (Pages 1 - 18)
- 3 To receive the Minutes of the Extraordinary Council held on 12th September 2017** (Pages 19 - 20)
- 4 Declarations of Interest**

*To receive any declarations of Members' interests (pecuniary and non-pecuniary) in any matters which are to be considered at this meeting.*

*When Members are declaring a pecuniary or non-pecuniary interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a pecuniary or non-pecuniary interest in respect of which they do not have a dispensation.*

- 5 To receive any announcements from the Mayor, Leader, Members of the Cabinet or the Chief Operating Officer**
- 6 Question Time:**

- (i) To answer questions from members of the public pursuant to Procedure Rule No. 10.
- (ii) To answer questions from members of the Council pursuant to Procedure Rule No. 11

**7 Treasury Management Strategy Statement and Annual Investment Strategy Mid-year Review Report 2017/18** (Pages 21 - 38)

*(Report of the Portfolio Holder for Assets and Finance)*

**8 Local Council Tax Reduction Scheme 2018/19 onwards** (Pages 39 - 76)

*(Report of the Portfolio Holder for Assets and Finance)*

**9 Regulation of Investigatory Powers Act 2000, Adoption of Policy and Procedure (2016/17)** (Pages 77 - 128)

*(Report of the Portfolio Holder for Assets and Finance)*

**10 Constitution Review and Update** (Pages 129 - 130)

*(Report of the Solicitor to the Council and Monitoring Officer)*

Yours faithfully

A handwritten signature in black ink, consisting of a stylized, cursive name followed by a long horizontal line extending to the right.

**CHIEF OPERATING OFFICER**

*People who have a disability and who would like to attend the meeting should contact Democratic Services on 01827 709264 or e-mail [committees@tamworth.gov.uk](mailto:committees@tamworth.gov.uk) preferably 24 hours prior to the meeting. We can then endeavour to ensure that any particular requirements you may have are catered for.*

Marmion House  
Lichfield Street  
Tamworth



## **MINUTES OF A MEETING OF THE COUNCIL HELD ON 12th SEPTEMBER 2017**

**PRESENT:** Councillor J Chesworth (Chair), Councillors P Thurgood (Vice-Chair), R Bilcliff, S Claymore, T Clements, D Cook, C Cooke, A Couchman, S Doyle, J Faulkner, R Ford, M Gant, M Greatorex, R Kingstone, A Lunn, T Madge, K Norchi, J Oates, M Oates, S People, T People, R Pritchard, R Rogers, P Standen, M Summers and M Thurgood

The following officers were present: Anthony E Goodwin (Chief Executive), Andrew Barratt (Corporate Director Growth, Assets and Environment), Stefan Garner (Director of Finance), Anica Goodwin (Director - Transformation and Corporate Performance), Linda Ram (Public Relations Officer and Copywriter), Ryan Keyte (Senior Legal Officer) and Janice Clift (Democratic and Elections Officer)

### **20 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors J Goodall, S Goodall and A James

### **21 TO RECEIVE THE MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 16 May 2017 were approved and signed as a correct record.

*(Moved by Councillor D Cook and seconded by Councillor S People)*

### **22 DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

### **23 TO RECEIVE ANY ANNOUNCEMENTS FROM THE MAYOR, LEADER, MEMBERS OF THE CABINET OR THE CHIEF EXECUTIVE**

The following announcements were made:-

Councillor John Faulkner:-

Peter was already a member of the Labour Party when he moved to Tamworth in 1986 and took a full part and was first elected to Tamworth Borough Council on 30<sup>th</sup> October 1997 and therefore he had just short of twenty years' service when he resigned with affect from 31<sup>st</sup> August 2017 following a stroke. Sadly following a second stroke he died on Saturday. Paying tribute to Peter as I am sure we would all like to do, one thing comes across more than anything else and that is his diligence in dealing with patch issues. He would essentially carry through each particular issue as far as he was able to take it. He wouldn't necessarily be fobbed off. A lot of residents throughout Bolehall and throughout the town were grateful for his assistance.

When he was first elected in 1997 he secured 515 votes. I think it was something of a tribute to him that when he stood in 2015 and he secured 1440 votes. He served as Leader of the Council for four years between 2000 and 2004 and I think one of his greatest achievements was the introduction of street wardens; one of the greatest concerns for Tamworth was Community Safety and I think street wardens played a major role in making people feel more secure. For this work in Tamworth I think we should all thank Peter.

But of cause in 2004 the Labour Group lost control and Peter became Leader of the Opposition and as Councillor Danny Cook as already made reference, he was quite diligent. He lost few opportunities to remind the Tories, for example of the sale of the Peaks business for £1.00 to a company called Sports Village UK Limited and which basically had no assets to speak of at all. Perhaps we miss Peter not being here to remind us of this. Secondly there was the matter of the Icelandic Banks period. In 2008, prior to these banks collapsing, Tamworth Borough Council had seven and a half million pounds invested with Glitner, Kaepthing, Singer & Friedlander and Heritable Bank and provided a regular source of questions from Peter with what was happening.

We didn't always agree with Peter and seldom so the members opposite and also occasionally on this side. Most recently we had the question of the European Referendum and Peter argued for withdrawal from the European Union. Some healthy debates there! Whatever happened he was always a friend and colleague. He had that sort of dignity that he would be able to separate personal items from issues.

Peter never held a grudge and very often there would be jokes at his expense and he always took them very well. So I'm going to conclude with two quotes. First of all something Peter said when he was speaking about Phil Dix "when he did speak common sense and his vast knowledge made people immediately want to listen and respect his contributions to that being discussed". The second quote and this is a quote which I am going to conclude with and hopefully my old English teacher Mr MacNab will be very pleased that I remember. This is a quote from Hamlet "he was a man, take him for all and all. I shall not look upon his like again".

Councillor Chris Cooke:-

I have known Peter since I was elected. He was a nice person and I had a lot of respect for him. Please can you pass on my sympathies to his family.

Councillor Tony Madge:-

It was three and a half years ago when I first met Peter. When I was elected he made me feel welcome. We often chatted and when Peter spoke you listened. I had great respect for what he had to say. One of the things that I remember was when we held a Councillor Day at Rawlett School for the kids. I was quite a bit nervous going in there. I partnered up with Peter and the way he came across to the youngsters I realised there were no age or political boundaries. He was excellent. I learnt a lot from him and we used to have a little laugh about that. I know when it comes to the Council meeting at Christmas I usually sat next to Peter at the Town Hall. I will miss those moments. We used to have a chat. He was a great man. My sympathies go out to his family. I will remember him with great fondness.

Councillor Tom Peaple:-

In many ways it is intimidating to follow so many as some knew Peter for longer than what I ever did. However I would like to recall some particular memories I have of him. This was back in 2010. Was it legal for a twenty year old to stand for Council? It was legal! In some ways it was a very daunting thing to do but I remember the first meeting after I had decided to stand was in a Labour meeting. Peter said to me "so are you going to be Labour's second youngest Councillor?" I think he meant after himself! I attended the Rawlett Debate which was held a few weeks before the election where we could sit with the sixth form at Rawlett. It was good to be involved as every other Labour Members or Councillors were there. He made me feel comfortable like Councillor Madge said he could cross age barriers. He encouraged this. I am still trying to get used to the fact that he has gone to be honest. It is really sad.

Councillor Pat Standen:-

I have known Peter since I was in my twenty's. I didn't know originally that he was a member of the Labour Party. I knew him originally from church. He was one of the regular faces you saw. Recently at St John's but previously at Sacred Heart. Peter and his wife Violet would normally sit behind my family at mass and we would quite often talk before mass and at the end of mass mostly. He is going to be sorely missed. As a Councillor he was always there as someone you could always talk to or if you wanted a bit of advice he was one of those ears you could always depend on. My thoughts and prayers are really with Violet and the wider family. It has got to be a very hard time for them at the moment and my thoughts and prayers are with them. He is just going to be missed.

Councillor Maureen Gant:-

This is more on a Personal note than anything. There have been so many tributes made to him. Ken and I have been very good friends with Peter and Violet for a very long time. We class him as a friend and I think he will be sorely missed in the

Council Chamber and he will be sorely missed across the borough as he was a fantastic Councillor. Violet is finding it very hard at the moment but fortunately she has got all her family around her. Hopefully I am going to see her again later in the week.

Councillor Michael Oates:-

Peter was a gentleman. I have known him for possibly 20 years. I want to be a bit light hearted as Peter is in a better place now. Peter was political and because of this there was a lot of banter across the Chamber. Outside the room there was no politics between us. I have never heard him swear. He used to work at gentleman's outfitters. I have often thought to myself I can see him saying "are you free Mr Grace?"

Councillor Allan Lunn:-

As we have said how we are in the Chamber it is often missed by the public that we do get on outside of here. My friendship with Peter developed at Tamworth Football Club where we would stand. I can honestly say I didn't hear him swear as I was swearing so much myself. We would be quite passionate about the club. He became an 'honorary lamb' although he came from up north where they drank stronger beer. He will be sorely missed at the Castle End. It will not be the same when we go down. I haven't had the opportunity to go down for the last couple of years but would see him every other week when I was down there. So it will be strange going back down there and he will be missed as a 'lamb' not just as a Councillor. Sympathies go to the family.

Councillor Jeremy Oates:-

Councillor Seekings just looking over across at where he would sit that is where I first sat when I first got onto this Council and that was back in May 2000. The reason I was elected to this Council was that the Council had made a decision to charge twenty four seven for car parking. It is times like this that I think about the individual and what Peter and his group have done for Tamworth Council. Peter reversed that decision at the following budget. Without Peter as the Leader I wonder whether we would have got rid of the twenty four seven car parking charges. That is what I remember in terms of an achievement. I asked my first question at Council in 2000 and I had chosen the wrong question as he ripped me to pieces. It was about the car park over here by the co-op. I said about the reduction in car parking what was the town going to do? His answer was "this equates to 0.6% of the parking spaces in Tamworth. I can't remember my supplementary but I'm guessing it was quite weak. We have mentioned the personal side of Peter. When I was Leader of this Council you know that it can be a really lonely job. Especially when you have had your group meeting and you think you have got an idea where you are going and two days later you are in the office on your own desperately trying to get any member to answer their phone to speak and you have got a decision to make. Peter didn't just do it as Leader of the Council but he did it as Leader of the Opposition for many years and as Leader of the Opposition probably through my naivety as Leader of the Council he did a cracking job. Councillor Faulkner has already raised about Iceland and money spent on consultants and also the money spent on the Tamworth Transfer

Bid. So there are the four things there. The Conservative group didn't get 100% right. Do you know that Peter was the one Councillor that never let us get away with anything and he would remind us of it at every possible opportunity. He used to rile us that is why he would do it. It was also a little reminder to say ignore this. If you think you have won the argument you have actually only won the vote. So I am watching you and I am going to remind you of this, this and this. I think in terms of those skills there are very few to challenge Peter. He also got me in trouble as I signed a letter and had the National Party on my back. In terms of personal politics I remember coming out of the Count in 2003. Wondering out of the Count at the same time was Peter and he said "come back to mine and we will have a drink?" Jerry and I went to Peter's house and we stayed there until about three in the morning. But we were made to feel welcome. We may have fallen out in the Chamber and we may have seen Peter go really red in the face. It was about people. I felt pretty welcome at Peter's house that evening. When he attacked you sometimes it felt really personal and if he continued to attack it did feel personal. But it wasn't personal it was just good politics.

Councillor Ken Norchi:-

It has been said many times and by everybody what a great character Peter was. What a great family he has got. I'm just going to talk about the humorous side of Peter because if I talk about anything else I may need a handkerchief. One night we were at a meeting two or three years back and we were both going to Bolehall Club after the meeting. Peter said "I will see you up there Ken". I arrived at Bolehall Swifts Club and fifteen minutes later no Peter. Ken who was another friend of Peter's said to me "was Peter at the meeting?" I said "yes". "Did he leave at the same time as you?" Again I replied "yes". So we phoned Peter up. "Where are you Peter?" "In Hopwas" he replied. "How have you got there?" He said "There was a diversion and I followed it?" Fifteen minutes later Peter arrived at the club to a round of applause and a big cheer. As John had already said he had a fantastic sense of humour and he had no sense of direction. That was Peter. If he was driving you would say to him "where are you going?" He would laugh and say "where am I supposed to be going?" The man must have had a sense of humour because he bought me into politics. He asked me some years ago and here I am now. There is lots of thanks to go to Peter. He was and still is in everybody's mind a true gentleman and a true family man and a true friend. I will miss him.

Councillor Simon Peaple:-

First of all Councillor Cooke can I say we really appreciate your kind comments. You demonstrate a great deal of bravery when you get up and we really appreciate that. Councillor Faulkner did him proud and we have heard so many nice things from both sides of the Chamber. I just wanted to pick out one word a different word to the one John used and that is integrity. Councillor Seekings did something that not everyone can do. He was Leader of the Council at a very controversial time. Not everything that the last Labour government did was right though arguably better than what was to follow. But I am sure Peter would appreciate me adding that. He served his time as Leader of the Opposition but he had integrity to turn round and say "I'm not going to be Leader of the Council again in the near future". Therefore he handed on the baton. It's not easy to do

that as politics is full of people that cling onto status or some kind of position because they just can't bear not to be taken on and Peter showed tremendous integrity by making that decision. I have over the last four years benefited from having someone in that corner if you like someone who understood but didn't always agree and not to be alluded to. He had firm views and as I was a Londoner coming from a different direction to help to try and dilute this northern takeover but from a practical point of view I could always talk to him. One of the things that a past Leader can very easily do is to act as though they were still Leader and view what you should of done. He would suggest other things that could have been done. But you know when he was in the Chamber he knew which side he was on and he never let you forget it. I want to thank everyone from behalf of the party for their kind tributes and to recognise as I close my remarks to have integrity is a fantastic thing because that is what actually carries you through. To get the kind of tributes that Peter deserved. Pat and I saw him at church. We knew he was a man of faith. He has now made that final step. I'm sure he will be crowned in heaven. In the meantime thanks for that. On Peter's behalf the sentiments that have been expressed will be passed on.

Councillor Stephen Doyle:-

I have been at this Council for six years and I spent my first year on Audit and Governance Committee. One thing that I actually remember is that both Peter and Ken made me feel welcome and they were members of the opposition. I gratefully valued that because I was very, very nervous. Peter showed me exactly what it was to be a Councillor and to work on the patch and be active in the Chamber. When we were in Audit and Governance he did the work very, very well and that was something that I loved to follow so I looked to carry on. To being open and welcome to members of the opposition because at the end of the day we are all here to do the best that we can. I will miss him.

The Mayor, Councillor John Chesworth:-

We were completely different politically but outside of the Chamber I always found him to be a complete gentleman and like Councillor Lunn I bumped into him at the Lamb a few times and we would chat over the football. I don't think I heard Peter swear. I know I was out with Teresa at different events and if Peter and Violet were there they always made a point of chatting to us and outside of this Chamber and away from politics he was a gentleman. Maureen when you see Violet if you could pass on our best wishes please?

## **MINUTES SILENCE**

Leader of the Council, Councillor D Cook:-

This is the Chief Executive's last meeting of full Council before his retirement. A retirement that over the last six months I have fought for trying not to listen. I tried to write into his contract that he had to give twenty years notice but HR were just not having it. To try and sum up in words the achievement of Tony Goodwin for this Council and this Town. I will give you a taste of what has been taking place in the background this week. Linda Ram and of course is with us in the audience our PR Manager asked me for some words about Tony's time. I replied "Leader,



poet and seducer of women the world over. The reason I use those words is I couldn't think of any words that would fit the bill. I am still genuinely struggling to find the words. Linda has promised me that she will use the last bit in the press. I think we all need to recall that when Tony took the job as Chief Executive at the Council we were just entering national austerity level that hadn't been seen since the Second World War. This Council other than the golf course did everything it does today as it did then. It still balances its budgets to the same quality. It still has a treasury management structure we will see tonight. It is above other Council's. While we may be one of the smallest Council's we are well respected and well run Council and that is Tony's doing. He has been an absolute superb Chief Executive for this Council and what he has delivered in some hard times is amazing. If you ever want to see the quality of his work I suggest you look at the back of the room with regards to the quality of staff he has fetched through the next generation for us. Tony's achievement on this Council is nothing short of miraculous. When he leaves he certainly leaves this Council on a far better place and I will certainly miss him.

Councillor Simon Peale:-

The departure of Tony Goodwin fills me with some sadness. Mitigated by the fact that we have quality people to take on the roles we propose tonight. I was here when Tony came in the Leisure Department. I remember but he probably won't because he has moved onto such great and wonderful things not to mention sorting out Councillor Cook and keeping him vaguely on the straight and narrow. I remember him sorting out a query that I had at a garden on my patch and I remember I completely forgot in the days before e-mail the ability to log things and put an arrow beside them. I just completely forgot that I had said that I would look this up and belatedly went to see Tony to ask if he could help me out on the issue. He said "I can sort this out for you. I think we can find an answer to". I think this is something he has done all the way through. He has given a very distinguished service for this Council. He has found solutions. As Councillor Cook has alluded to so I'm not being political but why shouldn't I be? It's a time which has been very, very difficult ever since the announcement of austerity and serial cuts we have had to face and very tough decisions and whilst we may not agree all services were exactly as they were. None the less if that mitigation hadn't of been carried out with Tony and his management to guide and support then it wouldn't of been possible. Tony and I agree on relatively few areas of life in some ways certainly doesn't support the right football team and certainly very few of my family have served in the armed forces so we don't share that background either. But I have come to have enormous respect for Tony and I'm not sure that Doctor Goodwin and I will always have agreed but I do know there have been times when we have clicked with each other. I think it was Tony who said well I suppose you are the one with an academic directorate?" His is in sociology but everyone recognises an academic qualification. The fact is we had a thoroughly good relationship in many ways and I'm very grateful I have had the ability to go and see him on a regular basis. Thank you Tony for the support and guidance you have given me since I was a young naive Councillor and that is just over the past two to three years. Thank you very much indeed.

Councillor Jeremy Oates:-

I have been a member of the Council for seventeen years now. I want to take this opportunity to say thank you to Tony. There are a number of lessons he has taught me. We mentioned Peter earlier. Peter bought the Cabinets Scrutiny Committees to Tamworth and myself and my father made the first call-in to Scrutiny because the Cabinet decision was to move Wilnecote Parish Hall from Council operation so we called it in. I met with residents, went through different ideas and came up with a list of questions. I went to see Tony and said "these are the questions I'm going to be asking tonight so can we go through them and make sure they are okay so you've got an opportunity to answer them?" Tony went through the questions and turned up at the meeting and I started asking the questions. Tony started answering them with pretty much one word answers. Then the Labour members in the room asked a whole load of other questions which had never entered my head the motion was moved that the decision remains and off we all went. I was sitting there feeling quite numb thinking what happened there and Tony said to me "I answered the questions that you asked me but I didn't answer any questions you didn't ask me". The work Tony has done as Chief Executive doing a lot of work behind the scenes with the members of CMT. We had a laugh while we were doing it. It is known that Tamworth is often the early implementer of National Schemes or County Wide Schemes and that was because Tony had vision. He could spot things coming on the horizon. I remember walking into his office one afternoon and I said "what are you up too?" He replied "I'm working on the CAA process" which didn't happen for two years but he was early plotting and it's that early plotting that Tony is fantastic at. I will give you another example in 2007 for whatever reason I think Linda and Peter Seekings may have known the reason better. The Director at the time had booked the Assembly Rooms for the count. I didn't know how he knew it was going to be shut. It must have been his long sightedness as he booked elsewhere. It is probably my fault that he is sitting in that chair. I saved his life one day. We were on the eighth floor. Tony tripped on the top step and I saved the guy. Tony tells the story slightly differently but I tell you he is not light. I want to say thank you to Tony for all he has done for Tamworth Borough Council and for Staffordshire because he has certainly made some waves and to just remind members it's not just what he has implemented as Chief Executive the achievement he has had as Chief Executive has been a tribute to the efforts and he has certainly supported me as Leader. Thank you Tony for all you have done. One last thing was at my Mayor's dinner I had a phone call from Tony asking if Danny and myself could behave as he was bringing his wife and he was on the same table as us.

Councillor Chris Cooke:-

I recognised Tony's achievements at the Council from when I first came here. I was as scared as anything when I first came into the Council to sign the papers after being elected. I wish him well for the future

Councillor Allan Lunn:-

As many of you are aware Tony is an ex-war veteran like some of us. In his time in the Army I mean the Royal Marines. When I got to know Tony I held ultimate respect for him with regards to duties that he undertook. So I already have that respect for the gentleman that was running us as a Council. Very often I had the

opportunity to say to him that “it’s not what the Councillors do for this town it’s what Tony and the team and every Council officer in the building does that runs the town”. I speak to people and there is immense pride shown for how the town is run. Tony had the lead at one of my first Council meetings. I actually accused someone of being an ‘oxygen thief’ and straight away he knew what I was saying. An oxygen thief is a military term for people who are talking when they shouldn’t be and talking about things that they don’t understand. If I was in military uniform tonight I would be saluting this man. Thank you.

Councillor Tony Madge:-

I remember well when I was first elected to the Council and we had a little Councillors chat. What impressed me straight away was his protection of his staff. We could fight him but we couldn’t touch his staff. They were his responsibility. That really impressed me. It wasn’t long before I was on the naughty step and I was invited in without coffee and we had a little chat oddly enough about the golf course. At the end of it I found we had common ground. We knew where we were both coming from and I know every time and I know that I did pester you with rather a lot of e-mails and phone calls that you always answered straight away and always very helpful. It’s true what others have said and in particular Councillor Lunn that your staff are a credit to you. The officers that I deal with regularly are super helpful. You do a great job and I offer you all the best. Now you are retiring don’t get involved in politics. I made that mistake.

Councillor Pat Standen:-

I have always found Tony to be approachable, intelligent and with a good insight and someone always worth listening to and with a sense of humour. Thank you for what you have done for the people of Tamworth and I include myself in that.

Councillor John Faulkner:-

Tony and myself were both born in the Wirral so I suppose we have something in common. Talking in terms of his service career there are a few anecdotes I have been told over the years of Tony. One was he was the worst shot in the British Army I know that’s not true because Councillor Lunn has just mentioned the Royal Marines were not part of the army. He may have been the worst shot in the Royal Marines. Tony has been Chief Executive during difficult times as the Leader of the Council has mentioned. The Election of the Conservative led government in 2010 led to unprecedented austerity. In the post war period austerity then was different. There was reduction in people’s consumption as resources were directed into building all the houses. Good housing in the country was building up, industry etc. Very different times that we are in now but I do not want to go on with that. Tony whenever I have had occasion to speak to him he has always been able to give me good and frank advice and I have always valued that. On every occasion there has always been that sense of humour. Jobs always got done with good humour and I think we should appreciate that. Second quote of Tony’s career was one of Tony’s colleagues that were in the services with him said to Tony “I would follow you anywhere out of sheer curiosity”. Tony has been a friend and please do stay in touch.

Councillor Robert Bilcliff:-

I met Tony on a number of occasions and I found him to have integrity which we have spoken about and Tony has that in abundance. He's also got something else. I've contacted him out of hours and I've been surprised that he has come back to me fairly quickly and given me replies. His office has always been open. We have had frank conversations. Nothing has been left wanting and we both know which side of the table we are both sitting. Always fair. Wish you all the best and hope all goes well.

The Mayor, Councillor John Chesworth:-

I admire someone who has served in the forces as Tony did and secondly someone who is a gentleman. I think on a personal level Tony was very good to me when I lost my dad last year. So I thank you for that. It's been a pleasure sitting next to you for one and a bit full Council meeting and it's been a pleasure and I do wish you all the best for the future.

Councillor Simon Peale:-

During the period since our last full meeting Councillor Danny Cook secured his engagement with Michelle Thurgood and behalf of everyone else may I presume to offer them great happiness for the future and congratulations and best wishes to them for the future.

The Mayor, Councillor John Chesworth:-

Final announcement another departure for those of you who know Janice in front of me she is leaving Tamworth Borough Council. Thank you Janice for your help and support at the meetings over the last couple of years and thank you for helping me while I have been Mayor!

Councillor Tom Peale:-

None that is departing but Councillor Alice Couchman will also be getting married soon. We wish her all the best.

Chief Executive, Tony Goodwin:-

Since taking up the role of Interim Chief Executive on 29<sup>th</sup> March 2011 the role of Electoral Registration Officer and Returning Officer for the Borough of Tamworth was assigned to Mr John Wheatley, Executive Director Corporate Services. Similarly I was personally nominated as 'deputy' in relation to both roles with both nominations ratified by Full Council.

These appointments are required in order to comply with the terms of the Representation of the People Act 1983, Sections 8, 35 and 52. Following confirmation from the relevant officers, I can now confirm that arrangements have been made for Mr John Wheatley, the Executive Director Corporate Resources to continue in the roles of Returning Officer and Registration Officer for the Borough of Tamworth. Following my retirement and with effect from 16<sup>th</sup> October 2017 the

Solicitor to the Council and Monitoring Officer Mrs Jane Hackett has been appointed as my successor as 'deputy' in relation to both roles and consequently, Council's ratification of these appointments is sought.

*(Moved by Councillor D Cook and seconded by Councillor S Peaple)*

Just one quick formal announcement that I will be the Chief Executive until I walk out of the door!

Also for those of you who have sent good wishes for my wife I can tell you that she is now chatting away in her hospital bed.

## 24 QUESTION TIME:

### QUESTIONS FROM MEMBERS OF THE PUBLIC NO. 1

**Under Procedure Rule No 10, Ron Brown, of 4 Adonis Close, Tamworth will ask the Leader of the Council, Councillor D Cook, the following question:-**

"Is the Council Leader aware of the following discovery by Tamworth Resident and Elector, Ron Brown? A collection of Borough Council Employees has been posing as official representatives of Elected Councillors, posting statements (purportedly from the Council and Councillors) and soliciting public responses. Via that "man in the middle" attack on Public-Councillor intended dialogue, they have taken extensive steps to suppress and censor selected Public responses - none of which were abusive or contained other than factual statements. At the time of submitting this question, this group of impostors has - presumably in an attempt to cover their tracks - **altered** the Facebook-required truthful description of their identities, *from one of pretence and actually BEING Tamworth Borough Council*, to one of being merely the output of TBC's Communications Team. Furthermore, they are VISIBLY constructing for themselves the ability and authorisation to BLOCK any responder whom they deem (without Council Approval) as unacceptable to their purpose.

Supportive copies of "before and after" Facebook "about us" descriptions and a complete (at time of writing) copy of a thread where the impostors are visibly attempting to suppress the responses - which they originally requested - have been provided to the above Councillors. Please pay careful attention to the Councillor's submissions?"

**Councillor D Cook gave the following reply:-**

Other than is the Leader aware I'm not sure here is a question there!

Mr Mayor with your permission as the resident is not present I will offer to write to the resident to answer the question. I believe it is also subject to a Freedom of Information request with the exact same content from the exact same resident so I suggest we let that process run its course and when it has I will write to the resident also enclosing a copy of the complaints procedure. However I have

absolute confidence that our communications team are doing a superb job and I will not have them questioned in such away.

## QUESTIONS FROM MEMBERS OF THE COUNCIL NO. 1

**Under Procedure Rule No 11, Councillor T People will ask the Portfolio Holder for Housing, Councillor M Thurgood, the following question:-**

“At the annual joint scrutiny of budgets the members requested that the cabinet investigate the potential for moving high earning council tenants on to a market rate of rent. Has this investigation been carried out and if so what were the results?”

**Councillor M Thurgood gave the following reply:-**

Thank you Mr Mayor and thank you too to Councillor People for his question.

Councillor People you will be aware that the potential move to charge high earning council tenants market rates for their rent was a provision allowed for under the Housing and Planning Act 2016. The scheme was designed to charge those households earning more than £31k (£40k in London) up to market rents.

Our housing team prepared detailed assessments last October for what was intended an April 2017 implementation. However, as members will be aware, following the housing sectors response to this proposal - the then housing Minister Gavin Barwell announced it was no longer mandatory for Councils and should be considered in the spirit of Localism and political discretion. In other words it was voluntary.

