

# NON-CONFIDENTIAL



## **Borough of Tamworth**

7 March 2016

Dear Councillor

You are hereby summoned to attend a **meeting of the Council of this Borough** to be held on **TUESDAY, 15TH MARCH, 2016** at 6.00 pm in the , 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 - 12)**

**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 Audit and Governance Annual Report** (Pages 13 - 16)  
(The Report of the Chair of Audit and Governance Committee)
- 7 Scrutiny Chairs' Report** (Pages 17 - 40)  
(The Report of the Chair of Aspire and Prosper Scrutiny Committee)  
(The Report of the Chair of Healthier and Safer Scrutiny Committee)
- 8 Pay Policy 2016**  
(The Report of the Leader of the Council) (To Follow)
- 9 Counter Terrorism and Security Act 2015** (Pages 41 - 54)  
(The Report of the Portfolio Holder for Communities and Public Health)
- 10 Updated RIPA Policy** (Pages 55 - 102)  
(The Report of the Solicitor to the Council and Monitoring Officer)

Yours faithfully

A handwritten signature in black ink, appearing to be 'A. O. O. T.', 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](mailto:committees@tamworth.gov.uk) preferably 24 hours prior to the meeting. We can then endeavour to ensure that any particular requirements you may have are catered for.*

Marmion House  
Lichfield Street  
Tamworth



## **MINUTES OF A MEETING OF THE COUNCIL HELD ON 23rd FEBRUARY 2016**

**PRESENT:** Councillor M Gant (Chair), Councillors A Lunn (Vice-Chair), J Chesworth, M Clarke, S Claymore, T Clements, D Cook, A Couchman, M Couchman, S Doyle, J Faulkner, J Goodall, S Goodall, M Greatorex, G Hirons, R Kingstone, A James, T Madge, M McDermid, K Norchi, J Oates, M Oates, S Peale, T Peale, R Pritchard, R Rogers, E Rowe, P Seekings, P Standen and M Thurgood (part of meeting)

The following officers were present: Anthony E Goodwin (Chief Executive), John Wheatley (Executive Director Corporate Services), Andrew Barratt (Director - Assets and Environment), Stefan Garner (Director of Finance), Jane Hackett (Solicitor to the Council and Monitoring Officer), John Gunn (Development Manager), Matthew Fletcher (Economic Development Officer), Richard Stewart (Senior Planning Officer), Karl Bassett (Sustainable Travel Projects Officer), Natalie Missenden (Public Relations Officer) and Janice Cliff (Democratic and Elections Officer)

### **53 APOLOGIES FOR ABSENCE**

None

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

The minutes of the meeting held on 15 December 2015 were approved and signed as a correct record.

*(Moved by Councillor D Cook and seconded by Councillor M Thurgood)*

### **55 DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

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

The Leader of the Council Councillor D Cook made the following announcement:-

Under articles within the Constitution it seems within my gift to appoint a Champion in a particular area under a Portfolio Holder. With that in mind I will be appointing Councillor Simon Goodall to Champion certain aspects of housing repairs working alongside Michelle Thurgood. I will happily brief the Chief Executive and anyone else who wishes with the exact details of that.

**57 QUESTION TIME:**

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

**Under Procedure Rule No 10, Mr Moore will ask the Portfolio Holder for Operations and Assets , Councillor R Pritchard, the following question:-**

"I would like to ask Councillor Pritchard why he is campaigning on pot holes when he is fully aware that budgets are being brutally slashed by his own party. I believe he made the same veiled promises during his last campaign 3 years ago, but nothing has come to fruition?"

**Councillor R Pritchard gave the following reply:-**

Potholes are a menace to all road users. A record £6.1 billion of funding has been made available to local highway authorities in England between 2015 and 2021 to maintain our local roads. This includes an additional £250 million for a dedicated potholes action fund to improve local roads. This is all opposed by is own party.

Mr Moore says funding is being slashed by my party.

Under this Government, total road maintenance spend is equivalent to £160 for every driver in the UK. This builds on the work of the Coalition Government: between 2010 and 2015 it provided £4.7 billion to local highway authorities, including £168 million to tackle potholes across the county. Again this was opposed by Labour.

