

NON-CONFIDENTIAL



Borough of Tamworth

9 December 2014

Dear Councillor

You are hereby summoned to attend a **meeting of the Council of this Borough** to be held on **TUESDAY, 16TH DECEMBER, 2014** at 6.00 pm in the **TOWN HALL, MARKET STREET, TAMWORTH**, for the transaction of the following business:-

AGENDA

NON CONFIDENTIAL

1 Apologies for Absence

2 To receive the Minutes of the previous meeting (Pages 1 - 2)

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 To receive any announcements from the Mayor, Leader, Members of the Cabinet or the Chief Executive

5 Question Time:

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

- 6 **Local Council Tax Reduction Scheme 2015/16** (Pages 3 - 28)
(Report of Portfolio Holder for Operations and Assets)
- 7 **Treasury Management Strategy Statement and Annual Investment Strategy Mid-year Review Report 2014/15** (Pages 29 - 48)
(Report of Portfolio Holder for Operations and Assets)
- 8 **Tamworth Borough Council Revised Statement Of Licensing Policy 2015-2020 (Licensing Act 2003)** (To Follow)
(Report of Portfolio Holder for Environment and Waste Management)
- 9 **Regulation of Investigatory Powers Act** (Pages 49 - 96)
(Report of Solicitor to the Council and Monitoring Officer)

Yours faithfully

A handwritten signature in black ink, appearing to be 'A. D. ...', written over a circular stamp or mark.

CHIEF EXECUTIVE

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

Marmion House
Lichfield Street
Tamworth



MINUTES OF A MEETING OF THE COUNCIL HELD ON 26th NOVEMBER 2014

PRESENT: Councillor R Kingstone (Chair), Councillors M Gant, J Chesworth, M Clarke, S Claymore, T Clements, D Cook, C Cooke, S Doyle, J Faulkner, J Goodall, M Greatorex, G Hirons, A James, J Jenkins, A Lunn, T Madge, M McDermid, K Norchi, J Oates, M Oates, S Peple, T Peple, R Pritchard, E Rowe, P Seekings, P Standen and M Thurgood

The following officers were present: Anthony E Goodwin (Chief Executive), Ryan Keyte (Senior Legal Officer) and Lara Allman (Democratic & Election Services Officer)

34 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors M Couchman and D Foster.

35 TO RECEIVE THE MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 8th October were approved and signed as a correct record.

(Moved by Councillor D Cook and seconded by Councillor S Peple)

36 TO RECEIVE ANNOUNCEMENTS FROM THE MAYOR, LEADER, MEMBERS OF THE CABINET OR THE CHIEF EXECUTIVE

Announcement by Councillor S Peple

I understand at the Committee Meeting the other night it was mentioned that Lara will be leaving the authority. On behalf of the Members of the Labour Group, and I'm sure many other Councillors, I'd like to say that we will be missing her services, she has done a wonderful job, helped so many of us and I'd just like to say thank you.

Announcement by Councillor D Cook

I echo that.

37 STATE OF TAMWORTH DEBATE

Councillor S Peaple moved a motion in terms of Rule 4.13(n) to amend Rule 4.14.4 that the introductions to each section are limited to 5 minutes, this was seconded by Councillor D Cook.

The motion was carried.

Councillor D Cook introduced the Tamworth Listens report.

Councillor C Cooke moved a motion in terms of Rule 4.13 (d) and this was seconded by Councillor D Cook:

“This Council refers to the appropriate scrutiny committee for assessment the item of Tamworth’s Housing Needs Figures for the Local Plan Period 2006-2031.”

The motion was carried.

Councillor J Goodall moved a motion to thank Claire Keeling (Housing Strategy Officer), Councillor M Greatorex and all the people involved in bringing the gas project to Belgrave, this was seconded by Councillor R Pritchard.

The motion was carried.

Following the debate the following motions were approved

RESOLVED: That:

1. the Scrutiny Committees meet to discuss the report before this Council and decide if any issues are calling out for review by scrutiny given that statistics within the report, and;
2. the Leader and the CEO meet to create a report to Cabinet defining where we need to take this Council, what sort of Council do we need to be going forward to ensure the Vulnerable are the priority, and share it with all Councillors.

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

The Mayor

TUESDAY, 16TH DECEMBER 2014**REPORT OF THE PORTFOLIO HOLDER FOR OPERATIONS AND ASSETS****LOCAL COUNCIL TAX REDUCTION SCHEME FROM 2015/16****EXEMPT INFORMATION**

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

PURPOSE

To advise Members of the results and feedback from the recently undertaken consultation on and the financial implications of the 2013/14 scheme. To review the consultation feedback when considering potential changes to the scheme to be applied in the 2015/16 Local Council Tax Reduction Scheme;

To advise Members that The Local Council Tax Reduction Scheme for Working Age Customers for 2015/16 should include an uprating to Applicable Amounts (to be applied for 2015/16);

That Council endorse the draft proposed scheme.

RECOMMENDATIONS

- 1) That Council consider the results of the public consultation on the current scheme, carried out 15 July to 15 September 2014, and endorse the proposed recommended change detailed below;**
- 2) The base scheme (in place for 2013/14 & 2014/15) goes forward with the following exception / amendment:
that The Local Council Tax Reduction Scheme for Working Age Customers for 2015/16 will include an uprating to Applicable Amounts in line with Housing Benefit (estimated 1% to be applied for 2015/16);**
- 3) Following the outturn results for 2014/15 (together with grant projections) the impact on the scheme be reviewed and reported to Members prior to consultation for the development of the 2016/17 scheme.**
- 4) The exclusion of child maintenance as income be included as a specific item in the consultation for the 2016/17 scheme.**

EXECUTIVE SUMMARY

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

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

Grant funding was reduced and is distributed by the Department for Communities and Local Government rather than the Department for Work and Pensions.

Alignment of the scheme with applicable amounts for the Housing Benefit scheme (currently indicated at 1% by DWP) should be considered. This is not a legislative requirement for those of working age, but a decision for this Council. The financial impact of this is not likely to be material as the increase in applicable amounts will be offset by increased income and state benefits received. This will also prevent confusion between schemes and reduce administrative burdens. Furthermore, it reflects cost of living rises allowed by the Government.

The Council meeting on 17th December 2013 (minute number 47 refers), resolved that:

The scheme following completion of the first year be reviewed and identification of delivery of the scheme's financial target and full implications of potential changes that may arise re consultation/equalities/potential challenge.

In compliance with the above, a web based consultation exercise was carried out between 15 July to 15 September 2014 – the results are attached at **Appendix 1**. Local Community Groups were notified of the consultation and a press release also encouraged consultation responses.

There was a low response rate and no material issues were identified.

The inclusion of child maintenance as income has previously been raised by Members. It should be noted that 77% of respondents indicated they feel it is reasonable to continue to include child maintenance as income in determining an award, confirming that it continues to be a supported policy by those respondents.

Should Council propose to exclude maintenance as income for 2015/16, the public must be consulted again as it is deemed a material change. Given the deadline of 31st January 2015 for the 2015/16 scheme to be agreed at full Council, it is recognised that there is no scope for further, timely consultation prior to the deadline date. It is proposed that the exclusion of maintenance as income be a specific consultation item in the forthcoming 2016 / 17 review and consultation process..

OPTIONS CONSIDERED

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

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

A two month public consultation on the current scheme was held between 15 July and 15 September 2014. Although the consultation was widely publicised, only 77 responses were received.

There was a high level of endorsement for four out of the ten policies and the details of these are outlined below:

- Level of support for pensioners, severely disabled and in receipt of a Severe Disability Premium, claimants with disabled children and claimants receiving a War Disablement or War Widows Pension or Armed Forces Compensation Scheme payments;
- Protecting working age claimants who attract a Severe Disability Premium;
- ***Including maintenance payments as income;***
- Working age claimants who are not protected should pay at least 25% of their Council Tax bill.

Furthermore, five out of the ten policies received a 'moderate' level of support with between 50-74% agreeing that they were reasonable. They are;

- Council Tax Reduction is limited to a maximum of 75% of a Band D property for working age claimants;
- The ongoing removal of Second Adult Rebate for working age claimants
- Childcare costs are included as an outgoing and subtracted from a claimant's overall net income;
- Child Benefit is not taken into account as income;
- Non dependant charges of £5 if the non dependant does not work and £10 if the non dependant is employed.

One received 'some' support. This was Policy 6 under which claimants were able to protect £16,000 in savings and still receive a means tested reduction of their Council Tax bill.

RESOURCE IMPLICATIONS

Council Tax Benefit subsidy awarded for 2012/13 was £5.38m. The current scheme was modelled on delivering an estimated benefit reduction in the region of £700k for 2013/14, necessitated by grant cuts of 10% and protection for Pensioners and other vulnerable groups. The final amount awarded for 2013/14 was £4.47m – equating to a surplus of c.£21k for the Council (10.9% of extrapolated Collection Fund Surplus circa. £189k).

	2012/13 Estimate £'000	2013/14 Actual £'000	Variance £'000	2014/15 to date £'000	2015/16 Estimated £'000
Council Tax Benefit	5,404				
Estimated Scheme Cost	4,685	4,470	(215)	4,300	4,300
Estimated Saving (including Protection)	719				
Cost to TBC (10.9%)	511	487		469	469
TBC Grant rec'd *	516	508		439	371
Variance (Surplus) / Deficit	(5)	(21)		29	98
Extrapolation for Collection Fund	(48)	(189)		270	896
* includes SFA Grant Reduction				13.5%	15.5%

Latest figures confirm that £4.3m has so far been awarded in Local Council Tax Reduction (LCTR) for 2014/15, to both working age and pensioner customers. The live working age caseload has reduced by approximately 10% since April 2013, which is attributable to customers finding employment and becoming financially self sufficient and contributes to the lesser amount now awarded.

Within the limitations of the system, a detailed analysis of the outstanding arrears relating to LCTR scheme claimants has been carried out (where they can be identified). We can attribute £230k of arrears as at 31 March 2014 to the LCTR scheme claimants, though that arrears figure has dropped by almost a quarter over the last six months.

An “in year” collection rate of 74.8% for 2013/14 compares to 97.6% overall and a collection rate of 81.1% as at 30th September 2014 compares to the 98.3% overall collection for 13/14. This means the outstanding LCTR scheme balances have reduced by 25% so far this year, while the overall arrears have reduced by 30%. £175k of the new LCTR scheme arrears are still outstanding at 30 September 2014.

For 2014/15, the Settlement Funding Assessment (SFA) has been reduced by 13.5%. Due to the overall reduction in SFA, it is currently forecast that the scheme

will cost the Council £29k in 2014/15 (with a projected cost of £98k in 2015/16).

Risks around the estimate for 2015/16 include:

- Final Settlement Funding Assessment confirmation is not expected until January 2015 (provisional figures in December 2014);
- The final cost is dependent on collection levels – the estimated figures are based on the amounts chargeable (with arrears still to be collected);
- The scheme has now been running for over 18 months. Current expenditure as above may or may not increase as the scheme is demand led and depends on local social and economic factors.

LEGAL/RISK IMPLICATIONS BACKGROUND

The Department for Communities and Local Government have confirmed that consultation on the scheme is not required annually if it is not amended. However, consultation was made this year to gauge fresh views on the policy, given that it has now been in operation for more than 18 months.

Appendix 1 confirms the public consultation results, gauging views on each of the current policy elements of the scheme.

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

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

SUSTAINABILITY IMPLICATIONS

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

BACKGROUND INFORMATION

The Welfare Reform Act 2012

http://www.legislation.gov.uk/ukpga/2012/5/pdfs/ukpga_20120005_en.pdf

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

http://www.legislation.gov.uk/uksi/2012/2885/pdfs/uksi_20122885_en.pdf

REPORT AUTHOR

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LIST OF BACKGROUND PAPERS

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

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

APPENDICES

Local Council Tax Reduction Scheme Consultation Summary Report 2014	Appendix 1
Council Tax Reduction caseload summary	Appendix 2
Council Tax Reduction expenditure summary	Appendix 3



Local Council Tax Reduction Scheme Consultation Summary Report 2014

Produced by  Staffordshire
County Council

On behalf of  Tamworth
Borough Council

DOCUMENT DETAILS

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



Title	Localisation of Council Tax Consultation Summary Report
Date created	September 2014
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Produced by	Alice Walters, Research Officer, Insight Team, Staffordshire County Council Tel: 01785 278150 email: alice.walters@staffordshire.gov.uk
Additional contributions	Heather Collier, Research Coordinator Rhiannon West, Data Assistant
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I. EXECUTIVE SUMMARY

The degree of endorsement for the policies was varied, with most support being received for Policy 1, which provides total protection for pensioners and those working age claimants classed as severely disabled. Least endorsement was received to Policy 6. Under this policy, claimants can protect up to £16,000 in savings and still receive support with their Council Tax bill.