As I stated at joint scrutiny (budgets), and was widely supported by members, I was keen to see if Tamworth Council could make this work. It may have been ‘scrapped’ as a must, but was still on the proverbial table. Ultimately, I would love to be able to ensure those who can afford to pay do so and hopefully to free up some accommodation for people who do not have another choice.

Unfortunately, having reviewed the evidence, it was clear that whilst the option was there, it was not feasible for this council to take it forward. This is due to the following reasons:

- **The costs to administer were assessed as likely to be higher than the income generated.** As recipients of housing benefits and/or universal credit are exempt, as are low income families – income projections were assumption based only and could have been as low as c£57k. With administrative costs assessed to be around £70-80k it appeared uneconomical to proceed
- **The requirements for tenants to declare their income remains voluntary** – therefore arrears would have been likely to accrue as tenants are reluctant to share personal financial information.

- **And finally, even if we could make it work, Councils do not keep the additional income locally** it must be returned to the treasury. This means we could generate additional income and have to endure the full cost locally – this does not make sense for us.

Therefore; until there is further regulation from the government around this scheme – the risks to this council unfortunately far outweigh the benefits. And we will not be taking it forward.

I am of course happy to meet with Councillor Peple or any other member to discuss the details further. Thank you.

Finally just also to confirm that the team are currently reviewing affordability of rents as part of wider commercial considerations within the Housing Revenue Account. A report on affordable rent levels is on the Councils forward plan for 2<sup>nd</sup> November 2017.

## **QUESTIONS FROM MEMBERS OF THE COUNCIL NO. 2**

**Under Procedure Rule No 11, Councillor T Madge will ask the Leader of the Council, Councillor D Cook, the following question:-**

“With regard to the planned green bin charges, as you are aware I am opposed to any charges to the public for collection of green waste. I understand why you are bringing in this charge but I did offer an alternative which would bring in revenue for the green waste which would remove the need to charge residents of Tamworth. I know you agreed with me that this was possible and I ask that this system can be considered for possible implementation in the future?”

**Councillor D Cook gave the following reply:-**

Thank you Mr Mayor, and can I thank Cllr Madge for his question.

I believe there are 30 of us in this room, all Councillors who want the best for the residents of Tamworth we represent and would dearly love not to have to implement the charges for green waste.

Unfortunately at this time we have two choices, either implement the charge of £36.00 per green bin or severely cut back the services we provide to our residents.

I will not get into the state of the national finances or the ever increasing demands / need of a changing age demographic in the UK that is putting all levels of public finances under increasing pressure. We all know the challenges we face today and over the next decade or so in the public sector.

I have indeed spoken with Cllr Madge about his idea for a site that would be owned by Tamworth Borough Council where green waste could be composted thus potentially saving money or perhaps creating a profit for the Council to underpin the cost of services. I also confirm to all colleagues that it is certainly not the worst idea I have ever heard.

Myself, the Portfolio Holder and officers have had a brief look at the idea, but have not yet had a deep dive to see seriously how feasible it would be. But from early conversations no one is saying it's impossible, just that any pay off, if there was a pay off or pay back is at best very long term. It does not create income, if there was to be income it would not be quick enough in the short term to potentially off-set the need to charge for Green Waste collection.

By the time we have purchased land, set up all the licences required, purchased the required equipment, analysed any effect on our Waste partner in Lichfield District Council and what impact or continuation effect this would have on the joint waste service then the implementation and pay off would be years away. Yet we need the income within the next year or so or we have to cut services. As all will be aware, this Council is employing two new Homelessness Officers, continues to maintain its commitment to the voluntary sector, is investing in and protecting our heritage at great cost. All this with ever decreasing government financial support.

The Commercial Investment Strategy (CIS) is gathering pace and I hope will create the required income streams to underpin our finances long term and I give Cllr Madge the promise that once the governance of the CIS is in place I will ask that his project gets a serious look in the future against the agreed criteria set out by the CIS.

### **QUESTIONS FROM MEMBERS OF THE COUNCIL NO. 3**

**Under Procedure Rule No 11, Councillor R Bilcliff will ask the Leader of the Council, Councillor D Cook, the following question:-**

“The Environmental Protection Act 1990 -- Section 45 (3) says this:-

“No charge shall be made for the collection of household waste except in cases prescribed in regulations made by the Secretary of State; and in any of those cases -

(a) the duty to arrange for the collection of the waste shall not arise until a person who controls the waste requests the authority to collect it; and

(b) the authority may recover a reasonable charge for the collection of the waste from the person who made the request”

If I use my green bin no more than once or twice a year. If, on those occasions, I properly request the authority to collect my green bin will they arrange to collect this bin and if so what would their reasonable charge be?”

**Councillor D Cook gave the following reply:-**

There is no legal obligation on any waste authority to provide a separate collection of garden waste irrespective of whether a householder requests occasional or regular collections.



However Tamworth and Lichfield both recognised that it was far better to offer its residents an opt-in subscription service rather than to provide no service at all. After careful consideration it was determined that the most cost effective way to provide the service and keep the cost down for residents was to deliver it on an annual basis with a single subscription charge.

This means that residents can then use the service at their own convenience without having to pre book a collection. Even if an on demand service was provided the charge for such an arrangement would have to reflect that the same overheads for staff, trucks and depot still exist plus the added expense of collecting a payment each time a collection was requested.

Paragraph 4 of Schedule 1 to the Controlled Waste Regulations 2012 specifies when collection and disposal charges can be made for household waste and the scheme which will be introduced in January 2018 is fully compliant with this legislation.

I have with me a copy of this legislation and I am happy to E-mail Cllr Bilcliff a copy should he wish it. If he takes a good look at page 11 it clearly states under this legislation that you can indeed charge for the collection of garden waste. It actually quite simple, the first column entitled "Description of Household Waste" on the table says Garden Waste, the second column entitled "Collection Charge" simply says YES. Not difficult to pull the meaning from that, quite rare in my experience with government legalisation.

As I stated earlier to Cllr Madge, no one wants to do this, everyone is aware it will be unpopular. What we lack is an alternative choice that does not hurt the vulnerable in our town.

**Councillor R Billcliff asked the following supplementary question:-**

"Can you just explain if I've got this right even though I only use my bin once or twice in a year you are prepared to charge me £36.00 for that? Can you explain as I said I need to see the regulations to what is a reasonable charge within the meaning of those regulations?"

**Councillor D Cook gave the following reply:-**

In my day job this qualifies me to answer this question. As many of you will be aware I am a distribution manager with many years' experience running very large depots. When legislation says that it is to charge a reasonable amount it is so that a service does not lose money. We could send a truck to you once a year but we still have to pay for that truck on a yearly cycle and so we have to offer the driver and the crew a yearly salary which must be funded by a yearly cycle. Logistics has two running costs which you pay no matter what. Those standard costs i.e. the vehicle, the insurance etc are all the things that go into owning and running a vehicle is still costs the same over the course of the year. So we cannot offer one off collection and otherwise we cannot budget for a service to function.

**QUESTIONS FROM MEMBERS OF THE COUNCIL NO. 4**

**Under Procedure Rule No 11, Councillor R Bilcliff will ask the Leader of the Council, Councillor D Cook, the following question:-**

”Before we were supplied with green bins I would put some green waste I collected into my black bin. Does the local authority seek to stop this practice and, if so, under what specific regulation?”

**Councillor D Cook gave the following reply:-**

The Joint Waste Service has no plans to invoke Section 46 of the Environmental Protection Act 1990 and prohibit residents from disposing of their garden waste in the black bin. Instead those residents who do not subscribe to the scheme will be encouraged to dispose of any garden waste they may have by either home composting or taking it to a Civic Amenity Site as these options are more environmentally friendly.

This Council is trying to create the required finance to underpin services to some of the most vulnerable in our society, which is drawn out from our corporate plans and vision. We are not looking to create an environment of draconian punishment. I truly hope the public in Tamworth and Lichfield buy in to what we are trying to achieve.

I hope that this helps?

**Councillor R Billcliff asked the following supplementary question:-**

“How will the authority make it publicly clear this option remains available to the public when you go ahead with the green bin tax?”

**Councillor D Cook gave the following reply:-**

Most Council's charge more than £36.00. This council is not in fifty percent of this in the country charging for green waste. What I would honestly say is do you recall when the recycling boxes were fetched in and we were told the public would go mad and that nobody would have it. Within a couple of months it was the norm. When waste went to a two weekly collections I was told the public would go mad but it became the norm. When boxes were changed for recycling bins this became the norm. There was no room in the garden but this became the norm and this will become the norm. It does rely on residents actually buying into this scheme. But on every single example that I have given you what the Council has chosen to do. We have talked to residents and helped them to understand what we are trying to do. Throwing green waste in your black bin ends up in landfill which is incredibly environmentally unfriendly. What we are trying to do is protect the environment. I would hope that thirty Councillors will encourage residents to buy into this scheme and not try to abuse it.

The Portfolio Holder for Assets and Finance informed Members that The Annual Treasury report is a requirement of the Council's reporting procedures. It covers the Treasury activity for 2016/17 and the actual Prudential Indicators for 2016/17. The report meets the requirements of both the CIPFA Code of Practice on Treasury Management and the CIPFA Prudential Code for Capital Finance in Local Authorities. The Council is required to comply with both Codes in accordance with Regulations issued under the Local Government Act 2003. It also provides an opportunity to review the approved Treasury Management Strategy for the current year and enables Members to consider and approve any issues identified that require amendment.

- RESOLVED:** That Members
- 1 approved the actual 2016/17 Prudential Indicators within the report; and
  - 2 accepted the Treasury Management Stewardship Report for 2016/17

*(Moved by Councillor R Pritchard and seconded by Councillor D Cook)*

## 26 EXCLUSION OF THE PRESS AND PUBLIC

- RESOLVED:** That members of the press and public be now excluded from the meeting on the grounds that the business involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended)

*(Moved by Councillor D Cook and seconded by Councillor R Pritchard)*

## 27 ROLES OF CHIEF OPERATING OFFICER AND HEAD OF PAID SERVICE

The Leader of the Council seeking Members approval of the recommendations of the Appointments and Staffing Committee in relation to the posts of Interim Chief Operating Officer and Head of Paid Service in accordance with the Council Functions as detailed under Article 4 of the Constitution.

- RESOLVED:** That the recommendations contained within the report be approved

*(Moved by Councillor D Cook and seconded by*

*Councillor S Peaple)*

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The Mayor



## **MINUTES OF A MEETING OF THE EXTRAORDINARY COUNCIL HELD ON 12th SEPTEMBER 2017**

**PRESENT:** Councillors J Chesworth (Chair), P Thurgood (Vice-Chair), R Bilcliff, S Claymore, T Clements, D Cook, C Cooke, A Couchman, J Faulkner, R Ford, M Gant, M Greatorex, R Kingstone, A Lunn, T Madge, K Norchi, J Oates, M Oates, S Peuple, T Peuple, R Pritchard, R Rogers, P Standen, M Summers and M Thurgood

The following officers were present: Anthony E Goodwin (Chief Executive), Andrew Barratt (Corporate Director Growth, Assets and Environment), Stefan Garner (Director of Finance), Anica Goodwin (Director - Transformation and Corporate Performance), Linda Ram (Public Relations Officer and Copywriter), Ryan Keyte (Senior Legal Officer) and Janice Clift (Democratic and Elections Officer)

### **20 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors S Doyle, J Goodall, S Goodall and A James

### **21 DECLARATIONS OF INTEREST**

Councillor C Cooke declared a Personal Interest in Item 22 of the agenda, his father Chris Cooke being a nominee for Alderman. Accordingly he left the Chamber during consideration of the following item

### **22 ALDERMAN NOMINATION - CHRIS COOKE (SENIOR)**

**RESOLVED:** That pursuant to Section 249(5) of the Local Government Act 1972 the Council in recognition of his services admit the title of Alderman of the Borough to Chris Cooke (Senior)

*(Moved by Councillor D Cook and seconded by Councillor S Peuple)*

**23 ALDERMAN NOMINATION - PETER SEEKINGS**

**RESOLVED:** That pursuant to Section 249(5) of the Local Government Act 1972 the Council in recognition of his services admit the title of Alderman of the Borough to Peter Seekings

*(Moved by Councillor S Peaple and seconded by Councillor D Cook)*

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The Mayor

## COUNCIL

THURSDAY 12<sup>TH</sup> DECEMBER 2017

### REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND FINANCE

#### TREASURY MANAGEMENT STRATEGY STATEMENT AND ANNUAL INVESTMENT STRATEGY MID-YEAR REVIEW REPORT 2017/18

##### EXEMPT INFORMATION

None

##### PURPOSE

To present to Members the Mid-year Review of the Treasury Management Strategy Statement and Annual Investment Strategy.

##### RECOMMENDATIONS

**That Council be requested to accept the Treasury Management Strategy Statement and Annual Investment Strategy Mid-year Review Report 2017/18.**

##### EXECUTIVE SUMMARY

This mid-year report has been prepared in compliance with CIPFA's Code of Practice, and covers the following

- An economic update for the first six months of 2017/18;
- A review of the Treasury Management Strategy Statement and Annual Investment Strategy;
- The Council's Capital Position (Prudential Indicators);
- A review of the Council's investment portfolio for 2017/18;
- A review of the Council's borrowing strategy for 2017/18;
- A review of any debt rescheduling undertaken during 2017/18;
- A review of compliance with Treasury and Prudential Limits for 2017/18;
- Revised CIPFA codes and Markets in Financial Instruments Directive II (MIFID II)

The main issues for Members to note are:

1. The Council has complied with the professional codes, statutes and guidance.
2. There are no issues to report regarding non-compliance with the approved prudential indicators.
3. The investment portfolio yield for the first six months of the year is 0.52% (0.59% for the same period in 2016/17) compared to the 3 Month LIBID benchmark rate of 0.18% (0.38% for the same period in 2016/17).

The aim of this report is to inform Members of the treasury and investment management issues to enable all Members to have ownership and understanding when making decisions on Treasury Management matters. In order to facilitate this, training on Treasury Management issues was most recently delivered for Members in October 2015 and will be provided as and when required.

## **RESOURCE IMPLICATIONS**

All financial resource implications are detailed in the body of this report which links to the Council's Medium Term Financial Strategy.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

Risk is inherent in Treasury Management and as such a risk based approach has been adopted throughout the report with regard to Treasury Management processes.

## **SUSTAINABILITY IMPLICATIONS**

None

## **BACKGROUND INFORMATION**

The Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Treasury Management (revised 2011) suggests that Members should be informed of Treasury Management activities at least twice a year, but preferably quarterly. This is the second monitoring report for 2017/18 presented to Members this year and therefore ensures the Council is embracing best practice. Cabinet also receives regular monitoring reports as part of the quarterly healthcheck on Treasury Management activities and risks.

The Council operates a balanced budget, which broadly means cash raised during the year will meet its cash expenditure. Part of the Treasury Management operations ensure this cash flow is adequately planned, with surplus monies being invested in low risk counterparties, providing adequate liquidity initially before considering maximising investment return.

The second main function of the Treasury Management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer term cash flow planning to ensure the Council can meet its capital spending operations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses, and on occasion any debt previously drawn may be restructured to meet Council risk or cost objectives.

Treasury Management is defined as:

*"The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."*



## Introduction

The Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Treasury Management (revised 2011) was adopted by this Council on 13<sup>th</sup> December 2012.

The primary requirements of the Code are as follows:

1. Creation and maintenance of a Treasury Management Policy Statement which sets out the policies and objectives of the Council's Treasury Management activities.
2. Creation and maintenance of Treasury Management Practices which set out the manner in which the Council will seek to achieve those policies and objectives.
3. Receipt by the full Council of an annual Treasury Management Strategy Statement - including the Annual Investment Strategy and Minimum Revenue Provision Policy - for the year ahead, a **Mid-year Review Report** and an Annual Report (stewardship report) covering activities during the previous year.
4. Delegation by the Council of responsibilities for implementing and monitoring Treasury Management policies and practices and for the execution and administration of Treasury Management decisions.
5. Delegation by the Council of the role of scrutiny of Treasury Management strategy and policies to a specific named body. For this Council the delegated body is the Audit and Governance Committee.

This mid-year report has been prepared in compliance with CIPFA's Code of Practice, and covers the following:

- An economic update for the first part of the 2017/18 financial year;
- A review of the Treasury Management Strategy Statement and Annual Investment Strategy;
- The Council's Capital Position (Prudential Indicators);
- A review of the Council's investment portfolio for 2017/18;
- A review of the Council's borrowing strategy for 2017/18;
- A review of any debt rescheduling undertaken during 2017/18;
- A review of compliance with Treasury and Prudential Limits for 2017/18.

### 1. Economic Update

#### 1.1 UK

After the UK economy surprised on the upside with strong growth in 2016, growth in 2017 has been disappointingly weak; quarter 1 came in at only +0.3% (+1.7% y/y) and quarter 2 was +0.3% (+1.5% y/y) which meant that growth in the first half of 2017 was the slowest for the first half of any year since 2012. The main reason for this has been the sharp increase in inflation, caused by the devaluation of sterling after the referendum, feeding increases in the cost of imports into the economy. This has caused, in turn, a reduction in consumer disposable income and spending power and so the services sector of the economy, accounting for around 75% of GDP, has seen weak growth as consumers cut back on their expenditure.

However, more recently there have been encouraging statistics from the manufacturing sector which is seeing strong growth, particularly as a result of increased demand for exports. It has helped that growth in the EU, our main trading partner, has improved significantly over the last year. However, this sector only accounts for around 11% of GDP so expansion in this sector will have a much more muted effect on the average total GDP growth figure for the UK economy as a whole.

The Monetary Policy Committee (MPC) meeting of 14 September 2017 surprised markets and forecasters by suddenly switching to a much more aggressive tone in terms of its words around warning that Bank Rate will need to rise. The Bank of England Inflation Reports during 2017 have clearly flagged up that they expected CPI inflation to peak at just under 3% in 2017, before falling back to near to its target rate of 2% in two years' time. Inflation actually came in at 2.9% in August, (this data was released on 12 September), and so the Bank revised its forecast for the peak to over 3% at the 14 September meeting MPC. This marginal revision can hardly justify why the MPC became so aggressive with its wording; rather, the focus was on an emerging view that with unemployment falling to only 4.3%, the lowest level since 1975, and improvements in productivity being so weak, that the amount of spare capacity in the economy was significantly diminishing towards a point at which they now needed to take action. In addition, the MPC took a more tolerant view of low wage inflation as this now looks like a common factor in nearly all western economies as a result of increasing globalisation. This effectively means that the UK labour faces competition from overseas labour e.g. in outsourcing work to third world countries, and this therefore depresses the negotiating power of UK labour. However, the Bank was also concerned that the withdrawal of the UK from the EU would effectively lead to a decrease in such globalisation pressures in the UK, and so would be inflationary over the next few years.

The MPC increased Bank Rate to 0.5% in November. The big question is now whether this will be a one off increase or the start of a slow, but regular, increase in Bank Rate. As at the start of October, short sterling rates were indicating that financial markets do not expect a second increase until May 2018 with a third increase in November 2019. However, some forecasters are flagging up that they expect growth to improve significantly in 2017 and into 2018, as the fall in inflation will bring to an end the negative impact on consumer spending power while a strong export performance will compensate for weak services sector growth. If this scenario were to materialise, then the MPC would have added reason to embark on a series of slow but gradual increases in Bank Rate during 2018. While there is so much uncertainty around the Brexit negotiations, consumer confidence, and business confidence to spend on investing, it is far too early to be confident about how the next two years will pan out.

## 1.2 EU

Economic growth in the EU, (the UK's biggest trading partner), has been lacklustre for several years after the financial crisis despite the ECB eventually cutting its main rate to -0.4% and embarking on a massive programme of QE. However, growth picked up in 2016 and now looks to have gathered ongoing substantial strength and momentum thanks to this stimulus.

GDP growth was 0.5% in quarter 1 (2.0% y/y) and 0.6% in quarter (2.3% y/y). However, despite providing massive monetary stimulus, the European Central Bank is still struggling to get inflation up to its 2% target and in August inflation was 1.5%. It is therefore unlikely to start on an upswing in rates until possibly 2019.

### 1.3 USA

Growth in the American economy has been volatile in 2015 and 2016. 2017 is following that path again with quarter 1 coming in at only 1.2% but quarter 2 rebounding to 3.1%, resulting in an overall annualised figure of 2.1% for the first half year. Unemployment in the US has also fallen to the lowest level for many years, reaching 4.4%, while wage inflation pressures, and inflationary pressures in general, have been building. The Fed has started on a gradual upswing in rates with three increases since December 2016; and there could be one more rate rise in 2017 which would then lift the central rate to 1.25 – 1.50%. There could then be another four more increases in 2018. At its June meeting, the Fed strongly hinted that it would soon begin to unwind its \$4.5 trillion balance sheet holdings of bonds and mortgage backed securities by reducing its reinvestment of maturing holdings.

### 1.4 Japan and China

Chinese economic growth has been weakening over successive years, despite repeated rounds of central bank stimulus; medium term risks are increasing. Major progress still needs to be made to eliminate excess industrial capacity and the stock of unsold property, and to address the level of non-performing loans in the banking and credit systems.

Japan is struggling to stimulate consistent significant growth and to get inflation up to its target of 2%, despite huge monetary and fiscal stimulus. It is also making little progress on fundamental reform of the economy.

### 1.5 Interest rate forecasts

The Council's treasury advisor, Link Asset Services (previously known as Capita Asset Services), has provided the following forecast:

	Dec-17	Mar-18	Jun-18	Sep-18	Dec-18	Mar-19	Jun-19	Sep-19	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21
Bank Rate	0.50%	0.50%	0.50%	0.50%	0.75%	0.75%	0.75%	0.75%	1.00%	1.00%	1.00%	1.25%	1.25%	1.25%
5yr PWLB Rate	1.50%	1.60%	1.60%	1.70%	1.80%	1.80%	1.90%	1.90%	2.00%	2.10%	2.10%	2.20%	2.30%	2.30%
10yr PWLB View	2.10%	2.20%	2.30%	2.40%	2.40%	2.50%	2.60%	2.60%	2.70%	2.70%	2.80%	2.90%	2.90%	3.00%
25yr PWLB View	2.80%	2.90%	3.00%	3.00%	3.10%	3.10%	3.20%	3.20%	3.30%	3.40%	3.50%	3.50%	3.60%	3.60%
50yr PWLB Rate	2.50%	2.60%	2.70%	2.80%	2.90%	2.90%	3.00%	3.00%	3.10%	3.20%	3.30%	3.30%	3.40%	3.40%

As expected, the Monetary Policy Committee (MPC) delivered a 0.25% increase in Bank Rate at its meeting on 2 November. This removed the emergency cut in August 2016 after the EU referendum. The MPC also gave forward guidance that they expected to increase Bank rate only twice more by 0.25% by 2020 to end at 1.00%. The Link Asset Services forecast as above includes increases in Bank Rate of 0.25% in November 2018, November 2019 and August 2020.

Economic and interest rate forecasting remains difficult with so many external influences weighing on the UK. The above forecasts (and MPC decisions) will be liable to further amendment depending on how economic data and developments in financial markets transpire over the next year. Geopolitical developments, especially in the EU, could also have a major impact. Forecasts for average investment earnings beyond the three-year time horizon will be heavily dependent on economic and political developments.

The overall balance of risks to economic recovery in the UK is probably to the downside, particularly with the current level of uncertainty over the final terms of Brexit.

Downside risks to current forecasts for UK gilt yields and PWLB rates currently include:

- Bank of England monetary policy takes action too quickly over the next three years to raise Bank Rate and causes UK economic growth, and increases in inflation, to be weaker than we currently anticipate.
- Geopolitical risks, especially North Korea, but also in Europe and the Middle East, which could lead to increasing safe haven flows.
- A resurgence of the Eurozone sovereign debt crisis, possibly Italy, due to its high level of government debt, low rate of economic growth and vulnerable banking system.
- Weak capitalisation of some European banks.
- The result of the October 2017 Austrian general election is likely to result in a strongly anti-immigrant coalition government. In addition, the new Czech prime minister is expected to be Andrej Babis who is strongly against EU migrant quotas and refugee policies. Both developments could provide major impetus to other, particularly former Communist bloc countries, to coalesce to create a major block to progress on EU integration and centralisation of EU policy. This, in turn, could spill over into impacting the Euro, EU financial policy and financial markets.
- Rising protectionism under President Trump
- A sharp Chinese downturn and its impact on emerging market countries

The potential for upside risks to current forecasts for UK gilt yields and PWLB rates, especially for longer term PWLB rates include: -

- The Bank of England is too slow in its pace and strength of increases in Bank Rate and, therefore, allows inflation pressures to build up too strongly within the UK economy, which then necessitates a later rapid series of increases in Bank Rate faster than we currently expect.
- UK inflation returning to sustained significantly higher levels causing an increase in the inflation premium inherent to gilt yields.
- The Fed causing a sudden shock in financial markets through misjudging the pace and strength of increases in its Fed.

Funds Rate and in the pace and strength of reversal of Quantitative Easing, which then leads to a fundamental reassessment by investors of the relative risks of holding bonds, as opposed to equities. This could lead to a major flight from bonds to equities and a sharp increase in bond yields in the US, which could then spill over into impacting bond yields around the world.

## 2. Treasury Management Strategy Statement and Annual Investment Strategy Update

The Treasury Management Strategy Statement (TMSS) for 2017/18 was approved by Council on 21st February 2017.

There are no policy changes to the TMSS; the details in this report update the position in the light of the updated economic position and budgetary changes already approved.

## 3. The Council's Capital Position (Prudential Indicators)

This part of the report is structured to update:

- The Council's capital expenditure plans;
- How these plans are being financed;
- The impact of the changes in the capital expenditure plans on the prudential indicators and the underlying need to borrow; and
- Compliance with the limits in place for borrowing activity.

### 3.1 Prudential Indicator for Capital Expenditure

This table below shows the revised estimates for capital expenditure and the changes since the capital programme was agreed at the Budget.

Capital Expenditure by Service	2017/18 Original Programme	Budget B'fwd from 2016/17	Virements to Programme in Year	Total 2017/18 Budget	Actual Spend @ Period 6	Predicted Outturn	2017/18 Revised Estimate*
	£m	£m	£m	£m	£m	£m	£m
General Fund	2.421	2.731	0.245	5.397	0.760	3.236	4.511
HRA	16.413	9.575	-	25.988	4.918	11.961	25.983
<b>Total</b>	<b>18.834</b>	<b>12.306</b>	<b>0.245</b>	<b>31.385</b>	<b>5.678</b>	<b>15.197</b>	<b>30.494</b>

\* Includes potential expenditure slippage into 2018/19

### 3.2 Changes to the Financing of the Capital Programme

The following table draws together the main strategy elements of the capital expenditure plans (above), highlighting the original supported and unsupported elements of the capital programme, and the expected financing arrangements of this capital expenditure. Any borrowing element of the table increases the underlying indebtedness of the Council by way of the Capital Financing Requirement (CFR), although this will be reduced in part by revenue charges for the repayment of debt

(the Minimum Revenue Provision).

This direct borrowing need may also be supplemented by maturing debt and other treasury requirements.

<b>Capital Expenditure</b>	<b>2017/18 Capital Programme £m</b>	<b>2017/18 Predicted Outturn £m</b>	<b>2017/18 Budget * £m</b>
Unsupported	4.972	0.100	8.214
Supported	13.862	15.097	23.171
<b>Total spend</b>	<b>18.834</b>	<b>15.197</b>	<b>31.385</b>
Financed by:			
Grants - Disabled Facilities	0.224	0.404	0.404
Coalfields Grant	-	0.092	0.222
Section 106's	0.100	0.239	0.239
GF Receipts	0.222	0.407	0.462
GF Reserve	0.180	0.259	0.519
Sale of Council House Receipts	0.114	0.204	0.341
HRA Receipts	0.500	0.513	0.513
HLF Assembly Rooms Lottery	0.316	0.215	0.344
Grants - Assembly Rooms (SLGF)	1.264	0.809	1.334
Public Contributions (Assembly Rooms)	-	-	0.025
HLF/SCC/Donation - Castle Mercian Trail	-	0.508	0.508
MRR	4.213	4.192	6.408
HRA 1-4-1 Replacements Receipts	0.650	0.879	0.879
HRA Reserve	5.009	2.564	7.161
HRA Regeneration Fund	1.070	3.566	3.566
HCA Grant	-	0.246	0.246
<b>Total Financing</b>	<b>13.862</b>	<b>15.097</b>	<b>23.171</b>
<b>Borrowing need</b>	<b>4.972</b>	<b>0.100</b>	<b>8.214</b>

\* includes potential expenditure slippage into 2018/19

### 3.3 Changes to the Prudential Indicators for the Capital Financing Requirement, External Debt and the Operational Boundary

The following table shows the CFR, which is the underlying external need to incur borrowing for a capital purpose. It also shows the expected debt position over the period. This is termed the Operational Boundary.