Between 2010 and 2015, the amount spent on maintenance funding was 27 per cent (or £1 billion) higher than when Labour was in Government. So we are increasing spending on roads to a level far higher than Labour even did.

I have received information from Conservative colleagues at Staffordshire County Council who have informed me that the county around Staffordshire County Council repair 350-400 potholes every week, with approximately 20-30 of these in Tamworth.

I thank Mr Moore for asking the question because it gives me the opportunity to announce that, from my lobbying of the County Council and work by my Conservative Colleagues on Staffordshire County Council, during the next 12 months Tamworth will benefit from a £1.1m programme of surface dressing to tackle potholes and help extending the lifespan of many roads and footways.

Part of the question asked "why do I campaign on potholes?" I do because as a Councillor it's my job to do so. I take the role very seriously. I get them reported

so they can be fixed and in the last few years I have reported hundreds of potholes, all subsequently being fixed by Staffordshire County Council.

I would like to point out that I am campaigning on more than just potholes.

I, and my fellow Conservatives, are campaigning on value for tax for the rate payer, better schools, keeping Tamworth clean, attracting new businesses to Tamworth, more free outdoor events, building more council houses and investment in the Town Centre.

I have noted Mr Moore that you too are campaigning on potholes, according to your Facebook page, so given your parties record on highways investment perhaps you should be asking this question to yourself?

**No supplementary question was asked**

## **QUESTIONS FROM MEMBERS OF THE COUNCIL NO. 1**

**Under Procedure Rule No 11, Councillor A Couchman will ask the Portfolio Holder for Communities and Public Health, Councillor S Doyle, the following question:-**

“Due to Staffordshire County Council Sure Start passes no longer being accepted as payment for Tamworth Borough Councils activity sessions and Fit Tots, is there any way we could assist, such as reduced pricing for people who depend on these groups, which helps to reduce isolation. Those on benefits may lack the finances to pay for their attendance?”

**Councillor S Doyle gave the following reply:-**

First I would like to thank Councillor Couchman for bringing this to my attention. I would also like to point out for future reference that this falls within Community Leisure which is part of the Deputy Leaders Portfolio.

None the less I've looked to provide you with an answer on his behalf. I have requested Officers to look into the situation and at this moment in time it would appear there is a communication problem with Staffordshire County Council after their recent re-organisation.

They have confirmed as of 2pm today that they will continue with their funding and to provide them with an invoice for the current outstanding amount. Either myself or the Deputy Leader will look to advise you of the outcome in the very near future of the discussions to take place in March.

In the mean-time I've also I've requested Officers to identify the average amount of funding this involves per year; I've been advised the funding is equivalent to approximately £300 to £400 per year.

At this point in time I would not like to prejudice the outcome of the forth coming discussion.

As a word of caution though we have recently seen a drop in funding from our partners in a number of areas but we will look to see if an agreeable solution can be found in this instance.

I will of course keep you informed as the matter progresses.

**No supplementary question was asked**

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

**Under Procedure Rule No 11, Councillor T Peale will ask the Portfolio Holder for Economy and Education, Councillor S Claymore, the following question:-**

“Can you please clarify what you meant by your statement in the Tamworth Herald that selling the golf course site will 'allow Tamworth Borough Council to safeguard vital services for the people of Tamworth?’”

**Councillor S Claymore gave the following reply:-**

The sale of the former Golf Course site will help to safeguard vital services for the people of Tamworth in the following ways

1. It will allow the Authority to make better use of its assets and provide much needed housing to the area with associated infrastructure improvements and schools to the area ( through our partners i.e. SCC);
2. The original site had previously been a cost to the Authority and therefore drain on the Medium Term Financial Strategy – costs of delivering service exceeded income received and resulted in Council Tax Payers subsidising activity for the very few. This will allow Members therefore the resource to continue to deliver high front line services in line with Corporate Priorities;
3. The release of the asset will also allow additional resource to provide and continue to deliver key / valued high quality services to the people of Tamworth through
  - a. Use of the Capital Receipt / Disposal income will be invested in longer term Capital Projects providing key income streams and capital growth for the benefit and future prosperity of People of Tamworth;
  - b. Until the Capital Receipt is invested it will generate short term investment income to support the MTFS;
  - c. The external development of the site with the provision of much needed housing for both existing families in Tamworth and attracting new families to the area increasing the workforce base and new business – the new housing will generate new resource both for the economy of Tamworth as well as supporting the MTFS through:-