There was a 'high'* level of endorsement for four out of the ten policies and the details of these are outlined below:

- Supporting pensioners, working age people classed as severely disabled, claimants with disabled children and claimants receiving a War Pension or Armed Forces Compensation Scheme with up to a 100% rebate (Policy 1).
- Protecting claimants who are eligible for Severe Disability Premium. They can receive a reduction for up to 100% off their Council Tax bill (Policy 9).
- Including maintenance payments as income when calculating a Working Age claimant's Council Tax Reduction entitlement (Policy 8).
- Working Age claimants (not protected) have to pay at least 25% of their Council Tax bill (Policy 2).

Furthermore, five out of the ten policies received a 'moderate' level of support with between 50-74% agreeing that they were reasonable. One received 'some' support. This was Policy 6 under which claimants were able to protect £16,000 in savings and still receive support towards their Council Tax bill.

The results must be considered in the context of the respondents. The majority of respondents were residents of Tamworth (86%), who did not receive a Council Tax reduction (81%). The majority had also not been impacted by the changes. 62% had experienced a low or very low impact to the changes since April 2013.

Over one third of respondents (38%) had experienced either a medium or high impact to the changes. Whilst it is not advisable to undertake statistical analysis on their responses (as their numbers were relatively low) it is important to acknowledge that they may have a different perspective. Their commentaries are documented throughout this report and these can provide an indication of possible impacts.

It would be advisable for these to be supplemented by localised data. This for example could include looking at the local levels of arrears and bailiff referrals linked to non payment of Council Tax following the introduction of changes. This information would enable a deeper understanding of the possible impacts of reform.

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

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

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

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

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

2.1 INTRODUCTION AND METHODOLOGY

Since April 2013, Tamworth Borough Council has administered a Local Council Tax Reduction Scheme for those of working age on behalf of the Government. The Government still provides funding for localised schemes but since April 2013 it has been reduced.

In 2012 there was a public consultation to gauge views about the locally proposed scheme from April 2013. At that time, Tamworth Borough Council pledged to review its local council tax reduction scheme during its second year of operation.

As part of this review, a consultation ran between 15th July 2014 and 15th September 2014 and residents and the voluntary sector were encouraged to share their views through an online survey.

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

2.2 RESPONDENT PROFILE

A total of 77 respondents completed the online survey, a considerably smaller group when compared with the number of respondents who took part in the consultation last year (828). To this end, comparisons can not be drawn between the results of the two.

A full respondent profile can be found in Appendix I, but some key points include:

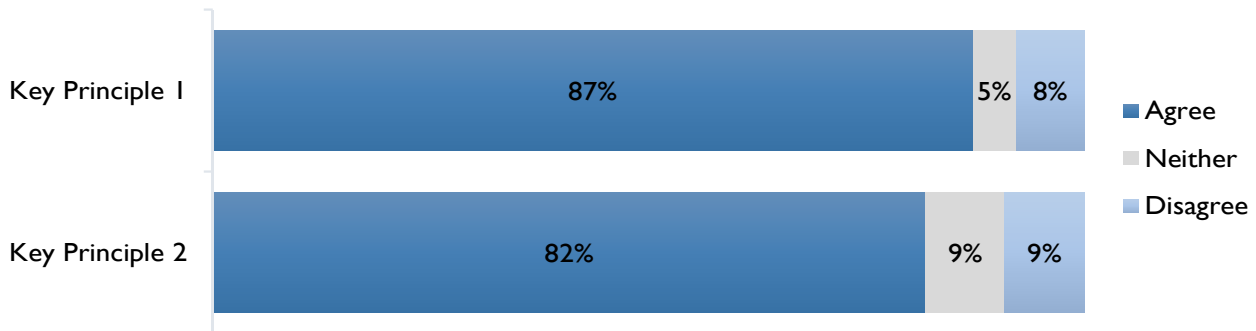
- 86% of respondents identified themselves as a resident of Tamworth.
- 9 respondents were Council Tax Reduction claimants with a further 3 being friends or relatives of a Council Tax Reduction claimant.
- 42% were from households with full or part-time workers and 18% had one or more dependent children living with them.
- The respondent group consisted of largely older people with almost a third aged 55-64 years. When comparing with the district profile breakdown by age from the most recent Mid Year Estimates it is clear that those aged 18– 34 were under-represented while those aged 55 and above were over-represented. More detail can be found in Appendix I.
- 3 respondents were responding on behalf of a voluntary organisation.

3. RESULTS - KEY PRINCIPLES

Respondents were invited to state to what extent they agreed or disagreed with the following two key principles:

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

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



As the graph above illustrates, there was a high level of support from each of the two key principles with 87% of respondent agreeing with Key Principle 1 and 82% agreeing with Key Principle 2. In both cases, over 50% of respondents stipulated that they were in strong agreement.

4. RESULTS - POLICIES

Respondents were invited to state to what extent they felt the following policies were reasonable or not reasonable and to offer any comments to explain why they felt that way:

Local Council Tax Reduction Scheme Policy 1

Pensioners receive support for up to 100% of their Council Tax bill as they are protected by the Government under a national scheme. Tamworth also protect working age claimants classed as severely disabled and in receipt of a Severe Disability Premium, claimants with disabled children and claimants receiving a War Pension or Armed Forces Compensation Scheme payment in the Local Council Tax Reduction Scheme. This means that pensioners, claimants classed as severely disabled, claimants with disabled children and claimants receiving a War Pension or Armed Forces Compensation Scheme payment are the only claimants that can receive support for up to 100% of their Council Tax bill. All other working age claimants pay something towards their Council Tax bill.



88% of respondents felt that this policy was reasonable and this was reinforced through the additional comments, “we should support those in our community who are unable to work due to age or disabilities” , “claimants who are severely disabled or with disabled children should be protected under the scheme” and “it is

pleasing to see the elderly protected by the government safeguards”.

However, it was posed by several respondents that rather than roll out a standard approach across the district, cases should be considered at an individual level, “not all pensioners should automatically be protected as some may have greater capacity to contribute towards their council tax” and that the “circumstances of the individual play a big part of what you should receive, not a blanket amount”. One respondent suggested that “maybe pensioners should be means tested as some earn more than I do.”

Local Council Tax Reduction Scheme Policy 2

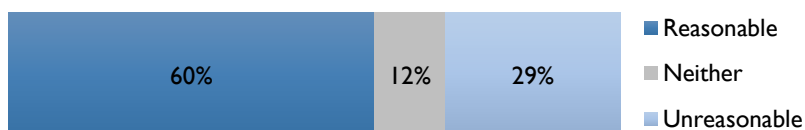
All working age claimants that are not protected have to pay at least 25% of their Council Tax bill.



While there was a high level of support for this policy with around three-quarters of respondents agreeing that it was reasonable, it was interesting to see how diverse the opinions were of those who felt this proposal was unreasonable. While there were a number of comments stipulating that it was “unreasonable if someone on a low income has to pay at least 25% of Council Tax” and “morally wrong to expect them to contribute to Council Tax when it means depriving them and their children of food”, there were also some suggestions that “25% is not really enough”, and that all working age claimants “should be made to pay more than 25%”.

Local Council Tax Reduction Scheme Policy 3

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



There was moderate support for this policy with 60% of respondents stating that they felt it was reasonable. Additional comments were fairly small in numbers and showed mixed views. Some used it as an opportunity to emphasise their position of support, “they should pay based on the property they occupy”, “if they can afford to purchase a large house in the first place, they should have less reduction”. While others, who disagreed with the policy, expressed that this would be another exercise which will benefit the rich and penalise the “many downtrodden, overtaxed and overworked ‘lower class’”, “tax breaks for the richer people, none for the poorest”.

Other respondents who felt that this was not a reasonable policy, were more mindful of individual circumstance, “it may be that some unfortunate people are in a large house, can’t move and are being penalised” and that “at times of difficulty it would be wrong to drive people from their homes. There are good reasons why people were previously assessed as needing full council tax relief.”

One respondent suggested that “Council Tax should be based on the person and not on the size of the property” .

Local Council Tax Reduction Scheme Policy 4

Before April 2013, some customers were not entitled to Council Tax Benefit in their own right because their own income was too high or they had too much in savings. However, they could claim a Second Adult Rebate, for a reduction of up to 25% off their bill, because they had another adult living with them who was on a low income. From April 2013, Second Adult Rebate was removed under the Local Scheme. This means that all those of Working Age who were previously entitled to a Second Adult Rebate have to pay 100% of their Council Tax bill. (Second Adult Rebate can still be claimed by pensioners as it is in the national rules).



There was moderate support for this policy, and while very few additional comments were made, those who did felt that if people were earning a certain amount of money, then it was considered reasonable to expect them to pay the full amount,

- *“Why should liable people who have the means to pay get a discount?”*
- *“If joint income is high then they should pay total charge”.*
- *“When there are 2 or more incomes in the household then the full amount should be paid unless the income falls”.*

One respondent suggested that *“maternity leave should be considered”* while another felt that *“pensioners should not be exempt - it is completely unfair to protect wealthy pensioners, and this should be income based rather than age-based”*.

Local Council Tax Reduction Scheme Policy 5

We disregard child care costs when calculating Council Tax Reduction. This does not contribute to any reductions but provides an incentive for parents to stay in work or return to work.

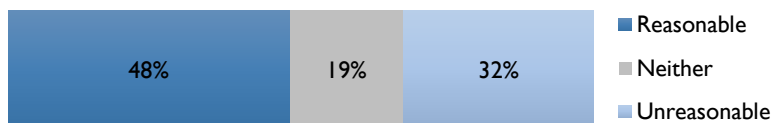


While there was moderate support shown for this policy, the additional comments highlighted that some respondents did not understand how the policy would provide an incentive for parents to stay in or return to work since *“child care costs are a significant household bill for many families”*:

- *“The expense of child care must be taken into consideration...or am I misunderstanding this?”*
- *“I don't really understand this. To disregard child care costs is to disregard the most major outgoing of these people you are seeking to incentivise to work! Why should these be disregarded?”*
- *“The main disincentive for working parents not to work is the high cost of child care”*
- *“It doesn't provide an 'incentive', it forces the desperate to take up low paid and exploitative work”*

Local Council Tax Reduction Scheme Policy 6

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



There was some support for this policy, with just under half of respondents agreeing that it was reasonable to have savings and still receive support towards their Council Tax Bill. However, almost a third of the respondent group did not agree with this policy and the majority of additional comments were made by this group:

- “You should support yourself to some extent if you have any savings above £5,000” .
- “If you have savings then they should be used first”.
- “People with full time jobs probably don’t have savings of £16K”.
- “Any support should be for those who REALLY need it”.

One respondent suggested whether “ it would be possible to have a **sliding scale** for the savings calculation, rather than a fixed £16000?”.

Local Council Tax Reduction Scheme Policy 7: Child Benefit is not included as income when calculating a claimant’s Council Tax Reduction entitlement.



There was a moderate level of support for this policy, with 70% of respondents agreeing that it should not be included since “Child Benefit is for the use of the child, not to finance local government”.

The additional comments section saw several respondents voicing their opinions of why they felt this was unreasonable and why they felt that it was more appropriate to include Child Benefit in the calculations:

- “Many people are paid too much Child Benefit, with the attitude that more children equals more money!”
- “Child benefit should be included in total family income. It is income!”
- “It is income paid by the tax payer”

Local Council Tax Reduction Scheme Policy 8: We include maintenance payments as income when calculating a Working Age claimant's Council Tax Reduction entitlement.



There was a high level of support for this policy and it was felt fair that this was included in calculations since *“maintenance is supposed to count towards living costs, Council Tax is a cost of living...”*

However, it was recognised by several respondents that there are many cases where maintenance payments are not made consistently, *“it is difficult for some single parents to get maintenance payments from former partners”*. With this in mind, some said that they would only support the proposal *“if the maintenance is guaranteed and not intermittent”* and *“if somebody is supposed to pay but doesn't then that shouldn't count”*.