Prudential Indicator – Capital Financing Requirement

We are on target to achieve the original forecast Capital Financing Requirement.

Prudential Indicator – the Operational Boundary for External Debt

Operational Boundary	2016/17	2017/18	2017/18	2017/18
	Outturn £m	Capital Programme £m	Projected Outturn £m	Budget* £m
CFR – Non Housing	0.943	1.885	0.885	0.885
CFR – Housing	68.041	75.255	68.041	76.255
Total CFR	68.984	77.140	68.926	77.140
<b>Net movement in CFR</b>	<b>(0.058)</b>	<b>4.914</b>	<b>(0.058)</b>	<b>8.156</b>
Operational Boundary				
Expected Borrowing	63.060	65.060	63.060	63.060
<b>Total debt 31 March</b>	<b>63.060</b>	<b>65.060</b>	<b>63.060</b>	<b>63.060</b>

### 3.4 Limits to Borrowing Activity

The first key control over the treasury activity is a prudential indicator to ensure that over the medium term, net borrowing (borrowings less investments) will only be for a capital purpose. Gross external borrowing should not, except in the short term, exceed the total of CFR in the preceding year plus the estimates of any additional CFR for 2017/18 and next two financial years. This allows some flexibility for limited early borrowing for future years. The Council has approved a policy for borrowing in advance of need which will be adhered to if this proves prudent.

Net Borrowing to CFR	2016/17 Outturn £m	2017/18 Original Estimate £m	2017/18 Projected Outturn £m	2017/18 Budget £m
Gross borrowing	63.060	65.060	63.060	63.060
Less investments	51.211	58.143	57.408	49.194
Net borrowing	11.849	6.917	5.653	13.867
CFR (year end position)	68.984	77.140	68.926	77.140

The Executive Director Corporate Services reports that no difficulties are envisaged for the current or future years in complying with this prudential indicator.

A further prudential indicator controls the overall level of borrowing. This is the Authorised Limit which represents the limit beyond which borrowing is prohibited, and needs to be set and revised by Members. It reflects the level of borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term. It is the expected maximum borrowing need with some headroom for unexpected movements. This is the statutory limit determined under section 3 (1) of the Local Government Act 2003.

<b>Authorised Limit for External Debt</b>	<b>2017/18 Original Indicator</b>	<b>Current Position</b>	<b>2017/18 Revised Indicator</b>
Borrowing	84.292	84.292	84.292
Total	84.292	84.292	84.292

#### **4. Investment Portfolio 2017/18**

In accordance with the Code, it is the Council's priority to ensure security of capital and liquidity and to obtain an appropriate level of return which is consistent with the Council's risk appetite. As set out in Section 1, it is a very difficult investment market in terms of earning the level of interest rates commonly seen in previous decades as rates are very low and in line with the current 0.50% Bank Rate. The continuing potential for a re-emergence of a Eurozone sovereign debt crisis, and its impact on banks, prompts a low risk and short-term strategy. Given this risk environment and the fact that increases in Bank Rate are likely to be gradual and unlikely to return to the levels seen in previous decades, investment returns are likely to remain low.

The Council held £64.5m of investments as at 30<sup>th</sup> September 2017 (£50.119m at 31<sup>st</sup> March 2017) and the investment portfolio yield for the first six months of the year is 0.52% against a benchmark of the 3 months LIBID of 0.18%. A full list of investments held as at 30<sup>th</sup> September 2017 is detailed in **APPENDIX 1**.

The Council's budgeted investment return for 2017/18 is £260k, and performance for the year is projected to be £26k below budget, due to continuing low interest rates.

#### **CIPFA Benchmarking Club**

The Council is a member of the CIPFA Treasury Management Benchmarking Club which is a means to assess our performance over the year against other members. Our average return for In House Investments for the period October 2016 to September 2017 was 0.5% compared to the group average of 0.6% (information from CIPFA Benchmarking Report Q2 2017/18). This is considered to be a reasonable result in light of the current financial climate, our lower levels of deposits/funds and shorter investment time-lines due to Banking sector uncertainty, when compared to other Authorities.

This can be analysed further into the following categories:



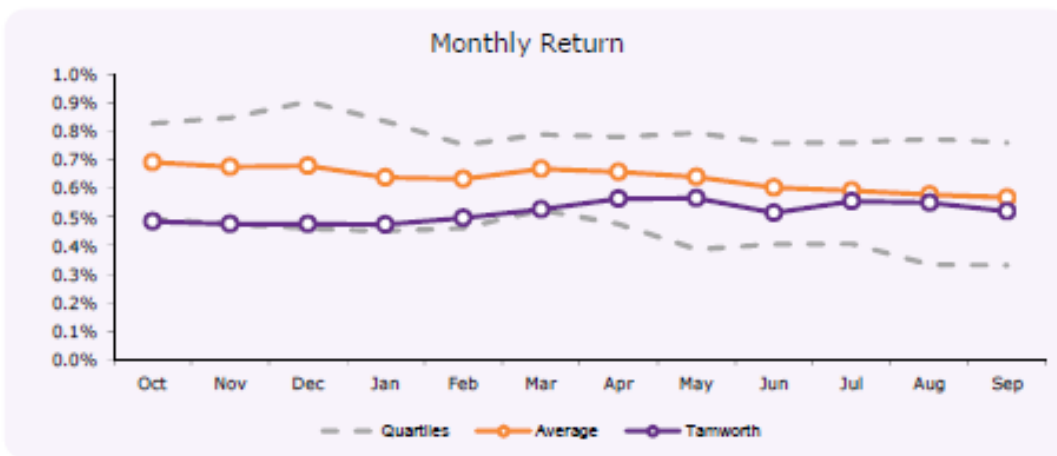
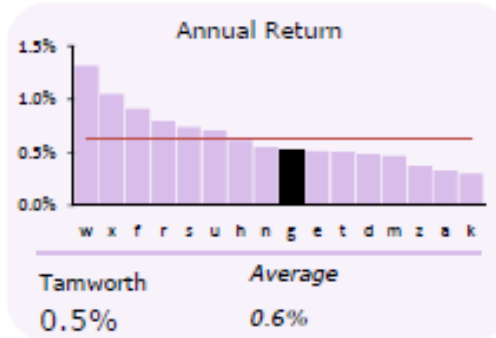
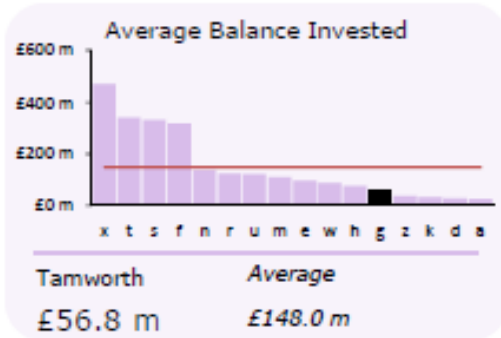
Category	Average Balance Invested £m		Average Annual Return Received %	
	Tamworth Borough Council	CIPFA Benchmarking Club	Tamworth Borough Council	CIPFA Benchmarking Club
Fixed Investments (up to 30 days)	-	0.2	-	0.3
Fixed Investments (between 31 and 90 days)	-	1.2	-	0.3
Fixed Investments (between 91 and 364 days)	29.3	58.4	0.5	0.7
Fixed Investments (between 1 year and 3 years)	-	15.4	-	1.0
Fixed Investments (over 3 years)	-	12.3	-	2.2
Callable and Structured Deposits	-	11.3	-	1.7
Notice Accounts	12.0	22.4	0.7	0.4
Money Market Funds (Constant Net Asset Value)	9.5	24.2	0.2	0.3
Money Market Funds (Variable Net Asset Value)	-	29.2	-	0.6
DMADF	-	0.5	-	0.1
CDs, Gilts and Bonds	6.0	24.7	0.5	1.9
<b>Average of all investments (Managed in House)</b>	<b>56.8</b>	<b>148.0</b>	<b>0.5</b>	<b>0.6</b>

The data above and graphs below display that despite the Council being a small investor in the markets, performance is only marginally lower in those areas where both the Council and other member authorities invest.

The main variances arise from longer term fixed investments (in excess of 1 year) and instruments that the council do not currently get involved with i.e. Callable and Structured Deposits which are longer term deposits which (in line with our use of the Link Asset Services methodology and our approved specified limits in our Treasury Management strategy) are currently prohibited for Tamworth Borough Council and

affirms our 'low appetite for risk' in the continuing unsettled markets.

### Combined In-House Investments (excl. impaired investments)



Monthly Return (Oct 16 - Sept 17)													
	Oct	Nov	Dec	Jan	Feb	March	Apr	May	June	July	Aug	Sept	Year
Balance £'m	58.5	59.9	60.3	60.5	57.9	53.1	53.0	51.4	52.9	54.5	56.0	63.6	56.8
Interest £'k	24.1	23.4	24.3	24.3	22.1	23.8	24.5	24.7	22.3	25.6	26.1	27.1	292.3
Return	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%	0.6%	0.6%	0.5%	0.6%	0.5%	0.5%	0.5%
Upper Quartile	0.8%	0.8%	0.9%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%	0.8%
Average	0.7%	0.7%	0.7%	0.6%	0.6%	0.7%	0.7%	0.6%	0.6%	0.6%	0.6%	0.6%	0.6%
Lower Quartile	0.5%	0.5%	0.5%	0.4%	0.5%	0.5%	0.5%	0.4%	0.4%	0.4%	0.3%	0.3%	0.5%
% Diff from Avg	-0.2%	-0.2%	-0.2%	-0.2%	-0.1%	-0.1%	-0.1%	-0.1%	-0.1%	0.0%	0.0%	0.0%	-0.1%

### Investment Counterparty Criteria

The current investment counterparty criteria selection approved in the TMSS and as approved by Council on the 21st February 2017 will meet the requirement of the Treasury Management function.

### 5. Borrowing

The Council's estimated revised capital financing requirement (CFR) for 2017/18 is £68.926m. The CFR denotes the Council's underlying need to borrow for capital purposes. If the CFR is positive the Council may borrow from the PWLB or the market (external borrowing) or from internal balances on a temporary basis (internal borrowing). The balance of external and internal borrowing is generally driven by market conditions. Table 3.4 shows the Council will have estimated borrowings of

£63.060m and has utilised £5.866m of cash flow funds in lieu of borrowing. This is a prudent and cost effective approach in the current economic climate but will require ongoing monitoring in the event that upside risk to gilt yields prevails.

In the first half of the year the Council had no PWLB debt maturing. The capital programme requires additional unsupported borrowing of £8.2m.

The Council is currently maintaining an under-borrowed position. This means that the capital borrowing need (the Capital Financing Requirement), has not been fully funded with loan debt, as cash supporting the Council's reserves, balances and cash flow has been used as a temporary measure. This strategy is prudent as investment returns are low and counterparty risk is relatively high.

Use of internal funds is a more efficient use of resources as borrowing rates are significantly higher than investment returns. However, as and when resources are depleted or utilised, the opportunity to use internal balances will decrease and interest charges will increase.

Against this background and the risks within the economic forecast, caution will be adopted with the 2017/18 treasury operations. The Director of Finance will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances:

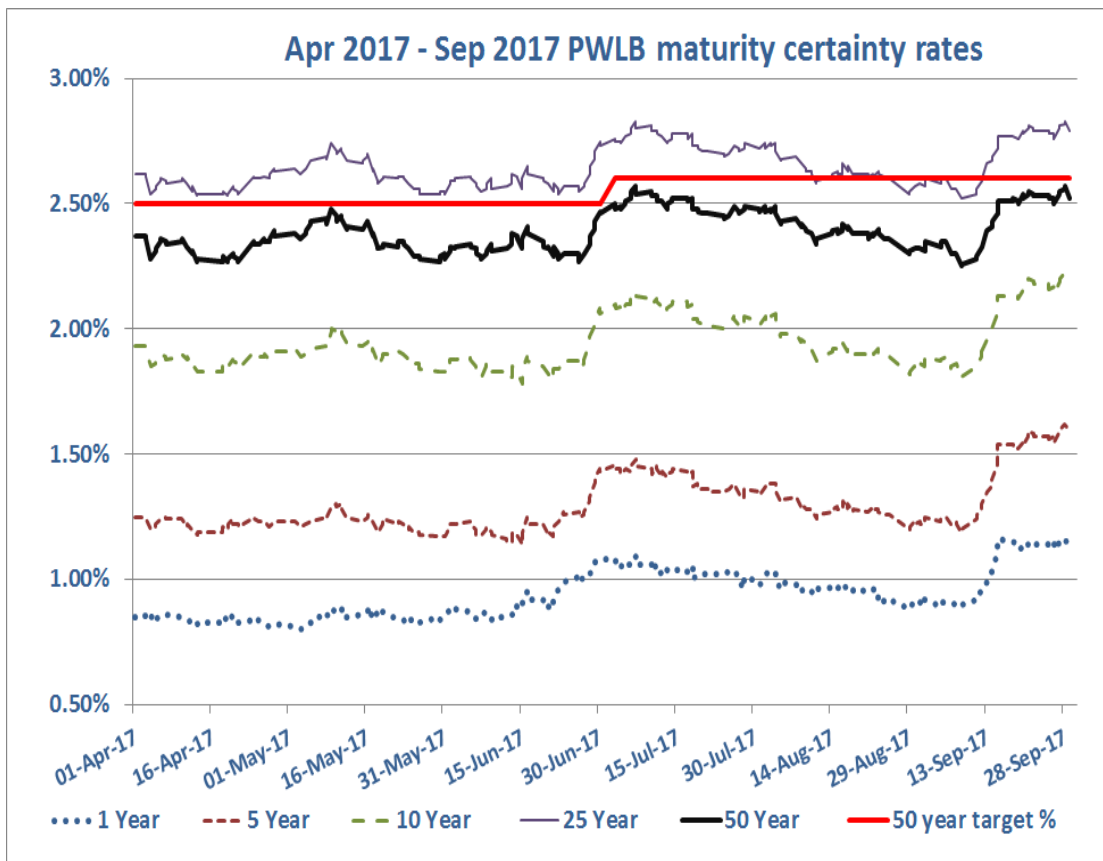
- \* *if it was felt that there was a significant risk of a sharp FALL in long and short term rates (e.g. due to a marked increase of risks around recession or risks of deflation), then long term borrowings will be postponed, and potential rescheduling from fixed rate funding into short term borrowing will be considered.*
- \* *if it was felt that there was a significant risk of a much sharper RISE in long and short term rates than that currently forecast, perhaps arising from a sudden increase in inflation risks, then the portfolio position will be re-appraised with the likely action that fixed rate funding will be drawn whilst interest rates are still lower than they will be in the next few years.*

Given the current economic forecasts for the coming years, it is unlikely that any additional borrowing will be undertaken during 2017/18.

The table and graph below show the movement in PWLB (Certainty Rates) for the

first six months of the year to date:

**PWLB certainty rates 1 April 2017 to 30 September 2017**



	1 Year	5 Year	10 Year	25 Year	50 Year
Low	0.8	1.14	1.78	2.52	2.25
Date	03/05/2017	15/06/2017	15/06/2017	08/09/2017	08/09/2017
High	1.16	1.62	2.22	2.83	2.57
Date	15/09/2017	28/09/2017	28/09/2017	07/07/2017	07/07/2017
Average	0.9408	1.2981	1.9470	2.6475	2.3917

**6. Debt Rescheduling**

Debt rescheduling opportunities have been very limited in the current economic climate given the consequent structure of interest rates, and following the increase in the margin added to gilt yields which has impacted PWLB new borrowing rates since October 2010. No debt rescheduling has therefore been undertaken to date in the current financial year.

**7. Revised CIPFA Codes and MIFID II**

**7.1 Revised CIPFA Codes**

The Chartered Institute of Public Finance and Accountancy (CIPFA) is currently conducting an exercise to consult local authorities on revising the Treasury Management Code and Cross Sectoral Guidance Notes, and the Prudential Code. CIPFA is aiming to issue the revised codes during November.

A particular focus of this exercise is how to deal with local authority investments which are not treasury type investments e.g. by investing in purchasing property in order to generate income for the authority at a much higher level than can be attained by treasury investments. One recommendation is that local authorities should produce a new report to members to give a high level summary of the overall capital strategy and to enable members to see how the cash resources of the authority have been apportioned between treasury and non treasury investments. Officers are monitoring developments and will report to members when the new codes have been agreed and issued and on the likely impact on this authority.

## 7.2 MIFID II

MIFID is the EU legislation that regulates firms who provide services to clients linked to financial instruments and it is now being revised to strengthen consumer protection and improve the functioning of markets in light of the 2008 financial crisis.

The EU has now set a deadline of 3 January 2018 for the introduction of regulations under MIFID II. These regulations will govern the relationship that financial institutions conducting lending and borrowing transactions will have with local authorities from that date. This will have little effect on this authority apart from having to fill in forms sent by each institution dealing with this authority and for each type of investment instrument we use apart from for cash deposits with banks and building societies.

## REPORT AUTHOR

Please contact Stefan Garner, Director of Finance, extension 242, or Jo Goodfellow, Management Accountant , extension 241.

## LIST OF BACKGROUND PAPERS

<i>Background Papers -</i>	<i>Local Government Act 2003</i>
	<i>CIPFA Code of Practice on Treasury Management in Public Services 2011</i>
	<i>Annual Report on the Treasury Management Service and Actual Prudential Indicators 2016/17 – Council 12<sup>th</sup> September 2017</i>
	<i>Treasury Management Strategy &amp; Prudential Indicators Report 2017/18 - Council 21<sup>st</sup> February 2017</i>
	<i>Budget &amp; Medium Term Financial Strategy 2017/18 - Council 21st February 2017</i>
	<i>Financial Healthcheck Period 6, September 2017</i>
	<i>CIPFA Treasury Management Benchmarking Club Report Quarter 2, September 2017</i>

## APPENDICES

### APPENDIX 1 Current Investment List

APPENDIX 1

Investments held as at 30<sup>th</sup> September 2017:  
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Borrower	Deposit £m	Rate %	From	To	Notice
Royal Bank of Scotland	2.00	0.65%	31-Jan-17	30-Jan-18	-
Lloyds Bank	2.00	0.55%	03-Apr-17	03-Oct-17	-
Lloyds Bank	2.00	0.55%	03-Apr-17	03-Oct-17	-
Royal Bank of Scotland	2.00	0.63%	05-Apr-17	04-Apr-18	-
Lloyds Bank	2.00	0.55%	10-Apr-17	10-Oct-17	-
Royal Bank of Scotland	2.00	0.67%	11-Apr-17	10-Apr-18	-
Sumitomo Mitsui Banking Corporation Europe Ltd	2.00	0.36%	18-Apr-17	18-Oct-17	-
Lloyds Bank	1.00	0.55%	28-Apr-17	30-Oct-17	-
Nationwide	1.00	0.37%	09-May-17	09-Nov-17	-
Nationwide	1.00	0.37%	31-May-17	30-Nov-17	-
Lloyds Bank	1.00	0.55%	01-Jun-17	01-Dec-17	-
Royal Bank Of Scotland	2.00	0.61%	05-Jun-17	25-May-18	-
Bank of Scotland	2.00	0.36%	30-Jun-17	02-Jan-18	-
Santander UK plc	8.00	0.70%	03-Jul-17	03-Jan-18	-
Royal Bank Of Scotland	2.00	0.6125%	10-Jul-17	29-Jun-18	-
Santander UK plc	2.00	0.70%	13-Jul-17	15-Jan-18	-
Barclays Bank	2.00	0.34%	17-Jul-17	17-Jan-18	-
Lloyds Bank	1.00	0.36%	09-Aug-17	09-Feb-18	-
Bank of Scotland	2.00	0.36%	10-Aug-17	12-Feb-18	-
Coventry BS	2.00	0.35%	05-Sep-17	05-Mar-18	-
Coventry BS	4.00	0.35%	13-Sep-17	13-Mar-18	-
Barclays Bank	3.00	0.31%	13-Sep-17	13-Mar-18	-
Nationwide	2.00	0.30%	13-Sep-17	13-Mar-18	-
Goldman Sachs International Bank	2.00	0.665%	15-Dec-16	-	180 day
Goldman Sachs International Bank	1.00	0.79%	10-Feb-17	-	180 day
Goldman Sachs International Bank	1.00	0.755%	06-Mar-17	-	180 day
Goldman Sachs International Bank	4.00	0.79%	13-Mar-17	-	180 day
Goldman Sachs International Bank	2.00	0.775%	05-Apr-17	-	180 day
MMF – PSDF	4.47	0.18*	-	-	On call
<b>Total</b>	<b>64.47</b>	<b>0.52 (avg)</b>	-	-	-

\* Interest rate fluctuates daily dependant on the funds investment portfolio, rate quoted is approximate 7 day average.



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TUESDAY, 12 DECEMBER 2017

**REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND FINANCE****LOCAL COUNCIL TAX REDUCTION SCHEME 2018/19 ONWARDS AND  
CONSULTATION RESULTS****EXEMPT INFORMATION**

This proposal is not exempt information for the purposes of Part 1 of Schedule 12 (A) of the Local Government Act 1972

**PURPOSE**

To advise Members of the results and feedback from the recently undertaken consultation on the proposed Local Council Tax Reduction Scheme from 2018 onwards. To review the consultation feedback when considering potential changes to be applied in the 2018/19 onwards Local Council Tax Reduction Scheme;

To advise members that the Local Council Tax Reduction Scheme for working age customers for 2018/19 should include continued alignment to Applicable Amounts with those of Housing Benefit;

That Council endorses the proposed change, moderately supported by the consultation results, that Council Tax Reduction awards will disregard in full Bereavement Support Payments.

**RECOMMENDATIONS**

- 1 That Council consider the results of the public consultation on the current scheme, carried out 18 August to 10 November 2017, and endorse or otherwise the proposed recommended change detailed below:**
- 2 The base scheme goes forward with the following;**
  - a) That the Local Council Tax Reduction Scheme for working age customers for 2018/19 will continue to be aligned to Applicable Amounts with those of Housing Benefit, and**
  - b) That Council Tax Reduction awards will disregard in full Bereavement Support Payments.**

## EXECUTIVE SUMMARY

This report details the key issues arising from the Local Council Tax Reduction Scheme.

The Welfare Reform Act abolished Council Tax Benefit from 1 April 2013. It was replaced by a new Local Council Tax Reduction Scheme for working age customers. A national scheme of regulations was introduced for pensioners, which mirrors the obsolete Council Tax Benefit Scheme.

Grant funding was reduced and is distributed by the Department for Communities and Local Government rather than the Department for Work and Pensions. Outturn on the 2016/17 scheme is £3.98m of which the Authority's share was £429k (10.8% of the impact on the Collection Fund). At inception, the scheme design was modelled to ensure that the Authority complied with the Central Government requirement to achieve a 10% reduction in benefit cost but without increasing the burden of cost to the Council tax Payer. However, grant funding predictions are expected to reduce further in future years and future years' Revenue Support Grant (RSG) projections indicate an ongoing reduction in grant funding to the Authority from 2018/19 and will mean that RSG will cease to be paid by 2020 and that the Council will have to fund the scheme from its own resources and retained Business Rates income in the future.

The impact of grant funding and expenditure is closely monitored on a regular basis to identify whether the scheme is achieving its objectives but also not increasing cost burdens to the Medium Term Financial Strategy. The current maximum level of award under the existing scheme is 75%. Current financial modelling indicates that although grant levels are reducing the scheme maxima should not be changed for the 2018/19 scheme consultation as it would add further potential hardship to claimants. This position is under regular review. Members should be aware of the impact of the Central Government Grant reductions when formulating the scheme for 2018/19 as any subsequent changes to the scheme governance arrangements, not consulted on would require a further consultation exercise.

Continued alignment of the scheme with applicable amounts for the Housing Benefit scheme should be considered. This is not a legislative requirement for those of working age, but a decision for this Council. This will prevent confusion between schemes and reduce administrative burdens. Furthermore, it would reflect any cost of living rises allowed by the Government.

In compliance with the above, a web based consultation exercise was carried out between 18 August to 10 November 2017. The results are attached at **Appendix 1**. Local Community Groups were notified of the consultation and two press releases also encouraged responses. 92 responses were received. The proposal to disregard in full Bereavement Support payments from Council Tax Reduction was moderately supported.

## OPTIONS CONSIDERED

The current scheme for most working age customers bases an award on a maximum of 75% of their Council Tax liability. Those who receive a Severe Disability Premium, or who have a disabled child and those who receive a War Widows/War Disability Pension or Armed Forces Compensation Scheme payment have their awards based on 100% of their liability.

Pensioners also continue, under the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012, to have their awards based on 100% of their Council Tax liability.

**Appendix 1** confirms that current policy principles and the proposed change to disregard Bereavement Support Payments in full are supported.

## **RESOURCE IMPLICATIONS**

Council Tax Benefit subsidy awarded for 2012/13 was £5.38m. The current scheme was modelled on delivering an estimated benefit reduction in the region of £700k for 2013/14, necessitated by grant cuts of 10% and protection for Pensioners and other vulnerable groups. The final amount awarded for 2013/14 was £4.427m, £4.156m for 2014/15, £4.04m for 2015/16 and £3.98m for 2016/17.

Latest figures confirm that £3.97m has so far been awarded in Local Council Tax Reduction (LCTR) for 2017/18, to both working age and pensioner customers. The live caseload has reduced by approximately 15% since April 2013, which is attributable to customers finding employment, becoming financially self sufficient and contributes to the lesser amount now awarded. Furthermore, welfare reforms have also reduced the amount awarded to some claimants who are no longer entitled to the Severe Disability Premium, thus their award is now based on a maximum of 75% rather than 100% of their Council Tax liability.

It is impossible to predict what the increased Council Tax Reduction awards will be where the claimant receives a Bereavement Support Payment. However it is envisaged that the costs will be nominal.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

The Department for Communities and Local Government have confirmed that consultation on the scheme is not required annually if it is not amended. However, the Council has decided it wise to consult even when changes are not proposed. Notwithstanding this, as an amendment to the scheme is proposed for 2018/19, consultation was mandatory for the 2018/19 scheme.

**Appendix 1** confirms the public consultation results, gauging views on each of the current policy elements of the scheme as well as views on proposed changes.

Section 13 A(2) and Schedule 1A of the Local Government Finance Act 1992, as well as Schedule 1A, paragraph 16 of the Local Government Finance Act 2012 legislate that the scheme must be agreed annually by full Council.

Full Equality Impact Assessments were considered and taken into account when the scheme was initially finalised and agreed.

## **SUSTAINABILITY IMPLICATIONS**

Funding for the replacement of the previous Council Tax Benefit scheme was changed from AMEY (unrestricted reimbursement of Council Tax Benefit subsidy) to DEL (restricted, pre allocated grant figure). The Council must be aware that there must continue to be a contingency if, for instance, a major local employer goes administration.