- \* New Homes Bonus
- \* Additional Council Tax and

- \* Increase in income streams from services we provide such as car parking, etc

**Councillor T Peape asked the following supplementary question:-**

“On a previous meeting Councillor Cook denied the idea that you would balance the budget by selling off the golf course site. However what you have told me just now suggests that the interest from it will still be used to reserve future economic strategy and therefore the budget. Is it essentially the fact isn't this the case that indirectly this money will essentially balance the budget?”

**Councillor S Claymore gave the following reply:-**

It won't entirely but obviously as we go through the MTFs later on tonight you will see that some of the money will be included for that. Most certainly the intention of this Council is to invest its money wisely for the benefit of the people of Tamworth.

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

**Under Procedure Rule No 11, Councillor M Couchman will ask the Portfolio Holder for Housing and Waste Management, Councillor M Thurgood, the following question:-**

“How does the Council monitor the allocation of planned maintenance of bathrooms and kitchens in our council properties?”

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

The Councils investment programme of kitchens and bathrooms is monitored by the relevant teams at Tamworth Borough Council

These works are allocated either by:

- 1) using our stock condition data obtained from the 2013 condition survey where we physically inspected approximately 60% of our dwellings.
- 2) The repairs team will also put forward properties for the programme in year. These may be properties that were never surveyed or where there have been premature failures. They also complete partial renewals where urgent works are required.

**Councillor M Couchman asked the following supplementary question:-**

“Why is it then that a tenant who had a bathroom replaced four years ago under the planned maintenance program was visited a week ago to be told she was on the bathroom replacement program? Now is this a one off mistake or a sign that the left hand doesn't know what the right hand is doing?”

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

Obviously Councillor Couchman you are more than able to contact the housing officers at anytime. You do not have to wait for a Full Council to do that. As it is a

specific issue I wouldn't wish to comment without getting the relevant facts. If you want to supply the relevant details I will be more than happy to get back to you.

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

**Under Procedure Rule No 11, Councillor M Couchman will ask the Portfolio Holder for Housing and Waste Management, Councillor M Thurgood, the following question:-**

"With the introduction of Service Charges for some tenants how will you ensure that all the costs are transparent and fair and that every tenant who is eligible for this additional burden pays?"

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

The implementation of service charges has been supported by a clear and comprehensive service charge policy which sets out the approach to charging. The policy complies with legislative requirements and standards of good practice in the establishment of costs which will translate to service charges to tenants. The requirement for tenants to pay service charges is enforced through the tenancy agreement and will be managed in a similar manner to the Council's very successful rent arrears collection approach. In addition the Council will have a dedicated staff member to administer Service charges for Council tenants.

**Councillor M Couchman asked the following supplementary question:-**

"Does that include tenants that have already signed a five year flexible tenancy agreement?"

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

All tenants will be contacted individually with any updates and policies with any service charges that are relevant

**Councillor M Thurgood left the meeting at this stage**

#### **QUESTIONS FROM MEMBERS OF THE COUNCIL NO. 5**

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

"Would the Leader of the Council join me in questioning whether there are really only less than 100 pupils who benefit from the facilities for vocational training at Torc at a time when employers are being quoted as saying that the biggest barrier to the recruitment of indigenous workers is a skills shortage?"

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

I would agree with Councillor Dr. People that the situation at TORC is giving cause for concern for local people. Furthermore, the absence of any clarity or



communications on the matter is in turn giving rise to speculation and rumours about attendance, staffing levels and even closure.

As with any such situation, those responsible for the facility's management and operation should be invited to clarify the current position and, in the interests of transparency, inform local people of their future intentions and ambitions for what is an excellent, much needed asset in the field of vocational training.

It is with this in mind that I will ask the Chief Executive to draft a letter to the Principal/Chief Executive of South Staffordshire College requesting a detailed update on the current and future situation relating to the TORC Vocational Training facility.

