



Borough of Tamworth

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## AUDIT AND GOVERNANCE COMMITTEE

15 July 2020

Dear Councillor

A meeting of the Audit and Governance Committee will be held in **Online Meeting on Thursday, 23rd July, 2020 at 6.00 pm**. Members of the Committee are requested to attend.

Yours faithfully

A handwritten signature in black ink, appearing to be 'AOS', followed by a long horizontal line extending to the right.

**CHIEF EXECUTIVE**

### A G E N D A

### NON CONFIDENTIAL

- 1 **Minutes of the Previous Meeting (Pages 5 - 8)**
- 2 **Apologies for Absence**
- 3 **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.*

**4 Update from External Auditors**

*To receive an update*

**5 Risk Management Quarterly Review update (Pages 9 - 54)**

*(Report of the Assistant Director Finance)*

**6 Regulation of Investigatory Powers Act 2000 (Pages 55 - 106)**

*(Report of the Assistant Director Partnerships)*

**7 Internal Audit Annual Report and Update (Pages 107 - 122)**

*(Report of the Head of Audit & Governance & Monitoring Officer)*

**8 Pros and Cons of Independent Members (Pages 123 - 126)**

*(Report of the Head of Audit & Governance and Monitoring Officer)*

**9 Audit & Governance Committee Timetable (Pages 127 - 134)**

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**Access arrangements**

*If you have any particular access requirements when attending the meeting, please contact Democratic Services on 01827 709267 or e-mail [democratic-services@tamworth.gov.uk](mailto:democratic-services@tamworth.gov.uk). We can then endeavour to ensure that any particular requirements you may have are catered for.*

**Filming of Meetings**

*The public part of this meeting may be filmed and broadcast. Please refer to the Council's Protocol on Filming, Videoing, Photography and Audio Recording at Council meetings which can be found [here](#) for further information.*

*The Protocol requires that no members of the public are to be deliberately filmed. Where possible, an area in the meeting room will be set aside for videoing, this is normally from the front of the public gallery. This aims to allow filming to be carried out whilst minimising the risk of the public being accidentally filmed.*

*If a member of the public is particularly concerned about accidental filming, please consider the location of any cameras when selecting a seat.*

**FAQs**

*For further information about the Council's Committee arrangements please see the FAQ page [here](#)*

To Councillors: M Summers, M Bailey, C Cooke, J Faulkner, M Oates, S Pritchard and R Rogers

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## MINUTES OF A MEETING OF THE AUDIT AND GOVERNANCE COMMITTEE HELD ON 13th FEBRUARY 2020

PRESENT: Councillor M Summers (Chair), Councillors J Faulkner, M Oates, S Pritchard and P Thurgood

Officers Stefan Garner (Executive Director Finance), Rebecca Neill (Head of Audit & Governance and Monitoring Officer) and Lynne Pugh (Assistant Director Finance)

Visitors Mark Stocks (Grant Thornton)

### 40 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 24<sup>th</sup> October 2019 were approved and signed as a correct record.

*(Moved by Councillor J Faulkner and seconded by Councillor M Oates)*

### 41 DECLARATIONS OF INTEREST

There were no declarations of Interest.

### 42 UPDATE FROM EXTERNAL AUDITORS

Mark Stocks introduced himself to the Committee as the new External Auditor/ Partner from Grant Thornton.

### 43 FEE INCREASE LETTER

**RESOLVED:** That the Committee;

Endorsed the Fee increase letter.

*(Moved by Councillor M Summers and seconded by Councillor J Faulkner)*

### 44 AUDIT PLAN

**RESOLVED:** That the Committee

Endorsed the external Audit Plan for year ending 31<sup>st</sup> March 2020.

*(Moved by Councillor J Faulkner and seconded by Councillor P Thurgood)*

**45 REGULATION OF INVESTIGATORY POWERS ACT 2000**

The Council's Code of Practice for carrying out surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA) specifies that quarterly reports will be taken to Audit & Governance Committee to demonstrate to elected members that the Council is complying with its own Code of Practice when using RIPA

**RESOLVED** That Audit and Governance Committee:

Endorsed the RIPA monitoring report for the quarter to 31 December 2019 circulated for information.

*(Moved by Councillor J Faulkner and seconded by Councillor M Oates)*

Councillor M Oates left the meeting

**46 RISK MANAGEMENT QUARTERLY UPDATE**

The Assistant Director Finance reported on the Risk Management process and progress to date for the current financial year.

Following the Committee's discussion on workforce planning, new revenue streams and democratic process corporate risks, the Committee requested that a 'deep dive' of the workforce planning risk be brought the next Committee and the current risk score on democratic process be reviewed by risk owners.

**RESOLVED** That the Committee;

Endorsed the Corporate Risk Register.

*(Moved by Councillor M Summers and seconded by Councillor P Thurgood)*

**47 INTERNAL AUDIT UPDATE REPORT 2019/20 (QUARTER 3)**

The Head of Audit & Governance and Monitoring Officer provided Audit & Governance Committee with internal audit's progress report for the period to 31 December 2019 (Quarter 3).

**RESOLVED**

That the Committee;

Considered the attached report (and new format for reporting) and approved the proposed change in assurance and recommendation classifications.

*(Moved by Councillor M Summers and seconded by Councillor S Pritchard)*

**48 AUDIT COMMITTEE EFFECTIVENESS**

**RESOLVED:** Members of the Committee completed the self-assessment checklist at Appendix 1 and resolved that;

Those members who have not completed the knowledge and skills framework be requested to do so; and

A report of the 'pros and cons' and timeline of a potential appointment of an independent member to the Committee be brought to the next meeting.

*(Moved by Councillor M Summers and seconded by Councillor J Faulkner)*

**49 AUDIT AND GOVERNANCE COMMITTEE TIMETABLE**

The Committee reviewed the timetable.

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Chair

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## AUDIT AND GOVERNANCE COMMITTEE

Thursday, 23rd July 2020

### REPORT OF THE ASSISTANT DIRECTOR FINANCE

#### RISK MANAGEMENT QUARTERLY UPDATE

#### **Purpose**

To report on the Risk Management process and progress to date for the current financial year.

#### **Recommendations**

**That the Committee endorses the Corporate Risk Register**

#### **Executive Summary**

One of the functions of the Audit & Governance Committee is to monitor the effectiveness of the Authority's Strategic risk management arrangements, including the actions taken to manage those risks and to receive regular reports on this activity. Corporate risks are identified, managed and monitored by the Corporate Management Team (CMT) on a quarterly basis.

As previously reported the structure for the Strategic risks is being reviewed to reflect the current organisation structure and ensure it carries the appropriate level of focus. The review work is still continuing and will be reported to a future meeting.

The summary of the current Corporate Risk Register is attached as **Appendix 1** and the detailed information is attached as **Appendix 2**. The major items of note in the quarter period are:

- The effect of Covid-19 on the operations of the Authority
- The now proven effectiveness of the Business continuity arrangements within the Authority
- Removal of the Assurance process from the list. The annual opinion on the control environment over the last 2 years has been reasonable assurance. We have no major fraud, and we have a functioning Internal and External assurance processes.

The need to be prepared for future events both known and unknown are (where possible) accommodated in the structure of the strategic risk framework. Recent events have provided a validation of the Business Continuity planning element of these control measures. The Authority was able to successfully transfer to a significantly different organisational working structure at the outbreak of the COVID-19 pandemic. There are still lessons to be learned and these will be incorporated as required.

The issues arising from the European Union (BREXIT) are still largely an unknown in regards to its effect on the economy in general and our region in particular, but this situation continues to be monitored and preparations, where possible, will be made.

**Options Considered**

None.

**Resource Implications**

None.

**Legal / Risk Implications**

There are no direct legal implications from this report but failure to manage strategic risks could lead to issues in delivering strategic priorities.

**SUSTAINABILITY IMPLICATIONS**

None

**BACKGROUND INFORMATION**

None

**REPORT AUTHOR**

Roger Bennett ext. 246

**LIST OF BACKGROUND PAPERS**

None

**APPENDICES**

**Appendix 1 Summary Corporate Risk Register**











**Appendix 2 Detailed Corporate Risk Register**

# Corporate Risk Register 2020/21

Generated on: 13 July 2020







Title	Description
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Finance To ensure that the Council is financially sustainable as an organisation

Risk	Gross Risk Status	Gross Risk Assessment	Current Risk Status	Current Risk Assessment	Date Reviewed
Funding gaps		12 major – likely		9 serious–likely	10-Jul-2020
Business Rates Retention		12 major – likely		9 serious–likely	10-Jul-2020
New Homes Bonus		9 serious–likely		6 serious–unlikely	10-Jul-2020
Welfare and Benefit Reform		12 serious – very likely		16 major – very likely	01-Jul-2020
Failure to manage budgets		12 major – likely		6 serious–unlikely	10-Jul-2020

Title	Description
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Modernisation & Commercialisation Agenda Develop and implement continuous improvement and develop employees to perform the right work

Risk	Gross Risk Status	Gross Risk Assessment	Current Risk Status	Current Risk Assessment	Date Reviewed
Contract Management & Procurement		6 serious–unlikely		4 significant–unlikely	10-Jul-2020
Management of Assets		6 significant–likely		6 significant–likely	02-Jul-2020
New Revenue Streams		12 serious – very likely		9 serious–likely	10-Jul-2020





Risk	Gross Risk Status	Gross Risk Assessment	Current Risk Status	Current Risk Assessment	Date Reviewed
Workforce Planning Challenges		6 serious-unlikely		6 serious-unlikely	15-Jun-2020
Continuous Improvement		6 serious-unlikely		4 significant-unlikely	13-Jul-2020
Partnerships fail		9 serious-likely		6 serious-unlikely	01-Jul-2020



Title	Description
Governance	Ensure that processes, policies and procedures are in place and the authority is held to account

Page 12

Risk	Gross Risk Status	Gross Risk Assessment	Current Risk Status	Current Risk Assessment	Date Reviewed
Democratic Process		9 serious-likely		6 serious-unlikely	01-Jul-2020
Legislation		12 serious - very likely		6 serious-unlikely	13-Jul-2020
Policies & Procedures		12 serious - very likely		6 serious-unlikely	13-Jul-2020
Ethics		12 serious - very likely		4 significant-unlikely	13-Jul-2020







Title	Description
Community Focus	To ensure the safety, health and wellbeing of the citizens of the borough

Risk	Gross Risk Status	Gross Risk Assessment	Current Risk Status	Current Risk Assessment	Date Reviewed
Community Cohesion & Engagement		12 serious - very likely		9 serious-likely	01-Jul-2020
Safeguarding Children & Adults (including Modern Slavery)		12 major - likely		6 significant-likely	01-Jul-2020

Risk	Gross Risk Status	Gross Risk Assessment	Current Risk Status	Current Risk Assessment	Date Reviewed
Emergency Planning		12 major – likely		6 serious–unlikely	01-Jul-2020







Title	Description
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Economic Growth & Sustainability	To ensure that the economic growth and sustainability of the borough is maintained
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Risk	Gross Risk Status	Gross Risk Assessment	Current Risk Status	Current Risk Assessment	Date Reviewed
Lack of economic investment in people and Places		12 serious – very likely		9 serious–likely	06-Jul-2020
Housing Needs		12 serious – very likely		12 major – likely	01-Jul-2020
Economic Changes		12 major – likely		9 serious–likely	06-Jul-2020





Title	Description
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Information Safeguarding	To ensure that our data is protected
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Risk	Gross Risk Status	Gross Risk Assessment	Current Risk Status	Current Risk Assessment	Date Reviewed
Data Protection and information Safeguarding		16 major – very likely		8 major – unlikely	23-Jun-2020
Cyber Security		12 major – likely		8 major – unlikely	23-Jun-2020
Business Continuity		12 major – likely		9 serious–likely	02-Jul-2020


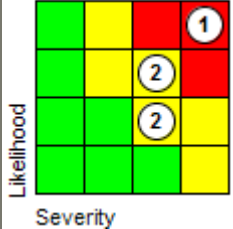
Title	Description
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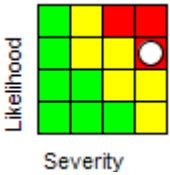
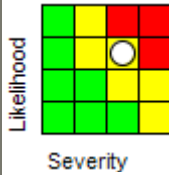
Brexit	The Impact of Brexit upon the Council
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Risk	Gross Risk Status	Gross Risk Assessment	Current Risk Status	Current Risk Assessment	Date Reviewed
Financial		16 major – very likely		16 major – very likely	13-Jul-2020
The Impact of Brexit upon the Council		16 major – very likely		16 major – very likely	13-Jul-2020

# Corporate Risk Register 2020/21


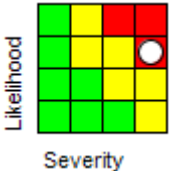
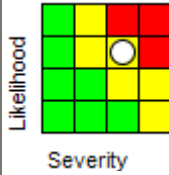
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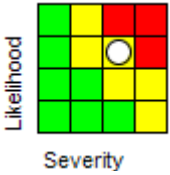
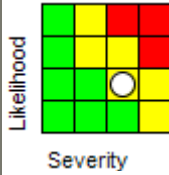
<b>Risk Code</b>	CPR2021 1	<b>Risk Title</b>	Finance	<b>Current Risk Status</b>	
<b>Description of Risk</b>	To ensure that the Council is financially sustainable as an organisation			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>				<b>Current Risk Score</b>	
<b>Gross Severity</b>				<b>Current Severity</b>	
<b>Gross Likelihood</b>				<b>Current Likelihood</b>	
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	
<b>Consequences</b>					
<b>Vulnerabilities/causes</b>					
<b>Risk Notes</b>					


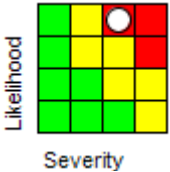
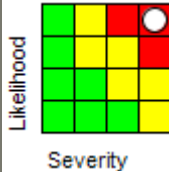
<b>Risk Code</b>	CPR2021 1.1	<b>Risk Title</b>	Funding gaps	<b>Current Risk Status</b>	
<b>Description of Risk</b>				<b>Assigned To</b>	Stefan Garner; Lynne Pugh
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>			
<b>Gross Risk Score</b>	12	Medium term financial strategy in place - approved annually	<b>Current Risk Matrix</b>		
<b>Gross Severity</b>	4	Quarterly healthcheck to CMT / Cabinet including MTFS update	<b>Current Risk Score</b>	9	
<b>Gross Likelihood</b>	3	Business Rates Collection Reserve - provision of reserve funding to mitigate impact of any changes in business rate income levels	<b>Current Severity</b>	3	
<b>Gross Risk Review Date</b>	30-Jun-2020	Monitoring of the situation / regular reporting	<b>Current Likelihood</b>	3	
		A robust & critical review of savings proposals is required / undertaken before inclusion within the forecast	<b>Last Risk Review Date</b>	10-Jul-2020	
		Scrutiny Role by Budget Working Group and CMT			
		Robust management of DFG referrals / funding levels			
		Prudent approach to forecasting of Government Funding (NNDR/RSG/New Homes Bonus) post 2021/22 - including redistribution of growth in business rates since 2013			
		Contingencies and Contingency/Transformation Reserve in place			
		<b>Managers will be required to review their budgets and identify all non-essential spending for 2020/21 as part of the quarter 1 projections at 30 June 2020.</b>			
<b>Consequences</b>	<p>Inability to plan long term due to uncertainty over future Local Government funding arising from the Fair Funding Review, the planned business rates reset and the revised business rates retention scheme from 2021/22.</p> <p>Announcements as part of Spending Round 2019 that the Review of the distribution methodology, the 'Fair Funding Review' as well as the planned Business Rates Reset will be now be reviewed as part of the Comprehensive Spending Review now planned for 2020 for 2021/22.</p>				