## BACKGROUND INFORMATION

The Welfare Reform Act 2012

[http://www.legislation.gov.uk/ukpga/2012/5/pdfs/ukpga\\_20120005\\_en.pdf](http://www.legislation.gov.uk/ukpga/2012/5/pdfs/ukpga_20120005_en.pdf)

The Council Tax Reduction Schemes (Prescribed Requirements) (England) (Regulations) 2012

[http://www.legislation.gov.uk/uksi/2012/2885/pdfs/uksi\\_20122885\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/2885/pdfs/uksi_20122885_en.pdf)

## REPORT AUTHOR

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## LIST OF BACKGROUND PAPERS

Local Council Tax Reduction Scheme 2013/14 Report, presented to Council on 13<sup>th</sup> December 2012 <http://democracy.tamworth.gov.uk/mglIssueHistoryHome.aspx?Id=2548>

Local Council Tax Reduction Scheme 2014/15 Report, presented to Council on 17<sup>th</sup> December 2013 <http://democracy.tamworth.gov.uk/mglIssueHistoryHome.aspx?Id=3849>

Local Council Tax Reduction Scheme 2015/16 report, presented to Council on 16<sup>th</sup> December 2014  
<http://democracy.tamworth.gov.uk/documents/s10311/LOCAL%20COUNCIL%20TAX%20REDUCTION%20SCHEME%20FROM%20201516.pdf>

Local Council Tax Reduction Scheme 2016/17 report, presented to Council on 15<sup>th</sup> December 2015  
<http://democracy.tamworth.gov.uk/documents/s12836/Local%20Council%20Tax%20Reduction%20Scheme%202016%20onwards.pdf>

Local Council Tax Reduction Scheme 2017/18 report, presented to Council on 13<sup>th</sup> December 2016  
<http://democracy.tamworth.gov.uk/documents/s15217/Local%20Council%20Tax%20Reduction%20Scheme%20201718%20onwards.pdf>

## APPENDICES

**Appendix 1** Local Council Tax Reduction Scheme Consultation Summary report 2017

**Appendix 2** Council Tax Reduction Working Age Expenditure summary

**Appendix 3** Council Tax Reduction Caseload summary

**Appendix 4** Equality Impact Assessment



# Local Council Tax Reduction Scheme Consultation Summary Report 2017

Produced by



On behalf of



## DOCUMENT DETAILS

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This document has been produced on behalf of Tamworth Borough Council by the Staffordshire County Council Strategy Team.



Title	Local Council Tax Reduction Scheme, Consultation Summary Report, 2017
Date created	November 2017
Description	The purpose of this document is to provide Tamworth Borough Council with the consultation results on their local council tax scheme. These include suggested changes to the scheme which has been in operation since April 2013.
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Geographical coverage	Tamworth Borough
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## I. EXECUTIVE SUMMARY

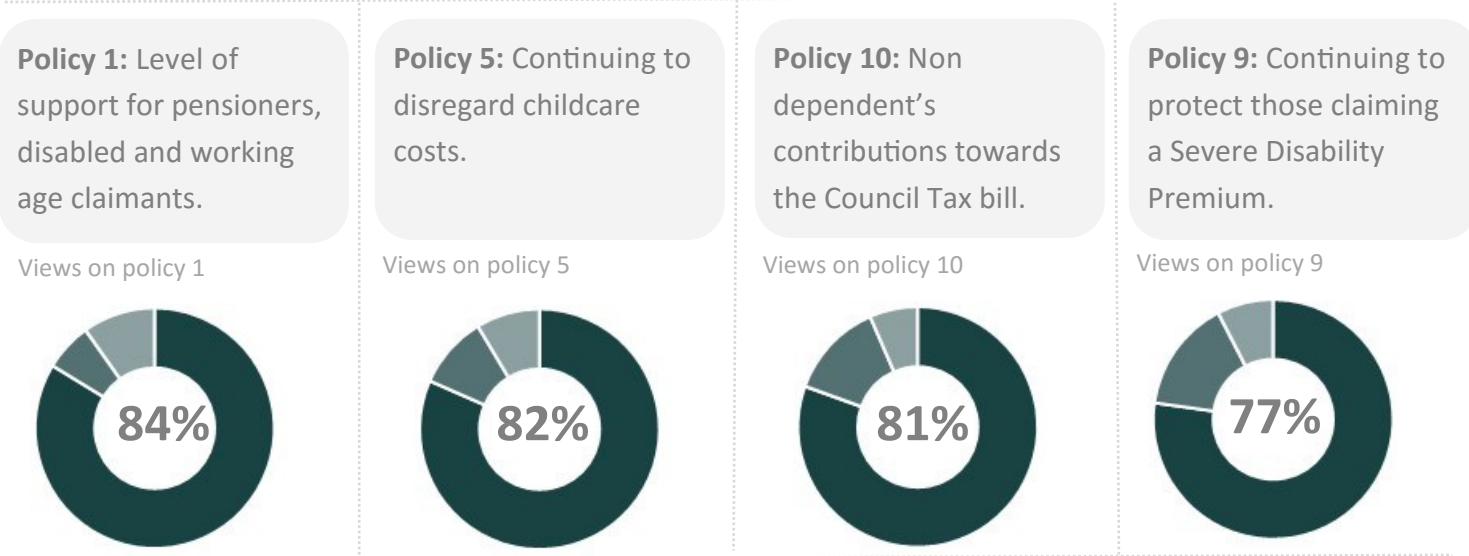
In total, 92 individuals shared their views in Tamworth Borough Council’s consultation on its Local Council Tax Reduction Scheme. The responses included those submitting their views as a ‘resident’, ‘claimant’ or ‘friend/relative of a claimant’. Whilst the responses cannot be considered statistically robust, they do provide meaningful insight on the policies, proposed changes and impact of change.

**Principles:** There was a ‘high’ level of support for both principles with 86% agreeing with key principle 1: ‘Every household with working age members should pay something towards their Council Tax bill’ and 84% agreeing with key principle 2: ‘The Local Council Tax Reduction Scheme should encourage people to work’.

**Policies:** The level of endorsement attributed to each of the policies was varied. Policy 1 which provides total protection for pensioners and working age claimants classed as severely disabled received most support. Least endorsement was received to Policy 12 on temporary absence claims (when abroad).

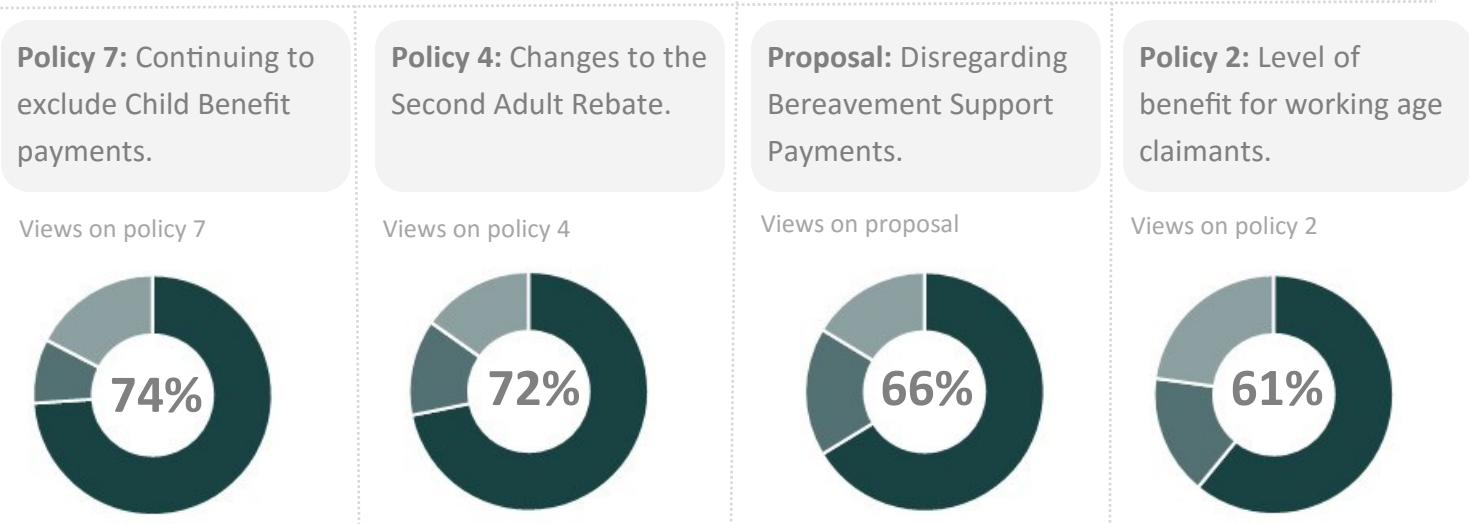
There was a ‘**high**’\* level of endorsement for four out of the twelve policies:

‘HIGH’ LEVEL OF ENDORSEMENT (% agreeing policy is ‘reasonable’)



There was a ‘**moderate**’\* level of support for seven of the twelve policies, also for the new proposal on disregarding Bereavement Support Payments:

‘MODERATE’ LEVEL OF ENDORSEMENT (% agreeing policy or proposal is ‘reasonable’)



\* Where the ‘level of support’ is quoted within this report, this is defined as:

**High:** 75% - 100% agree the proposal to be reasonable

**Some:** 25% - 49% agree the proposal to be reasonable

**Moderate:** 50% - 74% agree the proposal to be reasonable

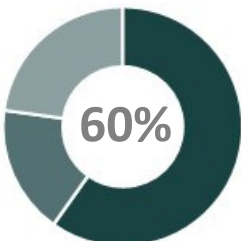
**Low:** 0% - 24% agree the proposal to be reasonable



'MODERATE' LEVEL OF ENDORSEMENT (% agreeing policy is 'reasonable')

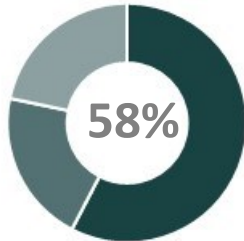
**Policy 3:** Council Tax Reduction and Property Band.

Views on policy 3



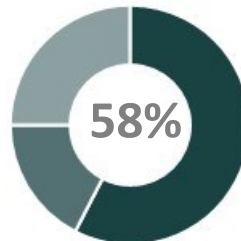
**Policy 11:** Backdating claims.

Views on policy 11



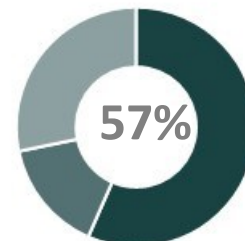
**Policy 6:** Claimants and the level of savings allowed.

Views on policy 6



**Policy 8:** Disregarding maintenance payments as income.

Views on policy 8

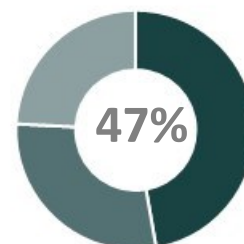


'SOME' ENDORSEMENT (% agreeing policy is 'reasonable')

There was **'some'**\* support for policy 12, on allowing temporary absence claims for up to four weeks when a claimant has gone abroad. Respondents commenting on this policy generally felt that if claimants could afford to go abroad, then they should be able to afford to pay their council tax. There was some recognition that this policy would support family visits, travel abroad for medical purposes. Some agreed it would probably make administering the scheme far too complex and expensive, if claimants had to report any overseas visits for short amounts of time.

**Policy 12:** Temporary absence claims (when abroad).

Views on policy 12



**Change in views:**

The proportion of working age claimants supporting policy 2, on the level of benefit for working age claimants has reduced from 'high' to moderate' over time.

**Impact of the changes**

Changes to Council Tax Benefit can affect individuals and key groups in society and consequently these impacts were a key component of this research. Of the survey respondents, 56% indicated that the changes had a 'low' impact upon them, 27% said the impact had been 'medium' and 17% said it had been 'high'. Those respondents who received a Council Tax reduction were more likely to feel that the impact upon them was 'high' or 'very high' (22%) when compared to non Council Tax Benefit claimants (14%).

Whilst caution should be applied to statistical analysis of these responses, as the level of responses was relatively low (92 responses were received), research by the Joseph Rowntree Foundation<sup>1</sup> does suggest that claimants are more likely to be affected and it outlines the wider impacts which claimants are likely to face.

<sup>1</sup> The Impact of Localising Council Tax Benefit, Joseph Rowntree Foundation, March 2013.

\* Where the 'level of support' is quoted within this report, this is defined as:

**High:** 75% - 100% agree the proposal to be reasonable **Page 47** **Some:** 45% - 49% agree the proposal to be reasonable

**Moderate:** 50% - 74% agree the proposal to be reasonable **Low:** 0% - 24% agree the proposal to be reasonable

## 2.1 INTRODUCTION

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Since April 2013, local authorities have administered a Local Council Tax Reduction Scheme for those of working age, on behalf of the government. A scheme with national rules continues for pensioners, which is also delivered by local authorities.

The government still provides funding for localised schemes, but since April 2013 this funding has been reduced. In 2012, 2014, 2015 and 2016 there was public consultation to gauge views about the local scheme.

This year Tamworth is proposing to make one amendment to the scheme. It is recommending that from April 2018, Bereavement Support Payments will be completely disregarded as income. This consultation is seeking views on this change and on the scheme itself which has been in operation since April 2013.

This report has been produced by Staffordshire County Council on behalf of Tamworth Borough Council and brings together analysis and key themes of all responses received.

## 2.2 METHODOLOGY

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The Council launched its consultation on Monday 21st August and respondents were provided with a twelve week window in which they could respond by electronic survey. The deadline for responses was Friday 10th November 2017.

The consultation was widely promoted using the following methods;

- Press releases in the local newspaper, The Tamworth Herald
- Tamworth Borough Council website (prominent feature on the homepage)
- Twitter
- Facebook
- Tamworth Borough Council blog
- Gov delivery
- E-mailed to TBC citizens panel
- E-mailed to TBC tenants, (Open House e-zine recipients)
- Tamworth Informed
- Touch FM
- TCR FM
- BBC Radio WM

## 2.3 RESPONDENT PROFILE

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A total of 92 respondents completed the online survey. This equates to 0.2% of the adult population of Tamworth<sup>2</sup> and compares similarly to last years response rate of 84 responses.

Whilst the responses cannot be considered statistically robust, they do provide meaningful insight on the policies, proposed changes and impact of change.

A full respondent profile can be found in the Appendix. Some key points about respondents include:

- The majority of the respondent group 98% (89 respondents) identified themselves as a resident of Tamworth.
- Responses also included relatives of Council Tax Reduction claimants (7% or six respondents), friends of Council Tax Reduction claimants (4% or four respondents), private landlords and voluntary organisations (1% or one respondent each).
- 35% (32 respondents) claimed one or more benefits and the highest proportion of claims were made for each of the following; Disability Living Allowance/Personal Independence Payment (17 claimants), Child Benefit (12 claimants) and Housing Benefit (11 claimants).
- Participating households were most likely to include; households with full and/or part time workers (32% or 29 respondents), single person households or couples without children (22% or 20 respondents) and households that included someone with a disability (16% or 14 respondents).
- The respondent group consisted of largely older people with 63% or 57 respondents being aged 55 or above.

<sup>2</sup> The adult population of Tamworth includes those residents who are aged 18 and above in the Mid Year Population Estimates, 2016 (MYPE, 2016).

### 3. RESULTS - KEY PRINCIPLES

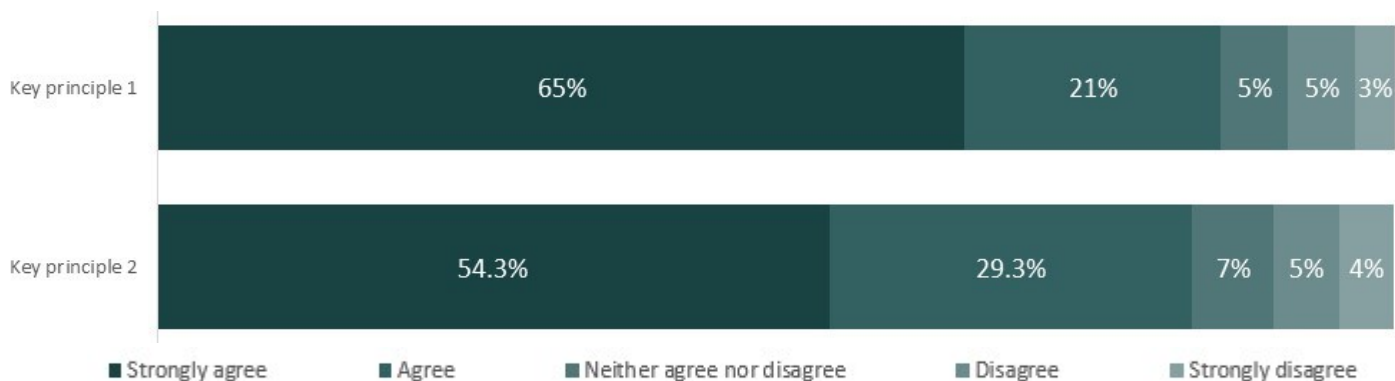
Respondents were invited to indicate whether they agreed or disagreed with the following key principles:

**Key Principle 1:** Every household with working age members should pay something towards their Council Tax bill.

**Key Principle 2:** The Local Council Tax Reduction Scheme should encourage people to work.

As the graph below illustrates, there was a ‘high’ level of support from each of the two key principles with 86% of respondent agreeing with Key Principle 1 and 84% agreeing with Key Principle 2. In both cases, over half of all respondents stipulated that they strongly agreed with the principles. A ‘high’ level of agreement has also been achieved in previous year’s consultation results.

Figure 3.1: Views on the key principles (%) Base: 92 respondents



### 4. RESULTS - POLICIES

**Local Council Tax Reduction Scheme Policy 1:**  
 Pensioners, claimants classed as severely disabled, claimants with disabled children and claimants receiving a War Pension or Armed Forces Compensation Scheme payment are the only claimants that receive support for up to 100% of their Council Tax bill. All other working age claimants pay something towards their Council Tax bill and applicable amounts continue to be aligned with those of Housing Benefit.

There was a ‘high’ level of support for policy 1, with 84% of respondents feeling that it was ‘reasonable’. Half of this proportion (50%) felt that it was ‘very reasonable’. Trend data reflects that there has been a consistently ‘high’ level of support for this policy over time.

Figure 4.1: Views on Local Council Tax Reduction Scheme Policy 1 (%) Base: 92 respondents



\* Where the ‘level of support’ is quoted within this report, this is defined as:

**High:** 75% - 100% agree the proposal to be reasonable Some: 25% - 49% agree the proposal to be reasonable

**Moderate:** 50% - 74% agree the proposal to be reasonable **Low:** 0% - 24% agree the proposal to be reasonable

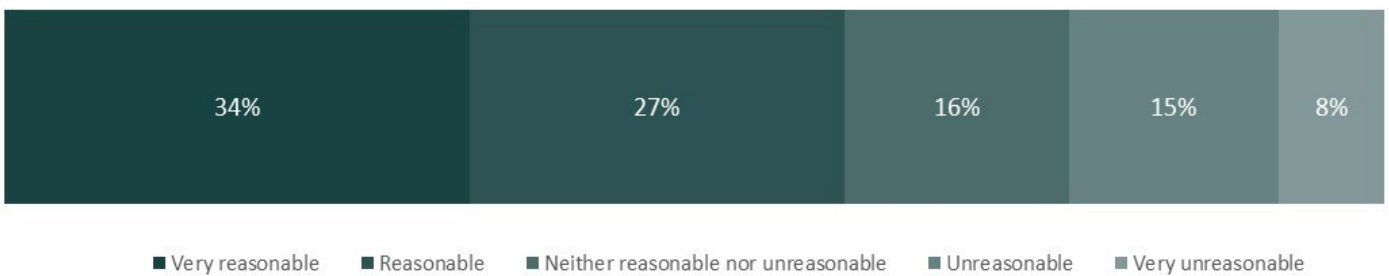
### Local Council Tax Reduction Scheme Policy 2:

All working age claimants that are not protected have to pay at least 25% of their Council Tax bill. To mitigate future grant reductions, the scheme could ask working age claimants to pay at least 30% of their Council Tax bill. This means that working age claimants who are not protected would get less help than they do now.

There was a 'moderate' level of support for this policy with 61% feeling that it was 'reasonable' for those working age claimants who are not protected to pay at least 25% of their Council Tax bill. Trend data reflects that there has previously been a 'high' level of support for this policy.

Figure 4.2: Views on Local Council Tax Reduction Scheme Policy 2 (%)

Base: 92 respondents



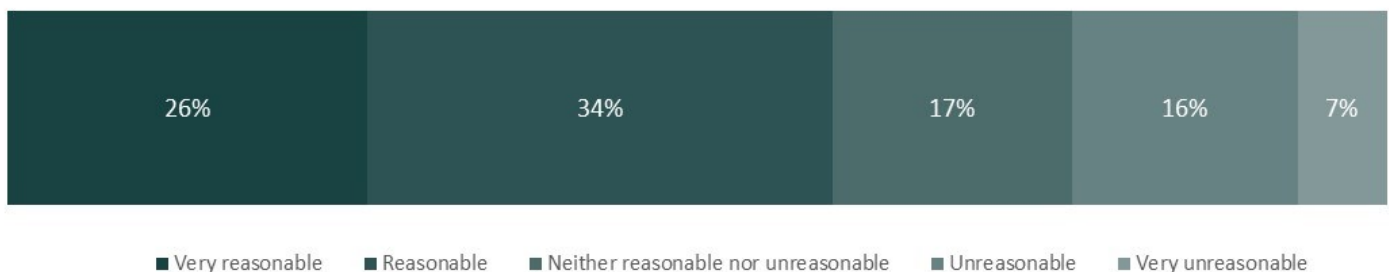
### Local Council Tax Reduction Scheme Policy 3:

Council Tax Reduction is limited to the level that is given for a smaller house. We limit the maximum support offered based on 75% of the Council Tax bill for a Band D property, even if the claimant lives in a property with a higher banding than D. This means that any claimant who lives in a property with a banding higher than D has their Reduction calculated as if they lived in a Band D property.

There was a 'moderate' level of support for this policy with 60% of respondents feeling that it was 'reasonable'. Whilst the percentage of respondents agreeing with this option has fluctuated somewhat in recent years, previous consultation results have still reflected a 'moderate' level of support.

Figure 4.3: Views on Local Council Tax Reduction Scheme Policy 3 (%)

Base: 92 respondents



\* Where the 'level of support' is quoted within this report, this is defined as:

**High:** 75% - 100% agree the proposal to be reasonable

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**Some:** 25% - 49% agree the proposal to be reasonable

**Moderate:** 50% - 74% agree the proposal to be reasonable

**Low:** 0% - 24% agree the proposal to be reasonable

### Local Council Tax Reduction Scheme Policy 4:

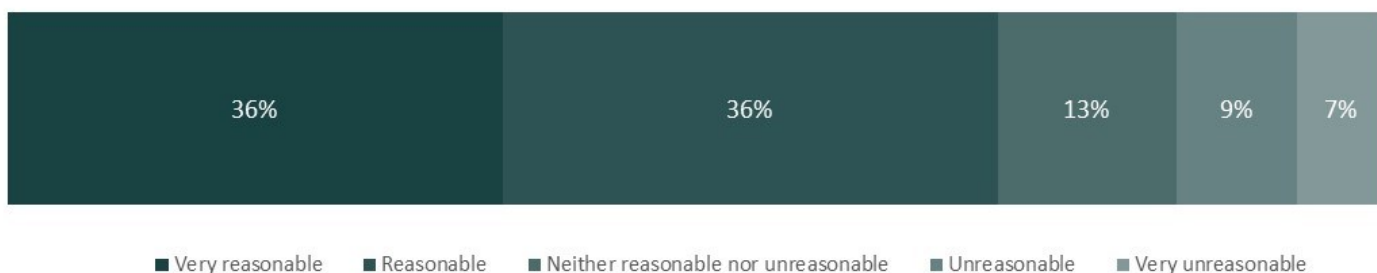
Before April 2013, some customers were not entitled to Council Tax Benefit in their own right because their own income was too high or they had too much in savings. However, they could claim a Second Adult Rebate, for a reduction of up to 25% off their bill, because they had another adult living with them who was on a low income.

From April 2013, Second Adult Rebate was removed under the Local Scheme. This means that all those of Working Age who were previously entitled to a Second Adult Rebate have to pay 100% of their Council Tax bill (Second Adult Rebate can still be claimed by pensioners as it is in the national rules).

There was a 'moderate' level of support for this policy, with 72% of respondents feeling that it was 'reasonable'. In previous years there has been a 'moderate' to 'high' level of support for this policy.

Figure 4.4: Views on Local Council Tax Reduction Scheme Policy 4 (%)

Base: 92 respondents



### Local Council Tax Reduction Scheme Policy 5:

Child care costs are allowed as an expense when calculating Council Tax Reduction. This does not contribute to any reductions but provides an incentive for parents to stay in work or return to work.

There was a 'high' level of support for this policy (82%) and in previous consultations a 'moderate' to 'high' level of support has also been achieved for allowing child care costs as an expense.

Figure 4.5: Views on Local Council Tax Reduction Scheme Policy 5 (%)

Base: 92 respondents



\* Where the 'level of support' is quoted within this report, this is defined as:

**High:** 75% - 100% agree the proposal to be reasonable **Some:** 25% - 49% agree the proposal to be reasonable

**Moderate:** 50% - 74% agree the proposal to be reasonable **Low:** 0% - 24% agree the proposal to be reasonable

### Local Council Tax Reduction Scheme Policy 6:

Claimants are able to have savings of up to £16,000 and still receive support towards their Council Tax Bill.

There was a 'moderate' level of support for this policy, with over half of respondents agreeing that it was 'reasonable' to have savings and still receive support towards their Council Tax Bill. In previous years there has been 'some' or a 'moderate' level of support for this policy.

Figure 4.6: Views on Local Council Tax Reduction Scheme Policy 6 (%)

Base: 92 respondents



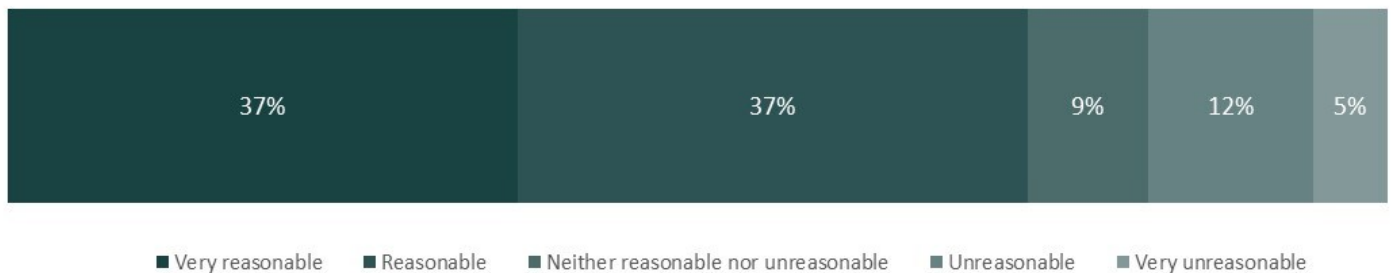
### Local Council Tax Reduction Scheme Policy 7:

Child Benefit is not included as income when calculating a claimant's Council Tax Reduction entitlement.

There was a 'moderate' level of support for this policy, with nearly three quarters (74%) of respondents agreeing that Child Benefit should not be included as income when calculating a claimant's entitlement. In previous years there has also been a 'moderate' level of support for this policy.

Figure 4.7: Views on Local Council Tax Reduction Scheme Policy 7 (%)

Base: 92 respondents



\* Where the 'level of support' is quoted within this report, this is defined as:

**High:** 75% - 100% agree the proposal to be reasonable

Page 53

**Some:** 25% - 49% agree the proposal to be reasonable

**Moderate:** 50% - 74% agree the proposal to be reasonable

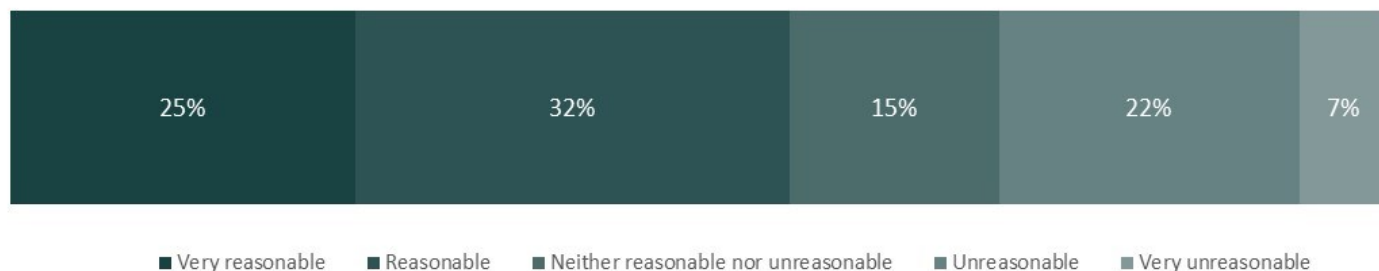
**Low:** 0% - 24% agree the proposal to be reasonable

### Local Council Tax Reduction Scheme Policy 8:

We disregard maintenance payments as income when calculating a Working Age claimant's Council Tax Reduction entitlement to provide an incentive for parents to stay in work or return to work.