One respondent felt very strongly against this policy, stating that *“this is basically taxing children. Child Maintenance is paid AFTER taxation for the upkeep of children.”*

Local Council Tax Reduction Scheme Policy 9: If a Working Age person receives Disability Living Allowance, a Care Component may be added if they require help with day to day tasks or if they need frequent personal care. A lower, middle or higher rate is paid depending on the care needs of the claimant. Single claimants that receive a middle or higher rate Care Component are classed as severely disabled and can attract a Severe Disability Premium too, as long as no one lives with them and no one receives a Carers Allowance for looking after them. Couples can also receive this premium as long as they both are eligible for a middle or higher rate Care Component, no one lives with them and no one receives a Carers Allowance for looking after either of them.

A Severe Disability Premium is also payable if a Working Age person (and their partner if they have one) receives a Personal Independence Payment at the Enhanced Daily Living rate and no one lives with them and no one receives a Carers Allowance for looking after them.

Claimants who are eligible to Severe Disability Premium can receive a Reduction for up to 100% of their Council Tax bill.



There was a high level of support for this policy with respondents identifying that *“this is a very vulnerable group and needs the most protection”* and agreeing that *“we need to support vulnerable people in our society”*.

While one respondent stated that *“as they are unable to work I think this would be very reasonable in the circumstances”*, another commented that *“one should not presume that all with a disability have insufficient income”* and therefore *“the level of reduction should depend on income”*.

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



There was a moderate level of support for this policy with 71% agreeing that this was reasonable. *“non dependants utilise the same services as others so should pay their full contribution”, “everyone needs to contribute”*. However, several comments were made about *“Council Tax being payable on the property not on individuals living in that property”* with this policy being cited as *“mixing the two”*.

Some respondents expressed some caution, one stated that *“it should depend on financial circumstances of the family”* while another commented that *“it depends on the non-dependent's income. This would be significant for some people on low wages or low benefits - so you need to consider their income, rather than put in a flat rate.”* One respondent voiced a concern about how the payment would be collected, *“do not expect the householder to demand payment.”*

5. RESULTS - IMPACTS OF THE CHANGES

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

Does your household receive Council Tax Reduction?



Just 16% (12) respondents live in a household which receives Council Tax Reduction and consequently, as the graph below shows, the impacts felt on individual financial situations have been low for almost two-thirds of the respondent group.

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



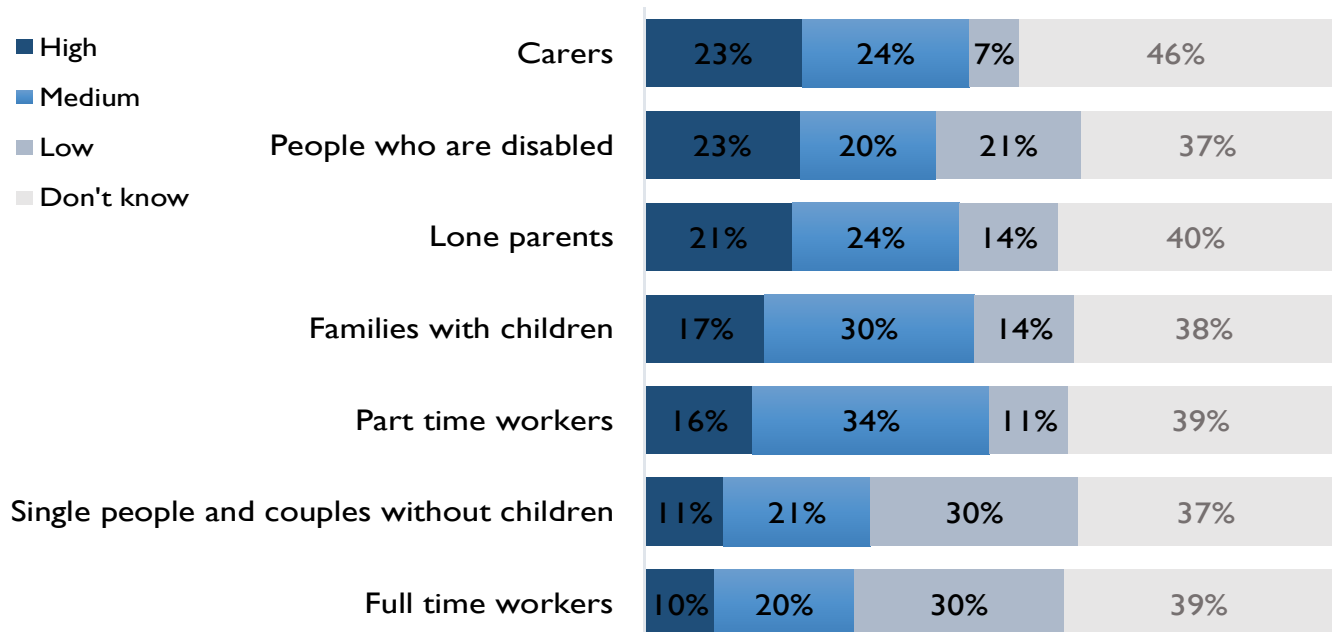
Additional comments made by respondents included some personal concerns:

- *“I am on maternity leave this should be taken into consideration as my income is half what it would be”.*
- *“Less money to spend on children as maintenance money is taken into account”.*

As well as considerations for others in more difficult situations than themselves:

- *“I pay my full Council Tax bill with no rebate so this has not affected me but I have seen the difficulties it has caused to single parent families”.*
- *“Most are now in debt and have had attachments to their benefits making them even poorer than previously. Great going! Rich get richer poor get into poverty.”*
- *“My concern is with those families who are dependent on benefits because they are in low paid and exploitative work or are unemployed through no fault of their own. It seems wrong to take more money away from them when the wealthiest people in society, many of whom contributed to the financial crash in 2007 are seeing their wealth increase substantially.”*

Please tell us whether you think the changes had a high, medium or low impact on each of these groups.



The graph above illustrates how a sizeable proportion of the respondents were unable to assess how the changes had impacted on certain groups, acknowledging that they “have no knowledge of their income changes or personal lives”.

However, those who have provided answers felt that carers, people who are disabled and lone parents are more likely to feel high level impacts from the changes, while full time workers, single people and couples without children are more likely to feel much lower impacts.

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

- “Older people prior to pension age living on part time earnings”
- “Part time workers are often on zero hours contracts and if they do not get enough hours of work they cannot claim benefit for the shortfall and so cannot pay rent /mortgage so could lead them to becoming homeless and unable to pay Council Tax”
- “Unemployed, long term sick, low-income workers (more now than ever)”

Further additional comments included:

- “Some family difficulties where parents aren't working but a young person gets their first job, however good learning curve for the young persons future, everything costs someone something.”
- “For ALL people on benefits already struggling to feed themselves and family this change took away vital money and hence food from their plates. Low-income workers sometimes struggle as much as those on benefits and thus will increasingly find they cannot justify working and resort back to benefits curtailing any progress they might make in life.”.
- “I am retired but believe that instead of council tax being capped by government and making councils introduce reduction schemes, the Council should be able raise the necessary saving of £700k in other ways”
- “These sort of changes only normally affect the people with work, have worked before retirement or those with no children. People on benefits or with large numbers of children that do not want to work are normally the ones that benefit most as they never have to pay a penny towards their Council Tax!”
- “This is called Council Tax reduction but it seems that more people will have to pay”.

6. APPENDIX I: RESPONDENT PROFILE

Are you a resident of Tamworth?

Survey responses		
	No's	%
Yes	65	86%
No	11	14%

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

Survey responses		
	No's	%
Yes	66	89%
No	7	9%
Don't know	1	1%

Are you submitting your views as....

Survey responses					
	No's	%		No's	%
Voluntary organisation	3	4%	A friend of a Ctax Reduction claimant	1	1%
Community group	0	0%	Nationally or locally elected member	1	1%
Housing Association	1	1%	Partner organisation	1	1%
Private landlord	9	12%	Resident of Staffordshire	38	49%
A Ctax Reduction claimant	9	12%	None of these	12	16%
A relative of a Ctax Reduction claimant	2	3%	Other	4	5%

Does your household receive any of the following benefits?

Survey responses		
	No's	%
Attendance Allowance	0	0%
Carers Allowance	3	4%
Child Benefit	13	17%
Child Tax Credit	2	3%
Disability Living Allowance/ Personal Independence	7	9%
Housing Benefit	5	6%
Income Support	0	0%
Job Seekers Allowance	1	1%
Employment and Support Allowance	1	1%

Do any of the following describe your household?

Survey responses		
	No's	%
A family with one or two dependant children	14	18%
A family with three or more dependent children	2	3%
A lone parent household	3	4%
A household with full and/or part-time workers	32	42%
A household that includes someone who is disabled	5	6%
A single person household or a couple without children	10	13%
None of these	16	21%

Do you regularly provide unpaid support caring for someone?

Survey responses		
	No's	%
Yes	14	20%
No	55	80%

Are you male or female?

	Survey responses		Tamworth MYE 2013
	No's	%	%
Female	35	46%	51%
Male	41	54%	49%

Do you consider yourself to have a disability?

	Survey responses		Tamworth 2011 Census comparison
	No's	%	%
Yes	17	23%	18%
No	56	75%	82%
Prefer not to say	2	3%	N/A

What type of disability do you have?

Survey responses		
	No's	%
Communications	0	0%
Hearing	3	18%
Learning	0	0%
Mental Health	2	12%
Mobility	3	18%
Physical	5	29%
Visual	3	18%
Other	1	6%

What is your age?

	Survey		Tamworth MYE 2013
	No's	%	%
18-24	2	3%	10%
25-34	5	6%	17%
35-44	15	19%	18%
45-54	17	22%	18%
55-64	24	31%	16%
65-74	13	17%	13%
75+	1	1%	8%

What is your ethnicity?

	Survey responses		Tamworth 2011 Census comparison
	No's	%	%
White British	71	93%	95%
White-Other	2	3%	2.3%
Prefer not to say	2	3%	N/A
Other	1	1%	2.7%

Are you receiving a Retirement Pension or Pension Credit?

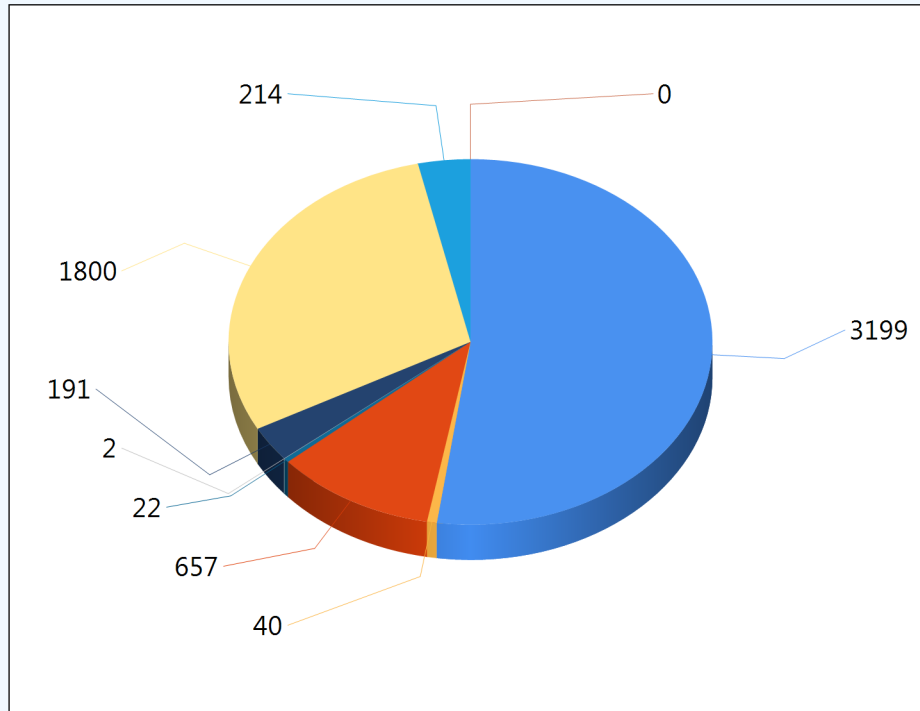
Survey responses		
	No's	%
Yes	19	26%
No	52	71%
Prefer not to say	2	3%

What is your relationship status?