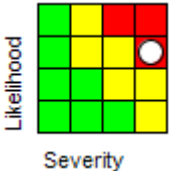
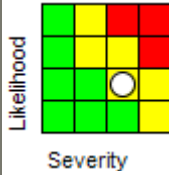



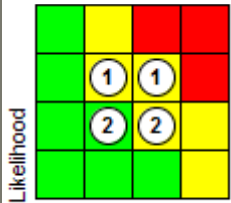
	<p>There is a high risk that this will have a significant effect on the Council's funding level.</p> <p>Increased risks associated with those Councils who are borrowing large sums to invest in commercial property activities.</p> <p>Shortfall in DFG grant funding / impact on General Fund revenue</p>
<p><b>Vulnerabilities/causes</b></p> <p>Page 17</p>	<p>Austerity cuts/Major variances to the level of grant/subsidy</p> <p>Business rates retention – deferral of the 75% retention of business rates from 2020/21 to 2021/22 (rather than 100% as previously planned).</p> <p>Review of the distribution methodology, the 'Fair Funding Review' as well as the planned Business Rates Reset (when a proportion of the growth in business rates achieved since 2013/14 will be redistributed) together with the Spending Review - which was planned to take effect from 2020/21.</p> <p>Announcements as part of Spending Round 2019 that the Review of the distribution methodology, the 'Fair Funding Review' as well as the planned Business Rates Reset will be now be reviewed as part of the Comprehensive Spending Review now planned for 2020 for 2021/22.</p> <p>In addition, the next planned national <b>Business Rates Revaluation</b> will take effect from 2021/22 – with latest indications that the Government will also aim to introduce a <b>centralised system for business rate appeals</b> at the same time to cover future changes arising from the 2021 valuation list</p> <p>Non achievement/delivery of substantial savings</p> <p>Review of the Treasury Management Investment Guidance / Minimum Revenue Provision Guidance has been carried out by DCLG - however, planned CIPFA review of Prudential code may lead to a potential restriction of investments by Councils given increased risk exposure.</p> <p>Disabled Facilities Grants - increased demand / costs not in line with grant levels impacting on other funding sources, uncertainty over funding.</p> <p>During the COVID-19 pandemic the Council will lose income and other resources. Whilst the full extent of this cannot be known at present it will be necessary for the Council to take an accelerated approach towards the development and implementation of an effective sustainability strategy. Accordingly, it has been recommended that there is an immediate suspension of all non-essential spending and that the budget be revised to remove these budgets following the preparation of the first quarterly monitoring report. Managers will be required to review their budgets and identify all non-essential spending for 2020/21 as part of the quarter 1 projections at 30 June 2020.</p>
<p><b>Risk Notes</b></p>	


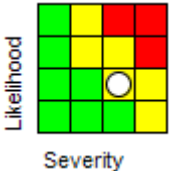
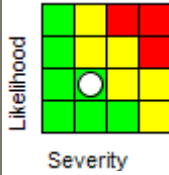
<b>Risk Code</b>	CPR2021 1.2	<b>Risk Title</b>	Business Rates Retention	<b>Current Risk Status</b>	
<b>Description of Risk</b>				<b>Assigned To</b>	Stefan Garner; Lynne Pugh
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Robust estimates included to arrive at collection target. Ongoing proactive management & monitoring will continue  Business Rates Collection Reserve - provision of reserve funding to mitigate impact of any changes in business rate income levels		<b>Current Risk Score</b>	9
<b>Gross Severity</b>	4			<b>Current Severity</b>	3
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	3
<b>Gross Risk Review Date</b>	29-Mar-2019	Prudent approach to forecasting of Government Funding (NNDR/RSG/New Homes Bonus) post 2021/22 - including redistribution of growth in business rates since 2013		<b>Last Risk Review Date</b>	10-Jul-2020
<b>Consequences</b>	Reduced levels of business rates income and impact on MTFS				
<b>Vulnerabilities/causes</b>	<p>Uncertainty over level of appeals following 2017 Revaluation and implementation of new approach to 'Check, Challenge and appeal' Impact on collection levels Uncertainty / changes in S31 grants Void property levels Uncertainty due to:</p> <p>Business rates retention – deferral of the 75% retention of business rates from 2020/21 to 2021/22 (rather than 100% as previously planned).</p> <p>Review of the distribution methodology, the 'Fair Funding Review' as well as the planned Business Rates Reset (when a proportion of the growth in business rates achieved since 2013/14 will be redistributed) together with the Spending Review - which was planned to take effect from 2020/21.</p> <p>Announcements as part of Spending Round 2019 that the Review of the distribution methodology, the 'Fair Funding Review' as well as the planned Business Rates Reset will be now be reviewed as part of the Comprehensive Spending Review now planned for 2020 for 2021/22.</p> <p>In addition, the next planned national <b>Business Rates Revaluation</b> will take effect from 2021/22 – with latest indications that the Government will also aim to introduce a <b>centralised system for business rate appeals</b> at the same time to cover future changes arising from the 2021 valuation list. The government has recently announced that with the changing circumstances as a result of the COVID-19 pandemic, the next revaluation will not go ahead in 2021.</p>				
<b>Risk Notes</b>					


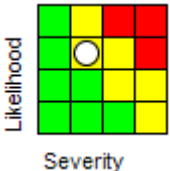
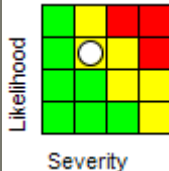
<b>Risk Code</b>	CPR2021 1.3	<b>Risk Title</b>	New Homes Bonus	<b>Current Risk Status</b>	
<b>Description of Risk</b>				<b>Assigned To</b>	Stefan Garner; Lynne Pugh
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>			
<b>Gross Risk Score</b>	9	Given uncertainty over the review of the distribution methodology, the 'Fair Funding Review' as well as the planned Spending Review 2019 - which was planned take effect from 2020/21 a revised risk based approach was introduced in 2018 for 2019/20 onwards.	<b>Current Risk Matrix</b>		
<b>Gross Severity</b>	3		<b>Current Risk Score</b>	6	
<b>Gross Likelihood</b>	3		<b>Current Severity</b>	3	
<b>Gross Risk Review Date</b>	29-Mar-2019		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>		Announcements as part of Spending Round 2019 that NHB scheme will be reviewed as part of the Comprehensive Spending Review now planned for 2020 - also, legacy funding for the 4 years to 2019/20 will be paid, as well as continuation of the scheme for 2020/21 onwards will not be guaranteed pending the review.	<b>Last Risk Review Date</b>	10-Jul-2020	
<b>Consequences</b>	Reduced levels of New Homes Bonus grant funding & Growth in Council tax Income				
<b>Vulnerabilities/causes</b>	<p>Uncertainty over the ongoing funding for the <b>New Homes Bonus scheme</b>, local growth in housing numbers and share of the national pool (including potential increases to the 'deadweight' for which Council's no longer receive grant). Deadweight confirmed unchanged at 0.4% for 2020/21.</p> <p>Announcements as part of Spending Round 2019 that NHB scheme will be reviewed as part of the Comprehensive Spending Review now planned for 2020 - also, legacy funding for the 4 years to 2019/20 will be paid, as well as continuation of the scheme for 2020/21 onwards will not be guaranteed pending the review.</p> <p>The Chancellor announced on 24 March that the 2020 Comprehensive Spending Review would be delayed - awaiting further details.</p>				
<b>Risk Notes</b>					

<b>Risk Code</b>	CPR2021 1.5	<b>Risk Title</b>	Welfare and Benefit Reform	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Welfare and Benefit Reform			<b>Assigned To</b>	Rob Barnes; Stefan Garner; Tina Mustafa; Lynne Pugh
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Proactive approach to management of Homelessness Proactive management & monitoring of corporate income levels i.e. council tax, business rates (monthly review of target achievement) & housing rent Extensive preparation including staff training Regular CMT, Cabinet and Scrutiny Committee updates		<b>Current Risk Score</b>	16
<b>Gross Severity</b>	3			<b>Current Severity</b>	4
<b>Gross Likelihood</b>	4			<b>Current Likelihood</b>	4
<b>Gross Risk Review Date</b>	29-Mar-2019			<b>Last Risk Review Date</b>	01-Jul-2020
<b>Consequences</b>	Reduced income / increased bad debts - forecasts adjusted Additional impact arising from increased need for services - eg homelessness Greater demand on 3rd sector and statutory agency services Additional resource requirement to meet demand				
<b>Vulnerabilities/causes</b>	Reduced income corporately due to welfare reform changes (including council tax support scheme and Universal Credit with further austerity measures from Welfare Reform Act 2015) - impact on council tax, rent income etc Implementation of Government policy at local level - Impact of universal Credit being assessed Household hardship				
<b>Risk Notes</b>	Work Commissioned as part of the review around the corporate debt strategy to support those households with multiple debt. Vulnerability and base line assessment also underway to inform risk control measures as part of the early response to COVID and its impact. Corporate Debt Strategy update and proposals are a key corporate project and on track for delivery 2020/2021. Leader and scrutiny supported letters to DWP around the impact of Universal Credit Identified as a Corporate project 27/3/19 and risks being managed				


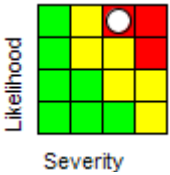
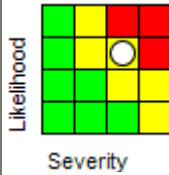
<b>Risk Code</b>	CPR2021 1.6	<b>Risk Title</b>	Failure to manage budgets	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Failure to manage budgets			<b>Assigned To</b>	Stefan Garner; Lynne Pugh
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Budget planning & monitoring (Monthly report to CMT) Training Monthly budget monitoring meetings with Accountants and Managers Budget monitoring information available through Collaborative Planning (updated monthly) Annual review of unspent budgets feeds into budget setting process Training sessions for new manager rolled out in 2019 with more planned for 2020		<b>Current Risk Score</b>	6
<b>Gross Severity</b>	4			<b>Current Severity</b>	3
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>	29-Mar-2019			<b>Last Risk Review Date</b>	10-Jul-2020
<b>Consequences</b>	Cuts in front line service provision Quality of service declines Inability to meet on-going costs Budget overspends/underspends Reputational issues				
<b>Vulnerabilities/causes</b>	Lack of involvement / ownership by Managers Information not updated / provided on a regular basis				
<b>Risk Notes</b>	In response to the latest MTFS update all managers will be required to review their budgets and identify all non-essential spending for 2020/21 as part of the quarter 1 projections at 30 June 2020.				


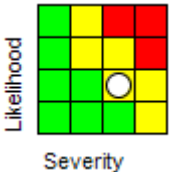
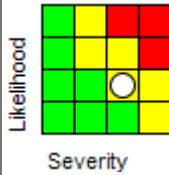
<b>Risk Code</b>	CPR2021 2	<b>Risk Title</b>	Modernisation & Commercialisation Agenda	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Develop and implement continuous improvement and develop employees to perform the right work		<b>Assigned To</b>		
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	 <p>Likelihood</p> <p>Severity</p>
<b>Gross Risk Score</b>				<b>Current Risk Score</b>	
<b>Gross Severity</b>				<b>Current Severity</b>	
<b>Gross Likelihood</b>				<b>Current Likelihood</b>	
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	
<b>Consequences</b>					
<b>Vulnerabilities/causes</b>					
<b>Risk Notes</b>					

<b>Risk Code</b>	CPR2021 2.1	<b>Risk Title</b>	Contract Management & Procurement	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Contract Management & Procurement			<b>Assigned To</b>	Stefan Garner; Lynne Pugh
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6	Procurement function Financial Guidance requirements / Contract standing orders in place Contracts review under GDPR legislation to ensure due diligence and obligations met Training for new managers rolled out in 2019 with more planned for 2020	<b>Current Risk Score</b>	4	
<b>Gross Severity</b>	3		<b>Current Severity</b>	2	
<b>Gross Likelihood</b>	2		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>	29-Mar-2019		<b>Last Risk Review Date</b>	10-Jul-2020	
<b>Consequences</b>	Services not delivered Damage to reputation Loss of quality service High exit costs Efficiencies not gained Regulations not met				
<b>Vulnerabilities/causes</b>	Failure to meet service delivery expectations Partner has financial failure Service delivery collapses Third party supply chain failure Contractor/partner under performs Failure to assess and manage the risks arising from the use of third parties Benefit not realised				
<b>Risk Notes</b>					


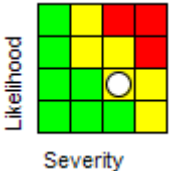
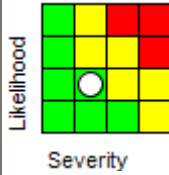
<b>Risk Code</b>	CPR2021 2.2	<b>Risk Title</b>	Management of Assets	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Management of Assets			<b>Assigned To</b>	Rob Barnes; Stefan Garner; Lynne Pugh; Paul Weston
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6	Asset Strategy Steering Group in place qrtly meetings Asset register updated regularly Potential to purchase land in other districts for development (subject to Potential government restraints in the future) Development of longer term Corporate Capital Strategy and Asset Management Planning including potential acquisition, investment and disposal Proactive approach to respond to emerging fire risk requirements i.e. High rise Flats Ensure programmes and projects are appropriately resourced.	<b>Current Risk Score</b>	6	
<b>Gross Severity</b>	2		<b>Current Severity</b>	2	
<b>Gross Likelihood</b>	3		<b>Current Likelihood</b>	3	
<b>Gross Risk Review Date</b>	15-Jan-2019		<b>Last Risk Review Date</b>	02-Jul-2020	
<b>Consequences</b>	Assets under utilised Income streams not maximised Decrease in asset value				
<b>Vulnerabilities/causes</b>	Assets not monitored Assets not maintained No land available for development opportuni				
<b>Risk Notes</b>	There is the very real likelihood that there will be negative impacts resulting from COVID 19 on the Councils ability to sustain lets for commercial/industrial property. This will impact on income and future viability of assets.				


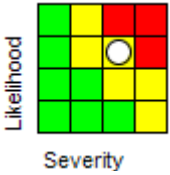
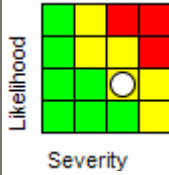



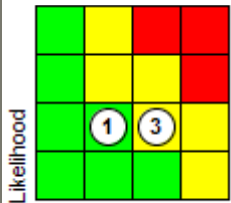
<b>Risk Code</b>	CPR2021 2.3	<b>Risk Title</b>	New Revenue Streams	<b>Current Risk Status</b>	
<b>Description of Risk</b>	New Revenue Streams			<b>Assigned To</b>	Stefan Garner; Lynne Pugh
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Monitoring of the situation / regular reporting Implementation of planned / potential investment and consequential income streams A robust & critical review of investment proposals is required / undertaken Develop commercial skills	<b>Current Risk Score</b>	9	
<b>Gross Severity</b>	3		<b>Current Severity</b>	3	
<b>Gross Likelihood</b>	4		<b>Current Likelihood</b>	3	
<b>Gross Risk Review Date</b>	29-Mar-2019		<b>Last Risk Review Date</b>	10-Jul-2020	
<b>Consequences</b>	Increased risks associated with those Councils who are borrowing large sums to invest in commercial property activities				
<b>Age</b>	Delivery of the planned Commercial Investment Strategy actions and associated improved investment returns of 4% p.a. arising from the investment of £24m from the capital receipt received over the period 2016 – 2018 from the sale of the former golf course (to support the MTFS in the long term);				
<b>Vulnerabilities/causes</b>	Review of the Treasury Management Investment Guidance / Minimum Revenue Provision Guidance has been carried out by DCLG - Cipfa currently reviewing the Prudential Code with a potential restriction of investments by Councils given increased risk exposure.  From 9/10/19 PWLB increased the interest rates offered on new Public Works Loan Board by 1% on top of existing loans terms				
<b>Risk Notes</b>	The Council has delayed any further investment in Property Funds in light of the current COVID-19 pandemic.				