The response will be shared with all Members either in the form of a report or as a labelled insert to the Members Information Bulletin.

**Councillor S Peple asked the following supplementary question:-**

"Would he agree therefore that we should send the same letter or at least the same request for information on vocational training opportunities in the town to the head teachers of the local schools who in theory should be sending pupils there to identify if there are any issues and also ask them if there are any other broader issues that they would like the Council to be fully coherent of going forward?"

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

Happy to agree with everything Councillor Peple just said. I will speak to the Chief Executive and we shall let them know exactly what has been requested.

**58 CORPORATE VISION, PRIORITIES PLAN, BUDGET & MEDIUM TERM FINANCIAL STRATEGY 2016/17**

The Leader of the Council and Cabinet requested the approval of the Vision Statement, Priority Themes, Corporate Priorities and Outcomes and their inclusion in the Corporate Plan and Support Service Plan. He also sought approval of the recommended package of budget proposals and, to comply with the requirement of the Council's Treasury Management Policy in reporting to Council, the proposed strategy for the forthcoming year and the Local Government Act 2003 with the reporting of the Prudential Indicators.

**RESOLVED:**

- That Council
- 1** approved the Vision Statement, Corporate Priorities and outcomes and their inclusion in the Corporate Plan;
  - 2** approved the proposed revisions to Service Revenue Budgets (Policy Changes);
  - 3** approved the sum of £81,896 be applied from Council Tax Collection Fund surpluses in reducing the Council Tax demand in 2016/17;

- 4** approved the sum of £560,025 be applied to Business Rates Collection Fund deficits in 2016/17;
- 5** approved that on 26<sup>th</sup> November 2015, the Cabinet calculated the Council Tax Base 2016/17 for the whole Council area as 20,904 [Item T in the formula in Section 31B(3) of the Local Government Finance Act 1992, as amended (the “Act”)];
- 6** approved that the Council Tax requirement for the Council’s own purposes for 2016/17 is £3,381,222;
- 7** approved the following amounts as calculated for the year 2016/17 in accordance with Sections 31 to 36 of the Act:
  - a. £55,054,127 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act (Outgoings excluding internal GF Recharges);
  - b. £51,672,905 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act (Income excluding internal GF Recharges);
  - c. £3,381,222 being the amount by which the aggregate at 7(a) above exceeds the aggregate at 7(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year (Item R in the formula in Section 31A(4) of the Act);
  - d. £161.75 being the amount at 7(C) above (Item R), all divided by Item T (at 4 above), calculated by the Council, in accordance with Section 31B(1) of the Act, as the basic amount of its Council Tax for the year;
- 8** approved the Council Tax level for the Borough Council 2016/17 of £161.75 (an increase of £3.15 (1.99%) on the 2016/17 level of £158.60) at Band D;
- 9** approved an aggregate Council Tax (comprising the respective demands of the Borough Council, Staffordshire County Council, Office of the Police and Crime Commissioner Staffordshire and Stoke-on-Trent and Staffordshire Fire and Rescue Authority) of £1,498.34 at Band D for 2016/17 be noted;

- 10** approved the Council Tax levels at each band for 2016/17;
- 11** approved the sum of £1,724,806 be transferred from General Fund Revenue Balances in 2016/17;
- 12** approved the Summary General Fund Revenue Budget for 2016/17;
- 13** approved the Provisional Budgets for 2017/18 to 2018/19, summarised at Appendix G, as the basis for future planning;
- 14** approved the acceptance of the proposed 4 year grant settlement;
- 15** approved the minimum level for balances of £500k to be held for each of the General Fund, Housing Revenue Account, General Capital Fund and Housing Capital Fund;
- 16** be authorised to release funding from the General Contingency budget and that the release of funding for Specific Contingency items be delegated to the Corporate Management Team in consultation with the Leader;
- 17** approved the proposed HRA Expenditure level of £14,884,180 for 2016/17;
- 18** approved the rents for Council House Tenants in General Accommodation for 2016/17 be reduced by an average of £0.88 per week (1%) to £87.37 (2015/16 £88.26), over a 48 week rent year;
- 19** approved the rents for Council House Tenants in Supported Accommodation for 2016/17 be frozen at 2015/16 levels;
- 20** approved rents for Council House Tenants due for 52 weeks be collected over 48 weeks;
- 21** approved the HRA deficit of £368,100 be financed through a transfer from Housing Revenue Account Balances in 2016/16;
- 22** approved the proposed 3 year General Fund Capital Programme of £8.014m, as detailed in Appendix I to the report and where it may be more cost effective for purchases to be made before 31<sup>st</sup> March 2016 – that

the spend be brought forward together with the associated budget;