Survey responses		
	No's	%
Single	19	26%
Married	47	64%
Living as a couple	6	8%
Civil Partnership	1	1%
None of these	1	1%
Prefer not to say	0	0%

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CTS Caseload as of 01.10.2014

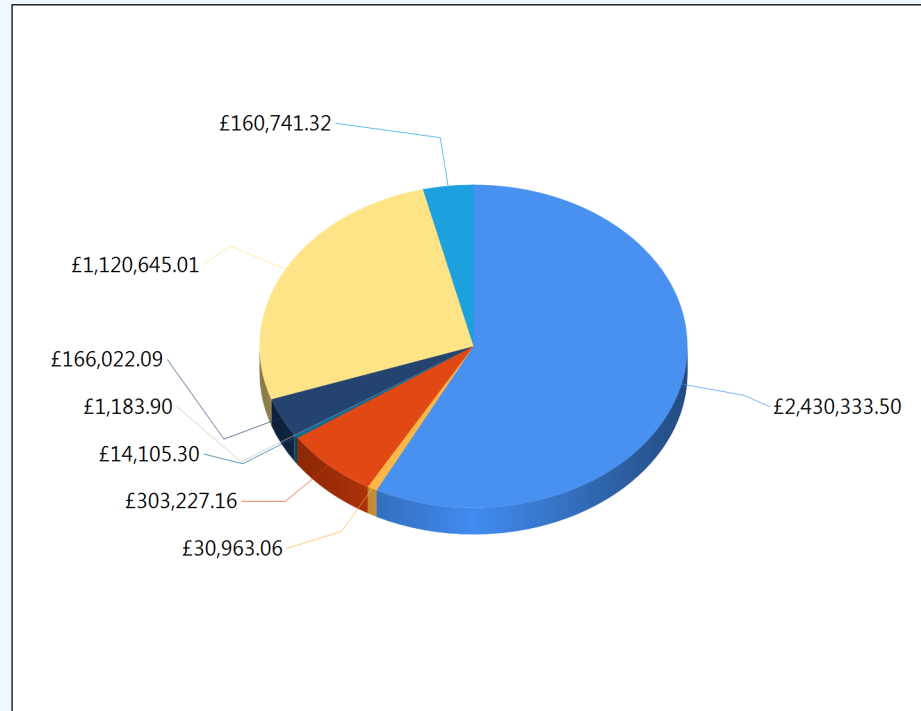


Group Legend

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

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CTS Expenditure as of 2014-2015



Group Description

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

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16 DECEMBER 2014

REPORT OF THE PORTFOLIO HOLDER FOR OPERATIONS AND ASSETS**TREASURY MANAGEMENT STRATEGY STATEMENT AND ANNUAL
INVESTMENT STRATEGY MID-YEAR REVIEW REPORT 2014/15****EXEMPT INFORMATION**

None

PURPOSE

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

RECOMMENDATIONS

That Council:

Accept the Treasury Management Strategy Statement and Annual Investment Strategy Mid-year Review Report 2014/15.

EXECUTIVE SUMMARY

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

- An economic update for the first six months of 2014/15;
- A review of the Treasury Management Strategy Statement and Annual Investment Strategy;
- The Council's Capital Position (Prudential Indicators);
- A review of the Council's investment portfolio for 2014/15;
- A review of the Council's borrowing strategy for 2014/15;
- A review of any debt rescheduling undertaken during 2014/15;
- Icelandic Banking Situation;
- A review of compliance with Treasury and Prudential Limits for 2014/15.

The main issues for Members to note are:

1. The Council has complied with the professional codes, statutes and guidance.
2. There are no issues to report regarding non-compliance with the approved prudential indicators.
3. The investment portfolio yield for the first six months of the year is 0.56% (0.87% for the same period in 2013/14) compared to the 3 Month LIBID benchmark rate of 0.42% (0.38% for the same period in 2013/14). This excludes all investments currently classified as 'At Risk' in the former Icelandic Banking institutions.
4. Following the withdrawal of the Co-operative Bank from Local Authority banking service provision, the Council retendered for its banking services in June 2014. Following the competitive tender process, the new contract was awarded to Lloyds Bank Ltd, and the provision of service by them commenced on the 1st November 2014.

The aim of this report is to inform Members of the treasury and investment management issues to enable all Members to have ownership and understanding when making decisions on Treasury Management matters. In order to facilitate this, training on Treasury Management issues has been delivered for Members in February and October 2010, September 2011 and February 2014.

RESOURCE IMPLICATIONS

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

LEGAL/RISK IMPLICATIONS BACKGROUND

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

SUSTAINABILITY IMPLICATIONS

None

BACKGROUND INFORMATION

The Chartered Institute of Public Finance and Accountancy (CIPFA) issued its revised Code of Practice for Treasury Management in November 2009 (revised 2011) following consultation with Local Authorities during that summer. The revised Code suggests that members should be informed of Treasury Management activities at least twice a year, but preferably quarterly.

This is the second monitoring report for 2014/15 presented to Members this year and therefore ensures this Council is embracing Best Practice in accordance with CIPFA's revised Code of Practice. Cabinet also receive regular monitoring reports as part of the quarterly health check on Treasury Management activities and risks.

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

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

Treasury Management is defined as:

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

1. Introduction

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

The primary requirements of the Code are as follows:

Creation and maintenance of a Treasury Management Policy Statement which sets out the policies and objectives of the Council's Treasury Management activities.

Creation and maintenance of Treasury Management Practices which set out the manner in which the Council will seek to achieve those policies and objectives.

Receipt by the full Council of an annual Treasury Management Strategy Statement - including the Annual Investment Strategy and Minimum Revenue Provision Policy - for the year ahead, a **Mid-year Review Report** and an Annual Report (stewardship report) covering activities during the previous year.

Delegation by the Council of responsibilities for implementing and monitoring Treasury Management policies and practices and for the execution and administration of Treasury Management decisions.

Delegation by the Council of the role of scrutiny of Treasury Management strategy and policies to a specific named body. For this Council the delegated body is the Audit and Governance Committee.

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

- An economic update for the first six months of 2014/15;
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- A review of the Council's investment portfolio for 2014/15;
- A review of the Council's borrowing strategy for 2014/15;
- A review of any debt rescheduling undertaken during 2014/15;
- Icelandic Banking Situation;
- A review of compliance with Treasury and Prudential Limits for 2014/15.

2 Economic Update

2.1 Economic performance to date

2.1.1 U.K.

After strong UK GDP quarterly growth of 0.7%, 0.8% and 0.7% in quarters 2, 3 and 4 respectively in 2013, (2013 annual rate 2.7%), and 0.7% in Q1, 0.9% in Q2 and a first estimate of 0.7% in Q3 2014 (annual rate 3.1% in Q3), it appears very likely that strong growth will continue through 2014 and into 2015 as forward surveys for the services and construction sectors, are very encouraging and business investment is also strongly recovering. The manufacturing sector has also been encouraging though the latest figures indicate a weakening in the future trend rate of growth. However, for this recovery to become more balanced and sustainable in the longer term, the recovery needs to move away from dependence on consumer expenditure and the housing market to exporting, and particularly of manufactured goods, both of which need to substantially improve on their recent lacklustre performance. This overall strong growth has resulted in unemployment falling much faster through the initial threshold of 7%, set by the Monetary Policy Committee (MPC) last August, before it said it would consider any increases in Bank Rate. The MPC has, therefore, subsequently broadened its forward guidance by adopting five qualitative principles and looking at a much wider range of about eighteen indicators in order to form a view on how much slack there is in the economy and how quickly slack is being used up. The MPC is particularly concerned that the current squeeze on the disposable incomes of consumers should be reversed by wage inflation rising back above the level of inflation in order to ensure that the recovery will be sustainable. There also needs to be a major improvement in labour productivity, which has languished at dismal levels since 2008, to support increases in pay rates. Most economic forecasters are expecting growth to peak in 2014 and then to ease off a little,

though still remaining strong, in 2015 and 2016. Unemployment is therefore expected to keep on its downward trend and this is likely to eventually feed through into a return to significant increases in pay rates at some point during the next three years. However, just how much those future increases in pay rates will counteract the depressive effect of increases in Bank Rate on consumer confidence, the rate of growth in consumer expenditure and the buoyancy of the housing market, are areas that will need to be kept under regular review.

Also encouraging has been the sharp fall in inflation (CPI), reaching 1.2% in September, the lowest rate since 2009. Forward indications are that inflation is likely to fall further in 2014 to possibly 1%. Overall, markets are expecting that the MPC will be cautious in raising Bank Rate as it will want to protect heavily indebted consumers from too early an increase in Bank Rate at a time when inflationary pressures are also weak.

A first increase in Bank Rate is therefore expected in Q2 2015 and they expect increases after that to be at a slow pace to lower levels than prevailed before 2008 as increases in Bank Rate will have a much bigger effect on heavily indebted consumers than they did before 2008.

The return to strong economic growth has also helped lower forecasts for the increase in Government debt (by £73bn over the next five years) compared to that projected in the 2013 Autumn Statement. It also lowers the Government forecast debt by an additional £24bn compared to that announced in the March 2014 Budget.

The March Budget also projected a return to a significant budget surplus (£5bn in 2018-19) though monthly public sector deficit figures have so far disappointed in 2014/15.

2.1.2 U.S.

In September, the Federal Reserve continued with its monthly \$10bn reduction in asset purchases, which started in December 2013. Asset purchases fell from \$85bn to \$15bn and ended on 29th October 2014. First quarter GDP figures for the US were depressed by exceptionally bad winter weather, but growth rebounded very strongly in Q2 to 4.6% (annualised).

The U.S. faces similar debt problems to those of the UK, but thanks to reasonable growth, cuts in government expenditure and tax rises, the annual government deficit has been halved from its peak without appearing to do too much damage to growth, although the weak labour force participation rate remains a matter of key concern for the Federal Reserve when considering the amount of slack in the economy and monetary policy decisions.

2.1.3 Eurozone

The Eurozone is facing an increasing threat from weak or negative growth and from deflation. In September, the inflation rate fell further, to reach a low of 0.3%. However, this is an average for all EZ countries and includes some countries with negative rates of inflation. Accordingly, the ECB took some rather limited action in June to loosen monetary policy in order to promote growth. In September it took further action to cut its benchmark rate to only 0.05%, its deposit rate to -0.2% and to start a programme of purchases of corporate debt. However, it has not embarked yet on full quantitative easing (purchase of sovereign debt).

Concern in financial markets for the Eurozone subsided considerably during 2013. However, sovereign debt difficulties have not gone away and major issues could return in respect of any countries that do not dynamically address fundamental issues of low growth, international un-competitiveness and the need for overdue reforms of the economy, (as Ireland has done). It is, therefore, possible over the next few years that levels of government debt to GDP ratios could continue to rise for some countries. This could mean that sovereign debt concerns have not disappeared but, rather, have only been postponed.

2.1.4 China and Japan

Japan is causing considerable concern as the increase in sales tax in April has suppressed consumer expenditure and growth. In Q2 growth was -1.8% q/q and -7.1% over the previous year. The Government is hoping that this is a temporary blip. As for China, Government action in 2014 to stimulate the economy appeared to be putting the target of 7.5% growth within achievable reach but recent data has raised fresh concerns. There are also major concerns as to the creditworthiness of much bank lending to corporates and local government during the post 2008 credit expansion period and whether the bursting of a bubble in housing prices is drawing nearer.

2.2 Interest Rate Forecasts

The Council’s treasury advisor, Capita Asset Services, has provided the following forecast:

	Dec-14	Mar-15	Jun-15	Sep-15	Dec-15	Mar-16	Jun-16	Sep-16	Dec-16	Mar-17	Jun-17	Sep-17	Dec-17	Mar-18
Bank rate	0.50%	0.50%	0.75%	0.75%	1.00%	1.00%	1.25%	1.25%	1.50%	1.50%	1.75%	2.00%	2.25%	2.50%
5yr PWLB rate	2.50%	2.70%	2.70%	2.80%	2.90%	3.00%	3.10%	3.20%	3.30%	3.40%	3.50%	3.50%	3.50%	3.50%
10yr PWLB rate	3.20%	3.40%	3.50%	3.60%	3.70%	3.80%	3.90%	4.00%	4.10%	4.10%	4.20%	4.20%	4.30%	4.30%
25yr PWLB rate	3.90%	4.00%	4.10%	4.30%	4.40%	4.50%	4.60%	4.70%	4.70%	4.80%	4.80%	4.90%	4.90%	5.00%
50yr PWLB rate	3.90%	4.00%	4.10%	4.30%	4.40%	4.50%	4.60%	4.70%	4.70%	4.80%	4.80%	4.90%	4.90%	5.00%

Capita Asset Services undertook a review of its interest rate forecasts on 24 October. During September and October, a further rise in geopolitical concerns, principally over Ukraine but also over the Middle East, plus fears around Ebola and an accumulation of dismal growth news in most of the ten largest economies of the world and also on the growing risk of deflation in the Eurozone, had sparked a flight from equities into safe havens like gilts and depressed PWLB rates. However, there is much volatility in rates as news ebbs and flows in negative or positive ways. This latest forecast includes a first increase in Bank Rate in quarter 2 of 2015.