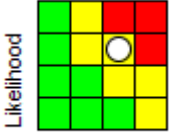
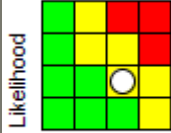
<b>Risk Code</b>	CPR2021 2.4	<b>Risk Title</b>	Workforce Planning Challenges	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Workforce Planning Challenges			<b>Assigned To</b>	Anica Goodwin; Zoe Wolicki
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6	Service reviews as required Regular communication Regular ELT briefings Essential legislative/compliance/CPD Skills development HR policies and procedures reviewed Financial regulations/procedures Healthshield and occupational health Pre employment checks Gender pay reporting Regular updates with Trade Unions Workforce plan succession planning OD Strategy PDRs	<b>Current Risk Score</b>	6	
<b>Gross Severity</b>	3		<b>Current Severity</b>	3	
<b>Gross Likelihood</b>	2		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>	15-Jun-2020		<b>Last Risk Review Date</b>	15-Jun-2020	
<b>Consequences</b>	Strain on remaining staff Risk to service delivery Industrial action Increase in fraud Increase in grievances from staff Inability to align skill levels Pay and conditions below market conditions Increased absence rates Failure to manage change				
<b>Vulnerabilities/causes</b>	Staff become overloaded Low morale has impact on service delivery Industrial unrest Redundancy costs Failure to communicate effectively High sickness levels Leadership capacity insufficient to drive change & transformation Senior management review				

	Inequality Unable to recruit to essential vacant posts Inability to deliver key projects Key officers diverted to other new commitments
<b>Risk Notes</b>	

<b>Risk Code</b>	CPR2021 2.5	<b>Risk Title</b>	Continuous Improvement	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Continuous Improvement			<b>Assigned To</b>	Andrew Barratt; Anica Goodwin
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	6	Clear communications re change Robust policies and procedures Effective project management On-going transformational programmes Post Implementation Reviews Leadership Long term planning for continuous improvement clarity of strategies/ purpose Membership of professional bodies Relationships with Members		<b>Current Risk Score</b>	4
<b>Gross Severity</b>	3		<b>Current Severity</b>	2	
<b>Gross Likelihood</b>	2		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>	11-Jan-2020		<b>Last Risk Review Date</b>	13-Jul-2020	
<b>Consequences</b>	Change is not completed No strategic direction Inability to deliver key projects				
<b>Vulnerabilities/causes</b>	No clarity around responsibilities and accountabilities Lack of leadership Work overload				
<b>Risk Notes</b>	No changes				


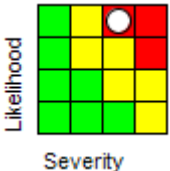
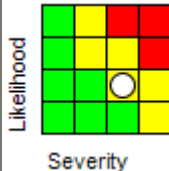
<b>Risk Code</b>	CPR2021 2.6	<b>Risk Title</b>	Partnerships fail	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Partnerships			<b>Assigned To</b>	Rob Barnes; Joanne Sands
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	9	Regular partnership service meetings Engagement with service realignments Development of collaborative working TSP Partnership Coordination Group Development and delivery of shared plans and programmes		<b>Current Risk Score</b>	6
<b>Gross Severity</b>	3			<b>Current Severity</b>	3
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>	16-Oct-2018			<b>Last Risk Review Date</b>	01-Jul-2020
<b>Consequences</b>	Inability to provide service to the required level Loss of service Lack of skilled resources				
<b>Vulnerabilities/causes</b>	Partnerships fail Inability to provide resources to partnership service arrangements Service arrangements provided by other partners cease				
<b>Risk Notes</b>	Partnership Coordination group in place. Community safety plan in place. Work continuing with voluntary sector to continue partnership work with those most vulnerable as part of COVID recovery plans				
	No Changes				
	Partnership Co-ordination group established				


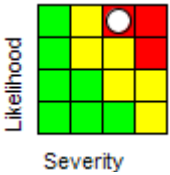
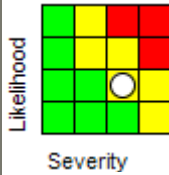
<b>Risk Code</b>	CPR2021 4	<b>Risk Title</b>	Governance	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Ensure that processes, policies and procedures are in place and the authority is held to account		<b>Assigned To</b>		
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	 <p>Likelihood</p> <p>Severity</p>
<b>Gross Risk Score</b>				<b>Current Risk Score</b>	
<b>Gross Severity</b>				<b>Current Severity</b>	
<b>Gross Likelihood</b>				<b>Current Likelihood</b>	
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	
<b>Consequences</b>					
<b>Vulnerabilities/causes</b>					
<b>Risk Notes</b>					

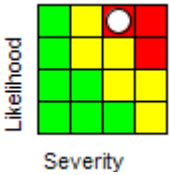
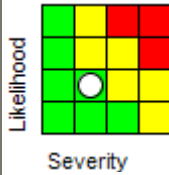
<b>Risk Code</b>	CPR2021 4.1	<b>Risk Title</b>	Democratic Process	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Democratic Process			<b>Assigned To</b>	Andrew Barratt; Anica Goodwin; Rebecca Neill
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	9	Regular review and update of Constitution Scheme of Delegation Forward plan and key decisions Meetings open to the public Project plan implemented for move to remote Council and Committee meetings Training for Members Audit & Governance Committee including Standards Committee) Scrutiny Committees Increased access to services Increase use of technology Member Induction	<b>Current Risk Score</b>	6	
<b>Gross Severity</b>	3		<b>Current Severity</b>	3	
<b>Gross Likelihood</b>	3		<b>Current Likelihood</b>	2	
<b>Gross Risk Review Date</b>	11-Jan-2020		<b>Last Risk Review Date</b>	01-Jul-2020	
<b>Consequences</b>	Damage to reputation Legal challenge Damage to reputation Financial impact on poor decisions Increase of "call ins"				
<b>Vulnerabilities/causes</b>	Failure to match social and political expectations Failure to act on feedback Ultra vires decisions Lack of training/knowledge Lack of documented procedures Lack of commitment from officers and members Failure to understand key decisions, legal/governance requirements Inappropriate decision making Changes to political control Members resign from duties/as a member				
<b>Risk Notes</b>	This risk score has been reviewed following a prompt from the Audit & Governance Standards Committee as it appeared unnecessarily high. The score has also been reviewed in light of the change to council meetings following implementation of the new Regulations for remote meetings. As the project has been effectively implemented, there is no change required to the revised lower risk score.				
	No Change				


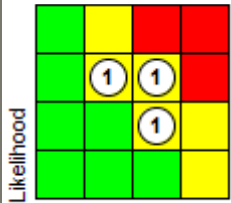



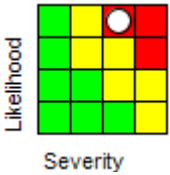
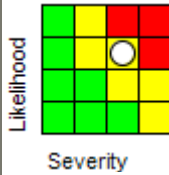


<b>Risk Code</b>	CPR2021 4.3	<b>Risk Title</b>	Legislation	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Legislation			<b>Assigned To</b>	Rob Barnes; Andrew Barratt; Stefan Garner; Anica Goodwin
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Constitution & Scheme of Delegation with regular review and update Shared Legal Service Obligations under various legislation Monitoring of government reforms and changes in statute CPD Training Horizon Scanning consultation updates Membership of Professional Bodies Proactive monitoring of potential legislative changes and consultations		<b>Current Risk Score</b>	6
<b>Gross Severity</b>	3			<b>Current Severity</b>	3
<b>Gross Likelihood</b>	4			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>	11-Jan-2020			<b>Last Risk Review Date</b>	13-Jul-2020
<b>Consequences</b>	Non-compliance with legal requirements Damage to reputation Prosecution, fines Legal challenge Ultra vires decisions				
<b>Vulnerabilities/causes</b>	Lack of training/knowledge Lack of documented procedures Lack of commitment from officers and members Non compliance with legislation Lack of resources Loss of key staff/members				
<b>Risk Notes</b>	No Change The risks have been reviewed by Andrew Barratt and he established that there are no changes to the Matrix required				


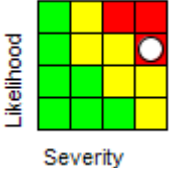
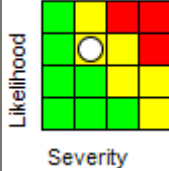
<b>Risk Code</b>	CPR2021 4.4	<b>Risk Title</b>	Policies & Procedures	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Policies & Procedures			<b>Assigned To</b>	Corporate Management Team; Rebecca Neill
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Constitution & Scheme of Delegation with regular review and update Regular review and update of financial guidance Audit & Governance Committee including Standards Committee) Scrutiny Committees Annual Governance Statement & Managers Assurance Statements Whistleblowing Policy & Counter Fraud Policy Money Laundering Policy Section 151 Officer Monitoring Officer Partnership Guidance Policy NetConsent for policy management and acceptance RIPA Policy & staff training Data Protection Policy/Cyber Awareness & staff training GDPR Astute - e-learning		<b>Current Risk Score</b>	6
<b>Gross Severity</b>	3			<b>Current Severity</b>	3
<b>Gross Likelihood</b>	4			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>	05-Sep-2018			<b>Last Risk Review Date</b>	13-Jul-2020
<b>Consequences</b>	Fraud Poor performance				
<b>Vulnerabilities/causes</b>	Lack of training/knowledge Lack of documented procedures Lack of commitment from officers and members Lack of resources				
<b>Risk Notes</b>					


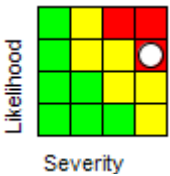
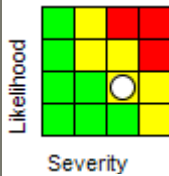
<b>Risk Code</b>	CPR2021 4.5	<b>Risk Title</b>	Ethics	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Ethics			<b>Assigned To</b>	Andrew Barratt; Rebecca Neill
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Monitoring Officer Declaration of interests, gifts & hospitality Codes of Conduct for members and officers Policies and procedures		<b>Current Risk Score</b>	4
<b>Gross Severity</b>	3			<b>Current Severity</b>	2
<b>Gross Likelihood</b>	4			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>	10-Oct-2018			<b>Last Risk Review Date</b>	13-Jul-2020
<b>Consequences</b>	Reputational damage				
<b>Vulnerabilities/causes</b>	Lack of training/knowledge Lack of documented procedures Lack of commitment from officers and members Lack of resources				
<b>Risk Notes</b>	No change The risks have been reviewed by Andrew Barratt and he established that there are no changes to the Matrix required				

<b>Risk Code</b>	CPR2021 5	<b>Risk Title</b>	Community Focus	<b>Current Risk Status</b>	
<b>Description of Risk</b>	To ensure the safety, health and wellbeing of the citizens of the borough			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>				<b>Current Risk Score</b>	
<b>Gross Severity</b>				<b>Current Severity</b>	
<b>Gross Likelihood</b>				<b>Current Likelihood</b>	
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	
<b>Consequences</b>					
<b>Vulnerabilities/causes</b>					
<b>Risk Notes</b>					

<b>Risk Code</b>	CPR2021 5.1	<b>Risk Title</b>	Community Cohesion & Engagement	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Community Cohesion & Engagement			<b>Assigned To</b>	Rob Barnes; Tina Mustafa; Joanne Sands
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Corporate project to be scoped 2020/21 Neighbourhood working and collaborative arrangements currently under review ASB policy Partnership working Financial inclusion policy Community engagement - locality Corporate consultation database Participatory budgeting Tamworth advice centre Dementia friendly status VCSE Commissioning Grants Review Review TCO	<b>Current Risk Score</b>	9	
<b>Gross Severity</b>	3		<b>Current Severity</b>	3	
<b>Gross Likelihood</b>	4		<b>Current Likelihood</b>	3	
<b>Gross Risk Review Date</b>	16-Oct-2018		<b>Last Risk Review Date</b>	01-Jul-2020	
<b>Consequences</b>	Long term costs Not meeting/understanding users needs Increase in crime and disorder Poor use of funding Increased tensions in the community Failure to meet demand Fear of perception of crime				
<b>Vulnerabilities/causes</b>	Economic recession Poverty Welfare reforms Services withdrawn Communities become fragmented Links to Customer Engagement Strategy around building local resilience				
<b>Risk Notes</b>	Vulnerability base line assessment underway to inform actions supporting community cohesion as part of early work around COVID response. Neighbourhood offer and corporate project 2020/21 with 2019/20 focussed on baseline data, warden offer, relocation of key partnership and neighbourhood teams. Targeted use of HRA neighbourhood investment fund.				