- 23** approved the 5 year Housing Capital Programme of £52.734m, as detailed in Appendix J to the report;
- 24** approved to delegate authority to Cabinet to approve/add new capital schemes to the capital programme where grant funding is received or there is no net additional cost to the Council;
- 25** approved the Treasury Management Strategy Statement, the Treasury Management Policy Statement, Minimum Revenue Provision Strategy and Annual Investment Statement 2016/17;
- 26** approved the Prudential and Treasury Indicators and Limits for 2016/17 to 2018/19 contained within;
- 27** approved the adoption of the Treasury Management Practices contained within ANNEX 7; and
- 28** approved the detailed criteria of the Investment Strategy 2016/17 contained in the Treasury Management Strategy within ANNEX 3.

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

## **59 TAMWORTH LOCAL PLAN**

The Report of the Portfolio Holder for Economy and Education sought to gain approval from Council to adopt the Tamworth Local Plan 2006 – 2031 in-line with the Inspector's report and the listed Main Modifications to make the Plan sound and legally compliant. Once adopted the new Local Plan will replace the current Local Plan (2001 – 2011) and become the statutory development plan for Tamworth.

As a result of a named vote it was:-

### **RESOLVED:**

- That Council
- 1** adopted the Tamworth Local Plan 2006 – 2031 and Policies Map through formal resolution of the Council in line with the Inspector's report and Main Modification recommendations to ensure the submitted Plan is sound and legally compliant and in accordance with the Planning and Compulsory Purchase Act 2004 (as amended), the Town and Country Planning (Local Planning) (England) Regulations 2012 and the Localism Act.

- 2 identified the Other Modifications during the examination process are made to the Local Plan and Policies Map.
- 3 endorsed the Sustainability Appraisal Adoption Statement which has been prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004.
- 4 in accordance with the Planning and Compulsory Purchase Act 2004 (as amended) and Regulations 26 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012, The Local Plan, Adoption Statement and Sustainability Appraisal are made publicly available and interested parties notified.

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

**FOR**

Councillor J Chesworth  
 Councillor S Claymore  
 Councillor T Clements  
 Councillor D Cook  
 Councillor S Doyle  
 Councillor M Gant  
 Councillor J Goodall  
 Councillor S Goodall  
 Councillor M Greatorex  
 Councillor A James  
 Councillor R Kingstone  
 Councillor A Lunn  
 Councillor M McDermid  
 Councillor J Oates  
 Councillor M Oates  
 Councillor R Pritchard  
 Councillor R Rogers  
 Councillor E Rowe

**AGAINST**

Councillor M Clarke  
 Councillor A Couchman  
 Councillor M Couchman  
 Councillor J Faulkner  
 Councillor G Hirons  
 Councillor T Madge  
 Councillor K Norchi  
 Councillor Dr S Peaple  
 Councillor T Peaple  
 Councillor P Seekings  
 Councillor P Standen

**ABSENT**

Councillor M Thurgood

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The Mayor

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**Audit & Governance Committee  
Annual Report 2015/16**

The Audit & Governance committee has met on five occasions so far this year, with one further meeting scheduled for the end of March. The committee are presented with regular Internal Audit and Risk Management reports, all of which demonstrate that this Council is maintaining a high standard of internal control. This is backed up by the reports of the external auditors, Grant Thornton. I've selected some highlights of the key areas of business as follows:

### **3<sup>rd</sup> June 2015**

- **Review of amendments to the Constitution**  
The committee reviewed the amendments tabled at Council on May 26<sup>th</sup> 2015. There were no major amendments and the committee endorsed the report.
- **Review of the Effectiveness of the System of Internal Control**  
This review is to ensure that our internal controls are robust and compliant with the Public Sector Internal Audit Standards. It is pleasing to report that this authority has set very high standards of internal control and the committee endorsed the annual review, with no areas of concern noted.