PWLB forecasts are based around a balance of risks. However, there are potential upside risks, especially for longer term PWLB rates, as follows: -

- A further surge in investor confidence that robust world economic growth is firmly expected, causing a flow of funds out of bonds and into equities.
- UK inflation being significantly higher than in the wider EU and US, causing an increase in the inflation premium inherent to gilt yields.

Downside risks currently include:

- The situation over Ukraine poses a major threat to EZ and world growth if it was to deteriorate into economic warfare between the West and Russia where Russia resorted to using its control over gas supplies to Europe.
- Fears generated by the potential impact of Ebola around the world
- UK strong economic growth is currently mainly dependent on consumer spending and the potentially unsustainable boom in the housing market. The boost from these sources is likely to fade after 2014.
- A weak rebalancing of UK growth to exporting and business investment causing a weakening of overall economic growth beyond 2014.
- Weak growth or recession in the UK's main trading partner - the EU, inhibiting economic recovery in the UK.
- A return to weak economic growth in the US, UK and China causing major disappointment in investor and market expectations.
- A resurgence of the Eurozone sovereign debt crisis caused by on-going deterioration in government debt to GDP ratios to the point where financial markets lose confidence in the financial viability of one or more countries and in the ability of the ECB and Eurozone governments to deal with the potential size of the crisis.
- Recapitalisation of European banks requiring more government financial support.
- Lack of support by populaces in Eurozone countries for austerity programmes, especially in countries with very high unemployment rates e.g. Greece and Spain, which face huge challenges in engineering economic growth to correct their budget deficits on a sustainable basis.
- Italy: the political situation has improved but it remains to be seen whether the new government is able to deliver the austerity programme required and a programme of overdue reforms. Italy has the third highest government debt mountain in the world.
- France: after being elected on an anti-austerity platform, President Hollande has embraced a €50bn programme of public sector cuts over the next three years. However, there could be major obstacles in implementing this programme. Major overdue reforms of employment practices and an increase in competitiveness are also urgently required to lift the economy out of stagnation.
- Monetary policy action failing to stimulate sustainable growth in western economies, especially the Eurozone and Japan.
- Heightened political risks in the Middle East and East Asia could trigger safe haven flows back into bonds.
- There are also increasing concerns at the reluctance of western central banks to raise interest rates significantly for some years, plus the huge QE measures

which remain in place (and may be added to by the ECB in the near future). This has created potentially unstable flows of liquidity searching for yield and, therefore, heightened the potential for an increase in risks in order to get higher returns. This is a return to a similar environment to the one which led to the 2008 financial crisis.

3 Treasury Management Strategy Statement and Annual Investment Strategy Update

The Treasury Management Strategy Statement (TMSS) for 2014/15 was approved by Council on 25th February 2014.

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

4 The Council's Capital Position (Prudential Indicators)

This part of the report is structured to update:

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

4.1 Prudential Indicator for Capital Expenditure

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

Capital Expenditure by Service	2014/15 Original Programme	Budget B'fwd from 2013/14	Virements to Programme in Year	Total 2014/15 Budget	Actual Spend @ Period 6	2014/15 Revised Estimate
	£m	£m	£m	£m	£m	£m
General Fund	2.982	1.365	-	4.347	0.577	1.130
HRA	6.003	1.483	-	7.486	2.681	7.335
Total	8.985	2.848	-	11.833	3.258	8.465

4.2 Changes to the Financing of the Capital Programme

The table below draws together the main strategy elements of the capital expenditure plans (above), highlighting the original supported and unsupported elements of the capital programme, and the expected financing arrangements of this capital expenditure. Any borrowing element of the table increases the underlying indebtedness of the Council by way of the Capital Financing Requirement (CFR), although this will be reduced in part by revenue charges for the repayment of debt (the Minimum Revenue Provision). This direct borrowing need may also be supplemented by maturing debt and other treasury requirements.

Capital Expenditure	2014/15	2014/15
	Estimate	Revised Estimate
	£m	£m
Supported	-	-
Unsupported	11.833	8.465
Total spend	11.833	8.465
Financed by:		
Grant	2.583	0.346
General Fund Receipts	0.589	0.232
Section 106 Receipts	0.208	0.209
General Fund Reserve	0.571	0.029
HRA Receipts	0.307	0.315
HRA Reserve	1.366	2.391
HRA Regeneration Fund	0.867	0.461
Major Repairs Reserve	5.253	4.482
General Fund Revenue Contributions	0.089	-
Total financing	11.833	8.465
Borrowing need	-	-

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

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

4.3.1 Prudential Indicator – Capital Financing Requirement

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

4.3.2 Prudential Indicator – External Debt / the Operational Boundary

	2013/14 Outturn £m	2014/15 Original Estimate £m	2014/15 Revised Estimate £m
CFR – Non Housing	1.311	1.162	1.242
CFR – Housing	68.042	68.034	68.029
Total CFR	69.353	69.196	69.271
Net movement in CFR	(0.226)	(0.075)	(0.082)
Operational Boundary			
Expected Borrowing	72.268	72.268	72.268
Other long term liabilities	-	-	-
Total debt 31 March	72.268	72.268	72.268

4.4 Limits to Borrowing Activity

The first key control over the treasury activity is a prudential indicator to ensure that over the medium term, net borrowing (borrowings less investments) will only be for a capital purpose. Gross external borrowing should not, except in the short term, exceed the total of CFR in the preceding year plus the estimates of any additional CFR for 2014/15 and next two financial years. This allows some flexibility for limited early borrowing for future years. The Council has approved a policy for borrowing in advance of need which will be adhered to if this proves prudent.

	2013/14 Outturn £m	2014/15 Original Estimate £m	2014/15 Revised Estimate £m
Gross borrowing	65.060	65.060	65.060
Plus other long term liabilities	-	-	-
Less investments	(28.557)	(20.140)	(21.035)
Net borrowing	36.503	44.920	44.025
CFR (year-end position)	69.353	69.196	69.271

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

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

Authorised Limit for External Debt	2014/15 Original Indicator £m	Current Position £m	2014/15 Revised Indicator £m
Borrowing	89.112	89.112	89.112
Other Long Term Liabilities	3.000	3.000	3.000
Total	92.112	92.112	92.112

5 Investment Portfolio 2014/15

- 5.1 In accordance with the Code, it is the Council's priority to ensure security of capital and liquidity, and to obtain an appropriate level of return which is consistent with the Council's risk appetite. As set out in Section 3, it is a very difficult investment market in terms of earning the level of interest rates commonly seen in previous decades as rates are very low and in line with the 0.5% Bank Rate. Indeed, the Funding for Lending scheme has reduced market investment rates even further. The potential for a prolonging of the Eurozone sovereign debt crisis, and its impact on banks, prompts a low risk and short term strategy. Given this risk environment, investment returns are likely to remain low.

The Council held £31.30m of investments as at 30th September 2014 (£28.56m at 31st March 2014) and the investment portfolio yield for the first six months of the year is 0.56% against a benchmark of the 3 months LIBID of 0.42%. A full list of investments held as at 30th September 2014 is detailed in **APPENDIX 1**.

The Executive Director Corporate Services confirms that on one occasion during the first six months of 2014/15 that the approved limits within the Annual Investment Strategy were breached. This occurred when an outward going CHAPS payment in respect of a deposit was not actioned by an agreed deadline, resulting in £2.6m being held within the Co-operative Bank overnight, which exceeded the approved limit of £2m.

The Council's budgeted investment return for 2014/15 is £189k, and performance for the year is projected to be £3k below budget.

5.2 CIPFA Benchmarking Club

The Council is a member of the CIPFA Treasury Management Benchmarking Club which is a means to assess our performance over the year against other members (22 Authorities).

Our average return for In House Investments for the period October 2013 to September 2014 was 0.56% compared to the group average of 0.77% (information from CIPFA Benchmarking Draft Report Q2 2014/15) excluding the impaired investments in Icelandic banks. This is considered to be a reasonable result in light of the current financial climate, our lower levels of deposits/funds and shorter investment time-lines due to Banking sector uncertainty, when compared to other Authorities.

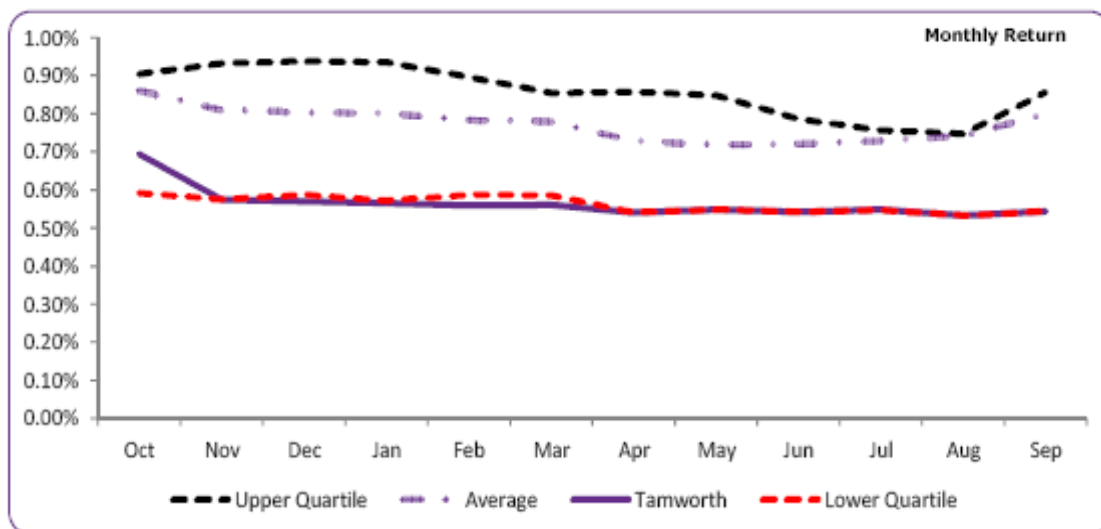
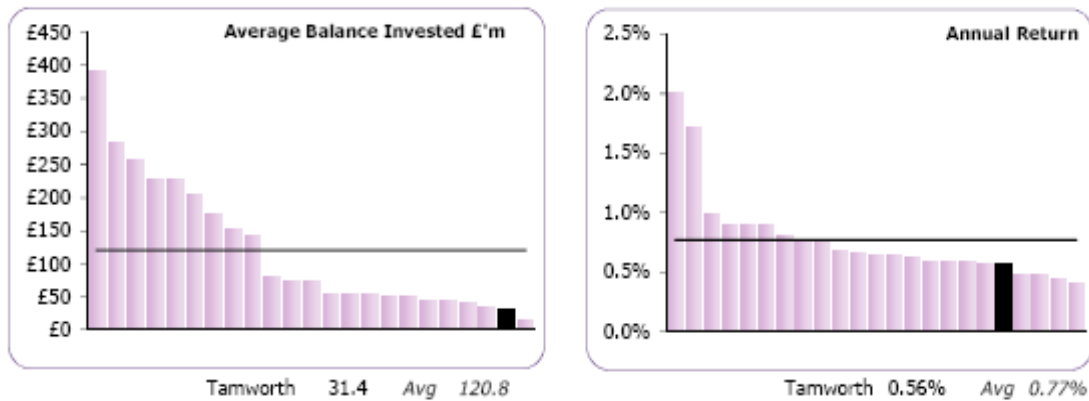
This can be analysed further into the following categories:

Category	Average Balance Invested		Average Annual Return Received	
	£m		%	
	Tamworth Borough Council	CIPFA Benchmarking Club	Tamworth Borough Council	CIPFA Benchmarking Club
Fixed Investments (up to 30 days)	0.1	0.9	0.41	0.38
Fixed Investments (between 31 and 90 days)	1.7	2.7	0.45	0.44
Fixed Investments (between 91 and 364 days)	12.1	41.2	0.77	0.68
Fixed Investments (between 1 year and 5 years)	-	12.0	-	2.25
Fixed Investments (over 5 years)	-	1.0	-	3.96
Callable and Structured Deposits	-	0.9	-	2.46
Notice Accounts	8.8	39.8	0.48	0.57
Money Market Funds (Constant Net Asset Value)	7.8	13.1	0.37	0.40
Money Market Funds (Variable Net Asset Value)	-	2.0	-	0.68
DMADF	-	1.8	-	0.25
CD's, Gilts and Bonds	1.0	7.3	0.54	1.20
Average of all investments (Managed in House)	31.4	120.8	0.56	0.77

The data above and graphs below display that despite the Council being a small investor in the markets, performance is marginally better in the <365 day investments (coloured green) when compared with other members of the benchmarking club and affirms our 'low appetite for risk' in the continuing unsettled markets.