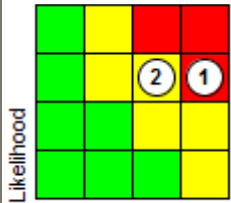
	<i>No Change</i>
	The risks have been reviewed and there are no changes


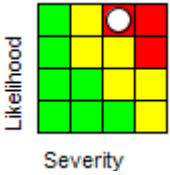
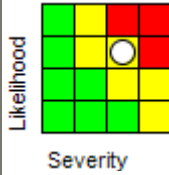
<b>Risk Code</b>	CPR2021 5.2	<b>Risk Title</b>	Safeguarding Children & Adults (including Modern Slavery)	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Safeguarding Children & Adults at Risk of Abuse & Neglect m(including Modern Slavery)			<b>Assigned To</b>	Rob Barnes; Joanne Sands
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Policy in place Training for staff and members Appropriate risk assessments completed Senior leadership commitment Safe recruitment process Supervision of staff, contractors and volunteers Partnership groups around vulnerability		<b>Current Risk Score</b>	6
<b>Gross Severity</b>	4			<b>Current Severity</b>	2
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	3
<b>Gross Risk Review Date</b>	16-Oct-2018			<b>Last Risk Review Date</b>	01-Jul-2020
<b>Consequences</b>	Death, serious injury Legal challenge Loss of reputation Prosecution Increase in inspection Increase in demand				
<b>Vulnerabilities/causes</b>	Non-compliance with legislation Lack of appropriate policy and procedures Low awareness amongst staff and members Lack of joined up case management Case management systems unable to share data or support risk management Lack of appropriate services Gaps in service provision				
<b>Risk Notes</b>	Community safety plan in place No change The risks have been reviewed and no changes identified				


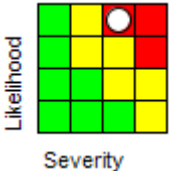
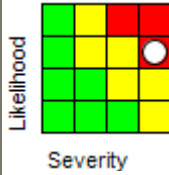
<b>Risk Code</b>	CPR2021 5.3	<b>Risk Title</b>	Emergency Planning	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Emergency Planning			<b>Assigned To</b>	Rob Barnes; Tina Mustafa
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	<p>Emergency Plan in place</p> <p>Emergency planning training completed at various levels</p> <p>Business Continuity Plans in place</p> <p>Comprehensive review of corporate business continuity with representation across all directorates. Policy, terms of reference and testing schedule</p> <p>Active engagement in Exercises</p> <p>Insurance cover in place to cover exposure to financial loss.</p> <p>Advice and guidance on Risk Management and Business Continuity on the intranet</p> <p>Emergencies advice available on website</p> <p>Building- fire prevention controls in place and tested on a regular basis</p> <p>Adequate physical security controls in place and reviewed on a regular basis.</p> <p>IT business continuity plan in place and tested on a regular basis</p> <p>Service impact analysis completed to rank priority of services</p> <p>Corporate business continuity plan in place</p> <p>All communication plans tested on a regular basis</p> <p>Emergency plan tested on a regular basis</p> <p>Business Continuity Group</p> <p>Membership of Staffordshire CCU &amp; Resilience Forum</p> <p>Effective communication /ICT tools/ infrastructure eg mobile phones, laptops</p> <p>Representation at newly formed CCU Strategic Leaders Meeting</p> <p>Successful no notice test</p> <p>Learning from recent incidents - informing preparedness</p> <p>Comprehensive internal audit across BC and EP resulting in a number of agreed management actions</p> <p>Emergency Planning Admin all brought into ICT</p> <p>Actual ICT Disaster recovered from within appropriate timescales</p> <p>Attendance at SRF meetings</p>		<b>Current Risk Score</b>	6
<b>Gross Severity</b>	4			<b>Current Severity</b>	3
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>	10-Oct-2018			<b>Last Risk Review Date</b>	01-Jul-2020
<b>Consequences</b>	<p>Services not delivered</p> <p>Damage to reputation</p> <p>Civil Contingency Act requirements not met</p> <p>Death</p> <p>Destruction of property</p>				


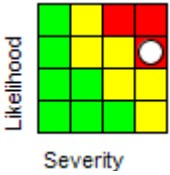
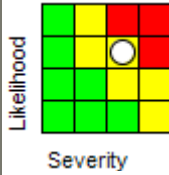



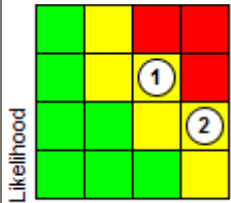
	<p>Damage to the environment  Adverse affect on vulnerable groups  Public expectations of service delivery not met  Increased costs for alternative service delivery  Interim arrangements from CCU until December 2020.  Full audit 2020/21</p>
<b>Vulnerabilities/causes</b>	<p>Lack of integrated emergency arrangements making it difficult to react quickly to a disaster and provide the required support and essential service in line with the requirements of the Civil Contingencies Act.  Failure to test plans  Failure to undertake training  Plans not activated  plans do not accurately identify the staffing/resources required  Implications of industrial action from other service providers ie Fire Service</p>
<b>Risk Notes</b>	<p>CCU providing dedicated support 2xdays per week (plus additional 20 days over 2020/21) to support review of Op Bridge plans and complete a self-assessment of all EMP policies and procedures to inform the development of an agreed improvement plan into 2021 and beyond.</p>
	<p>No Change</p>
	<p>The emergency plans are in place but are currently being reviewed by Alex from the CCU - TM. System updated by RB as TM experiencing access issues</p>


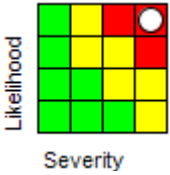
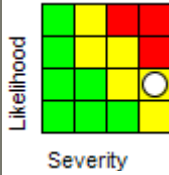
<b>Risk Code</b>	CPR2021 6	<b>Risk Title</b>	Economic Growth & Sustainability	<b>Current Risk Status</b>	
<b>Description of Risk</b>	To ensure that the economic growth and sustainability of the borough is maintained			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>				<b>Current Risk Score</b>	
<b>Gross Severity</b>				<b>Current Severity</b>	
<b>Gross Likelihood</b>				<b>Current Likelihood</b>	
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	
<b>Consequences</b>					
<b>Vulnerabilities/causes</b>					
<b>Risk Notes</b>					


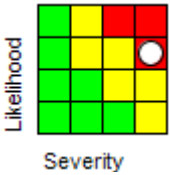
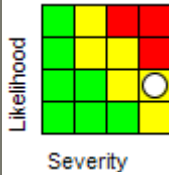
<b>Risk Code</b>	CPR2021 6.1	<b>Risk Title</b>	Lack of economic investment in people and Places	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Lack of economic investment in people and Places			<b>Assigned To</b>	Andrew Barratt; Anna Miller
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Long term investment Safe and secure estate Support to local businesses Tamworth and Lichfield for business Town centre and tourism development		<b>Current Risk Score</b>	9
<b>Gross Severity</b>	3			<b>Current Severity</b>	3
<b>Gross Likelihood</b>	4			<b>Current Likelihood</b>	3
<b>Gross Risk Review Date</b>	10-Oct-2018			<b>Last Risk Review Date</b>	06-Jul-2020
<b>Consequences</b>	Deprivation Loss of footfall to retail areas Reputational damage				
<b>Vulnerabilities/causes</b>	Lack of investment in the borough No investment in the town centre				
<b>Risk Notes</b>	No Change Continue to offer business grants and signposting to businesses. Investment in town centre site				

<b>Risk Code</b>	CPR2021 6.2	<b>Risk Title</b>	Housing Needs	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Housing Needs			<b>Assigned To</b>	Rob Barnes; Tina Mustafa; Joanne Sands
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Homelessness strategy under review. Evidence base being updated HRA Business lan updated and Investment plan agreed Third Sector support and early help development Investment and partnership to deliver new affordable homes New Allocations Policy Allocations Policy under review - developed project Plan Rough sleeping Assessment Housing Strategy commissioning		<b>Current Risk Score</b>	12
<b>Gross Severity</b>	3			<b>Current Severity</b>	4
<b>Gross Likelihood</b>	4			<b>Current Likelihood</b>	3
<b>Gross Risk Review Date</b>	10-Oct-2018			<b>Last Risk Review Date</b>	01-Jul-2020
<b>Consequences</b>	Impact of housing need and homelessness on households Additional demand for Council services Additional demand on 3rd Sector Statutory agencies Overcrowding and wellbeing impact of poor housing				
<b>Vulnerabilities/causes</b>	Lack of accessible homes Lack of affordable homes Poor conditions in the Private Sector Increased homelessness				
<b>Risk Notes</b>	As a result of comprehensive and robust management the challenges around homelessness and rough sleeping continue to be abated. Whilst the impact of homelessness is significant the mitigations and controls minimise the risks. Tamworth has participated on MHCLG task force leading on the development of legislation as well as participates in regular HAST updates to ensure sharing of best practice and continued innovation. HQN are supporting on the development of an updated evidence base to inform the development of homelessness and rough sleeping strategy 2020-2025. The evidence base will inform the strategy along with detailed spending and delivery plans. It is expected this will be considered by Scrutiny committee(s) in the Autumn with Cabinet approval by Dec 2020.				
	Assistant Director - Neighbourhoods on MHCLG working group of Government review HRA 2017. Key corporate projects - Housing Strategy, Homelessness & Allocations review 2019/20. HQN engaged to update evidence base, principles for consultation and plans to adopt revised strategies 2020/21.				
	No changes required				
	Reviewed by TM adequate controls still in place. system updated by RB as TM experiencing access issues				


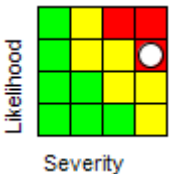
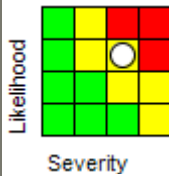
<b>Risk Code</b>	CPR2021 6.3	<b>Risk Title</b>	Economic Changes	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Economic Changes			<b>Assigned To</b>	Andrew Barratt; Anna Miller
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Support to local businesses Business and economic partnership Business growth programme Growth hub Start up business grants for small business Tamworth enterprise centre		<b>Current Risk Score</b>	9
<b>Gross Severity</b>	4		<b>Current Severity</b>	3	
<b>Gross Likelihood</b>	3		<b>Current Likelihood</b>	3	
<b>Gross Risk Review Date</b>	10-Oct-2018		<b>Last Risk Review Date</b>	06-Jul-2020	
<b>Consequences</b>	No external funding to aid economy and growth Economic prosperity declines Increased demand for social housing Increased costs to council services due to increased demand				
<b>Vulnerabilities/causes</b>	Failure to recognise economic changes Sudden economic downturn affecting businesses Loss of major employer in the region Failure to recognise opportunities Rapid increase in inflation Changes in government funding/grants Collapse/decline of property market Possible downturn in the economy due to the recovery period following COVID-19 pandemic Possible negative or positive impact if the changes following BREXIT				
<b>Risk Notes</b>	No Change mindful of Brexit consequences in short and long term. working with partners to promote awareness and consider impacts. offer business grants and signposting to other agencies for support				

<b>Risk Code</b>	CPR2021 7	<b>Risk Title</b>	Information Safeguarding	<b>Current Risk Status</b>	
<b>Description of Risk</b>	To ensure that our data is protected			<b>Assigned To</b>	
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	 <p>Likelihood</p> <p>Severity</p>
<b>Gross Risk Score</b>				<b>Current Risk Score</b>	
<b>Gross Severity</b>				<b>Current Severity</b>	
<b>Gross Likelihood</b>				<b>Current Likelihood</b>	
<b>Gross Risk Review Date</b>				<b>Last Risk Review Date</b>	
<b>Consequences</b>					
<b>Vulnerabilities/causes</b>					
<b>Risk Notes</b>					


<b>Risk Code</b>	CPR2021 7.1	<b>Risk Title</b>	Data Protection and information Safeguarding	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Data Protection			<b>Assigned To</b>	Anica Goodwin; Zoe Wolicki
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	16	GDPR training Secure password protocol IT physical controls Encryption protocols secure wifi ICO protocol Penetration testing GDPR implemented & ongoing quarterly review & action plan in place Data Protection Officer in place & appropriate backup arrangements Senior management support Comprehensive training plan for staff and members Privacy impact assessments completed for new Projects/implementation/solutions Data sharing protocols PSN compliance Review Access to Systems Building access and security procedures Training review and management of assets		<b>Current Risk Score</b>	8
<b>Gross Severity</b>	4			<b>Current Severity</b>	4
<b>Gross Likelihood</b>	4			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>	05-Sep-2018			<b>Last Risk Review Date</b>	23-Jun-2020
<b>Consequences</b>	Reputational damage Fine				
<b>Vulnerabilities/causes</b>	Human error Virus/hacking				
<b>Risk Notes</b>	most data breaches are as a result of human error and are minor in nature it has not been necessary for TBC to report any occurrences to the ICO due to this. The likelihood has been reduced due to this.				


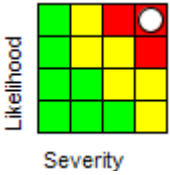
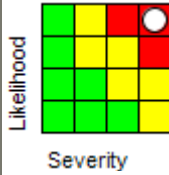
<b>Risk Code</b>	CPR2021 7.2	<b>Risk Title</b>	Cyber Security	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Cyber Security			<b>Assigned To</b>	Anica Goodwin; Zoe Wolicki
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	GDPR compliance and training GCSX PSN compliance Physical security Business continuity plans Penetration testing Firewalls Anti virus software Up to date patching of servers & desktops		<b>Current Risk Score</b>	8
<b>Gross Severity</b>	4			<b>Current Severity</b>	4
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	2
<b>Gross Risk Review Date</b>	05-Sep-2018			<b>Last Risk Review Date</b>	23-Jun-2020
<b>Consequences</b>	Fine Reputational damage Potential imprisonment Loss of data Inability to deliver service				
<b>Vulnerabilities/causes</b>	Insecure IT equipment Human error Loss of equipment/data Theft Equipment failure Hacking/viruses				
<b>Risk Notes</b>					


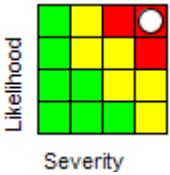
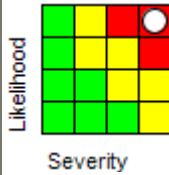


<b>Risk Code</b>	CPR2021 7.3	<b>Risk Title</b>	Business Continuity	<b>Current Risk Status</b>	
<b>Description of Risk</b>	Business Continuity			<b>Assigned To</b>	Rob Barnes; Paul Weston
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	12	Emergency plan in place Business continuity plans in place Insurance cover Advice and guidance on risk management and business continuity Fire prevention controls Physical building controls on place Communication plan Business continuity group Membership of Staffordshire CCU & resilience forum Learning from previous incidents - informing level of preparedness Support from CCU Link Officer Off site plans Multi agency exercises		<b>Current Risk Score</b>	9
<b>Gross Severity</b>	4			<b>Current Severity</b>	3
<b>Gross Likelihood</b>	3			<b>Current Likelihood</b>	3
<b>Gross Risk Review Date</b>	10-Oct-2018			<b>Last Risk Review Date</b>	02-Jul-2020
<b>Consequences</b>	Services not delivered Damage to reputation Civil contingency act obligations not met Death Destruction of property Damage to the environment Adverse affect on vulnerable groups Public expectations of service delivery not met Increased costs for alternative service delivery				
<b>Vulnerabilities/causes</b>	Lack of integrated emergency arrangement making it difficult to react Failure to test plans Failure to undertake training Plans not activated Plans do not accurately identify the staffing/resources required Implications of industrial action from other service providers eg fire service Lack of staff engagement in BC Group Pandemic such as COVID-19				

<b>Risk Notes</b>	Although areas have BC plans in place and the response to COVID19 has shown that the organisation can cope with unplanned events more work is still needed to get consistency across all business areas.
	New business continuity group established. Terms of reference being updated. Key business continuity plans under review. Programme for business continuity reviews under way.
	No change from previous assessment. Programme of BC reviews to be implemented and will focus on priority areas.
	No changes as per PW

<b>Risk Code</b>	CPR2021 8	<b>Risk Title</b>	Brexit	<b>Current Risk Status</b>	
<b>Description of Risk</b>	The Impact of Brexit upon the Council			<b>Assigned To</b>	Andrew Barratt; Stefan Garner
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	 <p>Likelihood</p> <p>Severity</p>
<b>Gross Risk Score</b>	16			<b>Current Risk Score</b>	
<b>Gross Severity</b>	4			<b>Current Severity</b>	
<b>Gross Likelihood</b>	4			<b>Current Likelihood</b>	
<b>Gross Risk Review Date</b>	28-Mar-2019			<b>Last Risk Review Date</b>	
<b>Consequences</b>	Downturn in Local and National economic activity Upturn in Local and National economic activity				
<b>Vulnerabilities/causes</b>	Lack of Trade agreements Increased business activity due to freedom to negotiate international trade agreements specific to UK				
<b>Risk Notes</b>					