### **25<sup>th</sup> June 2015**

- **Draft Annual Statement of Accounts 2014/15**  
Current regulations stipulate that the draft statement of accounts is presented by June 30<sup>th</sup> each year, to be audited and signed off by September 30<sup>th</sup>. The Accounts and Audit Regulations 2015 state that from 2017/18 the draft accounts will be required by May 31<sup>st</sup> and the audited version by July 31<sup>st</sup>. This will undoubtedly put additional pressure on the authority and also the external auditors.

Being proactive, our Finance team planned to produce a draft version of the Statutory Accounts for 2014/15 by May 31<sup>st</sup>, despite not being required to do so, to test their ability to meet the new deadlines. I'm pleased to report that they achieved this with a first draft being provided to the Audit and Governance Committee on May 29<sup>th</sup> 2015. This test will ensure that come 2017/18 we are ready to meet the new deadlines. The draft version was to be audited by September 30<sup>th</sup> as per the current regulations.



## 24<sup>th</sup> September 2015

- **Grant Thornton – Audit Findings for Tamworth Borough Council**  
This report covered the year ending March 31<sup>st</sup> 2015. The key messages arising from the audit of the Council's financial statements were that
  - a) the draft accounts were of good quality
  - b) the audit did not identify any material misstatements
  - c) finance staff responded promptly to audit queries, facilitating the prompt completion of the audit.

Additionally, no control weaknesses were identified in the report. This is a further reflection of the good work undertaken throughout the year by the officers and their teams.

Working with the criteria published by the Audit Commission the auditors were also satisfied that the Council has in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

- **Annual Statement of Accounts 2014/15**  
The external auditors required some minor presentational amendments to the draft accounts, produced earlier in the year. These had no impact on the reported outturn position or net balances of the General Fund, Housing Revenue Account or Collection Fund so the committee was happy to approve the Statement of Accounts.

## 29<sup>th</sup> October 2015

- **Fraud and Corruption Update Report**  
The Council appointed a Corporate Anti Fraud Investigation Officer with effect from September 1<sup>st</sup>. This post will ensure that the Authority is taking a more proactive role in countering fraud, whilst fulfilling the requirement to investigate the residual Benefits and Council Tax Reduction Scheme Fraud that has not been transferred to the DWP. The intention is that the appointment will make us proactive in spotting potential fraud at the early stages, rather than reacting to instances of fraud.

28<sup>th</sup> January 2016

- **Regulation of Investigatory Powers Act 2000 – Adoption of Policy**  
The Protection of Freedoms Act 2012 now requires that local authority authorisations under RIPA for Directed Surveillance or CHIS can only become effective on the granting of an order approving the authorisation by a Justice of the Peace. Further, a local authority can now only have an authorisation under RIPA for the use of Directed Surveillance where the local authority is investigating criminal offences which attract a maximum custodial sentence of six months or more, or criminal offences relating to the underage sale of alcohol or tobacco under the Licensing Act 2003 or the Children and Families Act 2014.

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

Finally I would like to place on record, on behalf of the Committee, my thanks to the officers and their teams for their work in producing accounts and reports throughout the year and ensuring that this Council meets the requirements of the various pieces of legislation currently in force.

# Aspire & Prosper

## Scrutiny Committee

### Annual Report

2015 – 2016

**Committee Chair:**

Cllr J. Goodall

**Committee Members:**

Cllr T. Clements (Vice-Chair)