The variance appears to be reflected by better returns on deposits over 1 year in duration, which in line with our use of the Capita Asset Services methodology and our approved specified limits in our Treasury Management Strategy, is currently prohibited for Tamworth Borough Council.

COMBINED IN-HOUSE INVESTMENTS (excluding impaired investments)



Monthly Return (Oct 13 - Sept 14)													
	Oct	Nov	Dec	Jan	Feb	March	April	May	June	July	Aug	Sept	Year
Av Bal £'m	30.20	31.02	30.51	31.32	30.21	28.79	31.64	31.39	31.88	32.70	33.37	34.08	31.43
Earned £'k	17.8	14.6	14.8	15.0	12.9	13.7	14.0	14.6	14.2	15.2	15.1	15.2	177.4
Upper Quartile	0.90%	0.93%	0.94%	0.93%	0.90%	0.85%	0.86%	0.85%	0.79%	0.76%	0.75%	0.86%	0.90%
Average	0.86%	0.81%	0.80%	0.80%	0.78%	0.78%	0.73%	0.72%	0.72%	0.73%	0.74%	0.80%	0.77%
% Return	0.69%	0.57%	0.57%	0.57%	0.56%	0.56%	0.54%	0.55%	0.54%	0.55%	0.53%	0.54%	0.56%
Lower Quartile	0.59%	0.57%	0.59%	0.57%	0.59%	0.59%	0.54%	0.55%	0.54%	0.55%	0.53%	0.54%	0.57%
% Diff from Av	-0.16%	-0.23%	-0.23%	-0.24%	-0.22%	-0.22%	-0.19%	-0.17%	-0.18%	-0.18%	-0.21%	-0.26%	

Investment Counterparty criteria

The current investment counterparty criteria selection approved in the TMSS is meeting the requirement of the Treasury Management function.

6 Borrowing

The Council's revised capital financing requirement (CFR) for 2014/15 is £69.271m. The CFR denotes the Council's underlying need to borrow for capital purposes. If the CFR is positive the Council may borrow from the PWLB or the market (external borrowing) or from internal balances on a temporary basis (internal borrowing). The balance of external and internal borrowing is generally driven by market conditions. Table 4.4 shows the Council has borrowings of £65.060m and has utilised £4.211m

of cash flow funds in lieu of borrowing. This is a prudent and cost effective approach in the current economic climate.

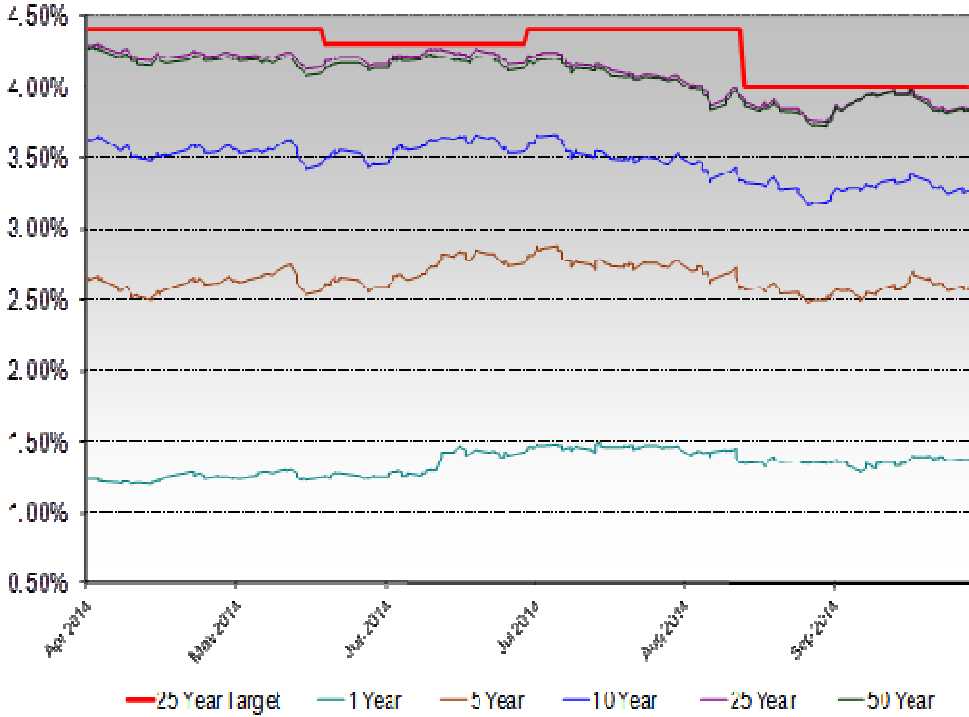
No new external borrowing was undertaken from the PWLB or the money markets in the first half of the year.

As outlined below, the general trend has been a reduction in interest rates during the six months, across all maturity bands.

It is anticipated that further borrowing will not be undertaken during this financial year.

The table and graph below show the movement in PWLB rates for the first six months of the year to 30th September 2014,

	1 Year	5 Year	10 Year	25 Year	50 Year
Low	1.20%	2.48%	3.16%	3.75%	3.73%
Date	10/04/2014	28/08/2014	28/08/2014	29/08/2014	29/08/2014
High	1.48%	2.86%	3.66%	4.29%	4.26%
Date	15/07/2014	04/07/2014	20/06/2014	02/04/2014	01/04/2014
Average	1.34%	2.65%	3.67%	4.10%	4.17%



7 Debt Rescheduling

Debt rescheduling opportunities have been limited in the current economic climate and consequent structure of interest rates. No debt rescheduling was undertaken during the first six months of 2014/15.

8 Icelandic Banks Update

Appendix 2 contains details of the situation with Icelandic investments as at 30th September 2014.

Expectations of future receipts and timeframes based on current information regarding each bank are given below;

- Glitnir

On 15th March 2012, the Council received £2.554m being the majority of our deposits with the bank. The balance of our approved claim, equating to £587k, is being held in an interest bearing ESCROW account. The release of these funds is dependent on a change in Icelandic Law which currently does not allow the distribution of ISK outside the country. Interest will accrue on these funds until the date of final settlement, which is still unknown.

- Heritable

As at the end of September the Council had received £1.415m against our claim of £1.505m, a total recovery of 94.02%. It is anticipated that this will be the final figure received, though the Administrators are withholding a sum as a contingency against disputed claims.

- Kaupthing, Singer and Friedlander

As at the end of September the Council had received £2.588m against our claim of £3.175m. Current estimates given by the Administrator project a total recovery of 85.25% or approximately £2.707m with the majority of repayments being received by June 2015.

REPORT AUTHOR

Please contact Phil Thomas Financial Accountant extension 239

LIST OF BACKGROUND PAPERS

<i>Background Papers :-</i>	<i>Local Government Act 2003</i>
	<i>CIPFA Code of Practice on Treasury Management in Public Services 2011</i>
	<i>Treasury Management Strategy & Prudential Indicators Report 2014/15</i>
	<i>Budget & Medium Term Financial Strategy 2014/15</i>
	<i>Financial Healthcheck Period 6, September 2014</i>
	<i>CIPFA Treasury Management Benchmarking Club Report Quarter 2, September 2014</i>

APPENDICES

APPENDIX 1 Current Investment List

APPENDIX 2 Icelandic Banking Situation

Investments held as at 30th September 2014:

Borrower	Deposit £m	Rate %	From	To	Notice
Lloyds TSB	2.00	0.98	01/11/2013	31/10/2014	-
Lloyds TSB	1.00	0.98	11/11/2013	10/11/2014	-
Lloyds TSB	1.00	0.98	02/10/2013	01/10/2014	-
Bank of Scotland	2.00	0.95	12/02/2014	11/02/2015	-
Nationwide	1.00	0.50	07/08/2014	07/11/2014	-
Nationwide	2.00	0.64	08/07/2014	08/01/2015	-
Nationwide	1.00	0.64	15/07/2014	15/01/2015	-
Barclays	2.00	0.48	01/08/2014	03/11/2014	-
Barclays	1.00	0.48	05/09/2014	05/12/2014	-
Barclays	1.00	0.61	05/09/2014	05/03/2015	-
Standard Chartered	2.00	0.56	02/04/2014	02/10/2014	-
Coventry	1.00	0.41	02/09/2014	02/10/2014	-
Coventry	2.00	0.41	05/09/2014	06/10/2014	-
Coventry	1.00	0.41	16/09/2014	20/10/2014	-
Santander	4.00	0.40	-	-	On call
MMF - PSDF	4.00	0.38*	-	-	On call
MMF – IGNIS	3.30	0.42*	-	-	On call
Total	31.30	0.56 (avg)			

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

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ICELANDIC BANKING SITUATION AS AT 30/09/2014

	Deposit with;	Ref Number	Date Invested	Amount	%
1	GLITNIR	1696	10/10/2007	1,000,000	
	GLITNIR	1715	31/08/2007	1,000,000	
	GLITNIR	1754	14/12/2007	1,000,000	
	Total Principal			3,000,000	
	Estimated of Contractual or Interest due to point of administration (subject to currency exchange rate fluctuations)			155,000	
	Total of Claim			3,155,000	
	Repayments Received to date			(2,554,432) *	80.96
	Outstanding at 30/09/2014			600,568 **	

*Partial repayment received on the 15th March 2012 in GBP/EUR/USD/NOK. The balance is currently being held in Icelandic Krone (ISK). Release of these funds is dependent on a change in Icelandic Law which currently does not allow the distribution of ISK outside the country. **Interest will accrue on these funds until the date of final settlement, the final payment value may also be subject to exchange rate fluctuations.

- Best case recovery 100%

2	Heritable Bank	1802	12/09/2008	500,000	
	Heritable Bank	1803	15/09/2008	1,000,000	
	Total Principal			1,500,000	
	Interest due at point of administration 07/10/2008			5,127	
	Total of Claim			1,505,127	
	Repayments Received to date			(1,415,080)	94.02
	Outstanding at 30/09/2014			90,047	

- Final recovery received of 94.02% (declared 23/08/13, though Administrators are retaining a contingency for disputed claims that could be distributed at a later date).

3	Singer & Friedlander	1716	31/08/2007	1,000,000	
	Singer & Friedlander	1740	31/10/2007	1,000,000	
	Singer & Friedlander	1746	14/01/2008	1,000,000	
	Total Principal			3,000,000	
	Interest due at point of administration 08/10/2008			175,256	
	Total of Claim			3,175,256	
	Repayments Received to date			(2,587,833)	81.50
	Outstanding at 30/09/2014			587,423	

- Current indications project an 85.25% recovery of our investments

Summary					
	Total Principal			7,500,000	
	Interest			335,383	
	Total of Claim			7,835,383	
	Repayments Received to date			(6,557,346)	83.69
	Outstanding at 30/09/2014			1,278,038	

1 Registered Bank in Iceland - In Administration under Icelandic Law

2 Registered Bank in UK - In Administration in UK by Ernst & Young Under English Law

3 Registered Bank in UK - In Administration in UK by Ernst & Young Under English Law

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TUESDAY, 16 DECEMBER 2014

REPORT OF THE SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

REGULATION OF INVESTIGATORY POWERS ACT 2000

OFFICE OF SURVEILLANCE COMMISSIONER - INSPECTION

PURPOSE

To inform Members of the outcome of the visit from the Office of Surveillance Commissioner on 6 October 2014.

To advise Members of proposed changes to the RIPA Policy arising therefrom

RECOMMENDATIONS

- 1. That Members endorse the outcomes arising from the visit by the Office of Surveillance Commissioner.**
- 2. That Members approve the changes to the RIPA Policy.**

EXECUTIVE SUMMARY

The Council is subject to regular inspections by the Office of the Surveillance Commissioner (OSC) who report on our policy, procedures, documentation and training. An inspection was carried out on 6 October 2014. The Commissioner reported that the recommendations made following the last inspection on 18 July 2011 had been discharged:- "Tamworth Borough Council has reduced its reliance on covert surveillance as a tool of investigation to an absolute minimum. Indeed it has carried out no such surveillance since the last inspection and considers that the likelihood of doing so in the future to be small. It has perfectly good reasons for this approach. Nevertheless it is maintaining in place a RIPA system which, if required, should prove more that adequate for the purpose. This is in no small way due to the endeavours of Mrs Hackett who assumes responsibility for RIPA throughout the Council. Indeed in 2008 the Council was subjected to heavy criticism in the OSC report of that year for its poor RIPA performance. It has undoubtedly been due to Mrs Hackett that the Council has since created such an efficient system."