<b>Risk Code</b>	CPR2021 8.1	<b>Risk Title</b>	Financial	<b>Current Risk Status</b>	
<b>Description of Risk</b>				<b>Assigned To</b>	Andrew Barratt; Stefan Garner
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	16	Implications reassessed as part of the budget setting process and quarterly MTFS updates		<b>Current Risk Score</b>	16
<b>Gross Severity</b>	4			<b>Current Severity</b>	4
<b>Gross Likelihood</b>	4			<b>Current Likelihood</b>	4
<b>Gross Risk Review Date</b>	15-Mar-2019			<b>Last Risk Review Date</b>	13-Jul-2020
<b>Consequences</b>	<p>Reduced level of economic growth and further austerity/prosperity/downturn in the economy  Changes to central government policy  EU grants cease  Reduced base interest rate  NNDR / Council Tax targets not achieved with increased bankruptcy / Liquidations  Government has awarded £51k for EU exit preparations  Contract failure due to Brexit impact on core suppliers</p>				
<b>Vulnerabilities/causes</b>	<p>Uncertainty over the impact of Brexit has increased the financial uncertainty for the UK - reduced levels of economic growth, changes to central government policy, EU grants ceased, reduced interest, employment uncertainty</p>				
<b>Risk Notes</b>	<p>The UK left the EU on the 31/01/2020 and are now in a transitional period until the 31/12/20 during this period we will be able to more accurately assess the implications if any for our area.</p> <p>The current risk is recorded at the maximum risk level as the impact and options to mitigate are currently unknown</p>				

<b>Risk Code</b>	CPR2021 8.2	<b>Risk Title</b>	The Impact of Brexit upon the Council	<b>Current Risk Status</b>	
<b>Description of Risk</b>				<b>Assigned To</b>	Andrew Barratt; Stefan Garner; Paul Weston
<b>Gross Risk Matrix</b>		<b>Risk Treatment Measures Implemented</b>		<b>Current Risk Matrix</b>	
<b>Gross Risk Score</b>	16	Monitoring of the political process Central log/register issue that may impact as they develop Take opportunity to realise any additional funding made available to mitigate negative impacts Involvement and updates to Local and Regional Resilience forums. Risk assessments in place. Engagement with regional local forums. Regular reporting to central government. Dissemination of all information to CMT. Regular communication updates to business and residents. Uncertainty still noted by no reduction in risk. Information from MHCLG shared regularly with appropriate officers. Legislative impact done for housing related policies i.e, Settlement scheme for housing associations. Use of growth hub advisors to communicate with businesses. Use of website to pass on key messages.		<b>Current Risk Score</b>	16
<b>Gross Severity</b>	4			<b>Current Severity</b>	4
<b>Gross Likelihood</b>	4			<b>Current Likelihood</b>	4
<b>Next Risk Review Date</b>	08-Jul-2019			<b>Last Risk Review Date</b>	13-Jul-2020
<b>Consequences</b>	Potential tightening of the Labour market Delay in works due to supply delays Restricted economic growth of the Local Area as the new trading arrangements settle in and business confidence is re-established.				
<b>Vulnerabilities/causes</b>					
<b>Risk Notes</b>	The UK left the EU on the 31/01/2020 and are now in a transitional period until the 31/12/20 during this period we will be able to more accurately assess the implications if any for our area. The current risk is recorded at the maximum risk level as the impact and options to mitigate are currently unknown				



**AUDIT & GOVERNANCE COMMITTEE**  
**23 JULY 2020**  
**REPORT OF THE ASSISTANT DIRECTOR – PARTNERSHIPS**  
**REGULATION OF INVESTIGATORY POWERS ACT 2000**

## **Purpose**

To consider updates to the Council's Regulation of Investigatory Powers Act 2020 Policy, receive update on any activity to 30 June 2020 and move to annual reports on the usage of those powers

## **Recommendation**

That Audit and Governance Committee:-

- Approve annual reporting of the use of RIPA powers (as outlined in IPCO guidance) and review the RIPA policy during the first meeting of the Committee in each financial year
- Endorse updates to the Council's RIPA Policy to include Social Media Policy
- Endorse the RIPA monitoring report for the quarter to 30 June 2020

## **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 12 December 2017 with subsequent minor revisions.

## **RIPA Policy**

A recent review of the constitution provides confirmation of authority that as RIPA is part of the ToR for the Audit and Governance Committee who are able to oversee policy updates.

A full review of the policy has been undertaken as part of the recommended annual review to include confirmation or Senior Responsible Officer, update on a social media policy and removal of inclusion of the acquisition of Communications Data.

The Policy will be re-circulated to staff with the Social Media Policy sent separately to teams identified who may investigate relevant offences.

It is proposed that the annual review of the policy will be an annual agenda item for the first Committee meeting in each financial year.

## **RIPA Monitoring Report**

Until March 2020 the practice that quarterly reports on the use of RIPA powers has been submitted to Audit & Governance Committee. In light of the IPCO guidance, it is proposed that this practice will continue for verbal update annually unless applications have been made. These will be fully recorded and reported on in line with the legislation.

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 Policy the Council ensure that the acquisition and disclosure of data is lawful, necessary and proportionate so that the Council will not be 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.

The table below outlines the number of times RIPA has been used for directed surveillance, the month of use, the service authorising the surveillance and a general description of the reasons for the surveillance. Where an investigation is ongoing at the end of a quarterly period it will not be reported until the authorisation has been cancelled.

### **Financial year 2020/2021**

No applications to 30 June 2020

There have been no authorisations for the use of CHIS

At the end of the current quarterly period there were no outstanding authorisations

### **Options Considered**

Obligations arising under RIPA for the authority are statutory therefore there the only option is compliance.

### **Resource Implications**

Support for the RIPA obligations and functions are met from existing budget and existing staff resources.

### **Legal/Statutory and Risk Implications**

The recording of applications, authorisations, renewals and cancellations of investigations using covert surveillance techniques or involving the acquisition of communications data is covered by the Regulation of Investigatory Powers Act 2000.



The Regulation of Investigatory Powers Act was introduced to regulate existing surveillance and investigation in order to meet the requirements of Article 8 of the Human Rights Act. Article 8 states: Everyone has the right to his private and family life, home and correspondence. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the Country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

RIPA investigations can only be authorised by a local authority where it is investigating criminal offences which

- (1) attract a maximum custodial sentence of six months or more or
- (2) relate to the sale of alcohol or tobacco products to children.

There are no risk management or Health and Safety implications.

### **Sustainability Implications**

The legislation requires the Authority to record and monitor all RIPA applications, keep the records up to date and report as a minimum annually to the relevant Committee.

### **Background Information**

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 or 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 Policy the Council ensure that the acquisition and disclosure of data is lawful, necessary and proportionate so that the Council will not be 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.

The RIPA Code of Practice produced by the Home Office in April 2010 and updated in January 2016 introduced the requirement to produce at a minimum annual reports to elected members to demonstrate that the Council is using its RIPA powers appropriately and complying with its own Code of Practice when carrying out covert surveillance. This requirement relates to the use of directed surveillance and covert human intelligence sources (CHIS).

## **Appendices**

Appendix 1 – Tamworth Borough Council RIPA Policy

## **Background papers**

None

*If Members would like further information or clarification prior to the meeting please contact Jo Sands, Assistant Director - Partnerships on Ext.585*

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

Document Status: Final

Originator: J M Hackett

Updated: J Sands

Owner: Assistant Director Partnerships

Version: 01.01.12

Date: 01/04/2020

**Approved by Audit & Governance Committee**

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## Document Location

This document is held by Tamworth Borough Council, and the document owner is Joanne Sands, Assistant Director Partnerships.

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	1.01.10	OSC recommendation
October 2018	1.01.11	Scheduled review, ownership and juvenile CHIS authorisation period
April 2020	1.01.12	Scheduled review and addition of Social Media policy Update of Section L – Acquisition of Communications Data Audit Committee review

## Approvals

Name	Title	Approved
Audit & Governance Committee	Committee Approval	Yes
CMT	Group Approval	Yes

## Document Review Plans

This document is subject to a scheduled annual review by Audit and Governance Committee. 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)



Joanne Sands  
Assistant Director Partnerships  
Tamworth Borough Council

## Table of Contents

Section A Introduction .....	1
Section B .....	3
Section C .....	5
Section D .....	6
Section E .....	7
Section F.....	10
<b>Covert Human Intelligence Source (CHIS)</b> .....	10
<b>Conduct and Use of a Source</b> .....	10
<b>Management of Sources</b> .....	11
<b>Tasking</b> .....	11
<b>Management Responsibility</b> .....	12
<b>Security and Welfare</b> .....	12
<b>Record Management for CHIS</b> .....	12
Section G.....	16
Section H.....	17
Section I.....	19
<b>APPLICATION PROCESS</b> .....	20
<b>Application, Review, Renewal and Cancellation Forms</b> .....	23
<b>Applications</b> .....	23
<b>Duration of Applications</b> .....	23
<b>Reviews</b> .....	23
<b>Renewal</b> .....	24
<b>Cancellation</b> .....	25
Section J .....	28
Section K.....	30
Section L .....	32
CONCLUSION .....	32
APPENDIX 1 .....	33
APPENDIX 2 .....	34
Annex A Local Authority Procedure .....	36
Annex B JP Procedure .....	37
Annex C Application for Judicial Approval and Order Form .....	38
APPENDIX 3 .....	41

## **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**

With effect from 27 May 2019 the acquisition of communications data held by telecommunications companies and internet service providers is regulated by the Investigatory Powers Act 2016 and it outside of the scope of this policy.

Advice is contained with the Bulk Communications Data Code of Practice (COP)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/715477/Bulk\\_Communications\\_Data\\_Code\\_of\\_Practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/715477/Bulk_Communications_Data_Code_of_Practice.pdf)

## 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 Investigatory Powers Commissioner's Offices, (the last inspection was carried out in July 2017) 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 Investigatory Powers Commissioner's Office (IPCO ) guidance documents. (The IPCO replaced the OSC on 1 September 2017)
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 Assistant Director Partnerships.

5. Authorising Officers must also ensure that, when sending copies of any Forms to the Assistant Director Partnerships (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 Assistant Director Partnerships 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 Commissioner 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 Assistant Director Partnerships 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 Executive 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 Assistant Director Partnerships will review the policy annually any updates and performance issues will be presented to the Audit and Governance Committee.
9. Annual reports on the use of RIPA will be considered by the Audit and Governance Committee.

## 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 IPCO 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 Assistant Director Partnerships **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 advice from the Assistant Director Partnerships.

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 Executive, or in his absence, the Executive Director Organisation 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 Executive, or in his absence, the Executive Director Organisation 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 Assistant Director Partnerships.

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

### Internet and Social Media Research and Investigations

Online open source research is widely regarded as the collection, evaluation and analysis of material from online sources available to the public, whether by payment or otherwise to use as intelligence and evidence.

The use of online open source internet and social media research techniques has become a productive method of obtaining information to assist Tamworth Borough Council with its regulatory and enforcement functions. It can also assist with other functions such as service delivery issues and debt recovery. However, the use of the internet and social media is constantly evolving and with it the risks, particularly regarding breaches of privacy under Article 8 Human Rights Act (HRA) and other operational risks.

Tamworth Borough Council is a Public Authority in law under the Human Rights Act 1998, and as such, the staff of the authority must always work within this legislation. This applies to research on the internet. Just because it may seem easier to carry out internet research does not mean that it should take place without justification.

Researching, recording, storing, and using open source information regarding a person or group of people must be both necessary and proportionate, and take account of the level of intrusion against any person.

The activity may also require authorisation and approval by a Magistrate under the Regulation of Investigatory Powers Act (RIPA) 2000. To ensure that any resultant interference with a person's Article 8 right to respect for their private and family life is lawful, the material must be retained and processed in accordance with the principles of the General Data Protection Regulations (GDPR).

The full Tamworth Borough Council Internet and Social Media Research and Investigations Policy is attached as **Appendix 3** (and available separately for relevant staff) and will be reviewed in conjunction with the full RIPA Policy.

If officers are in doubt as to whether or not directed surveillance can be used for the crime being investigated, advice can be obtained from the Assistant Director Partnerships.

## 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 Assistant Director Partnerships. 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 IPCO 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 (Assistant Director Partnerships) 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 Executive</b>	Andrew Barratt
<b>Executive Director Organisation</b>	Anica Goodwin

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 Executive 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 Assistant Director Partnerships will maintain a Register of Authorising Officers and details of training undertaken by them.

If the Chief Executive 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 Executive.

## **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 Commissioner's office 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	4 Months
 <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 Executive or in his absence, the Executive Director Organisation.

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 Assistant Director Partnerships 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 responsible Corporate Management Team officer 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 Assistant Director Partnerships at the earliest opportunity.**

## **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 Assistant Director Partnerships.**

#### ***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 Assistant Director Partnerships***

Authorising Officers must forward a copy of the form to the Assistant Director Partnerships for the Central Register, within 5 working days of the authorisation, review, renewal, cancellation or rejection. The Assistant Director Partnerships 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 Investigatory Powers Commissioner's Office (IPCO) can audit/review the Council's policies and procedures, and individual authorisations. The IPCO 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 IPCO procedures and Guidance 2011 to report all covert activity that was not properly authorised to the IPCO 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 IPCO 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**

The acquisition of Communication Data is now covered by the Investigative Powers Act 2016 and is outside of the scope of this policy

### **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 Assistant Director Partnerships (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 Assistant Director Partnerships.

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 Assistant Director Partnerships.

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.

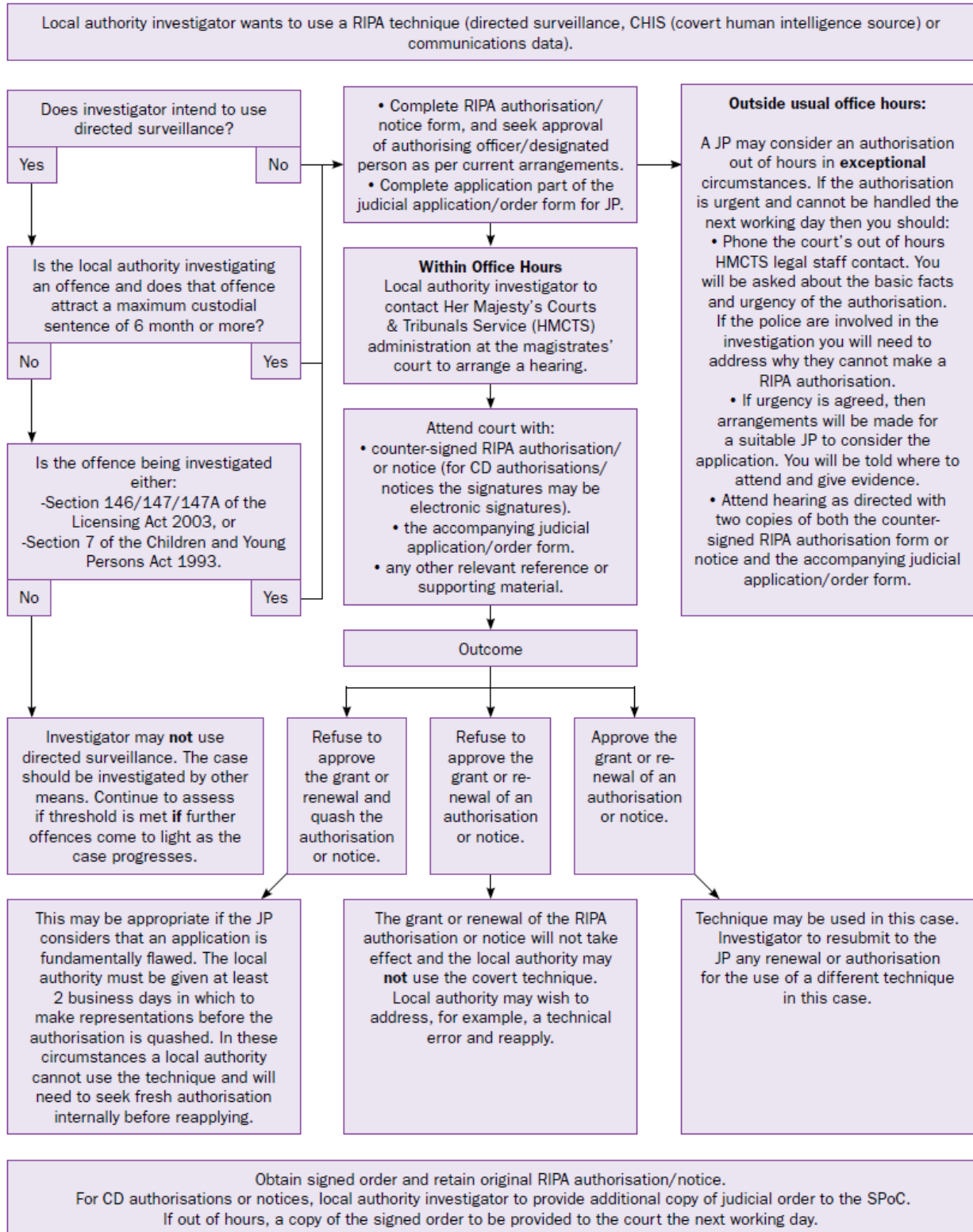
Application for renewal of a Covert Human Intelligence Source (CHIS) Authorisation.