Cllr M. Couchman

Cllr M. Greatorex

Cllr G. Hirons

Cllr R. Kingstone

Cllr S. Peaple

Cllr E. Rowe

Cllr P. Standen

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6	1	11 <sup>th</sup> June 2015	Appointment of Chair & Vice Chair Work Plan Proposed to initially scrutinise services around Teenage Pregnancy and Education (esp. GCSE grades)
7	2	23 <sup>rd</sup> June 2015	Mr Oliver & Cllr A. James addressed the committee Work Plan approved
8	3	21 <sup>st</sup> July 2015	Teenage Pregnancy scoping document submitted Education scoping document submitted Teenage Pregnancy update Education Scrutiny update
9	4	3 <sup>rd</sup> August 2015	Call-in of 'Service charges for Council owned stock' report considered at Cabinet on 9 <sup>th</sup> July
10	5	25 <sup>th</sup> August 2015	Education Skills Board update GCSE Results update Teenage Pregnancy update
11	6	20 <sup>th</sup> October 2015	Mr D. Poole & Mr T. Leese addressed the committee re Post-16 Education and Teen Pregnancy Inequality of life expectancy in Tamworth agreed as the next priority on the scrutiny agenda
12	7	24 <sup>th</sup> November 2015	Education update Inequality in Life expectancy scoping document submitted Inequality in life expectancy postponed until January meeting, due to absence of chair Scrutiny of future regeneration of high-rise flats proposed
13-14	8	19 <sup>th</sup> January 2016	Leader of the Council, Cllr D. Cook addressed the committee re future regeneration of high-rise flats in Tamworth. No scoping document has been received
13	9	8 <sup>th</sup> March 2016	Agenda issued Inequality of life expectancy in Tamworth scrutiny R. Barnes, S. Pointon & J. Topham to address committee
14	10	5 <sup>th</sup> April 2016	Inequality of life expectancy in Tamworth update Education scrutiny A. Goodwin or K. Adderley to address committee <i>Subject to change</i>

# Introduction

## Chair's Report

This year has seen my introduction as Chair of the Aspire & Prosper scrutiny committee, a position that has introduced both rewards and challenges. As Chair, my main objective has been to steer the committee towards looking at the bigger issues facing Tamworth, in order to try to determine the best way of moving forwards with these, whilst working within current financial constraints.

Looking through the Health and Key Service Performance Indicator reports, there were three issues I chose to propose to the committee as potential scrutiny items. These were:

- Teenage Pregnancy in Tamworth
- Inequality in Life Expectancy across Tamworth
- New Business Start-ups

Education scrutiny, especially around GCSE performance levels and post-16 opportunities, was also proposed by Cllr R. Kingstone, who had been looking at Educational issues for a number of years.

The figures reported in the most up-to date Health Report for Tamworth showed that Tamworth had the joint highest conception rate in England among 15-17 year olds, at an average of 44 per 1000 females. This is not only much higher than the national average for England: 24.3 per 1000, but also much higher than many other areas with similar or higher levels of deprivation and I wanted to understand not only why this was, but also how we were addressing the issue, both at Borough and County level.

Teenage Pregnancy and Educational attainment were two of the largest issues facing Tamworth at the start of the scrutiny year and as both are national indicators, it seemed appropriate to give them high priority on the agenda.

It was decided, by both committees, that Teenage Pregnancy would be a joint scrutiny with the Healthier & Safer scrutiny committee, chaired by Cllr. A. James.

Education would be tackled as a sub-committee, led by Cllr R. Kingstone, who was responsible for the scoping document.

The Health Report for Tamworth also showed a difference in life expectancy across the Borough of 7 years, between areas of highest and least deprivation. This seemed a significant figure to me and I decided to put it forward to the committee because I

think that although it could be considered a health issue, I wanted to determine if there were other relevant contributing factors; housing, isolation, finance etc and what we are doing to address these. It was also decided to make this a joint scrutiny topic, along with the Healthier & Safer scrutiny committee.

The Key Service Performance Indicators Report for Tamworth showed that new business growth in the Borough was sluggish, with only 4 first-time business start-ups having occurred within the previous year. Given Tamworth's strategic placement in terms of both location and involvement in Local Enterprise Partnerships, I felt that this would be worth scrutinising in order to ascertain how Tamworth can better take advantage of any business growth opportunities around these factors.

Other subjects proposed for scrutiny were:

- Local plan regeneration
- Britain in bloom
- Review of the petition scheme

It was agreed that the committee would review consideration of these topics, following completion of the other larger agenda items.