There was a 'moderate' level of support for this policy with 57% of respondents feeling that it was fair to disregard maintenance payments as income when calculating a Working Age Council Tax claimants entitlement. From the comparable trend data which is available<sup>3</sup>, a 'moderate' level of support has also been evident for this policy.

Figure 4.8: Views on Local Council Tax Reduction Scheme Policy 8 (%) Base: 92 respondents

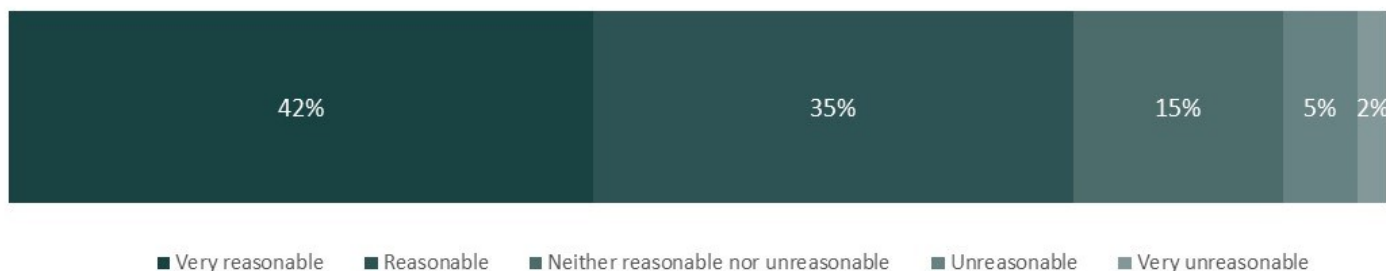


### Local Council Tax Reduction Scheme Policy 9:

If a Working Age person receives Disability Living Allowance, a Care Component may be added if they require help with day to day tasks or if they need frequent personal care. A lower, middle or higher rate is paid depending on the care needs of the claimant. A Severe Disability Premium is also payable if a Working Age person (and their partner if they have one) receives a Personal Independence Payment at the Enhanced Daily Living rate and no one lives with them and no one receives a Carers Allowance for looking after them. Claimants who are eligible to Severe Disability Premium can receive a Reduction for up to 100% of their Council Tax bill.

There was a 'high' level of support for this policy with 77% of respondents saying they were in agreement with it. In previous years, a 'high' level of support has also been evident.

Figure 4.9: Views on Local Council Tax Reduction Scheme Policy 9 (%) Base: 92 respondents



<sup>3</sup> Comparable data from 2016 only is available for this policy. Before this date, maintenance payments were included when calculating a Working Age claimants Council Tax Reduction entitlement.

\* Where the 'level of support' is quoted within this report, this is defined as:

**High:** 75% - 100% agree the proposal to be reasonable **Some:** 25% - 49% agree the proposal to be reasonable

**Moderate:** 50% - 74% agree the proposal to be reasonable **Low:** 0% - 24% agree the proposal to be reasonable



### Local Council Tax Reduction Scheme Policy 10:

Any non-dependants living in a Working Age claimant's household are expected to contribute towards the Council Tax bill. If the non-dependant is not working then their contribution would be £5 per week. If the non-dependant is working then their contribution would be a £10 per week.

There was a 'high' level of support for this policy with 81% agreeing that it was 'reasonable' for non-dependents living in a Working Age claimants household to contribute towards the Council tax bill. In previous years, there has been a 'moderate' to 'high' level of support for this policy.

Figure 4.10: Views on Local Council Tax Reduction Scheme Policy 10 (%)

Base: 92 respondents



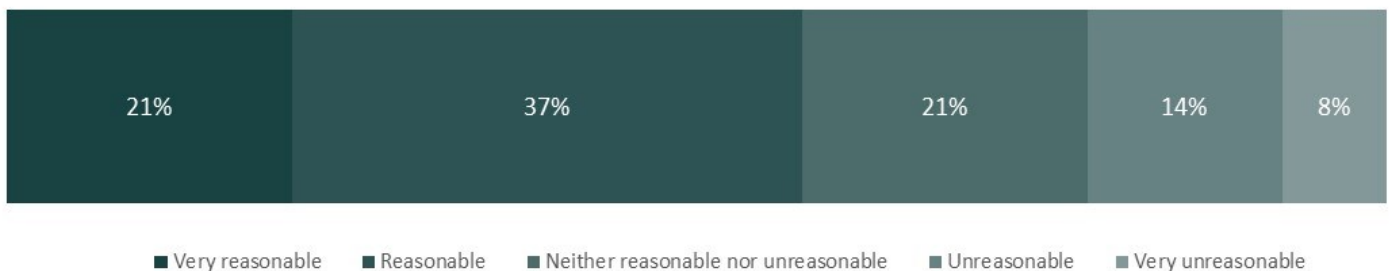
### Local Council Tax Reduction Scheme Policy 11:

From April 2016, the scheme was amended to allow a claim to be backdated for up to one month only.

There was a 'moderate level of support for this policy with 58% agreeing that it was 'reasonable' to allow claims to be backdated for up to one month only. Trend data for 2016 is available and at this time, a 'high' level of support was attributed to this policy.

Figure 4.11: Views on Local Council Tax Reduction Scheme Policy 11 (%)

Base: 92 respondents



\* Where the 'level of support' is quoted within this report, this is defined as:

**High:** 75% - 100% agree the proposal to be reasonable

**Some:** 25% - 49% agree the proposal to be reasonable

**Moderate:** 50% - 74% agree the proposal to be reasonable

**Low:** 0% - 24% agree the proposal to be reasonable

### Local Council Tax Reduction Scheme Policy 12:

From April 2017 the scheme was amended to allow a claim to be paid for up to 4 weeks of temporary absence only when the claimant (and any partner) have gone abroad.

There was 'some' support for this policy and the trend data available from 2016, reflected a 'moderate' level of support for this policy.

Figure 4.12: Views on Local Council Tax Reduction Scheme Policy 12 (%)

Base: 91 respondents



Respondents were offered the opportunity to comment on this policy and a small proportion (13 respondents) chose to do so. The diversity of those opinions expressed has been illustrated below.

*"If people could afford to go on holiday abroad then they could also afford to pay all of their own bills, taxes and dues".* These respondents generally felt that *"the policies were already too generous"*.

There was some recognition that *"if claimants had to report any overseas visits for short amounts of time, this would probably make administering the scheme far too complex and expensive"*. Other respondents who were also supportive of the scheme, were appreciative of the fact that it *"allowed people to visit families abroad"* and to *"travel abroad for medical purposes"*. These respondents also suggested that longer concessions could be considered for those individuals who may need to be *"in hospital long term"* abroad.

### Bereavement Support Payments proposal

It is proposed from April 2018 to disregard in full Bereavement Support Payments.

There was a 'moderate' level of support for this proposal with 66% agreeing that this was 'reasonable'. 17% felt it was 'neither reasonable nor unreasonable' with the smallest proportion of respondents (16%) believing it was 'unreasonable'.

Figure 4.13: Views on Bereavement Support Payments (%)

Base: 92 respondents



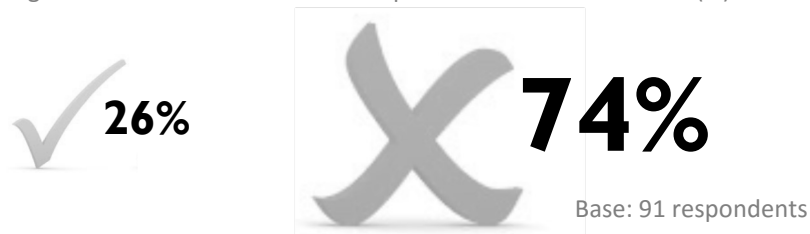
## 5. IMPACT OF THE CHANGES

Respondents were asked a series of questions to ascertain how they felt the changes implemented from April 2013 have impacted on both their individual circumstances as well as some of the key groups. This section displays the results from these questions.

As figure 5.1 displays, the majority of respondents, 74% (or 67 respondents) did not live in a household which receives Council Tax Reduction.

### Does your household receive Council Tax Reduction?

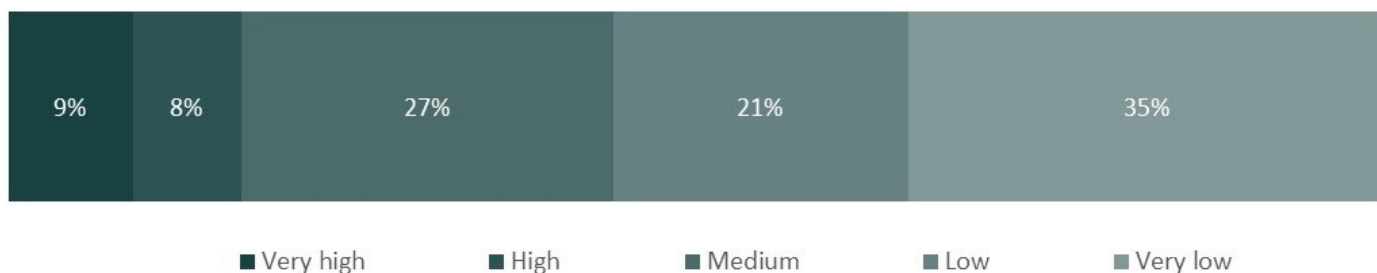
Figure 5.1: % of households in receipt of Council Tax Reduction (%)



Consequently, as the graph below shows, the impacts felt on individuals financial situations have been 'low' for the largest proportion of respondents. 17% of respondents felt the changes had had a 'very high' or 'high' impact upon them.

Figure 5.2: % impacted by the changes from April 2013:

Base: 89 respondents



Respondents were encouraged to share any comments they had. Responses shared were varied and included views/personal experiences of the scheme as well as comments on both the benefits system and on how council tax should be spent more generally.

Reflections on overall support for the scheme included *"as a household with two working adults and two under 18's in full time education we receive no state benefits but recognise the need for a safety net for those who cannot work"*. Another who had undergone a *"great many personal changes in the last three years had found Tamworth Borough Council to be very helpful"*. A further respondent who was supportive of the scheme felt that the trick was *"to help those who actually need this help and weed out those who simply play the system"*.

Others were struggling to make ends meet, were not eligible or did not know about the scheme. For example:

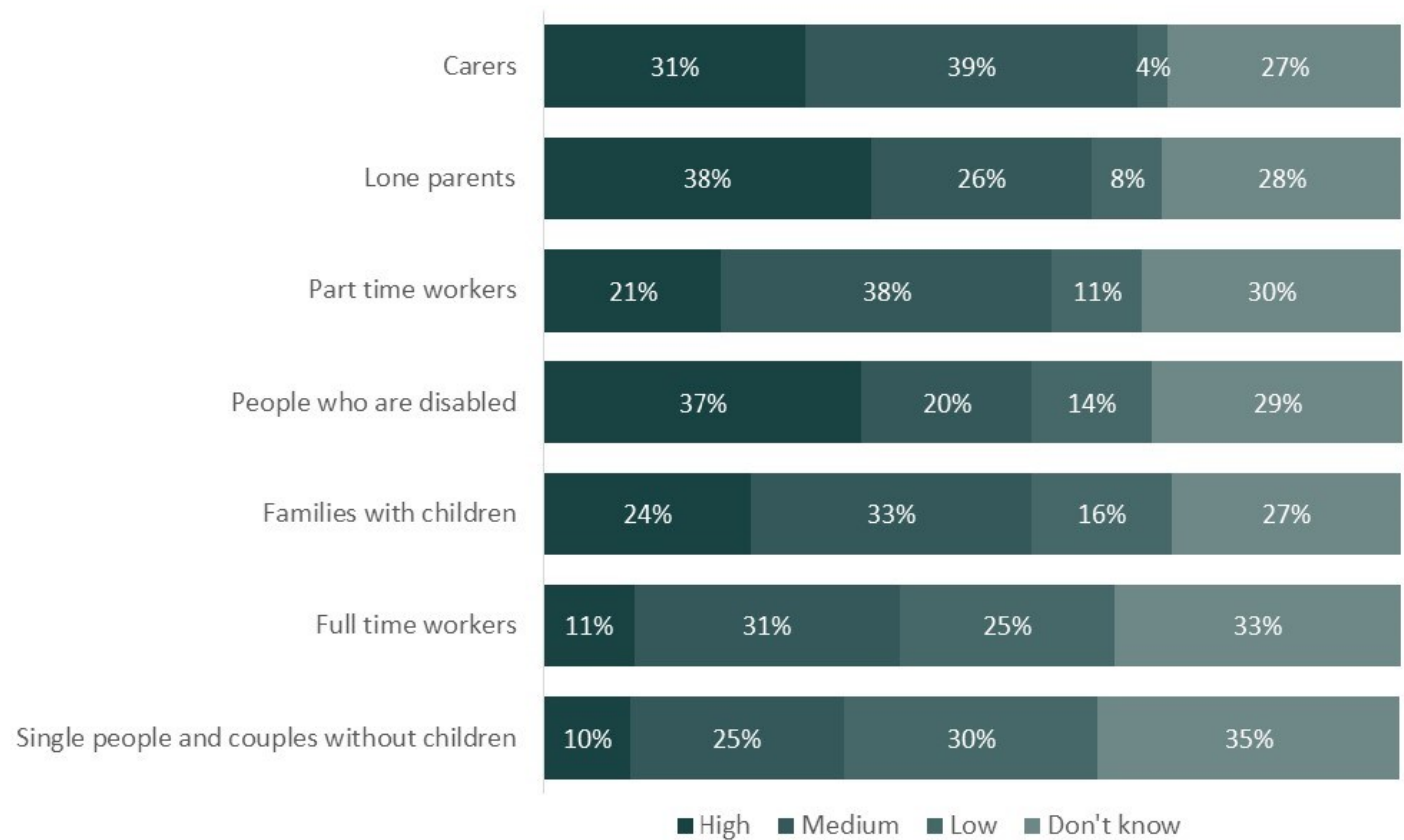
*"I am a 72 year old pensioner and because I receive £18 a week company pension as well as my state pension. I cannot claim council tax reduction nor can I claim pension credit. I find it a struggle to pay bills"* and *"Council Tax is far too high and expensive and other bills are now a struggle as my partner has been out of work and I have been on maternity but the help and support received is shocking and I didn't even know about the Council Tax reduction, I've never been informed"*.

A further reflection of the wider scheme included one respondent feeling aggrieved that they pay council tax but feel that cleanliness and tidiness within the private area is an increasingly common issue.

## What level of impact have the changes had on you and your household?

The graph below illustrates that a sizeable proportion of respondents felt the changes would impact on a range of person types including 'lone parents', 'disabled people', 'carers' and 'part time workers'. It also reflects that one quarter or more were unable to assess the impact of change on each of the person types.

Figure 5.3: Impact of the scheme by person type (%)



When asked whether they felt there could be any other groups affected by these changes, the following answers were given:

**The long term unemployed:** *"They are trying to live on ever decreasing benefits whilst inflation continues to rise. They are made to make every effort to find work but some are just unable to do so. The 25% contribution is too high and although there needs to be a contribution by working age people, it should be drastically reduced. This can lead to bailiff charges being added to the 25% contribution, a ridiculous situation when food banks are so busy these days. If people can't pay for food, how can they pay increased taxes? The money just does not exist".*

**Households with more than one Personal Independence Payment or Disability Living Allowance claimant:** *"People should be helped where there are two people in the home both receiving PIPS or DLA".*

**Pensioners:** *"Pensioners on State Pension and small Defined Occupational Pensions may well be eligible without knowing it".*

**Families with working age children:** *"Families with working age children who can't be bothered to work - obvious they do exist!"*

## 5. APPENDIX I: ABOUT YOU, RESPONDENT PROFILE

### Are you a resident of Tamworth?

Base: 91		Survey responses	
	No's	%	
Yes	89	98%	
No	2	2%	

### Do you regularly provide unpaid support caring for someone?

Base: 87		Survey responses		Tamworth 2011 Census comparison
	No's	%		%
Yes	28	32%		11%
No	59	68%		89%

### Are you submitting your views as....

Base: 92		Survey responses				
	No's	%		No's	%	
Voluntary organisation	1	1%		Nationally/locally elected member/MP	0	0%
Community group	0	0%		Partner organisation	0	0%
Housing Association	0	0%		Resident of Staffordshire	68	74%
Private landlord	1	1%		Resident outside of Tamworth	0	0%
A relative of a Council Tax Reduction claimant	6	7%		None of these	9	10%
A friend of a Council Tax Reduction claimant	4	4%		Other	0	0%

### Does your household receive any of the following?

Base: 32		Survey responses	
	No's	%	
Attendance Allowance	1	3%	
Carers Allowance	5	16%	
Child Benefit	12	38%	
Child Tax Credit	6	19%	
DLA/PIP	17	53%	
Housing Benefit	11	34%	
Income Support	1	3%	
Job Seekers Allowance	1	3%	
Employment Support Allowance	9	28%	

### Do any of the following describe your household?

Base: 92		Survey responses	
	No's	%	
A family with one or two dependant children	10	11%	
A family with three or more dependent children	4	4%	
A lone parent household	2	2%	
A household with full and/or part-time workers	29	32%	
A household that includes someone who is disabled	14	15%	
A single person household or a couple without children	20	22%	
None of these	21	23%	

### Does your name appear on the Council Tax bill for your household?

Base: 89		Survey responses				
	No's	%		No's	%	
Yes	86	97%		Don't know	1	1%
No	2	2%				

## 6. APPENDIX 2: DEMOGRAPHIC MONITORING QUESTIONS

### Are you male or female? (18+ population)

Base: 90	Survey responses		Tamworth MYE 2016
	No's	%	%
Female	41	46%	52%
Male	47	52%	48%
Prefer not to say	2	2%	N/A

### Do you consider yourself to have a disability?

Base: 88	Survey responses		Tamworth 2011 Census comparison
	No's	%	%
Yes	28	32%	18%
No	54	61%	82%
Prefer not to say	6	7%	N/A

### What type of disability do you have?

Base: 28	Survey responses	
	No's	%
Communications	2	7%
Hearing	4	14%
Learning	0	0%
Mental Health	4	14%
Mobility	10	36%
Physical	11	39%
Visual	1	4%
Other	8	29%

### Are you receiving a Retirement Pension or Pension Credit?

Base: 89	Survey responses	
	No's	%
Yes	34	38%
No	50	56%
Prefer not to say	5	6%

### What is your age?

Base: 90	Survey		Tamworth MYE 2016
	No's	%	%
18-24	2	2%	10%
25-34	6	7%	17%
35-44	5	6%	16%
45-54	18	20%	19%
55-64	29	32%	16%
65-74	27	30%	14%
75+	1	1%	9%
Prefer not to say	2	2%	N/A

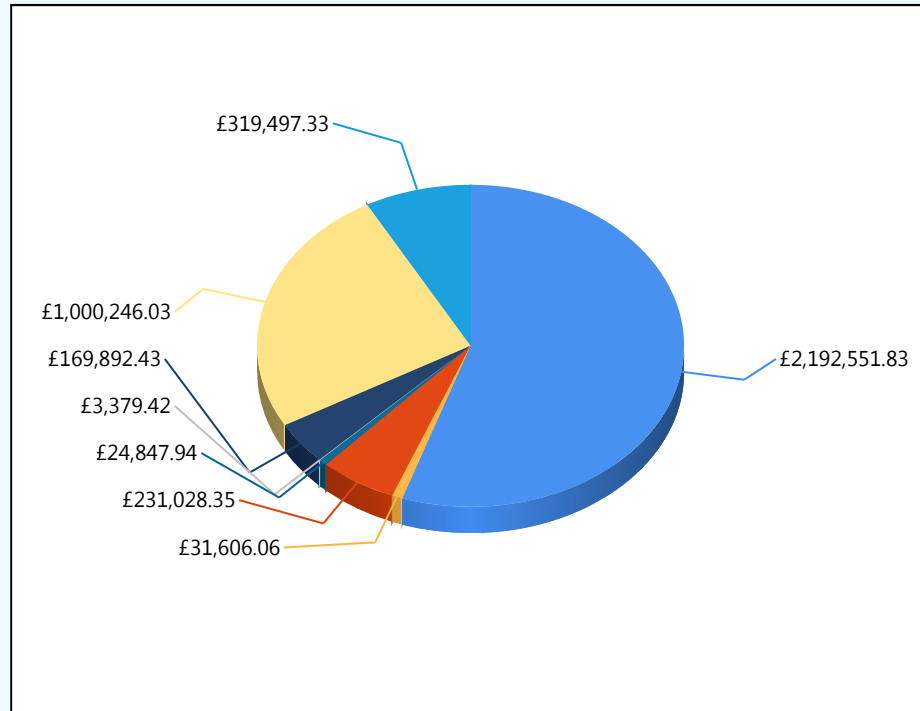
### What is your ethnicity?

Base: 89	Survey responses		Tamworth 2011 Census comparison
	No's	%	%
Asian/Asian British	0	0%	1%
Black/Black British	2	2%	1%
Mixed Heritage	0	0%	1%
White - British	77	87%	95%
White - Other	3	3%	2%
Prefer not to say	4	5%	N/A
Other	3	3%	0.1%

### What is your relationship status?

Base: 89	Survey responses		Tamworth 2011 Census comparison*
	No's	%	%
Single	22	25%	32%
Married	53	60%	49%
Living as a couple	8	9%	N/A
Civil Partnership	1	1%	0.1%
None of these	3	3%	N/A
Prefer not to say	2	2%	N/A

CTS Expenditure as of 2017-2018



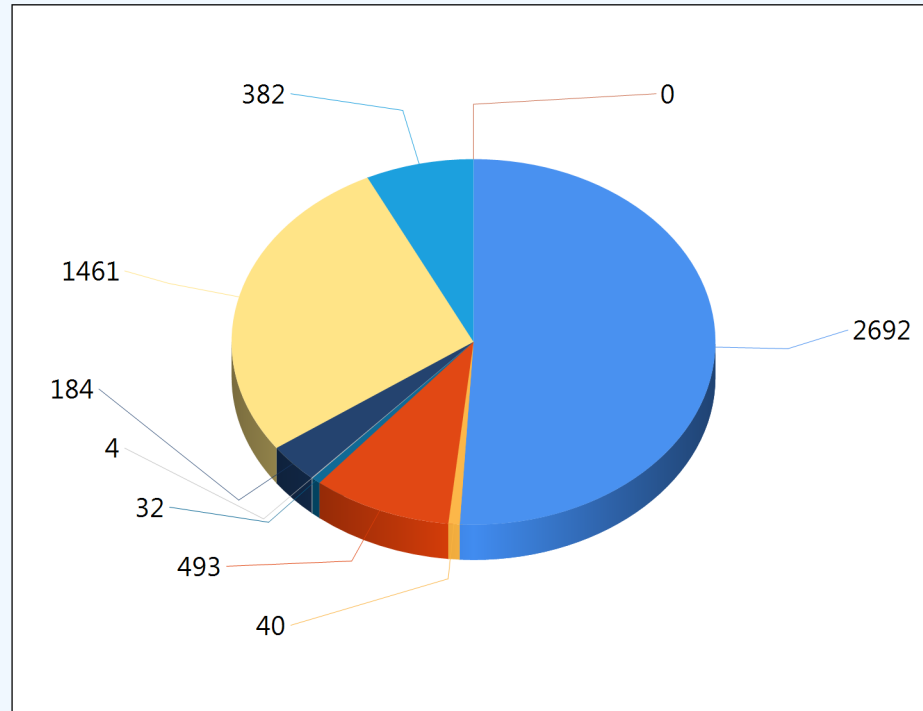
**Group Description**

- Elderly
- Working Age-Non-Passported-Disabled Child Premium
- Working Age-Non-Passported-Other
- Working Age-Non-Passported-Severe Disability
- Working Age-Non-Passported-War Pensioners
- Working Age-Non-Passported-Disabled Child Premium
- Working Age-Non-Passported-Other
- Working Age-Non-Passported-Severe Disability

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CTS Caseload as of 02.10.2017



**Group Legend**

- Elderly
- Working Age-Non-Passported-Disabled Child Premium
- Working Age-Non-Passported-Other
- Working Age-Non-Passported-Severe Disability
- Working Age-Non-Passported-War Pensioners
- Working Age-Passported-Disabled Child Premium
- Working Age-Passported-Other
- Working Age-Passported-Severe Disability
- Working Age-Passported-War Pensioners

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## Equality Impact Assessment Template – Protecting Pensioner Cases and Severely Disabled Working Age Claimants

Name of policy/ procedure/ practice to be assessed	Introduction of Localised Council Tax Support (Council Tax Reduction)		Date of Assessment	October 2016	
Is this a new or existing policy/ procedure/ practice?	New	Officer responsible for the Assessment	Karen Taylor Head of Benefits	Department	Benefit Services
1. Briefly describe the aims, objectives and purpose of the policy/ procedure/ practice?	<p>The national Council Tax Benefit (CTB) scheme came to an end on 1<sup>st</sup> April 2013 was replaced by a locally determined system of Council Tax Reduction (CTR). The funding available for the new scheme will be cash limited. The aim of the new support scheme is to provide financial assistance to council taxpayers who have low incomes.</p> <p>Persons who are of state pension age are protected under the scheme in that the calculation of the reduction they receive has been set by Central Government.</p> <p>For working age applicants however the help they receive is to be determined by the local authority.</p> <p>This equality impact assessment looks at the ongoing potential for <b>not only</b> protecting pensioners (as required under the legislation) <b>but also</b> providing full support to all working age claimants who are considered <b>severely disabled</b> within the current Council Tax Benefit scheme. The definition of severely disabled is where the claimant or partner is in receipt of a <b>severe disability premium</b>, within either their Council Tax Reduction, Housing Benefit or other means tested benefit;</p> <p>The objective in continuing to adopt this policy would be to protect a specific section of the existing claimant group deemed to be highly vulnerable and independently verified as being the most seriously sick and not likely to be able to obtain work.</p> <p>The main issue for the Council is that the funding for support has been reduced</p>				

	<p>significantly. However exempting this one additional group (bearing in mind that pensioners are already protected under the scheme by Central Government) would increase the shortfall in funding to be borne by working age claimants who are not deemed severely disabled.</p> <p>Central Government has not been prescriptive in how an authority should protect vulnerable groups but points to the Council's existing responsibilities including the Child Poverty Act 2010, the Disabled Person Act 1986 and the Housing Act 1996 as well as the public sector equality duty in section 149 of the Equality Act 2010. No definition has been given as to the level of disability which would lead to protection being given, although it is acknowledged that where a person is in the longer term able to undertake work, that they should be incentivised to do so. This would not apply to those who are deemed severely disabled.</p> <p>The current level of assistance provided to pension age claimants and to working age severely disabled claimants is given at the end of this assessment.</p>
<p><b>2. Are there any associated policy/ procedure/ practice which should be considered whilst carrying out this equality impact assessment?</b></p>	<p>The authority is required to continue maintaining a full Housing Benefit scheme and also to continue to process claims for benefit alongside the introduction of the new scheme for Council Tax Reduction.</p>
<p><b>3. Who is intended to benefit from this policy/ procedure/ practice and in what way?</b></p>	<p>All persons within the Borough who have a low income may apply for support and assistance with their Council Tax.</p> <p>By making an application, providing evidence of their income and household circumstances, their potential entitlement for support will be calculated in line with Central Government prescribed requirements for the Council Tax Reduction scheme.</p> <p>In the case of all claimants, it will be essential for the authority to correctly process claims for support based on the regulatory requirements and to ensure that all existing benefit claimants continue to receive support through the transition and onwards.</p>