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



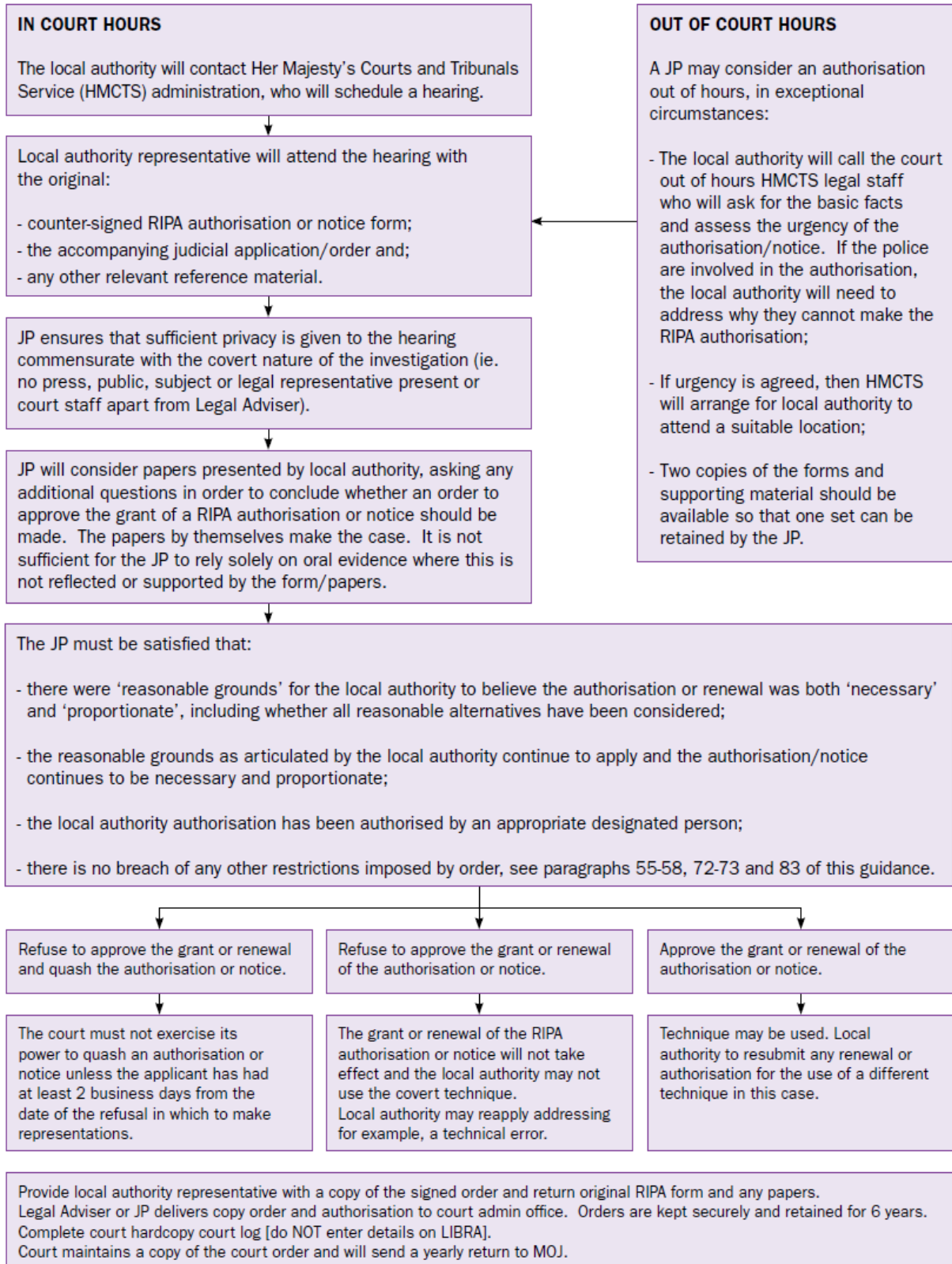
# Annex A Local Authority Procedure

## 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



# Annex C Application for Judicial Approval and Order Form

**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:.....

**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:

## **APPENDIX 3**

### **INTERNET & SOCIAL MEDIA RESEARCH & INVESTIGATIONS POLICY**

#### **1. Introduction**

1.1 Online open source research is widely regarded as the collection, evaluation and analysis of material from online sources available to the public, whether by payment or otherwise to use as intelligence and evidence.

1.2 The use of online open source internet and Social Media research is a method of obtaining information to assist Tamworth Borough Council with its regulatory and enforcement functions. It can also assist with service delivery issues. However, the use of the internet and Social Media is constantly evolving and with it the risks, particularly regarding breaches of privacy under Article 8 Human Rights Act (HRA) and other operational risks.

1.3 Tamworth Borough Council is a Public Authority in law under the Human Rights Act 1998, and as such, the staff of the authority must always work within this legislation. This applies to research on the internet.

1.4 Researching, recording, storing, and using open source information regarding a person or group of people must be both necessary and proportionate and take account of the level of intrusion against any person. The activity may also require authorisation and approval by a Magistrate under the Regulation of Investigatory Powers Act (RIPA) 2000. To ensure that any resultant interference with a person's Article 8 right to respect for their private and family life is lawful, the material must be retained and processed in accordance with the principles of the General Data Protection Regulations (GDPR).

#### **2. Scope of Policy**

2.1 This policy and associated procedure establishes Tamworth Borough Council's approach to ensure that all online research and investigations are conducted lawfully and ethically to reduce risk. It provides guidance to all staff when engaged in their official capacity of the implications and legislative framework associated with online internet and Social Media research. It will also ensure that the activity undertaken, and any evidence obtained will stand scrutiny.

2.2 This policy takes account of the Human Rights Act 1998, Regulation of Investigatory Powers Act (RIPA) 2000, Criminal Procedures Investigations Act (CPIA) 1996, General Data Protection Regulations (GDPR), NPCC Guidance on Open Source Investigation/Research.

2.3 This policy and associated procedure will be followed at all times and should be read, where required with the RIPA Codes of Practice and any other legislation and relevant policies mentioned in this document. Should there be any queries, advice can be sought from the Assistant Director Partnerships



2.4 Not adhering to this policy and procedure could result in members of staff being dealt with through the Council's disciplinary procedure.

2.5 This policy should not be exempt from disclosure under the Freedom of Information Act 2000

### **3. Risk**

3.1 Staff must be aware that any activity carried out over the internet leaves a trace or footprint which can identify the device used, and, in some circumstances, the individual carrying out the activity. This may pose a legal and reputational risk to the Council from being challenged by the subject of the research for breaching Article 8.1 of the HRA which states:-

"Everyone has the right to respect for his private and family life, his home and his correspondence".

8.2 states:-

"There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others".

3.2 There is also a risk of compromise to other investigations, therefore, the activity should be conducted in a manner that does not compromise any current or future investigation or tactics.

### **4. Necessity / Justification**

4.1 To justify the research, there must be a clear lawful reason, and it must be necessary. Therefore, the reason for the research, such as, the criminal conduct that it is aimed to prevent or detect must be identified and clearly described. This should be documented with clear objectives. Should the research fall within RIPA activity, the RIPA authorisation deals with this criteria for it to be lawful.

### **5. Proportionality**

5.1 Proportionality involves balancing the intrusiveness of the research on the subject and other innocent third parties who might be affected by it (collateral intrusion) against the need for the activity in operational terms.

- What is the benefit to carrying out the activity?
- How will the benefit outweigh the intrusion?

5.2 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

## **6 Private information**

6.1 Private information is defined in the RIPA Codes of Practice and states it “includes any information relating to a person’s private or family life. Private information should be taken generally to include any aspect of a person’s private or personal relationship with others, including family and professional or business relationships.

6.2 Prior to, and during any research, staff must take into account the privacy issues regarding any person associated with the research.

## **7. Reviewing the Activity**

7.1 During the course of conducting the internet open source research, the nature of the online activity may evolve. It is important staff continually assess and review their activity to ensure it remains lawful and compliant. Where it evolves into RIPA activity, the RIPA procedure should be followed. If in doubt, seek advice.

## **8. Use of Material**

8.1 The material obtained from conducting open source internet and Social Media research may be used as intelligence or evidence.

8.2 Any material gathered from the internet during the course of a criminal investigation must be retained in compliance with the Criminal Procedure and Investigations Act (CPIA) Codes of Practice and all material stored in line with the General Data Protection Regulations (GDPR) data retention policy

## **9. Monitoring and Review of Policy**

9.1 This policy will be monitored and reviewed where necessary by the Assistant Director Partnerships upon review of the RIPA Policy.

23 JULY 2020

### REPORT OF THE HEAD OF AUDIT AND GOVERNANCE & MONITORING OFFICER

#### INTERNAL AUDIT ANNUAL REPORT (INCLUDING QUARTER 4 2019/20 & QUARTER 1 2020/21 PROGRESS RESULTS)

#### EXEMPT INFORMATION

None.

#### PURPOSE

This report comprises Internal Audit's Annual Report (**Appendix 1**), which includes results for the quarter 4 to 31 March 2020 (as well as an update on progress during quarter 1 to 30 June 2020).

#### RECOMMENDATIONS

**That the Committee notes Internal Audit's Annual Report (Appendix 1), which includes results for the quarter 4 to 31 March 2020 (as well as an update on progress during quarter 1 to 30 June 2020).**

#### EXECUTIVE SUMMARY

The Accounts and Audit Regulations 2015 require councils to undertake an effective internal audit to evaluate the effectiveness of their risk management, control and governance processes, taking into account Public Sector Internal Auditing Standards or guidance.

This opinion forms part of the framework of assurances that is received by the council and should be used to help inform the annual governance statement. Internal audit also has an independent and objective consultancy role to help managers improve risk management, governance and control.

In giving the annual audit opinion 2019/20, it should be noted that assurance can never be absolute. The most that the internal audit service can provide the council is a reasonable assurance that there are no major weaknesses in risk management, governance and control processes.

#### Annual Internal Audit Opinion

On the basis of audit work completed, the Head of Audit & Governance's opinion on the council's framework of governance, risk management and internal control is reasonable in its overall design and effectiveness. Certain weaknesses and exceptions were highlighted by audit work. These matters have been discussed with management, to whom recommendations have been made. All of these have been, or are in the process of being addressed.

## Specific Issues

No specific issues have been highlighted through the work undertaken by internal audit during the year.

## **RESOURCE IMPLICATIONS**

None.

## **LEGAL/RISK IMPLICATIONS BACKGROUND**

Failure to report would lead to non-compliance with the requirements of the Annual Governance Statement and the Public Sector Internal Audit Standards.

## **EQUALITIES IMPLICATIONS**

None.

## **SUSTAINABILITY IMPLICATIONS**

None.

## **BACKGROUND INFORMATION**

None.

## **REPORT AUTHOR**

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Ext: 234

## **LIST OF BACKGROUND PAPERS**

## **APPENDICES**

**Appendix 1 - Internal Audit Annual Report (including Quarter 4 2019/20 & Quarter 1 2020/21 Progress Results)**

Appendix 1

Internal Audit Annual Report (including Quarter 4 2019/20 &  
Quarter 1 2020/21 Progress Results)  
July 2020



## Contents

- 01 Introduction
- 02 Internal Audit Work Undertaken
- 03 Annual Opinion
- 04 Follow Up
- 05 Quarter 1 2020/21
- 06 Performance of Internal Audit

### Appendices

- 01 Summary of Internal Audit Work Undertaken in 2019/20
- 02 Assurance and Recommendation Classifications

In the event of any questions arising from this report please contact Rebecca Neill, Head of Audit & Governance and Monitoring Officer  
[Rebecca-neill@tamworth.gov.uk](mailto:Rebecca-neill@tamworth.gov.uk)

The matters raised in this report are only those which came to our attention during our internal audit work. Whilst every care has been taken to ensure that the information provided in this report is as accurate as possible, Internal Audit have only been able to base findings on the information and documentation provided and consequently no complete guarantee can be given that this report is necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required. This report was produced solely for the use and benefit of Tamworth Borough Council. The Council accepts no responsibility and disclaims all liability to any third party who purports to use or rely for any reason whatsoever on the report, its contents, conclusions, any extract, reinterpretation, amendment and/or modification.

## 01 INTRODUCTION

### BACKGROUND

This report comprises Internal Audit's Annual Report, including results for the quarter 4 to 31 March 2020 (as well as an update on progress during quarter 1 to 30 June 2020).

### SCOPE AND PURPOSE OF INTERNAL AUDIT

The Accounts and Audit Regulations 2015 require councils to undertake an effective internal audit to evaluate the effectiveness of their risk management, control and governance processes, taking into account Public Sector Internal Auditing Standards or guidance.

This opinion forms part of the framework of assurances that is received by the council and should be used to help inform the annual governance statement. Internal audit also has an independent and objective consultancy role to help managers improve risk management, governance and control.

Internal Audit's professional responsibilities as auditors are set out within Public Sector Internal Audit Standards (PSIAS) produced by the Internal Audit Standards Advisory Board.

### ACKNOWLEDGEMENTS

Internal audit is grateful to the directors, heads of service, service managers and other staff throughout the council for their help during the period.

### 02 INTERNAL AUDIT WORK UNDERTAKEN

The internal audit plan for 2019/20 was considered and approved by the Audit & Governance Committee at its meeting in March 2019. The plan was for a total of 29 audits.

Six audits (community leisure, project management, outdoor events, self-service technology, corporate policy and organisational

transformation) were amended from the plan during the year. These were either at management's request due to imminent system changes or were cancelled at the year-end as not being a priority due to the operational disruption arising from Covid-19.