The Commissioner has recommended that

- (1) RIPA awareness is increased throughout the Council.
- (2) in light of the emerging use of social networking sites in services undertaking investigations the Council avoid a drift into directed surveillance/CHIS.
- (3) suggested amendments are incorporated the Council's Policy and Guidance on RIPA. This is attached at Appendix 1

To implement the recommendations of the Commissioner training will be rolled out to all of

Corporate Management Team and Heads of Service for onward dissemination through all services at staff meetings. In addition the amended RIPA Policy and Guidance document will be placed on Net consent for all staff to read and answer a few basic questions. Periodic emails will be sent out to all staff outlining the basic requirements of RIPA. The register of technological "recording" equipment will be amended to include a section to list the use made of such equipment. Staff in enforcement and investigatory services such as Benefits and Licensing have been appraised of the Commissioners recommendation regarding the risk of status drift in relation to the use of social networking sites. All of this action will ensure that the correct procedures are being and will continue to be maintained in relation to RIPA.

OPTIONS CONSIDERED

The only option in this situation is to fulfil the Information Commissioners recommendations and act upon them. To ignore the recommendations is not an option.

RESOURCE IMPLICATIONS

The recommendations and changes to the policy and additional training can be met from existing 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 investigations in order to meet the requirements of Article 8 of the Human Rights Act. Article 8 states: Everyone has the right for his private and family life. His home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of 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 under RIPA 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 nor Health and Safety implications.

SUSTAINABILITY IMPLICATIONS

The legislation requires the Authority to sustain a policy and train staff in this area accordingly the policy is kept up to date as is staff training and awareness of the requirements in this area.

BACKGROUND INFORMATION

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. These functions include investigating anti-social behaviour, fly tipping, noise nuisance control, planning (contraventions), benefit fraud, licensing and food safety legislation.

Whilst the majority of investigations are carried out openly, some investigations must be

carried out using covert surveillance techniques or involve the acquisition of communications data. Communications data is information about the times of calls or internet use and the location and identity of the callers but not the content of the calls or the details of the websites viewed.

The Regulation of Investigatory Powers Act 2000 regulates the authorisation and monitoring of these investigations to safeguard the public from unwarranted intrusion of privacy. Following media interest relating to the use of covert surveillance and acquisition of communications data by local authorities the Act was amended. The amendments took effect from 1 November 2013. As a result all Local Authority RIPA applications and renewals must obtain Justice of the Peace approval.

The Solicitor to the Council and Monitoring Officer is the Senior Responsible Officer (SRO) and RIPA Co-ordinating Officer for the Authority in relation to RIPA and as such responsible for the integrity of the process and for ensuring that the Authorised Officers and staff have received appropriate training. The SRO also maintains a central register of all applications and authorisations, reviews and cancellations of authorisations relating to directed surveillance under RIPA.

The Authority has four Authorising Officers to deal with applications under RIPA. The Authorising Officers are:

Tony Goodwin :- Chief Executive
John Wheatley :- Executive Director Corporate Services
Andrew Barratt:- Director Assets and Environment
Rob Mitchell:- Director Communities, Planning & Partnerships

REPORT AUTHOR

Jane Hackett, Solicitor to the Council and Monitoring Officer Tel;709258.
Email jane-hackett@tamworth.gov.uk

LIST OF BACKGROUND PAPERS

Regulation of Investigatory Powers Act 2000 (as amended)
The Covert Surveillance and Property Interference Code of Practice

APPENDICES

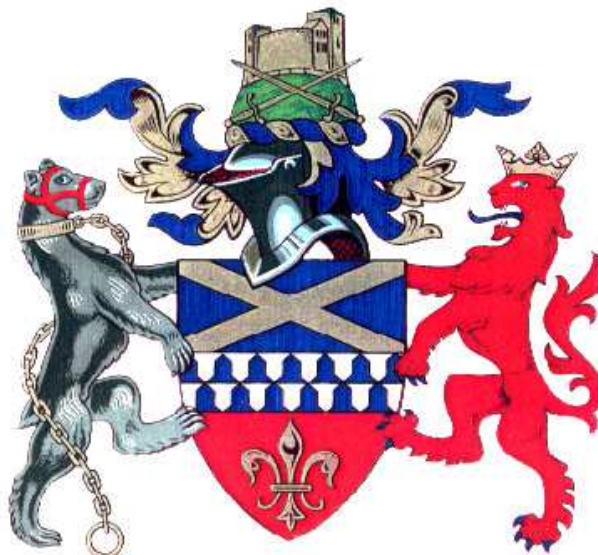
APPENDIX 1 - The revised RIPA policy showing the recommended inclusions in italic script

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APPENDIX 1
TAMWORTH BOROUGH COUNCIL

POLICY & PROCEDURE

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



Jane M Hackett
Solicitor to the Council
Tamworth Borough Council

Policy date: Review: Revised: ~~Nov~~December 2014²

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Section A

Introduction

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

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

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

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

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

The Council has various functions which involve observing or investigating the conduct of others, for example, investigating anti-social behaviour, fly tipping, noise nuisance control, planning (contraventions), benefit 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, which were revised in 2010, 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.

Covert Surveillance and Property Interference Code of Practice:-

<http://tna.europarchive.org/20100419081706/http://security.homeoffice.gov.uk/ripa/publication-search/general-publications/ripa-cop/covert-surveil-prop-inter-COP>

Covert Human Intelligence Sources Code of Practice:

<http://tna.europarchive.org/20100419081706/http://security.homeoffice.gov.uk/ripa/publication-search/general-publications/ripa-cop/covert-human-intel-source-COP>

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

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

4. ACQUISITION OF COMMUNICATIONS DATA

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

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

<http://tna.europarchive.org/20100419081706/http://security.homeoffice.gov.uk/ripa/publication-search/general-publications/ripa-cop/acquisition-disclosure-cop>

Section B

EFFECTIVE DATE OF OPERATION AND AUTHORISING OFFICER RESPONSIBILITIES

1. The Policy and Procedures in this document have been amended to reflect the two revised Codes of Practice which came into force in April 2010, and the recent legislative amendments which now require Justice of the Peace (JP) approval for all Local Authority RIPA applications and renewals, which came in effect on 1 November 2012, changes in website addresses and application forms, as well as to reflect recommendations arising out of inspection by the Office of Surveillance Commissioners. It is essential, therefore, that Authorising Officers, take personal responsibility for the effective and efficient observance of this document and the Office of Surveillance Commissioners (OSC) guidance documents.
2. It will be the responsibility of Authorising Officers to ensure that their relevant members of staff are suitably trained as 'Applicants'.
3. Authorising Officers will also ensure that staff who report to them follow this Policy and Procedures Document and do not undertake or carry out surveillance activity that meets the criteria as set out by RIPA without first obtaining the relevant authorisations in compliance with this document.
4. Authorising Officers must also pay particular attention to health and safety issues that may be raised by any proposed surveillance activity. Under no circumstances, should an Authorising Officer approve any RIPA form unless, and until they are satisfied that
 - the health and safety of Council employees/agents are suitably addressed
 - risks minimised so far as is possible, and
 - risks are proportionate to the surveillance being proposed.

If an Authorising Officer is in any doubt, prior guidance should be obtained from the Solicitor to the Council.

5. Authorising Officers must also ensure that, when sending copies of any Forms to the Solicitor to the Council (or any other relevant authority), that they are sent in **sealed** envelopes and marked '**Strictly Private & Confidential**'.

6. ~~6.~~ — In Accordance with the Codes of Practice, the Senior Responsible Officer

(SRO) with responsibility for Authorising Officers is the Solicitor to the Council.

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

7. — The Chief 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 Executive being satisfied that suitable training on RIPA has been undertaken.

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6.8. The SRO is responsible for

- the integrity of the process in place within the public authority to authorise directed and intrusive surveillance
- compliance with Part II of the 2000 Act, and with this code;
- engagement with the Commissioners and inspectors when they conduct their inspections, and
- where necessary, overseeing the implementation of any post inspection
- e action plans recommended or approved by a Commissioner.

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97. The Solicitor to the Council will review the policy every six months and annual reports on performance of the policy will be presented to Council.

108. Quarterly reports on the use of RIPA will be considered by the Audit and Governance Committee.

DRAFT

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

Section D

WHAT RIPA DOES AND DOES NOT DO

1. RIPA:

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

2. RIPA does not:

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

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

Section E

TYPES OF SURVEILLANCE

'Surveillance' includes:

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

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 (eg. 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 in 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.

Surveillance outside of RIPA

~~There may be a necessity for the Council to undertake surveillance which does not meet the criteria to use the RIPA legislation particularly in light of the serious crime criteria which is now required. The Council still must meet its obligations under the Human Rights Act and therefore any surveillance outside of RIPA must still be necessary and proportionate having taken account of the intrusion issues. The decision making process and the management of such surveillance must be well documented.~~

~~The OSC have stated that it should be the responsibility of the SRO to monitor this type of activity. Therefore, before any such surveillance takes place advice must be sought from Legal Services~~

Section F

Covert Human Intelligence Source (CHIS)

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

A CHIS could be an informant or an undercover officer carrying out covert enquiries on behalf of the council. However, the provisions of the 2000 Act are not intended to apply in circumstances where members of the public volunteer information to the Council as part of their normal civic duties, or to contact numbers set up to receive information such as the Benefit 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 section 29(4) of the 2000 Act, or which is incidental to anything falling within section 29(4) of the 2000 Act.

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 Deputy Chief Executive 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 Deputy Chief Executive can authorise the use of a vulnerable individual as a source.

Test Purchases

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

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

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

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

Anti-Social Behaviour Activities (eg. 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? (See section of surveillance outside of RIPA)

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

THE ROLE OF THE RIPA CO-ORDINATOR

Key Responsibilities of the RIPA Co-ordinator

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

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

Central Record of Authorisations

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

- The type of authorisation;

- The date the authorisation was given;
- The 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 urgency provisions were used and if so why;
- 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 H

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:

Chief Executive	Tony Goodwin
Executive Director Corporate Services	John Wheatley
Director Assets & Environment	Andrew Barratt
Director Communities, Planning & Partnerships	Rob Mitchell

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 once the specific surveillance is complete or about to expire. **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 Solicitor to the Council 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:** ~~Amendments to the~~ Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012~~0~~ ("the 2012~~0~~ Order") ~~states~~~~mean~~ 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 ~~relating to the underage sale of alcohol or tobacco~~ under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933 ~~relating to the sale of alcohol or tobacco products to children~~.

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

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

APPLICATION PROCESS

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

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

The procedure is as follows;

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

The applicant will complete the relevant application form ensuring compliance with the statutory provisions shown above. The application form will be submitted to an Authorising Officer for consideration. If authorised, the applicant will also complete the required section of the judicial application/order form. Although this form requires the applicant to provide a brief summary of the circumstances of the case on the judicial application form, this is supplementary to and does not replace the need to supply the original RIPA authorisation as well.

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

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

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

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

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

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

The JP may decide to

Approve the Grant or renewal of an authorisation

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

Refuse to approve the grant or renewal of an authorisation

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

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

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

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

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

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

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

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

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

If it is intended to undertake both directed surveillance and the use of a CHIS on the same surveillance subject, the respective applications forms and procedures should be followed and both activities should be considered separately on their own merits.

An application for an authorisation must include an assessment of the risk of any collateral intrusion or interference. The Authorising Officer will take this into account, particularly when considering the proportionality of the directed surveillance or the use of a CHIS.

Application, Review, Renewal and Cancellation Forms

Applications

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

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

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

Duration of Applications

Directed Surveillance	3 Months
Renewal	3 Months

Covert Human Intelligence Source	12 Months
Juvenile Sources	1 Month

Renewal	12 months
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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. There is no requirement for a review form to be submitted to a JP. However if a different surveillance techniques is required is 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

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 Deputy Chief Executive.