<p><b>4. What are the desired outcomes from this policy/ procedure/ practice?</b></p>	<p>The desired outcomes are as follows;</p> <p><b>Pension Age Claimants</b></p> <ul style="list-style-type: none"> <li>• That existing pensioner claimants for Council Tax Benefit (up until 31<sup>st</sup> March 2013) were successfully transferred to the new Council Tax Reduction scheme;</li> <li>• That all pensioners receive the level of support required by regulations set by Central Government (Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2012);</li> <li>• That all new pensioner claimants or existing working age claimants who rise to pension age are able to receive Council Tax Reduction in line with the regulations; and</li> <li>• That all pensioner claimants continue to receive the correct level of support at all times.</li> </ul> <p><b>Severely Disabled Working Age Claimants</b></p> <ul style="list-style-type: none"> <li>• That existing severely disabled working age claimants who attract a Severe Disability Premium for Council Tax Benefit (up until 31<sup>st</sup> March 2013) were successfully transferred to the new Council Tax Reduction scheme;</li> <li>• That all working age severely disabled claimants who attract a Severe Disability Premium continue to receive the level of support previously provided under the Council Tax Benefit scheme</li> <li>• That all new working age severely disabled claimants who attract a Severe Disability Premium or existing working age claimants who become severely disabled and attract a Severe Disability Premium are able to receive Council Tax Reduction in line with the previous Council Tax Benefit scheme; and</li> <li>• That all working age severely disabled claimants who attract a Severe Disability Premium continue to receive the correct level of support at all times.</li> </ul>
<p><b>5. What factors/ forces could contribute/ detract from the outcomes?</b></p>	<p>There are a number of factors which contribute to the outcomes of the new process namely;</p> <ul style="list-style-type: none"> <li>• That the new Council Tax Reduction scheme broadly replicates the previous Council Tax Benefit scheme for pension age claimants;</li> <li>• That management and staff are experienced in delivering means tested support / benefit schemes; and</li> <li>• That there is on going consultation where required, which ensures that delivery of</li> </ul>

	<p>the scheme is in line with legislative requirements.</p> <p>The factors / forces that could detract from these outcomes are as follows;</p> <ul style="list-style-type: none"> <li>• The failure of Central Government to approve the necessary legislation on time;</li> <li>• The failure of the Council’s software suppliers to deliver the necessary changes to existing software systems to enable the continued processing of the new support; and</li> <li>• The failure to deliver the significant means tested scheme on time.</li> </ul>
<p><b>6. Who are the main stakeholders in relation to the policy/ procedure/ practice?</b></p>	<p>In respect of the pension age and working age severely disabled claimants who attract a Severe Disability Premium for Council Tax Reduction, the main stakeholders are as follows;</p> <p><b>External Stakeholders;</b></p> <ul style="list-style-type: none"> <li>• Major Precepting authorities – County Council, Police Authority and Fire and Rescue Authority;</li> <li>• Parish Councils (local precepting authorities);</li> <li>• Pension Age claimants;</li> <li>• Working age severely disabled claimants</li> <li>• Potential pension age claimants;</li> <li>• Potential working age severely disabled claimants</li> <li>• Interested Groups such as Citizens Advice Bureau, Age Concern and Age UK, Disabled Persons Groups, RNIB, Action on hearing loss etc.</li> <li>• Council Taxpayers generally</li> </ul> <p><b>Internal Stakeholders;</b></p> <ul style="list-style-type: none"> <li>• Staff</li> </ul>
<p><b>7. Which individuals/ groups have been/ will be consulted with on this policy/ procedure/ practice?</b></p>	<p>All major precepting authorities were consulted on the implementation of the new Council Tax Support scheme in 2012.</p> <p>A further full consultation with the public was undertaken August-October 2016 as required by the legislation (Local Government Finance Act 2012). Whilst pension age claimants are protected, the authority still, as part of the consultation process, looked to pension age claimants and pensioners generally</p>

	<p>to respond to the consultation itself.</p> <p>In respect of working age severely disabled claimants who attract a Severe Disability Premium, it was essential to consult with the group as, being of working age, they will be directly affected by any changes decided by the Council.</p> <p>For working age claimants who are not classified as severely disabled within this policy, it was essential that extensive consultation is undertaken to obtain their views given that the level of support they receive will be reduced significantly in relation to the continued alignment of applicable amounts with those of Housing Benefit. This means it is proposed to remove the family premium from any new claims for Council Tax Reduction for new, means tested claimants, from a date to be advised by Central Government (legislation not yet laid).</p> <p>The consultation process was comprehensive and encouraged a full response to the new support scheme itself (notwithstanding the fact that the authority is obliged to implement the scheme determined by Central Government for pension age claimants).</p> <p>Groups representing the disabled or chronically sick were directly consulted as part of the process.</p> <p>Public consultation took place during the period August 2016 until October 2016.</p>	
<p><b>8. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact on racial groups?</b></p>	<p>Y</p>	<p>N ✓</p> <p>This proposed change to Council Tax Reduction should not affect the overall level of support to pension age claimants or working age severely disabled claimants who attract a Severe Disability Premium any differently to all other client groups and there would be <b>no</b> differential impact due to race</p>

<p><b>9. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to gender?</b></p>	Y	N ✓	<p>This proposed change to Council Tax Reduction should not affect the overall level of support to pension age claimants or working age severely disabled claimants who attract a Severe Disability Premium any differently to all other client groups and there would be <b>no</b> differential impact due to gender</p>
<p><b>10. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to them being transgender or transsexual?</b></p>	Y	N ✓	<p>This proposed change to Council Tax Reduction should not affect the overall level of support to pension age claimants or working age severely disabled claimants who attract a Severe Disability Premium any differently to all other client groups and there would be <b>no</b> differential impact due to a person being transgender or transsexual</p>
<p><b>11. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to disability?</b></p>	Y ✓	N	<p>This proposed change to Council Tax Reduction should not affect the overall level of support to pension age claimants any differently to any other client groups and - where there is a Severe Disability Premium, this would maintain the level of support given to working age claimants due to the following;</p> <ul style="list-style-type: none"> <li>• The award of additional premiums for severe disablement;</li> <li>• Disregarding higher levels of income where a claimant is in remunerative work and is severely disabled; and</li> <li>• There is no requirement to have non dependant deductions where a claimant is severely disabled</li> </ul> <p>Likewise any working age claimants who do not attract a Severe Disability Premium would not benefit from the policy any differently to all other client groups and would receive a reduction in support.</p>
<p><b>12. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to sexual orientation?</b></p>	Y	N ✓	<p>This proposed change to Council Tax Reduction should not affect the overall level of support to pension age or working age severely disabled claimants who attract a Severe Disability Premium any differently to all other client groups and there would be <b>no</b> differential impact due to sexual orientation</p>



<p><b>13. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to age?</b></p>	<p>Y ✓</p>	<p>N</p>	<p>This proposed change to Council Tax Reduction should not affect the overall level of support to pension age claimants or working age severely disabled claimants who attract a Severe Disability Premium any differently to all other client groups – <b>however there is a differential impact due to age;</b></p> <p>For working age applicants the reduction they receive is to be determined by the local authority.</p> <p>To provide financial assistance for the scheme, Central Government is to provide funding to each billing authority in England, However the level of funding provided is to be less than the amount currently provided to support the existing Council Tax Benefit scheme.</p> <p>If working age severely disabled claimants who attract a Severe Disability Premium are to be protected in full, along with pension age claimants (as required by Central Government) there would be a decrease in the level of support available to all other working age claimants although this would be a large group over which the reduction could be spread.</p> <p>In the case of Tamworth Borough Council, the shortfall to be borne by working age claimants not deemed to be severely disabled who attract a Severe Disability Premium would amount to 25% per annum</p>
<p><b>14. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to religious belief?</b></p>	<p>Y</p>	<p>N ✓</p>	<p>This proposed change to Council Tax Reduction should not affect the overall level of support to pension age claimants or working age severely disabled claimants who attract a Severe Disability Premium any differently to all other client groups and there would be <b>no</b> differential impact due to religious belief</p>

<p><b>15. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact on Gypsies/ Travellers?</b></p>	<p>Y</p>	<p>N ✓</p>	<p>This proposed change to Council Tax Reduction should not affect the overall level of support to pension age claimants or working age severely disabled claimants who attract a Severe Disability Premium any differently to all other client groups and there would be <b>no</b> differential impact to gypsies or travellers</p>
<p><b>16. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to dependant/caring responsibilities?</b></p>	<p>Y ✓</p>	<p>N</p>	<p>This proposed change to Council Tax Reduction should not affect the overall level of support to pension age claimants or working age severely disabled claimants who attract a Severe Disability Premium any differently to all other client groups</p>
<p><b>17. Are there concerns that the policy/ procedure/ practice <u>could</u> have a differential impact due to them having an offending past?</b></p>	<p>Y</p>	<p>N ✓</p>	<p>This change to Council Tax Reduction should not affect the overall level of support to pension age claimants or working age severely disabled claimants who attract a Severe Disability Premium any differently to all other client groups and there would be <b>no</b> differential impact due having an offending past</p>
<p><b>18. Are there concerns that the policy/ procedure/ practice could have an impact on children or vulnerable adults?</b></p>	<p>Y</p>	<p>N ✓</p>	<p>This proposed change to Council Tax Reduction should not affect the overall level of support to pension age claimants or working age severely disabled claimants who attract a Severe Disability Premium any differently to all other client groups and there would be <b>no</b> differential impact due to children or vulnerable adults being in the household</p>
<p><b>19. Does any of the differential impact identified cut across the equality strands (e.g. elder BME groups)?</b></p>	<p>Y</p>	<p>N ✓</p>	<p>This proposed change to Council Tax Reduction should not affect the overall level of support to pension age claimants or working age severely disabled claimants who attract a Severe Disability Premium any differently to all other client groups and there would be <b>no</b> differential impact identified that cut across equality strands</p>

<p><b>20. Could the differential impact identified in 8 – 19 amount to there being the potential for adverse impact in this policy/ procedure/ practice?</b></p>	<p>Y</p>	<p>N ✓</p>	<p>The adoption of this policy would, for pension age groups and working age severely disabled claimants who attract a Severe Disability Premium have no adverse impacts any differently to all other client groups. However the Council will continue to encourage pensioners and working age disabled persons to make claims for assistance.</p>
<p><b>21. Can this adverse impact be justified:</b></p> <ul style="list-style-type: none"> <li>• <b>on the grounds of promoting equality of opportunity for one group?</b></li> <li>• <b>For any other reason?</b></li> </ul>	<p>Y ✓</p>	<p>N</p>	<p>The inclusion of <b>just</b> working age severely disabled claimants who attract a Severe Disability Premium, as a protected group would provide significant additional protection <b>without</b> overburdening the remaining working age claimant base</p>
<p><b>22. As a result of carrying out the equality impact assessment is there a requirement for further consultation?</b></p>	<p>Y</p>	<p>N ✓</p>	<p>There will be no requirement to undertake further consultation</p>
<p><b>23. As a result of this EIA should this policy/ procedure/ practice be recommended for implementation in it's current state?</b></p>	<p>Y ✓</p>	<p>N</p>	<p><b>It is the Council's opinion that this policy to protect both pension age and all working age severely disabled claimants who attract a Severe Disability Premium, whilst them being subject to a maximum of 4 weeks' Council Tax Reduction where the claimant(s) are abroad would be equitable and would ensure continued protection in all other aspects of the scheme to the most vulnerable within the Borough.</b></p>

# Equality Impact Assessment Action Plan

Complete the action plan demonstrating the changes required in order to meet TBC's commitment to equality and diversity. The action plan must contain monitoring arrangements, the publishing of results and the review period required for this policy.

ACTION/ ACTIVITY	RESPONSIBILITY	TARGET	PROGRESS
Introduction of the Council Tax Reduction scheme for pensioners as prescribed by the Local Government Finance Act 2012 and defined within the Council Tax Reduction Scheme (Prescribed Requirements) Regulations 2012	Karen Taylor	01/04/17	Ongoing
<b>Monitoring arrangements:</b>		<b>Data collected quarterly</b>	
Full monitoring of scheme implementation on a monthly basis in line with the accepted project plan	Karen Taylor	Monthly and quarterly collection of data to be undertaken by the Benefits Service	Ongoing
<b>Publication:</b>			
The revised Council Tax Reduction scheme is to be published by the Council by April 2016, after consideration at Cabinet and then full Council in December 2016.	Karen Taylor		Ongoing
<b>Review Period:</b>		<b>Reviewed 12 monthly unless otherwise stated</b>	
The scheme will be reviewed annually by both Central Government and the Borough Council	Karen Taylor		Ongoing



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TUESDAY, 12 DECEMBER 2017

### REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND FINANCE

#### REGULATION OF INVESTIGATORY POWERS ACT 2000, ADOPTION OF POLICY AND PROCEDURE

#### EXEMPT INFORMATION

None

#### PURPOSE

This report advises Members of the proposed amendments to the Corporate Policy governing the Regulation of Investigatory Powers Act 2000 in light of the recent inspection by the Office of Surveillance Commissioner and seeks their consideration and recommendations in relation thereto.

#### RECOMMENDATIONS

##### That the Council

1. considers the changes to the RIPA policy on Directed Surveillance, Covert Human Intelligence Sources (CHIS) and Acquisition of Communications Data,
2. satisfies itself that the changes meet the requirements imposed on the Council, and
3. ratifies the Policy.

#### EXECUTIVE SUMMARY

The Council has a number of statutory functions that involve officers investigating the conduct of others with a view to bringing legal action against them. The Council has also been given powers under the Regulation of Investigatory Powers Act 2000 (RIPA) which enable it to carry out Directed Surveillance in certain strict circumstances. RIPA provides a legal framework for the control and regulation of surveillance and information gathering techniques which public bodies such as Tamworth Borough Council have to comply with. These powers have been amended and changed in accordance with various pieces of legislation. The last change resulted in a revised RIPA Policy being approved by the Council on 16 May 2017.

The Protection of Freedoms Act 2012 now requires that local authority authorisations under RIPA for Directed Surveillance or CHIS can only become effective on the granting of an order approving the authorisation by a Justice of the Peace. Further a local authority can now only have an authorisation under RIPA for the use of Directed Surveillance where the local authority is investigating criminal offences which attract

a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco under the Licensing Act 2003 of the Children and Families Act 2014.

| No Directed Surveillance has been carried out by the Council since 2011 and it is not envisaged that there will be any appreciable change in the foreseeable future. By adhering to this proposed Policy the Council will ensure that the acquisition and disclosure of data is lawful, necessary and proportionate so that the Council is not held to be in breach of Article 8 (the right to respect for private family life, home and correspondence ) of the European Convention on Human Rights.

In July 2017 the Office of the Surveillance Commissioner (OSC) conducted an inspection into the RIPA policy, procedures, documentation and training utilised at the Council. Arising from the inspection it has been recommended that guidance regarding use of internet and social networking sites (SNS) for research of persons and how this might meet the requirement as directed surveillance or CHIS should be drawn up, inserted into our policy and procedures and actively disseminated to staff.

The attached draft policy and protocol will ensure that the acquisition and disclosure of data is lawful, necessary and proportionate, so that the Council is not held to be in breach of any citizen's human rights and that data obtained under such measures would be used to assist in the successful prosecution of relevant criminal offences. The draft policy and protocol was considered by Audit and Governance Committee on 26 October 2017, the committee considered the changes to the RIPA policy on Directed Surveillance, Covert Human Intelligence Sources (CHIS) and Acquisition of Communications Data, were satisfied that the changes met the requirements imposed on the Council in terms of the legislation and Codes of Practice and the recommendations of the Surveillance Commissioner.

## **OPTIONS CONSIDERED**

The Policy is to a large extent defined by the requirements of RIPA and the most recent Home Office Codes of Practice. The recommended policy is consistent with the new policies and guidance, it now reflects the recommendations of the Surveillance Commissioner too; there is little scope if any to do otherwise.

## **RESOURCE IMPLICATIONS**

There are no direct resource implications arising from the adoption of the policy and procedure. Any applications and training costs will be met from existing budgets.

## **LEGAL/RISK IMPLICATIONS**

Failure to follow the policy and procedure could result in the Council being open to challenge, unnecessary legal risk and ultimately responsible in damages for any breach of the Codes of Practice and Human Rights legislation. The Office of Surveillance Commissioners would also severely criticise such failure and the



adverse publicity arising therefrom could damage the Council's reputation and not serve in its best interests.

The policy and procedure will provide guidance to staff on the processing and procedure to obtain a RIPA authorisation, reducing the risk of legal challenge to the procedure itself and the evidence obtained.

Risk has been identified in the following areas: training of Officers, Collateral Intrusion and changes to legislation and procedures surrounding RIPA. However this has been addressed, training was provided for staff and members in October, the Netconsent function and email is used to disseminate the policy and inform training events. The inclusion of guidance in relation to social networking sites addresses issues in relation to collateral intrusion. The Solicitor to the Council reviews the policy regularly to ensure legislative and Home Office compliance. Quarterly reports are made to Audit & Governance Committee and an annual report to full Council. Finally provision exists in the policy itself to mitigate any other associated risks.

## **SUSTAINABILITY IMPLICATIONS**

Under current arrangements the Policy and training requirements are currently sustainable and remain so for the foreseeable future.

## **REPORT AUTHOR**

Jane Marie Hackett, Solicitor to the Council and Monitoring Officer tel 01827 709258

## **LIST OF BACKGROUND PAPERS**

Regulation of Investigatory Powers Act 2000

Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012

The Protection of Freedoms Act 2012

Home Office – Covert Surveillance and Property Interference Code of Practice

Home Office – Covert Human Intelligence Sources Code of Practice

Office of Surveillance Commissioner Inspection Report – August 2017

## **APPENDIX 1**

Proposed RIPA Policy and Procedure

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**REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)  
POLICY STATEMENT, STRATEGY & GUIDANCE NOTES**

Document Status: Final

Originator: J M Hackett

Updated: J M Hackett

Owner: Solicitor to the Council – Corporate Services

Version: 01.01.03

Date: 17/01/2017

**Approved by Audit & Governance Committee**

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## Document Location

This document is held by Tamworth Borough Council, and the document owner is Jane Marie Hackett, Solicitor to the Council – Corporate Services.

Printed documents may be obsolete. An electronic copy will be available on Tamworth Borough Councils Intranet. Please check for current version before using.

## Revision History

Revision Date	Version Control	Summary of changes
	1.01.01	Scheduled review
December 2008	1.01.02	Scheduled review
September 2010	1.01.03	Scheduled review
September 2011	1.01.04	Scheduled review
December 2012	1.01.05	Scheduled review
November 2014	1.01.06	Scheduled review
April 2015	1.01.07	Scheduled review
February 2016	1.01.08	Scheduled review
January 2017	1.01.09	Scheduled review
October 2017	1.01.09	OSC recommendation

## Approvals

Name	Title	Approved
Audit & Governance Committee	Committee Approval	Yes
Council	Council Approval	Yes
CMT	Group Approval	Yes
John Wheatley	Executive Director – Corporate Services	Yes
Jane Marie Hackett	Solicitor to the Council and Monitoring Officer	Yes

## Document Review Plans

This document is subject to a scheduled annual review. Updates shall be made in accordance with business requirements and changes and will be with agreement with the document owner.

## Distribution

The document will be available on the Intranet and the website.

# TAMWORTH BOROUGH COUNCIL

## POLICY & PROCEDURE

### REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)



Jane Marie Hackett  
Solicitor to the Council  
Tamworth Borough Council

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## **Section A**

### **Introduction**

#### **1. OBJECTIVE: SUSTAINABLE COMMUNITIES; SAFER AND STRONGER COMMUNITIES**

Tamworth Borough Council is committed to improving the quality of life for the communities of Tamworth which includes benefiting from an attractive place to live, meeting the needs of local people and employers with opportunities for all to engage in community life. It also wishes to maintain its position as a low crime borough and a safe place to live, work and learn. Although most of the community comply with the law, it is necessary for Tamworth to carry out enforcement functions to take full action against those who flout the law. Tamworth Borough Council will carry out enforcement action in a fair, practical and consistent manner to help promote a thriving local economy.

#### **2. HUMAN RIGHTS ACT 1998 – ARTICLE 8 – RIGHT TO RESPECT FOR PRIVATE & FAMILY LIFE, HOME AND CORRESPONDENCE**

The Human Rights Act 1998 brought into UK domestic law much of the European Convention on Human Rights and Fundamental Freedoms 1950. Article 8 of the European Convention requires the Council to respect the private and family life of its citizens, their homes and their correspondence. Article 8 does, however, recognise that there may be circumstances in a democratic society where it is necessary for the state to interfere with this right.

#### **3. USE OF COVERT SURVEILLANCE TECHNIQUES AND HUMAN INTELLIGENCE SOURCES**

The Council has various functions which involve observing or investigating the conduct of others, for example, investigating anti-social behaviour, fly tipping, noise nuisance control, planning (contraventions), fraud, licensing and food safety legislation. In most cases, Council officers carry out these functions openly and in a way which does not interfere with a person's right to a private life. However, there are cases where it is necessary for officers to use covert surveillance techniques to undertake a specific investigation. The use of covert surveillance techniques is regulated by the Regulation of Investigatory Powers Act 2000 (RIPA), which seeks to ensure that the public interest and human rights of individuals are appropriately balanced. This document sets out the Council's policy and procedures on the use of covert surveillance techniques and the conduct and use of a Covert Human Intelligence Source. You should also refer to the two Codes of Practice published by the Government. These Codes are on the Home Office website and supplement the procedures in this document. The Codes are admissible as evidence in Criminal and Civil Proceedings. If a provision of these Codes appear relevant to any court or tribunal, it must be taken into account.

The Codes of Practice for both Covert Surveillance and Covert Human Intelligence Sources can be obtained by following the link below:

<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

There are also two other guidance documents relating the procedural changes regarding the authorisation process requiring Justice of the Peace approval from the 1<sup>st</sup> November 2012. These have been issued by the Home Office to both Local Authorities and Magistrates.

<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/local-authority-ripa-guidance/>

#### **4. ACQUISITION OF COMMUNICATIONS DATA**

RIPA also regulates the acquisition of communications data. Communications data is data held by telecommunications companies and internet service providers. Examples of communications data which may be acquired with authorisation include names, addresses, telephone numbers, internet provider addresses. Communications data surveillance does not monitor the content of telephone calls or emails. This document sets out the procedures for the acquisition of communications data. You should also refer to the Code of Practice which is available on the Home Office website.

Acquisition and Disclosure of Communications Data Revised Draft Code of Practice:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/426248/Acquisition and Disclosure of Communications Data Code of Practice March 2015](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/426248/Acquisition_and_Disclosure_of_Communications_Data_Code_of_Practice_March_2015)



## Section B

### EFFECTIVE DATE OF OPERATION AND AUTHORISING OFFICER RESPONSIBILITIES

1. The Policy and Procedures in this document have been amended to reflect the latest Codes of Practice which are in force and the legislative amendments which require Justice of the Peace (JP) approval for all Local Authority RIPA applications and renewals, which came in effect on 1 November 2012, changes in website addresses and application forms, as well as to reflect recommendations arising out of inspection by the Office of Surveillance Commissioners and their guidance documents. It is essential, therefore, that Authorising Officers, take personal responsibility for the effective and efficient observance of this document and the Office of Surveillance Commissioners (OSC) guidance documents.
  2. It will be the responsibility of Authorising Officers to ensure that their relevant members of staff are suitably trained as 'Applicants'.
  3. Authorising Officers will also ensure that staff who report to them follow this Policy and Procedures Document and do not undertake or carry out surveillance activity that meets the criteria as set out by RIPA without first obtaining the relevant authorisations in compliance with this document.
  4. Authorising Officers must also pay particular attention to health and safety issues that may be raised by any proposed surveillance activity. Under no circumstances, should an Authorising Officer approve any RIPA form unless, and until they are satisfied that
    - the health and safety of Council employees/agents are suitably addressed
    - risks minimised so far as is possible, and
    - risks are proportionate to the surveillance being proposed.
- If an Authorising Officer is in any doubt, prior guidance should be obtained from the Solicitor to the Council.
5. Authorising Officers must also ensure that, when sending copies of any Forms to the Solicitor to the Council (or any other relevant authority), that they are sent in **sealed** envelopes and marked '**Strictly Private & Confidential**'.
  6. In Accordance with the Codes of Practice, the Senior Responsible Officer (SRO) who is the Solicitor to the Council is responsible for
    - the integrity of the process in place within the public authority to authorise directed and intrusive surveillance
    - compliance with Part II of the 2000 Act, and with this code;
    - engagement with the Commissioners and inspectors when they conduct their inspections, and
    - where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner.

*The Solicitor to the Council is also the RIPA Co-ordinator. The key responsibilities of the RIPA Co-ordinator are set out in Section G of this document.*

7. The Chief Operating Officer in consultation with Corporate Management Team has power to appoint Authorising Officers for the purposes of RIPA. Authorising Officers will only be appointed on the Chief Operating Officer being satisfied that suitable training on RIPA has been undertaken.
8. The Solicitor to the Council will review the policy every six months and annual reports on performance of the policy will be presented to Council.
9. Quarterly reports on the use of RIPA will be considered by the Audit and Governance Committee.

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## Section C

### GENERAL INFORMATION ON RIPA

1. The Human Rights Act 1998 requires the Council, and organisations working on its behalf, pursuant to Article 8 of the European Convention, to respect the private and family life of citizens, their homes and their correspondence.
2. The European Convention did not, however, make this an absolute right, but a qualified right. Accordingly, in certain circumstances, the Council may interfere in the citizen's right mentioned above, if such interference is:-
  - (a) **in accordance with the Law;**
  - (b) **necessary** in the circumstances of the particular case; **and**
  - (c) **proportionate** to what it seeks to achieve.
3. The Regulation of Investigatory Powers Act 2000 ('RIPA') provides a statutory mechanism (ie. 'in accordance with the law') for authorising **covert surveillance** and the use of a '**covert human intelligence source**' ('CHIS') – eg. undercover agents. It seeks to ensure that any interference with an individual's right under Article 8 of the European Convention is necessary and proportionate. In doing so, RIPA and this Policy and Procedure document seeks to ensure both the public interest and the human rights of individuals are suitably balanced.
4. Directly employed Council staff and external agencies working for the Council are covered by the Act for the time they are working for the Council. All external agencies must, therefore, comply with RIPA and the work carried out by agencies on the Council's behalf, must be properly authorised by one of the Council's designated Authorising Officers. They may also be inspected by the OSC in respect of that particular operation. This should be pointed out during the instruction and contract stage. It is also important that the Authorising Officer is aware of the abilities of the operatives to ensure they are capable of undertaking the surveillance. Please refer to Section H and to the paragraph on "Authorising Officers."
5. If the correct procedures are not followed, evidence may be disallowed by the courts, a complaint of maladministration could be made to the Ombudsman and/or the Council could be ordered to pay compensation.

## Section D

### WHAT RIPA DOES AND DOES NOT DO

**1. RIPA:**

- requires prior authorisation of directed surveillance.
- prohibits the Council from carrying out intrusive surveillance.
- requires authorisation of the conduct and use of a CHIS.
- requires safeguards for the conduct and use of a CHIS.

**2. RIPA does not:**

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

**3. If the Authorising Officer or any Applicant is in any doubt, s/he should ask the Solicitor to the Council BEFORE any directed surveillance and/or CHIS is authorised, renewed, cancelled or rejected.**

## Section E

### TYPES OF SURVEILLANCE

'Surveillance' includes:

- monitoring, observing and listening to persons, watching or following their movements, listening to their conversations and other such activities or communications. It may be conducted with or without the assistance of a surveillance device.
- recording anything mentioned above in the course of authorised surveillance.

**Surveillance can be overt or covert.**

#### Overt Surveillance

Most of the surveillance carried out by the Council will be done overtly – there will be nothing secretive, clandestine or hidden about it. They will be going about Council business openly. Similarly, surveillance will be overt if the subject has been told it will happen (e.g. where a noisemaker is warned (preferably in writing) that noise will be recorded).

#### Covert Surveillance

Covert Surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware of it taking place. (Section 26(9)(a) of RIPA).

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

#### Directed Surveillance

Directed Surveillance is surveillance which:-

- is **covert**; and
- is **not intrusive surveillance** (see definition below – the Council cannot carry out any intrusive surveillance).
- is not carried out as an immediate response to events which would otherwise make seeking authorisation under the Act reasonable, eg. spotting something suspicious and continuing to observe it; and
- it is undertaken for the purpose of a **specific investigation** or operation in a manner **likely to obtain private information** about an individual (whether or not that person is specifically targeted for purposes of an investigation). (*Section 26(10) RIPA*).