The audit findings of each review, together with recommendations for action and the management response are set out in our detailed reports. A summary of the reports we have issued during the year is included at **Appendix 01**. Progress against the plan is reported in section 5.

An update on quarter 1 to 30 June 2020 is given at section 05.

## 03 ANNUAL OPINION

### SCOPE OF THE OPINION

In giving the annual audit opinion 2019/20, it should be noted that assurance can never be absolute. The most that the internal audit service can provide the council is a reasonable assurance that there are no major weaknesses in risk management, governance and control processes.

The matters raised in this report are only those which came to our attention during our internal audit work and are not necessarily a comprehensive statement of all the weaknesses that exist, or of all the improvements that may be required.

- The outcomes of all audit activity undertaken during the period.
- The effects of any material changes in the organisation's objectives or activities.
- Whether or not any limitations have been placed on the scope of internal audit.
- Whether there have been any resource constraints imposed upon us which may have impinged on our ability to meet the full internal audit needs of the organisation.
- What proportion of the organisation's internal audit needs have been covered to date.

## Annual Internal Audit Opinion

**On the basis of audit work completed, the Head of Audit & Governance's opinion on the council's framework of governance, risk management and internal control is reasonable in its overall design and effectiveness. Certain weaknesses and exceptions were highlighted by audit work. These matters have been discussed with management, to whom recommendations have been made. All of these have been, or are in the process of being addressed.**

### Specific Issues

No specific issues have been highlighted through the work undertaken by internal audit during the year.

### Fraud & Irregularity

No matters of fraud or irregularity have been reported during the year 2019/20. A Fraud awareness day was held for all staff, promoting the recently refreshed counter fraud and whistleblowing policies in November 2019.

### Consultancy & Advice

The audit team may be requested by managers to undertake consultancy and advice on governance, risk management and internal control matters from time to time. The following pieces of work were undertaken during the year:

- Review of housing rents year end close down processes.

- Assistance on CCTV corporate project board.
- Training delivered (professional boundaries) to sheltered housing scheme managers.

### 04 Follow Up

At the last Audit & Governance Committee, members approved a new approach to audit follow up (all high priority actions and those arising from no and limited overall assurance reports will be followed up by audit, managers confirmation applies to the rest). Implementation of this system has been delayed to allow functions to concentrate on business critical service delivery due to Covid-19, but will be re-commenced in Quarter two, this includes management 'call in' on follow up audits receiving a limited or no assurance opinion.

### 05 Quarter 1 2020/21

Much of quarter one work has been centred on completing annual reports, compliance statements (including the Annual Governance Statement) and supporting counter fraud checks on Coronavirus business grants. Planned audit work had been temporarily suspended to allow functions to concentrate on business critical service delivery due to Covid-19, but will be re-commenced in Quarter two.



## 06 PERFORMANCE OF INTERNAL AUDIT

### Compliance with professional standards

We employ a risk-based approach in planning and conducting our audit assignments. Internal audit work has been performed in accordance with PSIAS.

### Conflicts of interest

There have been no instances during the year which have impacted on internal audit's independence that have led to any declarations of interest.

## Performance of Internal Audit

### Internal audit quality assurance

To ensure the quality of the work internal audit performs, there is a programme of quality measures which includes:

- Supervision of staff conducting audit work.
- Review of files of working papers and reports by managers.
- Regular meetings of our networking groups, which issue technical and sector updates.

### Performance Measures

Internal audit's main performance measures and the quarter's outturn are as follows:



To achieve at least 90% of the plan by the end of the financial year – 96% (22 audits completed out of 23, 1 delayed completion due to contractor furlough).



Draft reports issued within 15 working days of completion of fieldwork – 100%.



Percentage of recommendations accepted by management 96% (103 out of 107).

## Appendix 01: Summary of Internal Audit Work Undertaken

Audit	Level of Assurance	Executive Summary*	Recommendations		
			High	Medium	Low
Corporate Business Continuity	Limited	It is with some concern that Audit have to report only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are inadequate.	15	5	0
Disabled Facilities Grant Assurance Audit	N/A	Certification Opinion.	1	0	0
Housing Repairs Quarter 1	Reasonable	Audit are pleased to be able to report reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	1	0	0
Housing Repairs Quarter 2	Reasonable	Audit are pleased to be able to report reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	0	0	0
Pension Contribution Assurance	N/A	Certification Opinion.	0	0	0
Property Contracts Quarter 1	Reasonable	Audit are pleased to be able to report reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	0	2	0
Property Contracts Quarter 2	Limited	It is with some concern that Audit have to report only limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are inadequate.	3	8	0
Municipal Charities	Transactional	Complete.	0	0	0
Council Tax	Reasonable	The purpose of the audit was to provide assurances that the correct charges are levied for council tax due to the Council, and that this is accounted for and collected in a timely manner. Overall there are reasonable controls in place. However, there are some areas where improvements can be made notably: <ul style="list-style-type: none"> <li>Addressing delays in processing amendments to properties (from a sample of 12 properties that were either new, deleted or amended, there were delays in 3 instances out of 12 sampled resulted in the changes being backdated).</li> </ul>	0	5	1

Audit	Level of Assurance	Executive Summary*	Recommendations		
			High	Medium	Low
		<ul style="list-style-type: none"> <li>Ensuring that up to date evidence exists for all council tax reductions (2 out of 10 sampled had evidence only to 2018).</li> <li>That write offs are processed in timely manner (5 out of 10 sampled related to debts between 2012 and 2016).</li> <li>That the error rate in customer services be addressed. Sample checks carried out internally from April 2019 to February 2020 (approximately) showed that council tax staff have an average overall error rate of 7.4%, compared to the customer services team's 17.5%.</li> </ul>			
NNDR	Reasonable	<p>The purpose of the audit was to provide assurances that the correct charges are levied for NNDR due to the Council, and that this is accounted for and collected in a timely manner. Overall there are reasonable controls in place. However, there are some areas where improvements can be made notably:</p> <ul style="list-style-type: none"> <li>From a sample of 15 properties that were either new, deleted or amended, there were delays in 7 instances resulting in the changes being backdated.</li> <li>From a sample of 10 reductions, 9 were satisfactory, but one account had not been reviewed since 2017.</li> </ul> <p>Good practice identified as part of the audit included procedures being generally well documented; staff adequately trained and progress made in reducing arrears (arrears relating to 2018/19 and earlier reduced from £665k as at 31/3/19 to £486.5k as at 31/12/19).</p>	0	3	2
Payroll	Reasonable	<p>The purpose of the audit was to provide assurances that there are adequate controls over the management of payroll and the processing of payments to ensure that only bona-fide payments are made; including new starters, amendments, deductions, leavers, exceptional payments and expenses. Processes regarding key payroll processing and payments are generally very well controlled. There are, however, some areas where improvements can be made to strengthen existing processes, notably:</p> <ul style="list-style-type: none"> <li>Password security over access to Health Shield (employee benefits) needs to be reviewed.</li> <li>Ensuring that there is evidence of managers' annual check of employees' driving licence, MOT and insurance details.</li> <li>That receipts are in place for all mileage and expenses claimed.</li> <li>A systems based solution is identified for the manual system currently in place for processing variable hours.</li> </ul>	0	2	3
Bank Reconciliation & Cash	Substantial	<p>The purpose of the audit was to provide assurances that the Council has suitable policies and procedures in place to effectively manage bank, cash and income.</p>	0	0	2

Audit	Level of Assurance	Executive Summary*	Recommendations		
			High	Medium	Low
Income Management		<p>The Council has generally sound controls in place to effectively manage bank, cash and income:</p> <ul style="list-style-type: none"> <li>• Substantive testing confirmed that the income process, from initial contact from all sources through to the final ledger is operating effectively.</li> <li>• Income and bank reconciliations are carried out regularly.</li> <li>• All daily and quarterly reconciliations sample tested had been completed.</li> </ul> <p>Some minor improvements were identified, in terms of updating procedure notes and ensuring that where monthly reconciliations are missed, the reason for this is recorded on the appropriate schedule.</p>			
Housing Rents	Reasonable	<p>The purpose of the audit was to provide assurances that the Council suitably manages its rental income collection process, adequate controls are in place to ensure that debtors are managed effectively, and monies are collected in a timely manner. We have given a 'reasonable' assurance rating as overall there are controls in place to ensure rent accounts are established and rent is applied to properties correctly. However, there are areas where controls need to be strengthened, most notably, with the increase in arrears, the drop in direct debit take up, and weaknesses around affordability checks. Left unaddressed, this may mean a negative direction of travel, and increases the risk of the Council not recovering rent efficiently and effectively. Areas for improvement noted were as follows:</p> <ul style="list-style-type: none"> <li>• Ensuring consistency in practice for obtaining evidence of proof of NI and income.</li> <li>• Reviewing vetting procedures. - prospective tenants are not required to provide details of regular expenditure and outgoings, only details of income is requested.</li> <li>• Ensuring direct debit as means of paying rents is maximised. While tenants are encouraged to take up direct debit from the start of their tenancy and take up is monitored, only 20% of property tenancies and 59% of garage tenancies are paid by Direct Debit, giving an average of 26%. This has dropped from 38% reported in the 2017.</li> <li>• That the total tenant arrears figure continue to be monitored. Total arrears have increased from £512,472 to £712,867 between 1 April 2019 and 10 February 2020.</li> <li>• That performance in terms of Former Tenant Arrears continues to be managed.</li> </ul>	0	5	2

Audit	Level of Assurance	Executive Summary*	Recommendations		
			High	Medium	Low
Housing Repairs Q3	Reasonable	The purpose of the audit was to provide assurances that the Council suitably manages its housing repairs (responsive repairs system and void repairs system) and process, and that adequate controls are in place to ensure that repairs are managed effectively, and in a timely manner. The audit found that there are substantial controls in place regarding responsive repairs. Controls over voids are reasonable, but some improvements could be made to strengthen existing controls, particularly in relation to the re-let standards and timescales involved in re-letting properties.	0	0	3
Housing Repairs Q4					
Property Contracts Q3	Limited	The purpose of the audit was to provide assurances that the Council suitably manages its property contracts with respect of bathroom and kitchen upgrades and adequate controls are in place to ensure that property contracts are managed effectively, and in a timely manner. The audit identified that controls around pre-survey and works orders, work in progress checks, systems for checking variation orders, post inspection quality checks and update of the Orchard system required strengthening. The recommendations made within the audit report are due to be implemented alongside alongside the introduction of new property contracts.	3	5	0
Property Contracts Q4					
Community Safety	Reasonable	The purpose of the audit was to provide assurances that appropriate governance and internal control arrangements are in place to enable the Council to successfully deliver its community safety objectives as part of the Tamworth Community Safety Partnership (TCSP). While we are pleased to report the overall audit opinion as reasonable, there are areas where controls could be enhanced, most notably, in the absence of data in relation to performance targets and monitoring of outcomes. Performance data is critical in making effective management decisions, to drive priorities, and respond to changing trends. This is a fundamental area that management should address to enhance the controls present.	1	1	2
Customer Services	Reasonable	The purpose of the audit was to provide assurances that the Council has suitable policies and procedures in place to effectively deliver services to its customers. The review considered the use of Service Level Agreements (SLAs) between Customer Services and service areas, how the effectiveness of different channels by which customers can contact the Council is monitored, performance monitoring of customer service as a whole, the use of the Customer Relationship Management system and data protection. Overall controls in place were reasonable with some improvements identified in: <ul style="list-style-type: none"> <li>Ensuring clear and specific SLAs are in place setting out what services can expect from customer services.</li> </ul>	0	6	1

Audit	Level of Assurance	Executive Summary*	Recommendations		
			High	Medium	Low
		<ul style="list-style-type: none"> <li>Improving arrangements for collecting internal and external customer satisfaction feedback and ensuring that this data is used to drive service improvement.</li> <li>Continuing to explore ways in which the CRM system can link to other systems, prioritising the services areas that will have the most beneficial impact on the customer.</li> </ul>			
I Trent Application	Work In Progress	<i>Audit part completed – IT audit contractor furloughed themselves part way through the audit – to be completed in September 2020</i>			
Cyber Resilience	Limited	<p>At this time limited assurance can be given to the Council's approach to cyber security operations and management. Whilst we note an external independent penetration review was undertaken in April 2019, the previous "test" was carried out in 2016. External testing should be completed on an annual basis and is a requirement of the Public Services Network (PSN) accreditation process. We were advised that the reasons for non-completion were linked to work required to address issues identified from 2016 and these had not been addressed. Whilst we note this the absence of annual testing could have resulted in other, undetected issues, putting IT services and systems at threat from external sources. This is a significant issue. As a result of the failure to complete external testing, to support the PSN accreditation process, the council did not have the accreditation in place during that period. It is understood the PSN accreditation is now in place.</p> <p>Of priority, the following was also noted for improvement including ensuring:</p> <ul style="list-style-type: none"> <li>Relevant policies have been drawn up and approved by management.</li> <li>'Other' network connected devices are managed accordingly.</li> <li>Security threats including any new threats are continually monitored and managed.</li> </ul>	5	8	0
Data Protection	Limited	<p>At this time some limited assurance can be given that the Council's compliance process for the Act is in place. Whilst we note work was completed prior to the May 2018 deadline to undertake key tasks, other work has yet to be completed and in our opinion a corporate structure to ensure on-going compliance is absent.</p> <p>Of a priority, the following was noted as areas for improvement:</p> <ul style="list-style-type: none"> <li>Ensuring there are appropriate corporate policies / strategies for Data Protection in place.</li> <li>A governance structure has been agreed for managing and monitoring Data Protection compliance.</li> <li>Annual reviews of Information Audits are completed and evidenced accordingly.</li> </ul>	5	7	0

\*the system for replacing standard wording in executive summaries with a better tailored summary to the audit was replaced mid-year. Audits carried out before this system was introduced will still reflect the standard executive summary.

Audit (Implementation Review (IR) and Further Implementation (FIR) Reviews)	Level of Assurance	Executive Summary	Recommendations		
			High	Medium	Low
CCTV Further Implementation Review (FIR)	Reasonable	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	1	3	0
Committee Decisions & Reporting Implementation Review (IR)	Reasonable	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	6	1	0
Efin Application IR	Substantial	The revised audit opinion is that substantial assurance can be given that the system, process or activity should achieve its objectives safely and effectively and that controls are in place and operating satisfactorily.	0	0	0
Housing Regeneration & Affordable Housing IR	No	The revised audit opinion is that no assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are not in place or are failing.	1	0	0
Housing Services FIR	Reasonable	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	0	2	0
IT Governance IR	No	The revised audit opinion is that no assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are not in place or are failing.	6	2	0
Licences FIR	Reasonable	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	1	0	0
Network Controls FIR	Reasonable	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	0	4	0

Audit (Implementation Review (IR) and Further Implementation (FIR) Reviews)	Level of Assurance	Executive Summary	Recommendations		
			High	Medium	Low
Pentana IR Review	Reasonable	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	1	6	0
Sheltered Housing IR	Reasonable	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	1	1	0
Street Scene IR	Limited	The revised audit opinion is that limited assurance can be given that the system, process or activity will achieve its objectives safely and effectively as controls are in place but operating poorly, or controls in place are inadequate.	3	5	0
Tourism & Town Centre IR	Reasonable	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	0	11	0
Tourism & Town Centre FIR	Reasonable	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	0	5	0
Website FIR	Reasonable	The revised audit opinion is that reasonable assurance can be given that the system, process or activity should achieve its objectives safely and effectively however there are some control weaknesses but most key controls are in place and operating effectively.	0	1	0

\*the system for replacing standard wording in executive summaries with a better tailored summary to the audit was replaced mid-year. Audits carried out before this system was introduced will still reflect the standard executive summary.