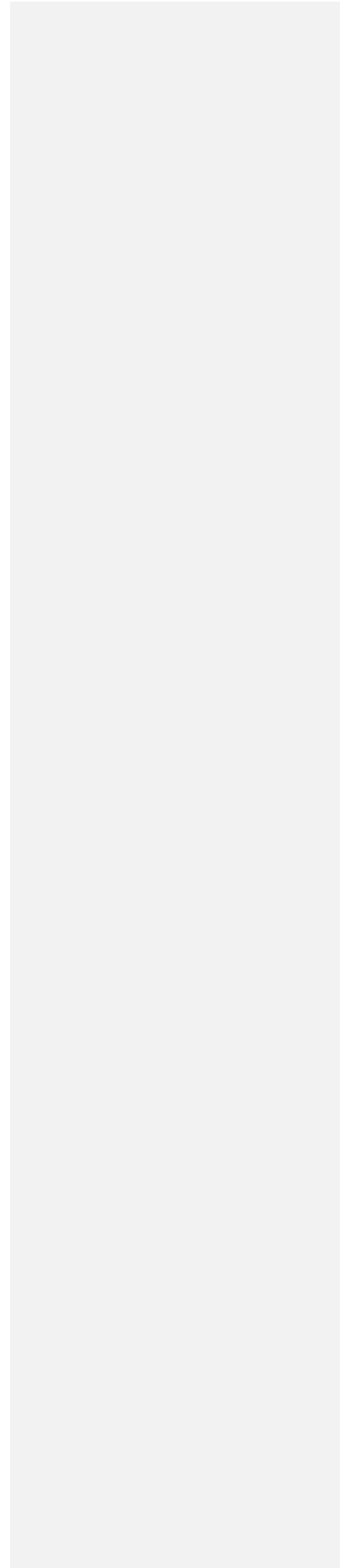
The Authorising Officer must attend to the requirement of section 29(5) RIPA and of the Regulation of Investigatory Powers (Source Records) Regulations 2000. It is strongly recommended that legal advice is obtained in relation to the authorisation of a CHIS.

Urgent Authorisations

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

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Section I

WORKING WITH / THROUGH OTHER AGENCIES

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

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

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

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

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

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

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.

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

Section J

RECORD MANAGEMENT

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

Records Maintained in the Department

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

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

Central Register maintained by the Solicitor to the Council

Authorising Officers must forward a copy of the form to the Solicitor to the Council for the Central Register, within 5 working days of the authorisation, review, renewal, cancellation or rejection. The Solicitor to the Council will monitor the same and give

appropriate guidance to Authorising Officers from time to time, or amend this document in the light of changes of legislation or developments through case law.

Retention and Destruction of Material

Arrangements are in place for the secure handling, storage and destruction of material obtained through the use of directed or intrusive surveillance or property interference. 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 three years from the ending of the authorisation. The Office of the Surveillance Commissioners (OSC) can audit/review the Council's policies and procedures, and individual authorisations.

The Office of the Surveillance Commissioners will also write to the Council from time to time, requesting information as to the numbers of authorisations made in a specific period. It will be the responsibility of the Solicitor to the Council to respond to such communications.

Errors

There is no requirement as set out in the OSC procedures and Guidance 2011 to report all covert activity that was not properly authorised to the OSC in writing as soon as the error is recognised. This would be known as an error. This includes activity which should have been authorised but wasn't or which was conducted beyond the directions provided by the authorising officer. It is therefore important that when an error has been identified it is brought to the attention of the SRO in order to comply with this guidance. The Council has a responsibility to report to the Inspector at the commencement of an inspection all activity which should have been authorised but wasn't. This is to confirm that any direction provided by the Chief Surveillance Commissioner has been followed. This will also assist with the oversight provisions of the Councils' RIPA activity.

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

Section K

ACQUISITION OF COMMUNICATIONS DATA

What is Communications Data?

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

Powers

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

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

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

Single Point of Contact

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

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

The functions of the SPoC are to:

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

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

The Senior Responsible Officer

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

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

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

Application Forms

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

Procedure

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

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

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

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

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

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

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

The Authorising Officer must consider:

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

and

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

The Authorising Officer will complete the Application Form as appropriate.

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

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

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

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

Duration

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

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

Record Management

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

Errors

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

Oversight

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

Section L

CONCLUSION

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

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

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

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

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APPENDIX 1

A FORMS

DIRECTED SURVEILLANCE

All forms can be obtained from:

<http://www.homeoffice.gov.uk/counter-terrorism/ripa-forms/>

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

Application for Authorisation Directed Surveillance

Application for Review of a Directed Surveillance Authorisation

Application for Renewal of a Directed Surveillance Authorisation

Application for Cancellation of a Directed Surveillance Authorisation

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APPENDIX 2

B FORMS

CONDUCT OF A COVERT HUMAN INTELLIGENCE SOURCE

All forms can be obtained from:

<http://www.homeoffice.gov.uk/counter-terrorism/ripa-forms/>

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

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

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

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

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

APPENDIX 3

C FORMS

ACQUISITION OF COMMUNICATIONS DATA

All forms can be obtained from the Home Office: RIPA Codes of Conduct website:
<http://www.homeoffice.gov.uk/counter-terrorism/ripa-forms/>

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

Part I Chapter II request schedule for subscriber information

Specimen Part I Chapter II authorisation

Specimen Part I Chapter II Notice

Chapter II application for communications data

Guidance notes regarding chapter II application form

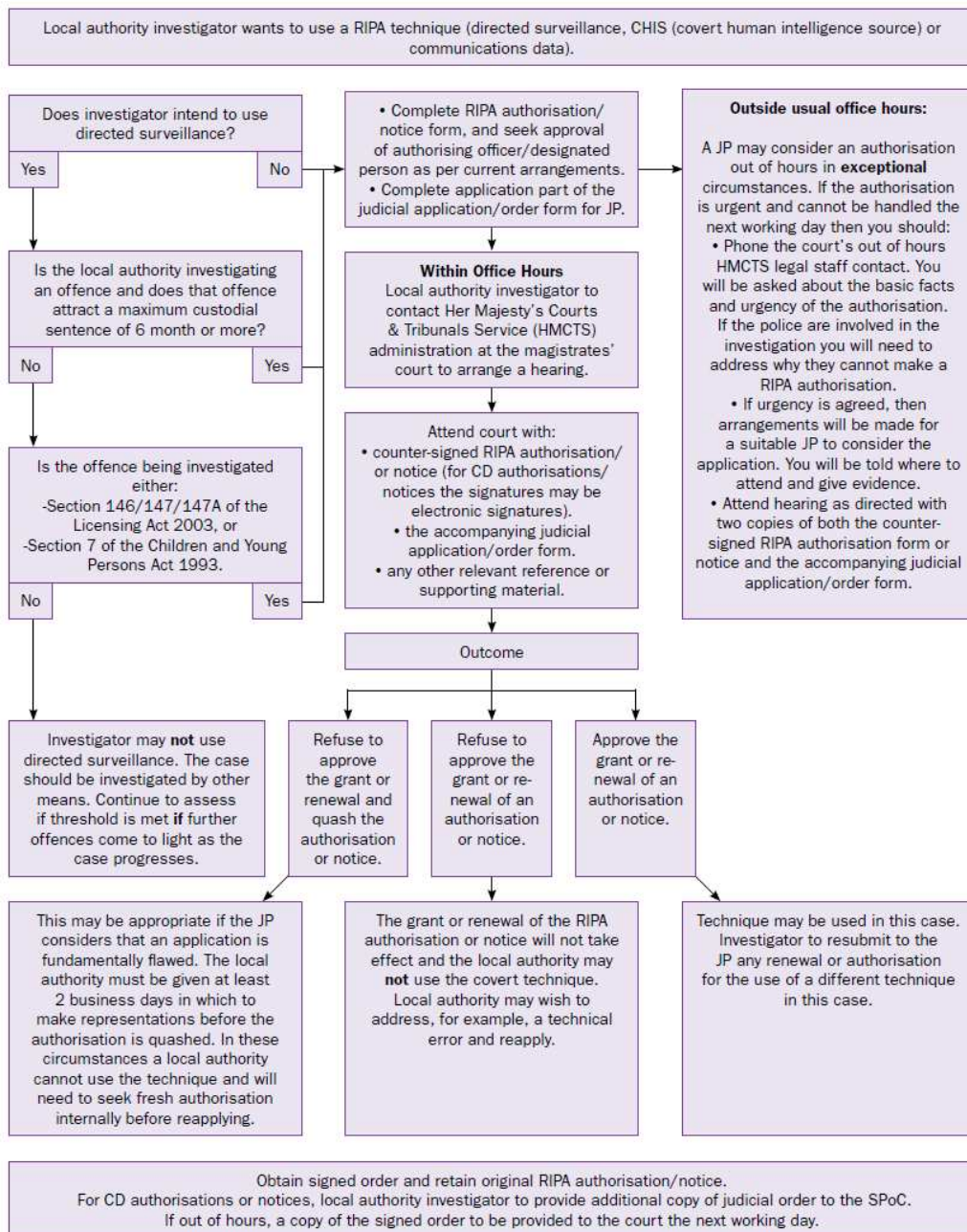
RIPA Section 22 notice to obtain communications data from communications service providers

Reporting an error by a CSP to the IOCCO

Reporting an error by a public authority to the IOCCO

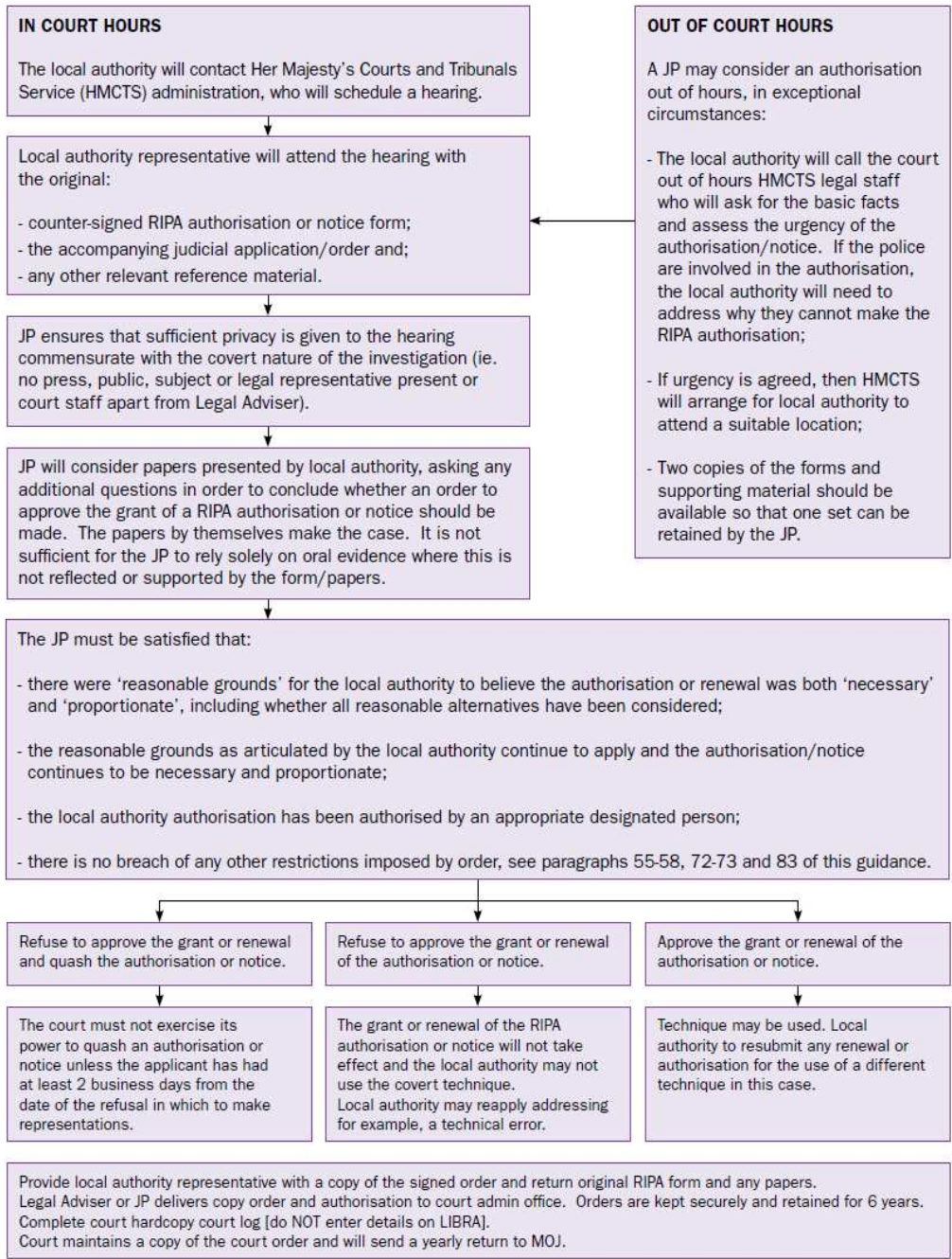
Annex A Local Authority Procedure

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



Annex B P 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

.....
.....
.....
.....
.....

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:

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