*Private Information* in relation to a person includes any information relating to his private and family life, his home or his correspondence. The fact that covert

surveillance occurs in a public place or on business premises does not mean that it cannot result in the obtaining of private information about a person. Prolonged surveillance targeted on a single person will undoubtedly result in the obtaining of private information about him/her and others with whom s/he comes into contact. Private information may include personal data such as names, addresses or telephone numbers. Where such information is acquired by means of covert surveillance of a person having a reasonable expectation of privacy, a directed surveillance authorisation is appropriate.

Similarly, although overt town centre CCTV cameras do not normally require authorisation, if the camera is tasked for a specific purpose, which involves prolonged surveillance on a particular person, authorisation will be required. The way a person runs his/her business may also reveal information about his or her private life and the private lives of others. Privacy considerations are likely to arise if several records are examined together to establish a pattern of behaviour.

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

### **Intrusive Surveillance**

This is when it:-

- is covert;
- relates to residential premises and private vehicles, even if used on a temporary basis 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.

**This form of surveillance can be carried out only by police and other law enforcement agencies. Intrusive surveillance relates to the location of the surveillance, and not any consideration of the information that is likely to be obtained. Council officers cannot carry out intrusive surveillance.**

### **“Proportionality”**

This term contains three concepts:-

- the surveillance should not be excessive in relation to the gravity of the matter being investigated;
- the least intrusive method of surveillance should be chosen; and
- collateral intrusion involving invasion of third parties' privacy and should, so far as possible, be minimised.

**Proportionality** involves balancing the intrusiveness of the activity on the subject and others who might be affected by it against the need for the activity in operational

terms. The activity will not be proportionate if it is excessive in the circumstances of the case, or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair. The interference with the person's right should be no greater than that which is required to meet the aim and objectives.

The onus is on the Authorising Officer to ensure that the surveillance meets the tests of **necessity and proportionality**.

The codes provide guidance relating to proportionality which should be considered by both applicants and Authorising Officers :

- balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

When considering the intrusion, it is important that the Authorising Officer is fully aware of the technical capabilities of any proposed equipment to be used, and that any images are managed in line with the Data Protection Act and Home Office Guidance. These issues have a direct bearing on determining proportionality.

## Section F

### ***Covert Human Intelligence Source (CHIS)***

Staff will need to know when someone providing information may become a CHIS, and in these circumstances the Council is required to have procedures in place should this be necessary. However, if it appears that use of a CHIS may be required, Authorising Officers must seek legal advice from the Solicitor to the Council.

A CHIS could be an informant or an undercover officer carrying out covert enquiries on behalf of the council. However, the provisions of the 2000 Act are not intended to apply in circumstances where members of the public volunteer information to the Council as part of their normal civic duties, or to contact numbers set up to receive information such as the Fraud Hot Line. Members of the public acting in this way would not generally be regarded as sources.

Under section 26(8) of the 2000 Act a person is a source if:

- a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);
- b) he covertly uses such a relationship to obtain information or to provide access to any information to another person; or
- c) he covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

By virtue of section 26(9)(b) of the 2000 Act a purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if and only if, the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose.

By virtue of section 26(9)(c) of the 2000 Act a relationship is used covertly, and information obtained as above is disclosed covertly, if and only if it is used or, as the case may be, disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

### **Conduct and Use of a Source**

The **use of a source** involves inducing, asking or assisting a person to engage in the conduct of a source or to obtain information by means of the conduct of such a source.

The **conduct of a source** is any conduct falling within a), b), or c), mentioned above, or which is incidental to anything falling within those sections.



The **use of a source** is what the Authority does in connection with the source and the **conduct** is what a source does to fulfill whatever tasks are given to them or which is incidental to it. **The Use and Conduct require separate consideration before authorisation.**

When completing applications for the use of a CHIS, the applicant must state who the CHIS is, what they can do and for which purpose.

When determining whether a CHIS authorisation is required, consideration should be given to the covert relationship between the parties and the purposes mentioned in a, b, and c above.

### ***Management of Sources***

Within the provisions there has to be;

- (a) a person who has the day to day responsibility for dealing with the source and for the source's security and welfare (**Handler**)
- (b) at all times there will be another person who will have general oversight of the use made of the source (**Controller**)
- (c) at all times there will be a person who will have responsibility for maintaining a record of the use made of the source

The **Handler** will have day to day responsibility for:

- dealing with the source on behalf of the authority concerned;
- directing the day to day activities of the source;
- recording the information supplied by the source; and
- monitoring the source's security and welfare;

The **Controller** will be responsible for the general oversight of the use of the source.

### ***Tasking***

Tasking is the assignment given to the source by the Handler or Controller by asking him to obtain information, to provide access to information, or to otherwise act, incidentally, for the benefit of the relevant public authority. Authorisation for the use or conduct of a source is required prior to any tasking where such tasking requires the source to establish or maintain a personal or other relationship for a covert purpose.

In some instances, the tasking given to a person will not require the source to establish a personal or other relationship for a covert purpose. For example, a source may be tasked with finding out purely factual information about the layout of

commercial premises. Alternatively, a Council Officer may be involved in the test purchase of items which have been labelled misleadingly or are unfit for consumption. In such cases, it is for the Council to determine where, and in what circumstances, such activity may require authorisation.

**Should a CHIS authority be required, all of the staff involved in the process should make themselves fully aware of all of the aspects relating to tasking contained within the CHIS codes of Practice**

### ***Management Responsibility***

The Council will ensure that arrangements are in place for the proper oversight and management of sources including appointing a Handler and Controller for each source prior to a CHIS authorisation.

The Handler of the source will usually be of a rank or position below that of the Authorising Officer.

It is envisaged that the use of a CHIS will be infrequent. Should a CHIS application be necessary, the CHIS Codes of Practice should be consulted to ensure that the Council can meet its management responsibilities.

### ***Security and Welfare***

The Council has a responsibility for the safety and welfare of the source and for the consequences to others of any tasks given to the source. Before authorising the use or conduct of a source, the Authorising Officer should ensure that a risk assessment is carried out to determine the risk to the source of any tasking and the likely consequences should the role of the source become known. The ongoing security and welfare of the source, after the cancellation of the authorisation, should also be considered at the outset.

### ***Record Management for CHIS***

Proper records must be kept of the authorisation and use of a source. The particulars to be contained within the records are;

- a. the identity of the source;
- b. the identity, where known, used by the source;
- c. any relevant investigating authority other than the authority maintaining the records;
- d. the means by which the source is referred to within each relevant investigating authority;

- e. any other significant information connected with the security and welfare of the source;
- f. any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph (d) has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source;
- g. the date when, and the circumstances in which the source was recruited;
- h. the identities of the persons who, in relation to the source, are discharging or have discharged the functions mentioned in section 29(5)(a) to (c) of the 2000 Act or in any order made by the Secretary of State under section 29(2)(c);
- i. the periods during which those persons have discharged those responsibilities;
- j. the tasks given to the source and the demands made of him in relation to his activities as a source;
- k. all contacts or communications between the source and a person acting on behalf of any relevant investigating authority;
- l. the information obtained by each relevant investigating authority by the conduct or use of the source;
- m. any dissemination by that authority of information obtained in that way; and
- n. in the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.

### ***Juvenile Sources***

Special safeguards apply to the use or conduct of juvenile sources (i.e. those under the age of 18). On no occasion can a child under 16 years of age be authorised to give information against his or her parents or any person with parental responsibility for him or her. Only the Chief Operating Officer, or in his absence, the Deputy Chief Operating Officer can authorise the use of a juvenile as a source.

### ***Vulnerable Individuals***

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

A Vulnerable Individual will only be authorised to act as a source in the most exceptional of circumstances. Only the Chief Operating Officer, or in his absence, the Executive Director Corporate Services can authorise the use of a vulnerable individual as a source.

### ***Test Purchases***

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

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

Authorising Officers should consider the likelihood that the test purchase will lead to a relationship being formed with a person in the shop. If the particular circumstances of a particular test purchase are likely to involve the development of a relationship Authorising Officers must seek legal advice from the Solicitor to the Council.

If several shop premises are included on one application for Directed Surveillance, each premises will be required to be assessed by the Authorising Officer individually on their own merits.

### ***Anti-Social Behaviour Activities (e.g. Noise, Violence, Race etc.)***

As from 1 November 2012 there is no provision for a Local Authority to use RIPA to conduct covert activities for disorder such as anti-social behaviour, unless there are criminal offences involved which attract a maximum custodial sentence of six months. Should it be necessary to conduct covert surveillance for disorder which does not meet the serious crime criteria of a custodial sentence of a maximum of six months, this surveillance would be classed as surveillance outside of RIPA, and would still have to meet the Human Rights Act provisions of Necessity and Proportionality

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

## **Section G**

### **Social Networking Sites**

*Social networking sites can provide useful information as part of an investigation. However, Council Officers must consider if a RIPA authorisation is required if they are accessing social networking sites for this purpose before undertaking any monitoring of a site.*

*Whilst initial research of social networking sites to establish a fact or collaborate an intelligence picture is unlikely to require an authorisation for directed surveillance repeat viewing of 'open source' sites may constitute directed surveillance on a case by case basis and this should be borne in mind eg., if someone is being monitored through, for example, their Facebook profile for a period of time and a record of the information is kept for later analysis, this is likely to require a RIPA authorisation for directed surveillance. The key consideration is whether there is a repeated and systematic collection of personal information.*

*In addition council officers must be aware that the fact that digital investigation is routine or easy to conduct does not reduce the need for authorisation. Care must be taken to understand how the social networking site being used works. Authorising Officers must not assume that one service provider is the same as another or that the services provided by a single provider are the same. Whilst it is the responsibility of an individual to set privacy settings to protect unsolicited access to private information and even though data may be deemed published and no longer under the control of the author, it is unwise to regard it as 'open source' or publicly available.*

*The author has a reasonable expectation of privacy if access controls are applied. In some cases, data may be deemed private communication still in transmission (instant messages for example). Where privacy settings are available but not applied the data may be considered 'open source' and an authorisation is not usually required.*

*However, repeat viewing of 'open source' sites may constitute directed surveillance on a case by case basis and this should be borne in mind eg., if someone is being monitored through, for example, their Facebook profile for a period of time and a record of the information is kept for later analysis, this is likely to require a RIPA authorisation for directed surveillance.*

*It is necessary and proportionate for the Council to covertly breach access controls, an authorisation for directed surveillance is required. An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a Council Officer or by a person acting on the Council's behalf (ie., the activity is more than mere reading of the site's content). It is not unlawful for a Council Officer to set up a false identity, but this must not be done for a covert purpose without authorisation. Using photographs of other persons without their permission to support the false identity infringes other laws and such photographs must not be used.*

To avoid the potential for inadvertent or inappropriate use of social network sites in investigative and enforcement roles, Council Officers should be mindful of the following:

- Do not create a false identity in order to 'befriend' individuals on social networks without authorisation under RIPA;
- When viewing an individual's public profile on a social network, do so only to the minimum degree necessary and proportionate in order to obtain evidence to support or refute an investigation;
- Repeated viewing of open profiles on social networks to gather evidence or to monitor an individual's status must only take place under a RIPA authorisation;
- Be aware that it may not be possible to verify the accuracy of information on social networks and if such information is to be used as evidence, take reasonable steps to ensure its validity.

**For the avoidance of doubt, only those Officers designated and certified to be Authorising Officers for the purpose of RIPA can authorise directed surveillance IF, AND ONLY IF, the RIPA authorisation procedures detailed in this document are followed. Authorisation for directed surveillance can only be granted if it is for the purpose of preventing or detecting crime and the criminal offence is punishable by at least 6 months' imprisonment or it is an offence under sections 146, 147, 147A of the Licensing Act 2003 or Section 7 of the Children and Young Persons Act 1933 (sale of alcohol and tobacco to underage children).**

If you are in doubt as to whether or not you can use directed surveillance for the crime you are investigating, you should contact Legal Services for advice.

## Section H

### THE ROLE OF THE RIPA CO-ORDINATOR

#### Key Responsibilities of the RIPA Co-ordinator

In this document the RIPA Co-ordinator is the Solicitor to the Council. The key responsibilities of the RIPA Co-ordinator are to:

- Retain all applications for authorisation (including those that have been refused), renewals and cancellations for a period of at least **three years** together with any supplementary documentation;
- Provide a unique reference number and maintain the central register of all applications for authorisations whether finally granted or refused (see section below);
- Create and maintain a spread sheet for the purpose of identifying and monitoring expiry dates and renewal dates although the responsibility for this is primarily that of the officer in charge and the Authorising Officer;
- Retain an oversight of the authorisation process
- Monitor types of activities being authorised to ensure consistency and quality throughout the Council;
- Ensure sections identify and fulfil training needs;
- Periodically review Council procedures to ensure that they are up to date;
- Assist Council employees to keep abreast of RIPA developments by organising training and raising RIPA awareness throughout the Council;
- Provide a link to the Surveillance Commissioner and disseminate information on changes on the law, good practice etc. Officers becoming aware of such information should, conversely, send it to the RIPA Co-ordinator for this purpose;
- Check that Authorising Officers carry out reviews and cancellations on a timely basis.

#### Central Record of Authorisations

A centrally retrievable record of all authorisations will be held by the RIPA Co-ordinator (Solicitor to the Council) which must be up-dated whenever an authorisation is granted, renewed or cancelled. These records will be retained for a period of **three years** from the ending of the authorisation and will contain the following information:

- The type of authorisation;
- The date the authorisation was given;

- The date approved by the Magistrate
- The name and title of the Authorising Officer;
- The unique reference number of the investigation (URN);
- The title of the investigation or operation, including a brief description and the names of the subjects, if known;
- Whether the investigation will obtain confidential information;
- Whether the authorisation was granted by an individual directly involved in the investigation;
- The dates the authorisation is reviewed and the name and title of the Authorising Officer;
- If the authorisation is renewed, when it was renewed and the name and title of the Authorising Officer;
- The date the authorisation was cancelled.
- Joint surveillance activity where Council staff have been authorised on another agencies authorisation will also be recorded.

Access to the data will be restricted to the RIPA Co-ordinator and Authorising Officers to maintain the confidentiality of the information.



## Section I

### AUTHORISATION PROCEDURES

1. Directed surveillance and the use of a CHIS can only be lawfully carried out if properly authorised, and in strict accordance with the terms of the authorisation.

#### *Authorising Officers*

Forms can only be signed by Authorising Officers. The Authorising Officers are:

<b>Chief Operating Officer</b>	Andrew Barratt
<b>Executive Director Corporate Services</b>	John Wheatley

Appointment of the aforesaid officers is subject to the training requirements set out in the paragraph below.

Authorisations under RIPA are separate from delegated authority to act under the Council's Scheme of Delegation and any internal departmental Schemes of Management.

RIPA authorisations are for specific investigations only, and must be renewed or cancelled at the earliest opportunity once the specific surveillance is complete. **The authorisations do not lapse with time.**

Authorising officers should not normally be responsible for authorising operations in which they are directly involved, although it is recognised that this may sometimes be unavoidable, especially in the case of small organisations, or where it is necessary to act urgently or for security reasons. Where an authorising officer authorises such an investigation or operation the centrally retrievable record of authorisations should highlight this and the attention of a Commissioner or Inspector should be invited to it during the next inspection.

#### *Training*

Authorising Officers will only be appointed if the Chief Operating Officer is satisfied that they have undertaken suitable training on RIPA. Evidence of suitable training is to be supplied in the form of a certificate/confirmation from the trainer to the effect that the Authorising Officer has completed a suitable course of instruction.

The Solicitor to the Council will maintain a Register of Authorising Officers and details of training undertaken by them.

If the Chief Operating Officer is of the view that an Authorising Officer has not complied fully with the requirements of this document, or the training requirements then that Officer's authorisation can be withdrawn until they have undertaken further approved training or has attended a one-to-one meeting with the Chief Operating Officer.

## **Grounds for Authorisation**

On 1 November 2012 two significant changes came into force that effects how local authorities use RIPA.

- **Approval of Local Authority Authorisations under RIPA by a Justice of the Peace:** The amendments in the Protection of Freedoms Act 2012 mean that local authority authorisations under RIPA for the use of Directed Surveillance or use of Covert Human Intelligence sources (CHIS) can only be given effect once an order approving the authorisation has been granted by a Justice of the Peace (JP). **This applies to applications and renewals only, not reviews and cancellations.**
- **Directed surveillance crime threshold:** The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 (“the 2012 Order”) states that a local authority can now only grant an authorisation under RIPA for the use of **Directed Surveillance** where the local authority is investigating (1) criminal offences which attract a maximum custodial sentence of six months or more or (2) criminal offences under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933 relating to the sale of alcohol or tobacco products to children.

**The crime threshold, as mentioned is only for Directed Surveillance.**

Therefore the only lawful reason is **prevention and detection of crime** in respect of its Core Functions. As from 1 November 2012 there is no provision for a Local Authority to use RIPA to conduct covert activities for disorder such as anti-social behaviour unless there are criminal offences involved which attract a maximum custodial sentence of six months.

## **APPLICATION PROCESS**

No covert activity covered by RIPA or the use of a CHIS should be undertaken at any time unless it meets the legal criteria (see above) and has been authorised by an Authorising Officer and approved by a JP/Magistrate as mentioned above. The activity conducted must be in strict accordance with the terms of the authorisation.

The effect of the above legislation means that all applications and renewals for covert RIPA activity will have to have a JP’s approval. It does not apply to Reviews and Cancellations which will still be carried out internally.

The procedure is as follows;

All applications and renewals for Directed Surveillance and use of a CHIS will be required to have a JP’s approval.

The applicant will complete the relevant application form ensuring compliance with the statutory provisions shown above. The application form will be submitted to an Authorising Officer for consideration. If authorised, the applicant will also complete the required section of the judicial application/order form. Although this form requires

the applicant to provide a brief summary of the circumstances of the case on the judicial application form, this is supplementary to and does not replace the need to supply the original RIPA authorisation as well.

It will then be necessary within Office hours to arrange with Her Majesty's Courts & Tribunals Service (HMCTS) administration at the magistrates' court to arrange a hearing. The hearing will be in private and heard by a single JP.

The Authorising Officer will be expected to attend the hearing along with the applicant officer. Officers who may present the application at these proceedings will need to be formally designated by the Council under section 223 of the Local Government Act 1972 to appear, be sworn in and present evidence or provide information as required by the JP. If in doubt as to whether you are able to present the application seek advice from the Solicitor to the Council.

Upon attending the hearing, the officer must present to the JP the partially completed judicial application/order form, a copy of the RIPA application/authorisation form, together with any supporting documents setting out the case, and the original application/authorisation form.

The original RIPA application/authorisation should be shown to the JP but will be retained by the local authority so that it is available for inspection by the Commissioners' offices and in the event of any legal challenge or investigations by the Investigatory Powers Tribunal (IPT).

The JP will read and consider the RIPA application/ authorisation and the judicial application/order form. They may have questions to clarify points or require additional reassurance on particular matters. These questions are supplementary to the content of the application form. **However the forms and supporting papers must by themselves make the case. It is not sufficient for the local authority to provide oral evidence where this is not reflected or supported in the papers provided.**

The JP will consider whether he or she is satisfied that at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. They will also consider whether there continues to be reasonable grounds. In addition they must be satisfied that the person who granted the authorisation or gave the notice was an appropriate designated person within the local authority and the authorisation was made in accordance with any applicable legal restrictions, for example that the crime threshold for directed surveillance has been met.

The JP may decide to:

**Approve the Grant or renewal of an authorisation**

The grant or renewal of the RIPA authorisation will then take effect and the local authority may proceed to use the technique in that particular case. The duration of the authorisation commences with the magistrate's approval.

## **Refuse to approve the grant or renewal of an authorisation**

The RIPA authorisation will not take effect and the local authority may **not** use the technique in that case.

Where an application has been refused the applicant may wish to consider the reasons for that refusal. If more information was required by the JP to determine whether the application/authorisation has met the tests, and this is the reason for refusal the officer should consider whether they can reapply, for example, if there was information to support the application which was available to the local authority, but not included in the papers provided at the hearing.

For, a technical error, the form may be remedied without going through the internal authorisation process again. The officer may then wish to reapply for judicial approval once those steps have been taken.

## **Refuse to approve the grant or renewal and quash the authorisation or notice**

This applies where the JP refuses to approve the application/authorisation or renew the application/authorisation and decides to quash the original authorisation or notice. However the court must not exercise its power to quash the application/authorisation unless the applicant has had at least 2 business days from the date of the refusal in which to make representations. If this is the case the officer will inform the Legal section who will consider whether to make any representations.

Whatever the decision the JP will record their decision on the order section of the judicial application/order form. The court administration will retain a copy of the local authority RIPA application and authorisation form and the judicial application/order form. The officer will retain the original application/authorisation and a copy of the judicial application/order form.

If approved by the JP, the date of the approval becomes the commencement date and the three months duration will commence on this date, The officers are now allowed to undertake the activity.

The original application and the copy of the judicial application/order form should be forwarded to the Central Register and a copy retained by the applicant and if necessary by the Authorising Officer.

A local authority may only appeal a JP decision on a point of law by judicial review. If such a concern arises, the Legal team will decide what action if any should be taken.

If it is intended to undertake both directed surveillance and the use of a CHIS on the same surveillance subject, the respective applications forms and procedures should be followed and both activities should be considered separately on their own merits. An application for an authorisation must include an assessment of the risk of any collateral intrusion or interference. The Authorising Officer will take this into account, particularly when considering the proportionality of the directed surveillance or the use of a CHIS.

## **Application, Review, Renewal and Cancellation Forms**

### ***Applications***

All the relevant sections on an application form must be completed with sufficient information for the Authorising Officer to consider Necessity, Proportionality and the Collateral Intrusion issues. Risk assessments should take place prior to the completion of the application form. Each application should be completed on its own merits of the case. **Cutting and pasting or using template entries should not take place as this would leave the process open to challenge.**

All applications will be submitted to the Authorising Officer via the Line Manager of the appropriate enforcement team in order that they are aware of the activities being undertaken by the staff. Applications whether authorised or refused will be issued with a unique number by the Authorising Officer, taken from the next available number in the Central Record of Authorisations.

If authorised the applicant will then complete the relevant section of the judicial application/order form and follow the procedure above by arranging and attending the Magistrates Court to seek a JP's approval. The duration of the authorisation commences with the magistrate's approval. (see procedure above RIPA application and authorisation process)

### **Duration of Applications**

<b>Directed Surveillance</b>	3 Months
Renewal	3 Months
<b>Covert Human Intelligence Source</b>	12 Months
Juvenile Sources	1 Month
<b>Renewal</b>	<b>12 months</b>

**All Authorisations must be cancelled by completing a cancellation form. They must not be left to simply expire. (See cancellations page 16)**

### **Reviews**

The reviews are dealt with internally by submitting the review form to the authorising officer. In such circumstances seek advice from the RIPA Co-ordinator. There is no requirement for a review form to be submitted to a JP. However if a different surveillance techniques is required it is likely a new application will have to be completed and approved by a JP.

Regular reviews of authorisations should be undertaken to assess the need for the surveillance to continue. The results of a review should be recorded on the central record of authorisations. Particular attention is drawn to the need to review

authorisations frequently where the surveillance provides access to confidential information or involves collateral intrusion.

In each case the Authorising Officer should determine how often a review should take place. This should be as frequently as is considered necessary and practicable and they will record when they are to take place on the application form. This decision will be based on the circumstances of each application. However reviews will be conducted on a monthly or less basis to ensure that the activity is managed. It will be important for the Authorising Officer to be aware of when reviews are required following an authorisation to ensure that the applicants submit the review form on time.

Applicants should submit a review form by the review date set by the Authorising Officer. They should also use a review form for changes in circumstances to the original application so that the need to continue the activity can be reassessed. However if the circumstances or the objectives have changed considerably, or the techniques to be used are now different a new application form should be submitted and will be required to follow the process again and be approved by a JP. The applicant does not have to wait until the review date if it is being submitted for a change in circumstances.

Managers or Team Leaders of applicants should also make themselves aware of when the reviews are required to ensure that the relevant forms are completed on time.

## **Renewal**

Should it be necessary to renew a Directed Surveillance or CHIS application/authorisation, this must be approved by a JP.

Applications for renewals should not be made until shortly before the original authorisation period is due to expire but the applicant must take account of factors which may delay the renewal process (e.g. intervening weekends or the availability of the relevant authorising officer and a JP to consider the application).

The applicant should complete all the sections within the renewal form and submit the form to the authorising officer.

Authorising Officers should examine the circumstances with regard to Necessity, Proportionality and the Collateral Intrusion issues before making a decision to renew the activity. A CHIS application should not be renewed unless a thorough review has been carried out covering the use made of the source, the tasks given to them and information obtained. The Authorising Officer must consider the results of the review when deciding whether to renew or not. The review and the consideration must be documented.

If the authorising officer refuses to renew the application the cancellation process should be completed. If the AO authorises the renewal of the activity the same process is to be followed as mentioned earlier for the initial application.

A renewal takes effect on the day on which the authorisation would have ceased and lasts for a further period of three months.

## **Cancellation**

Cancellation should take place at the earliest opportunity.

The cancellation form is to be submitted by the applicant or another investigator in their absence. The Authorising Officer who granted or last renewed the authorisation must cancel it if they are satisfied that the directed surveillance no longer meets the criteria upon which it was authorised. Where the Authorising Officer is no longer available, this duty will fall on the person who has taken over the role of Authorising Officer or the person who is acting as Authorising Officer.

As soon as the decision is taken that directed surveillance should be discontinued, the applicant or other investigating officer involved in the investigation should inform the Authorising Officer. The Authorising Officer will formally instruct the investigating officer to cease the surveillance, noting the time and date of their decision. This will be required for the cancellation form. The date and time when such an instruction was given should also be recorded in the central record of authorisations (see paragraph 5.18 in the Codes of Practice). **It will also be necessary to detail the amount of time spent on the surveillance as this is required to be retained by the Senior Responsible Officer.**

The officer submitting the cancellation should complete in detail the relevant sections of the form and include the period of surveillance and what if any images were obtained and any images containing third parties. The Authorising Officer should then take this into account and issues instructions regarding the management and disposal of the images etc.

The cancellation process should also be used to evaluate whether the objectives have been achieved and whether the applicant carried out what they stated was necessary in the application form. This check will form part of the oversight function. Where issues are identified they will be brought to the attention of the line manager and the Senior Responsible Officer (SRO). This will assist with future audits and oversight.

Before an Authorising Officer signs a Form, they must:-

- (a) Be mindful of this Policy & Procedures Document and the training undertaken
  - (b) Be satisfied that the RIPA authorisation is:-
    - (i) **in accordance with the law;**
    - (ii) **necessary** in the circumstances of the particular case on the ground mentioned
- and**
- (iii) **proportionate** to what it seeks to achieve. (see section on proportionality)

- (c) In assessing whether or not the proposed surveillance is proportionate, consider other appropriate means of gathering the information.

The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.

The following elements of proportionality should therefore be considered:

- balance the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- explain how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- consider whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidence, what other methods have been considered and why they were not implemented.

**The least intrusive method will be considered proportionate by the courts.**

- (d) Take into account the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (**collateral intrusion**). Measures must be taken wherever practicable to avoid or minimise (so far as is possible) collateral intrusion. This matter may be an aspect of determining proportionality;
- (e) Set a date for review of the authorisation and review on only that date;
- (f) Obtain a Unique Reference Number (URN) for the application from the Solicitor to the Council on 01827 709258
- (g) Ensure that a copy of the RIPA Forms (and any review/cancellation of the same) is forwarded to the Solicitor to the Council, Central Register, **within 5 working days of the relevant authorisation, review, renewal, cancellation or rejection.**

### ***Additional Safeguards when Authorising a CHIS***

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

- (a) be satisfied that the **conduct** and/or **use** of the CHIS is proportionate to what is sought to be achieved.



- (b) Be satisfied that **appropriate arrangements** are in place for the management and oversight of the CHIS and this must address health and safety issues through a risk assessment;
- (c) Consider the likely degree of intrusion of all those potentially affected;
- (d) Consider any adverse impact on community confidence that may result from the use or conduct or the information obtained;
- (e) Ensure **records** contain particulars and are not available except on a need to know basis.
- (f) Ensure that if the CHIS is under the age of 18 or is a vulnerable adult the Authorising Officer is the Chief Operating Officer or in his absence, the Deputy Chief Operating Officer.