## Appendix 02: Assurance and Recommendation Classifications

Overall Assurance Opinion	Definition
<b>Substantial</b>	There is a sound system of internal control designed to achieve the organisation's objectives. The control processes tested are being consistently applied.
<b>Reasonable</b>	While there is a basically sound system of internal control, there are some weaknesses which may put the organisation's objectives in this area at risk. There is a low level of non-compliance with some of the control processes applied.
<b>Limited</b>	Weaknesses in the system of internal controls are such as to put the organisation's objectives in this area at risk. There is a moderate level of non-compliance with some of the control processes applied.
<b>No</b>	Significant weakness in the design and application of controls mean that no assurance can be given that the organisation will meet its objectives in this area.

Recommendation Priority	Definition
<b>High</b>	High priority recommendation representing a fundamental control weakness which exposes the organisation to a high degree of unnecessary risk.
<b>Medium</b>	Medium priority recommendation representing a significant control weakness which exposes the organisation to a moderate degree of unnecessary risk.
<b>Low (Housekeeping)</b>	Low priority (housekeeping) recommendation highlighted opportunities to implement a good or better practice, to add value, improve efficiency of further reduce the organisation's exposure to risk.

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## AUDIT & GOVERNANCE COMMITTEE

23 JULY 2020

### REPORT OF THE HEAD OF AUDIT AND GOVERNANCE & MONITORING OFFICER

#### INDEPENDENT MEMBER/S OF THE AUDIT COMMITTEE – PRO'S AND CONS

##### EXEMPT INFORMATION

None.

##### PURPOSE

To brief the Audit & Governance Committee on the 'pros and cons' of appointing independent member/s to the Audit & Governance Committee and a proposed roadmap for a potential appointment process should the Committee wish to proceed when considered appropriate to do so.

##### RECOMMENDATIONS

- 1. That the Committee consider this report and decide whether to proceed with appointing independent member/s to the Audit & Governance Committee (and if so, whether remunerated).**

##### EXECUTIVE SUMMARY

##### BACKGROUND

CIPFA's published guidance Audit Committees Practical Guidance for Local Authorities and Police 2018 which sets out CIPFA's views on the role and functions of an Audit Committee, recommends that Audit Committee's give due consideration to the inclusion of at least one independent member (where it is not already a mandatory requirement).

On considering this as part of the Audit & Governance Committee's effectiveness at the last Committee (13 February 2020), Members requested that a report on the 'pros and cons' of appointing independent member/s to the Committee and a proposed timeline for a potential appointment process be brought to a subsequent meeting of the Committee.

The Audit & Governance Committee's current terms of reference provides for at least 7 members (aligned with the political balance of the Council) and the option to co-opt up to 2 independent members.

In terms of the voting rights of independent members, there needs to be regard to Section 13 of the Local Government and Housing Act 1989 which relates to the voting rights of non-elected committee members. Where the audit committee is operating as an advisory committee under the Local Government Act 1972, making recommendations rather than policy, then all members of the committee should be

able to vote on that recommendation. If the council wishes to delegate decisions to the committee, for example the adoption of the financial statements, then the independent member will not be able to vote on those matters for decision.

**Pros of Independent Members**

Good practice shows that co-option of independent members is beneficial to Audit Committees for the following reasons:

- An external view can often bring a new approach to committee discussions.
- To bring additional knowledge and expertise to the committee where there may be skills gaps.
- To reinforce the political neutrality and independence of the committee.
- To maintain the continuity of committee membership where membership is affected by the electoral cycle.

**Cons of Independent Members**

There are some potential pitfalls to the use of independent members:

- Over-reliance on independent members by other committee members can lead to a lack of engagement across the full committee.
- Lack of organisational knowledge or ‘context’ among the independent members when considering risk registers or audit reports. Effort is required from both independent members and officers/staff to establish an effective working relationship and establish appropriate protocols for briefings and access to information.

**Roadmap for Appointment of an Independent Member/s**

Should the Committee wish to progress to recruiting independent member/s, the following roadmap is proposed. A timeline is to be confirmed, due to the current restrictions arising from the Covid-19 situation:

Roadmap	Timeline
<p>Role profile for independent member to be drawn up and agreed. Committee to agree the recruitment process and number of independent members required (up to 2).</p>	<p>To be Confirmed (TBC)</p>
<p>Vacancy to be publicly advertised. Candidates to be able to demonstrate their political independence and their suitability has to be checked e.g. candidates must not:</p> <ul style="list-style-type: none"> <li>• be a Councillor or officer of the Council or have been so in the preceding five years prior to appointment;</li> <li>• be related to, or a close friend of, any Councillor or officer of the Council;</li> <li>• have been convicted of any offence. The Council has the right to DBS check any independent committee members;</li> <li>• be an undischarged bankrupt</li> <li>• have significant business dealings with the Council;</li> <li>• have a formal connection with any political group;</li> <li>• have a proven history of vexatious and/or frivolous complaints against the Council;</li> </ul>	

<ul style="list-style-type: none"> <li>• be the holder of a significant office in an organisation being grant aided / supported by the Council.</li> </ul>	
Selection process to take place.	
Independent member/s appointed. This should be for a fixed term (usually 3 years) and be formally approved by the Council. Remuneration to be decided. Provision to be made for early termination and extension to avoid lack of clarity in the future.	
Independent Member/s commence. While operating as a member of the audit committee, the independent member/s would be required to follow the same code of conduct as elected members and a register of interests be maintained.	

## RESOURCE IMPLICATIONS

Usual practice is to reimburse reasonable travelling expenses. Some Council's offer an annual allowance (recent adverts include – Kent County Council £1,500, London Borough Richmond £300). This would need to be decided and met from existing internal audit budgets.

## LEGAL/RISK IMPLICATIONS BACKGROUND

Attracting suitable candidates for an independent member position is usually challenging, particularly as independent members tend to be non-remunerated. Time and resources may be spent on recruitment which may not produce a suitable candidate / appointment. This is also a particularly salient consideration at the present time with the Covid-19 situation.

## EQUALITIES IMPLICATIONS

None.

## SUSTAINABILITY IMPLICATIONS

None.

## BACKGROUND INFORMATION

None otherwise stated above.

## REPORT AUTHOR

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## PLANNED REPORTS TO AUDIT AND GOVERNANCE COMMITTEE 2020-2021

	Report	Committee Date	Report Of	Comments
1	Audit Committee update	<b>26 March 2020*</b>	Grant Thornton	*26 March 2020 Committee cancelled due to Covid-19 restrictions.  This report circulated to the Committee 22 May 2020
2	Informing the Audit Risk Assessment	<b>26 March 2020*</b>	Grant Thornton	Circulated to the Committee 22 May 2020
3	Update on Audit Matters from Public Sector Audit Appointments Limited	<b>26 March 2020*</b>	Joint Report of Grant Thornton and the Executive Director Finance	Circulated to the Committee 22 May 2020
4	Cipfa Section 151 Update and Review of the Financial Resilience Index	<b>26 March 2020*</b>	Executive Director Finance	Circulated to the Committee 22 May 2020
5	Review of the Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement and Annual Investment Statement and the Treasury Management Strategy Statement and Annual Investment Strategy Mid-Year Review Report	<b>26 March 2020*</b>	Executive Director Finance	Presented to Council Dec 19 / Feb 20. Circulated to the Committee 22 May 2020

6	Final Accounts – Accounting Policies and Action Plan	<b>26 March 2020*</b>	Assistant Director of Finance	Circulated to the Committee 22 May 2020
7	Risk Based Verification – exempt item	<b>26 March 2020*</b>	Assistant Director of Finance	Circulated to the Committee 22 May 2020
8	Internal Audit Charter and Audit Plan	<b>26 March 2020*</b>	Head of Audit & Governance	Circulated to Committee 23 June 2020
9	Review of the Constitution and Scheme of Delegation for Officers	<b>26 March 2020*</b>	Head of Audit & Governance	Deferred to October 2020 meeting
10	Review of Financial Guidance	<b>26 March 2020*</b>	Head of Audit & Governance	Circulated to Committee 12 June 2020
11	Pros & cons of Independent Members	<b>26 March 2020*</b>	Head of Audit & Governance	Deferred to July 2020 Committee
	Private meeting of Internal and External Auditors and Committee members	<b>Deferred to October 2020 meeting</b>		
1	Role of the Audit Committee	<b>4 June 2020 **</b>	Grant Thornton	<p>*4 June 2020 Committee cancelled due to Covid-19 restrictions.</p> <p>This presentation/training – postpone to later in the year</p>



2	Audit Committee update	<b>4 June 2020</b>	Grant Thornton	Deferred to July 2020 Committee
3	RIPA Quarterly Report	<b>4 June 2020</b>	Assistant Director - Partnerships	Deferred to July 2020 Committee
4	Internal Audit Annual and Quarterly Update	<b>4 June 2020</b>	Head of Audit & Governance	Deferred to July 2020 Committee
5	Public Sector Internal Audit Standards/Quality Assurance and Improvement Programme	<b>4 June 2020</b>	Head of Audit & Governance	Report circulated 3 June 2020
6	Annual Governance Statement and Code of Corporate Governance	<b>4 June 2020</b>	Head of Audit & Governance	Requires approval defer to October 2020 to accompany statement of accounts
7	Counter Fraud Update	<b>4 June 2020</b>	Head of Audit & Governance	Defer to October 2020 Committee
8	Chair of Audit & Governance Committee's Annual Report	<b>4 June 2020</b>	Head of Audit & Governance	Report circulated 12 June 2020
1	Audit Committee update	<b>23 July 2020</b> (Meeting programme commences remotely)	Grant Thornton	Committee schedule commences remotely now until further notice.

2	<del>Audit Findings Report</del>	<del>23 July 2020</del>	<del>Grant Thornton</del>	Deferred to October 2020 Committee
3	<del>Management Representation Letter</del>	<del>23 July 2020</del>	<del>Grant Thornton</del>	Deferred to October 2020 Committee
4	<del>Annual Statement of Accounts</del>	<del>23 July 2020</del>	<del>Executive Director Finance</del>	Deferred to October 2020 Committee
5	Risk Management Quarterly Update	<b>23 July 2020</b>	Assistant Director – Finance	
6	RIPA Quarterly Report and Policy	<b>23 July 2020</b>	Assistant Director - Partnerships	Deferred from June 2020 Committee
7	Internal Audit Annual Report and Update	<b>23 July 2020</b>	Head of Audit & Governance	Deferred from June 2020 Committee
8	Pros and Cons of Independent Members	<b>23 July 2020</b>	Head of Audit & Governance	Deferred from June 2020 Committee
9	Timetable	<b>23 July 2020</b>	Head of Audit & Governance	
10	<del>Modern Slavery and Human Trafficking Statement</del>	<b>23 July 2020</b>	Assistant Director - Partnerships	To be circulated to Committee for comment in advance of submission to Cabinet for approval.
1	Annual Audit Letter	<b>29 October 2020</b>	Grant Thornton	

2	Audit Findings Report	<b>29 October 2020</b>	Grant Thornton	Deferred from July 2020 Committee
3	Management Representation Letter	<b>29 October 2020</b>	Grant Thornton	Deferred from July 2020 Committee
4	Annual Statement of Accounts	<b>29 October 2020</b>	Executive Director Finance	Deferred from July 2020 Committee
5	Annual Governance Statement and Code of Corporate Governance	<b>29 October 2020</b>	Head of Audit & Governance	Deferred from June 2020 Committee
6	Review of the Constitution and Scheme of Delegation for Officers	<b>29 October 2020</b>	Head of Audit & Governance	Deferred to October 2020 meeting
7	RIPA Quarterly Update	<b>29 October 2020</b>	Assistant Director - Partnerships	
8	Internal Audit Quarterly Update	<b>29 October 2020</b>	Head of Audit & Governance	
9	Risk Management Quarterly Update	<b>29 October 2020</b>	Assistant Director – Finance	
10	Annual Treasury Outturn	<b>29 October 2020</b>	Executive Director Finance	
11	Local Government Ombudsman's Annual Review and Report 2018/19	<b>29 October 2020</b>	Assistant Director - People	
12	Counter Fraud Update	<b>29 October 2020</b>	Head of Audit & Governance	Deferred from July 2020 Committee
13	Private meeting of Internal and External	<b>29 October 2020</b>		

	Auditors and Committee members			
1	Audit Committee update	<b>11 February 2021</b>	Grant Thornton	
2	Fee Increase Letter	<b>11 February 2021</b>	Grant Thornton	
3	Audit Plan	<b>11 February 2021</b>	Grant Thornton	
4	RIPA Quarterly Report	<b>11 February 2021</b>	Assistant Director – Partnerships	
5	Internal Audit Quarterly Update	<b>11 February 2021</b>	Head of Audit & Governance	
6	Risk Management Quarterly Update	<b>11 February 2021</b>	Assistant Director – Finance	
7	Audit Committee Effectiveness	<b>11 February 2021</b>	Head of Audit & Governance	
1	Audit Committee update	<b>23 March 2021</b>	Grant Thornton	
2	Informing the Audit Risk Assessment	<b>23 March 2021</b>	Grant Thornton	
3	Review of the Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement and Annual Investment Statement and the Treasury Management Strategy Statement and Annual Investment Strategy Mid-Year	<b>23 March 2021</b>	Executive Director Finance	

	Review Report			
4	Final Accounts – Accounting Policies and Action Plan	<b>23 March 2021</b>	Assistant Director of Finance	
5	Risk Based Verification – exempt item	<b>23 March 2021</b>	Assistant Director of Finance	
6	Internal Audit Charter and Audit Plan	<b>23 March 2021</b>	Head of Audit & Governance	
7	Review of the Constitution and Scheme of Delegation for Officers	<b>23 March 2021</b>	Head of Audit & Governance	
	Private meeting of Internal and External Auditors and Committee members			

List of reports pre-circulated to the Committee during lockdown restrictions as only noting and endorsement are required, not approval:

ITEM	MEETING DATE OF ENDORSEMENT / NOTING CONFIRMATION
<b>INTERNAL AUDIT</b>	
Internal Audit Charter and Audit Plan	23 July 2020
Review of Financial Guidance	23 July 2020
Public Sector Internal Audit Standards/Quality Assurance and Improvement Programme	23 July 2020
Chair of the Audit Committee’s Annual Report to Council	23 July 2020
<b>FINANCE</b>	
Audit Committee Update (Grant Thornton)	23 July 2020
Informing the Audit Risk Assessment	23 July 2020
Update on Audit Matters from Public Sector Audit Appointments	23 July 2020

Limited	
CIPFA Section 151 Update and Review of the Financial Resilience Index	23 July 2020
Review of the Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement and Annual Investment Statement and the Treasury Management Strategy Statement and Annual Investment Strategy Mid-Year Review Report	23 July 2020
Final Accounts – Accounting Policies and Action Plan	23 July 2020
Risk Based Verification – exempt item	23 July 2020