The Authorising Officer must attend to the requirement of section 29(5) RIPA and of the Regulation of Investigatory Powers (Source Records) Regulations 2000. It is strongly recommended that legal advice is obtained in relation to the authorisation of a CHIS.

Any person granting or applying for an authorisation will also need to be aware of particular sensitivities in the local community where the surveillance is taking place and of any similar activities being undertaken by other public authorities which could impact on the deployment of surveillance. It is therefore recommended that where an authorising officer from a public authority considers that conflicts might arise they should consult a senior officer within the police force area in which the investigation or operation is to take place.

### ***Urgent Authorisations***

As from 1 November 2012 there is now no provision under RIPA for urgent oral authorisations.

## Section J

### WORKING WITH / THROUGH OTHER AGENCIES

When some other agency has been instructed on behalf of the Council to undertake any action under RIPA, this document and the forms in it must be used (as per normal procedure) and the agency advised or kept informed, as necessary, of the various requirements. The agency must be made aware explicitly what they are authorised to do. The agency will be provided with a copy of the application form (redacted if necessary) or at the least the authorisation page containing the unique number.

Equally, if Council staff are authorised on another agencies RIPA authorisation, the staff will obtain a copy of the application form (redacted if necessary), or at the least the authorisation page containing the unique number, a copy of which should be forwarded for filing within the central register. They must ensure that they do not conduct activity outside of that authorisation.

Provisions should also be made regarding any disclosure implications under the Criminal Procedures Act (CPIA) and the management, storage and dissemination of any product obtained.

When another agency (e.g. Police, Customs & Excise, Inland Revenue etc):-

- (a) wishes to use the Council's resources (e.g. CCTV surveillance systems), that agency must use its own RIPA procedures and, before any Officer agrees to allow the Council's resources to be used for the other agency's purposes, the Officer must obtain a copy of that agency's RIPA form (redacted if necessary) or at the least the authorisation page containing the unique number for the record (a copy of which must be passed to the Solicitor to the Council for the Central Register) Should this be an urgent oral authorisation they should obtain a copy of the contemporaneous notes of what has been authorised by the Authorising Officer in line with current guidance. A copy of these notes will be forwarded for filing in the central register.
- (b) wish to use the Council's premises for their own RIPA action, the Chief Officer or Head of Service should, normally, cooperate with the same, unless there are security or other good operational or managerial reasons as to why the Council's premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought, if necessary, from the other agency for the Council's cooperation in the agent's RIPA operation. In such cases, however, the Council's own RIPA forms should not be used as the Council is only 'assisting' not being 'involved' in the RIPA activity of the external agency.

If the Police or any other Agency wish to use Council resources for general surveillance, as opposed to specific RIPA operations, an appropriate letter requesting the proposed use, extent of remit, duration, who will be undertaking the general surveillance and the purpose of it must be obtained from the police or other Agency before any Council resources are made available for the proposed use.

**If in doubt, please consult with the Solicitor to the Council at the earliest opportunity.**

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## **Section K**

### **RECORD MANAGEMENT**

**The Council must keep detailed records of all authorisations, renewals, cancellations and rejections in Departments and a Central Register of all Authorisation Forms will be maintained and monitored by the Solicitor to the Council.**

#### ***Records Maintained in the Department***

The following documents must be retained by the Department authorising the surveillance:

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

#### ***Central Register maintained by the Solicitor to the Council***

Authorising Officers must forward a copy of the form to the Solicitor to the Council for the Central Register, within 5 working days of the authorisation, review, renewal, cancellation or rejection. The Solicitor to the Council will monitor the same and give appropriate guidance to Authorising Officers from time to time, or amend this document in the light of changes of legislation or developments through case law.

#### ***Retention and Destruction of Material***

The retention of the material obtained during a RIPA operation is governed by the Criminal Procedures Investigations Act (CPIA) 1996 and the Data Protection Act 1998.

Arrangements are in place for the secure handling, storage and destruction of material obtained through the use of directed surveillance or CHIS. Authorising Officers, through their relevant Data Controller, must ensure compliance with the appropriate data protection requirements under the Data Protection Act 1998 and

any relevant codes of practice produced by individual authorised relating to the handling and storage of material.

The Council will retain records for a period of at least five years from the ending of the authorisation. The Office of the Surveillance Commissioners (OSC) can audit/review the Council's policies and procedures, and individual authorisations. The Office of the Surveillance Commissioners will also write to the Council from time to time, requesting information as to the numbers of authorisations made in a specific period. It will be the responsibility of the Solicitor to the Council to respond to such communications.

## **Errors**

There is a requirement as set out in the OSC procedures and Guidance 2011 to report all covert activity that was not properly authorised to the OSC in writing as soon as the error is recognised. This would be known as an error. This includes activity which should have been authorised but wasn't or which was conducted beyond the directions provided by the authorising officer. It is therefore important that when an error has been identified it is brought to the attention of the SRO in order to comply with this guidance. The Council has a responsibility to report to the Inspector at the commencement of an inspection all activity which should have been authorised but wasn't. This is to confirm that any direction provided by the Chief Surveillance Commissioner has been followed. This will also assist with the oversight provisions of the Councils' RIPA activity.

This does not apply to covert activity which is deliberately not authorised because an authorising officer considers that it does not meet the legislative criteria, but allows it to continue. This would be surveillance outside of RIPA. (See oversight section below)

## **Section L**

### **ACQUISITION OF COMMUNICATIONS DATA**

#### **What is Communications Data?**

Communication data means any traffic or any information that is or has been sent by or over a telecommunications system or postal system, together with information about the use of the system made by any person.

#### **Powers**

There are two powers granted by S22 RIPA in respect of the acquisition of Communications Data from telecommunications and postal companies (“Communications Companies”).

S22 (3) provides that an authorised person can authorise another person within the same relevant public authority to collect the data. This allows the local authority to collect the communications data themselves, i.e. if a private telecommunications company is technically unable to collect the data, an authorisation under this section would permit the local authority to collect the communications data themselves.

In order to compel a communications company to obtain and disclose, or just disclose communications data in their possession, a notice under S22 (4) RIPA must be issued. The sole grounds to permit the issuing of a S22 notice by a permitted Local Authority is for the purposes of “preventing or detecting crime or of preventing disorder”. The issuing of such a notice will be the more common of the two powers utilised, in that the Communications Company will most probably have means of collating and providing the communications data requested.

#### **Single Point of Contact**

In accordance with the Home Office Acquisition and Disclosure of Communications Data Code of Practice the Council is required to have a “the Council Single Point of Contact” is NAFN. The role of the SPoC is to enable and maintain effective co-operation between a public authority and communications service providers in the lawful acquisition and disclosure of communications data. Before an officer can be a SPoC specialist training recognised by the Home Office has to be undertaken. A SPoC must also register his or her details with the Home Office. The Solicitor of the Council is SPoC for Tamworth Borough Council.

Details of the training undertaken is kept in the Central Register.

The functions of the SPoC are to:

- Assess, where appropriate, whether access to communications data is reasonably practical for the postal or telecommunications operator;

- Advise Applicants and Authorising Officers on the practicalities of accessing different types of communications data from different postal or telecommunications operators
- Advise Applicants and Authorising Officers on whether communications data falls under section 21(4)(a), (b) or (c) of RIPA
- Provide safeguards for authentication
- Assess any cost and resource implications to both the Council and postal or telecommunications operator.

### **The Senior Responsible Officer**

In accordance with the Code of Practice each public authority must have a Senior Responsible Officer who is responsible for:

- The integrity of the process in places within the public authority to acquire communications data;
- Compliance with Chapter II of Part 1 of RIPA and with the Code;
- Oversight of the reporting of errors to the Interception of Communications Commissioner's Office (IOCCO) and the identification of both the cause of errors and the implementation of processes to minimise repetition of errors;
- Engagement with the IOCCO inspectors when they conduct their inspections and;
- Where necessary, oversee the implementation of post – inspection action plans approved by the Commissioner

The Council's Senior Responsible Officer is the Solicitor to the Council.

### **Application Forms**

Only the approved Accessing Communications Data forms referred to in Appendix 4 must be used. The forms have to be downloaded and completed in the Applicants handwriting

### **Procedure**

All applications to obtain communications data must be channelled through the SPoC. If an investigating officer is considering making an application to obtain communications data they should contact the SPoC for advice and to obtain the appropriate forms.

In completing the forms the investigating officer must address the issues of necessity, proportionality and collateral intrusion. The following is guidance on the principles of necessity, proportionality and collateral intrusion.

“Necessity” should be a short explanation of the crime (together with details of the relevant legislation), the suspect, victim or witness and the telephone or communications address and how all these three link together. It may be helpful to outline the brief details of the investigation and the circumstances leading to the application as this will assist with justifying necessity. The source of the telephone number or communications address should also be outlined. E.g. if the number was

obtained from itemised billing or a business flyer there should be specific identifiers such as the telephone number or exhibit number.

As regards “proportionality” there should be an outline of what the investigating officer expects to achieve from obtaining the data and explain how the level of intrusion is justified when taking into consideration the benefit the data will give to the investigation. The investigating officer should give an explanation as to why specific date/time periods of data have been requested. An explanation of what is going to be done with the communications data once it is acquired and how that action will benefit the investigation will assist with the justification of proportionality. The investigating officer should outline what other checks or methods have been tried e.g. visiting other known addresses, ringing the number etc. or why such methods are not deemed feasible.

“Collateral intrusion” should also be addressed on the suspect or individual in question to demonstrate that the intrusion is not arbitrary or unfair. There will only be minimal collateral intrusion in relation to subscriber checks or none will be identified at the time of making the application. In some case it will be clear that the suspect has been contacted on the actual telephone number by the complainant or the investigating officer and therefore this reduces the potential for collateral intrusion. Investigating officers should also mention whether it is known that the telephone number (or other type of data) has been used to advertise the business, either in the press/internet or on business cards/flyers as this would also be evidence to show that the suspect is actually using the telephone number and further reduce the potential for collateral intrusion. Collateral intrusion becomes more relevant when applying for service use data and investigating officers should outline specifically what collateral intrusion may occur, how the time periods requested impact on collateral intrusion and whether they are likely to obtain data which is outside the realm of their investigation.

Once the investigating officer has completed the application form it should be passed to the SPoC together with a draft Notice to the Communications Service Provider. If the SPoC is satisfied that the application should proceed, the Application and the draft Notice to the Communications Service Provider will be considered by an Authorising Officer<sup>1</sup>. If the SPoC decides that the application is not justified it will be rejected. If the SPoC requires further information in order to consider the application this will be requested from the investigating officer and recorded on the SPoC Log Sheet.

The Authorising Officer must consider:

- (a) whether the case justifies the accessing of communications data for the **purposes of preventing or detecting crime or of preventing disorder** and why obtaining the data is **necessary** in order to achieve the aims of the investigation and on the grounds permitted to the Council;

and



- (b) whether obtaining access to the data by the conduct authorised, or required of the postal or telecommunications operator in the case of a notice, is **proportionate** to what is sought to be achieved.

The Authorising Officer will complete the Application Form as appropriate.

If the Authorising Officer becomes directly involved in the operation, such involvement and their justification for undertaking the role of Authorising Officer must be explicit in the written considerations on the Application Form or alternatively the application should be passed to another Authorising Officer for consideration.

If the accessing of communications data is authorised the Authorising Officer will sign the Notice to the Communication Service Provider, complete the date/time of issue and return all forms to the SPoC

The SPoC will then issue the Notice to the Communications Service Provider

1. NOTE: The Code of Practice referred to in paragraph 5 above refers to "Designated Persons" as those whose authority is obtained with regard to the application. However, for the purposes of this policy and procedure the term "Authorising Officer" will be used for that of "Designated Person".

## **Duration**

Authorisations and notices are only valid for one month. A shorter period should be specified if this is satisfied by the request. An authorisation or notice may be renewed during the month by following the same procedure as obtaining a fresh authorisation or notice.

An Authorising Officer shall cancel an authorisation or notice as soon as it is no longer necessary or the conduct is no longer proportionate to what is sought to be achieved. The duty to cancel a notice falls on the Authorising Officer who issued it.

## **Record Management**

Applications, authorisations and notices for communications data must be retained by the SPoC until audited by the IOCCO. All such documentation must be kept in locked storage.

## **Errors**

Where any errors have occurred in the granting of authorisations or the giving of notices, a record shall be kept and a report and explanation sent to the IOCCO as soon as reasonably practicable.

## **Oversight**

The IOCCO will write to the Council from time to time requesting information as to the numbers of applications for communications data and confirmation as to whether there have been any errors which have occurred when obtaining data communications. It will be the responsibility of the Solicitor to the Council to respond to such communications.

## **Section M**

### **CONCLUSION**

Obtaining an authorisation under RIPA and following the guidance and procedures in this document will assist in ensuring that the use of covert surveillance or a CHIS is carried out in accordance with the law and subject to safeguards against infringing an individual's human rights. Complying with the provisions of RIPA protects the Council against challenges for breaches of Article 8 of the European Convention on Human Rights.

Authorising Officers will be suitably trained and they must exercise their minds every time they are asked to sign a Form. They must never sign or rubber stamp Form(s) without thinking about their personal and the Council's responsibilities.

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

For further advice and assistance on RIPA, please contact the Solicitor to the Council (who is also the Monitoring Officer).

## APPENDIX 1

### A FORMS

#### DIRECTED SURVEILLANCE

All forms can be obtained from:

<https://www.gov.uk/government/collections/ripa-forms--2>

The form has to be downloaded and completed in the applicant's handwriting. The Authorising Officer must also complete the relevant section of the form in handwriting. The original form has to be passed to the Solicitor to the Council.

Application for Authorisation Directed Surveillance

Application for Review of a Directed Surveillance Authorisation

Application for Renewal of a Directed Surveillance Authorisation

Application for Cancellation of a Directed Surveillance Authorisation

## APPENDIX 2

### B FORMS

#### CONDUCT OF A COVERT HUMAN INTELLIGENCE SOURCE

All forms can be obtained from:

<https://www.gov.uk/government/collections/ripa-forms--2>

The form has to be downloaded and completed in the applicant's handwriting. The Authorising Officer must also complete the relevant section of the form in handwriting. The original form has to be passed to the Solicitor to the Council.

Application for Authorisation of the conduct or use of a Covert Human Intelligence Source (CHIS).

Application for Review of a Covert Human Intelligence Source (CHIS) Authorisation.

Application for renewal of a Covert Human Intelligence Source (CHIS) Authorisation.

Application for Cancellation of an authorisation for the use or Conduct of a Covert Human Intelligence Source.

## APPENDIX 3

### C FORMS

#### ACQUISITION OF COMMUNICATIONS DATA

All forms can be obtained from the Home Office: RIPA Codes of Conduct website:

<https://www.gov.uk/government/collections/ripa-forms--2>

The form has to be downloaded and completed in the applicant's handwriting. The Authorising Officer must also complete the relevant section of the form in handwriting. The original form has to be passed to the Solicitor to the Council.

Part I Chapter II request schedule for subscriber information

Specimen Part I Chapter II authorisation

Specimen Part I Chapter II Notice

Chapter II application for communications data

Guidance notes regarding chapter II application form

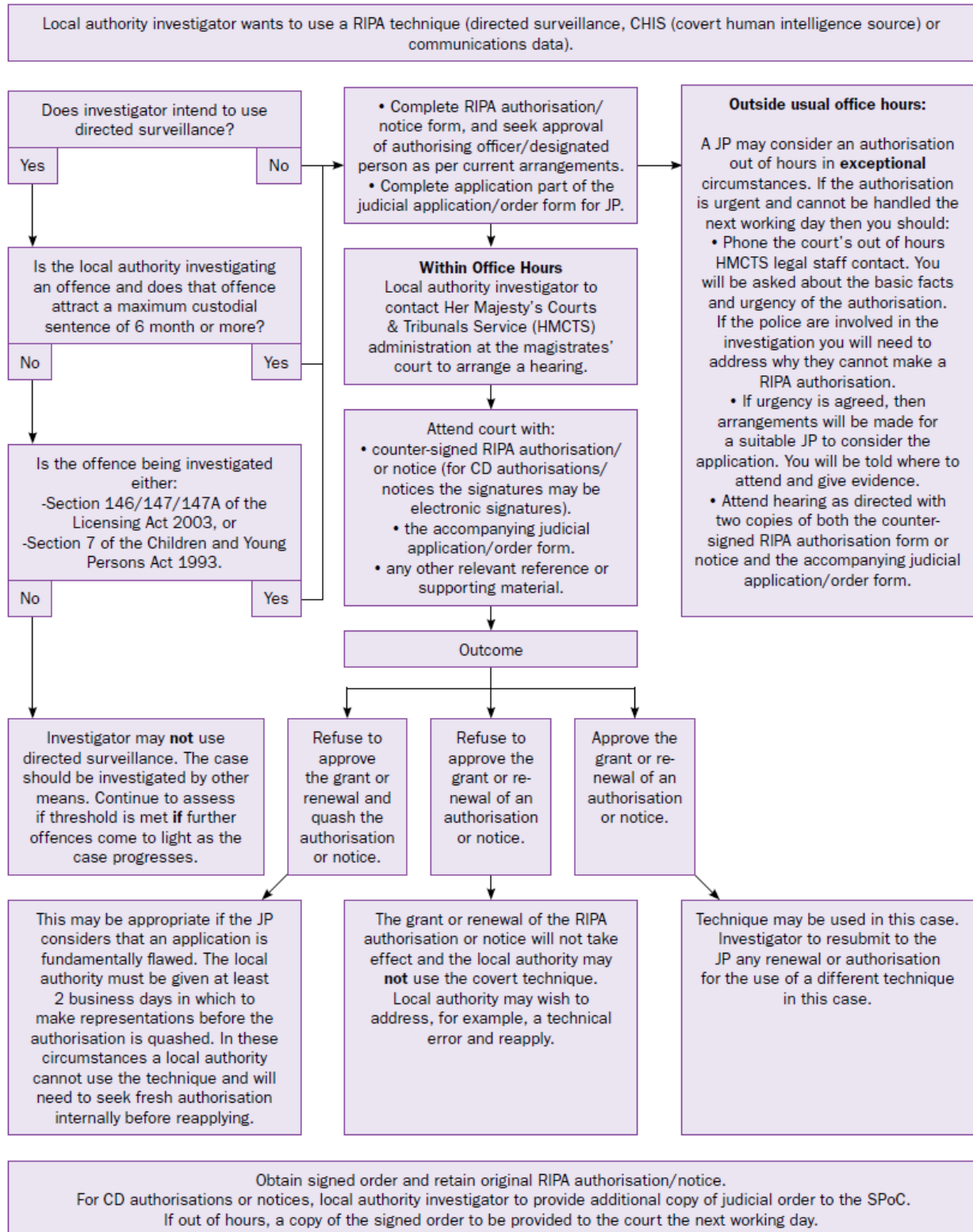
RIPA Section 22 notice to obtain communications data from communications service providers

Reporting an error by a CSP to the IOCCO

Reporting an error by a public authority to the IOCCO

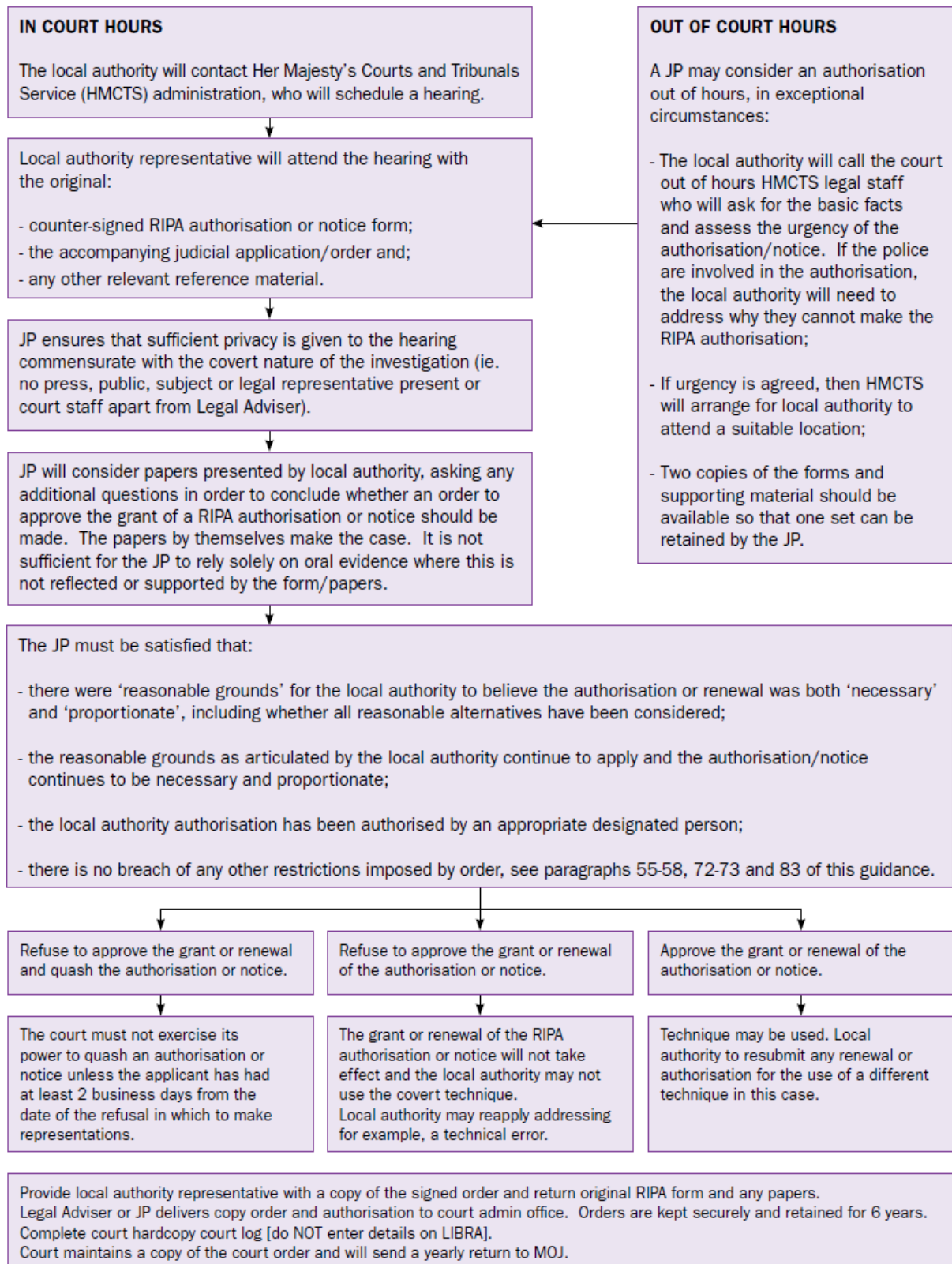
# Annex A Local Authority Procedure

## LOCAL AUTHORITY PROCEDURE: APPLICATION TO A JUSTICE OF THE PEACE SEEKING AN ORDER TO APPROVE THE GRANT OF A RIPA AUTHORISATION OR NOTICE



## Annex B JP Procedure

### PROCEDURE: LOCAL AUTHORITY APPLICATION TO A JUSTICE OF THE PEACE SEEKING AN ORDER TO APPROVE THE GRANT OF A RIPA AUTHORISATION OR NOTICE



**Application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.**

Local Authority:.....

Local authority department:.....

Offence under investigation:.....

Address of premises or identity of subject:.....  
.....  
.....

Covert technique requested: (tick one and specify details)

- Communications Data**
- Covert Human Intelligence Source**
- Directed Surveillance**

Summary of details  
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.....

**Note:** this application should be read in conjunction with the attached RIPA authorisation/RIPA application or notice.

Investigating Officer:.....

Authorising Officer/Designated Person:.....

Officer(s) appearing before JP:.....

Address of applicant department:.....  
.....

Contact telephone number:.....



Contact email address  
(optional):.....

Local authority  
reference:.....

Number of  
pages:.....

DRAFT

**Order made on an application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.**

Magistrates' court:.....

Having considered the application, I (tick one):

- am satisfied that there are reasonable grounds for believing that the requirements of the Act were satisfied and remain satisfied, and that the relevant conditions are satisfied and I therefore approve the grant or renewal of the authorisation/notice.
- refuse to approve the grant or renewal of the authorisation/notice.
- refuse to approve the grant or renewal and quash the authorisation/notice.

Notes

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Reasons

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.....  
.....

Signed:

Date:

Time:

Full name:

Address of magistrates' court:

## COUNCIL

12 DECEMBER 2017

### REPORT OF THE LEADER AND SOLICITOR TO THE COUNCIL & MONITORING OFFICER

#### REVIEW OF THE CONSTITUTION AND SCHEME OF DELEGATION

#### EXEMPT INFORMATION

None

#### PURPOSE

To obtain Council comments, endorsement and approval of the reviewed Constitution and Scheme of Delegation as provided in the link at Appendix 1 to the Report.

#### RECOMMENDATIONS

That the Council:

- 1) **Endorse the changes to the reviewed Constitution and Scheme of Delegation AND**
- 2) **Adopt and approve the changes as presented in Appendix 1.**

#### EXECUTIVE SUMMARY

The Constitution and Scheme of Delegation as reviewed are adopted by Council at the first business meeting each year to ensure probity and legal compliance. It is normally an annual occurrence but on occasion the Constitution has been amended within the municipal year. Provision exists within the Constitution to allow a motion for amendment after a period of six months has elapsed. This municipal year has seen an alteration in Chief Officer appointments and as a result there have been substantive entries in the Constitution to address the duties of the officers concerned. Members are now required by law to be registered with the Information Commissioners Office as they handle personal data in their role as a Councillor when representing constituents Data. Each member has to pay an annual subscription fee to the Data Protection Commissioner. Changes to the code of conduct and job descriptions for members have been made to the constitution as well as the allowance structure which takes account of the annual fee. (Members have been appraised of this obligation in the Members Information Bulletin and training is being provided). There are also a few other changes in Part 3 relating to Council Functions and to Members subsistence in Part 6.

Articles 13 and 15 of the Constitution require the Solicitor to the Council to maintain, monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. It also requires formal approval and adoption by the Council at the beginning of each municipal year

The Scheme of Delegation forms part 3 of the Constitution and also requires approval and adoption by the Council at the beginning of each municipal year in relation to those functions arising from the Local Government Act 1972 and subsequent legislation as well as those functions approved by the Leader in accordance with Section 14 of the Local Government Act 2000.

## **RESOURCE IMPLICATIONS**

No external advice was required for the review.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

Without a Constitution and Scheme of Delegation the Council could not operate effectively. The Council would run the risk of failure to comply with statutory requirements which in turn would expose the organisation to further vulnerability in relation to legal challenge and ultra vires operation. Such challenges could lead to serious financial and reputational damage.

## **SUSTAINABILITY IMPLICATIONS**

It is essential that the Constitution and Scheme of Delegation are lawful, fit for purpose and utilised with a pragmatic approach to improve and enhance the democratic process of the Council and operation of its associated services. In addition there is no provision to cover the cost of legal challenge within any envisaged contingency

## **BACKGROUND INFORMATION**

The Local Government Act 1972 (as amended) provides *inter alia* for a Constitution and Scheme of Delegation.

The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. Accordingly the Constitution governs the Council's business.

The Scheme of Delegation is a document whereby the Council delegates to certain officers powers to undertake functions and duties on behalf of the Authority. Tamworth Borough Council has operated a Scheme of Delegation for officers for several years. The proposed Scheme of Delegation does not purport to grant officers any additional authority to which is already provided, it merely seeks to formulate arrangements into a workable document.

## **REPORT AUTHOR**

If members would like any further information or clarification prior to the meeting please contact Jane M Hackett, Solicitor to the Council and Monitoring Officer , Ext 258

## **LIST OF BACKGROUND PAPERS**

The Local Government Act 1972

The Local Authorities ( Functions and Responsibilities) (England) Regulations 2000

The Localism Act 2011

## **APPENDICES**

Link to Constitution and Scheme of

<http://democracy.tamworth.gov.uk/ecSDDisplay.aspx?NAME=SD382&ID=382&RPID=19572>

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