### **Teenage Pregnancy**

Much work has already been undertaken this year around the issue of high teenage conception rates, including:

- A radio interview with Touch FM
- A visit to Cornerstone Housing Charity
- A presentation by Mr T. Leese
- Meetings with relevant officers
- Production of a Joint Strategic Needs Assessment report

It has been difficult to engage other members of the committee with regard to Teenage Pregnancy, but I feel the profile of the issue has at least been elevated and awareness raised that the root causes and solutions are not entirely health based. Much of the initiative direction seems to be toward the use of Multiple Agency Centres in schools, which have been shown to be effective in other areas. A review of the MACs is currently being undertaken by Staffs County Council, with the report due in June, when scrutiny around the issue will be resumed. This will be an ongoing joint scrutiny with the Healthier and Safer scrutiny committee.

## **Education Sub-Committee Update – Cllr R. Kingstone**

The scrutiny of education has, to some degree, been one of the main elements of work that the Aspire and Prosper scrutiny committee has undertaken for the past three to four years. This year it was decided to focus on several elements:

1. The scrutiny of GCSE performance by our five secondary schools
2. The post 16 'offer' provided to our young adults

As in previous years the level of frustration for members this work has provided has been quite high.

Members started by analysing the summer 2015 GCSE outcomes. For many years now Tamworth has been in the lower quartile with regard to both GCSE outcomes and progress. Members noted that there was a very slight improvement in our GCSE performance, but in most of our schools it was still very significantly lower than both the LEA and national averages.

It was decided to ask the Education Skills Board to attend a meeting to discuss what work it had been doing with regard to this. However, matching dates and finding someone from the board who could attend proved difficult.

As 2015 moved on it became apparent that our secondary schools felt that the work of the ESB was being repeated by the head teacher's forum. This resulted in poor engagement. So to avoid duplication the A & P committee was informed that an ESB rep would attend the head teacher's forum meets when appropriate.

Meanwhile the education subgroup continued looking at the post 16 offer. Disturbing news emerged that various courses were being cancelled at South Staffs College. After posing appropriate and challenging questions it became apparent that this line of enquiry was going nowhere.

So all things considered it was decided to put a hold on the work of the education subgroup pending a more detailed report from the ESB or what ever form it would exist in once the changes to its engagement with our secondary schools had taken place.

It should be noted that at recent full council meeting Cllr S Peple posed an excellent question to the leader of the council with regard to the vocational centre at Torc. It was agreed that the Chief Exec would write to all schools to ask why they were reducing the numbers of students being sent to Torc.

The education subgroup await the schools response with anticipation.

# Meeting 1

11<sup>th</sup> June 2015

## Appointment of Chair & Vice Chair

The ongoing scrutiny agenda was rescinded, except for scrutiny involving the Public Transport Consultation, which was continued until an update had been received, as a member of London Midland had previously been invited and was expected to attend

The 2015-2016 Work Plan was proposed, with initial scrutinies to look at services around the High conception rates amongst 15-17 year olds in Tamworth and Education, with particular emphasis on low GCSE results and post-16 education opportunities.

The figures reported in the most up-to date Health Report for Tamworth at that time showed that Tamworth had the joint highest conception rate in England, among 15-17 year olds, at an average of 44 per 1000 females, whilst the educational attainment levels at GCSE, although fluctuating, had shown no significant improvement for a number of years. It was decided that this would be a joint scrutiny with the Healthier & Safer scrutiny committee

These were two of the largest issues facing Tamworth at the start of the scrutiny year and as both are national indicators, it seemed appropriate to give them high priority on the agenda. It was decided that Education would be tackled as a sub-committee, led by Cllr R. Kingstone, who was responsible for the scoping document.

Other items for consideration were Inequality of life expectancy across Tamworth and New business growth, both to be looked at following the first two large scrutiny topics.

Other subjects proposed for scrutiny were:

- Local plan regeneration
- Britain in bloom
- Review of the petition scheme

It was agreed that the committee would consider these topics again following completion of the other items.



# Meeting 2

23<sup>rd</sup> June

Mr Oliver from London Midland attended the meeting and addressed the committee with regard to the Public Transport Consultation. This was extended from the previous work plan in order to facilitate the visit, as the invitation had already been extended. Cllr A. James also attended via invitation, as he was the lead on the Transport Consultation scrutiny and was responsible for inviting Mr Oliver.

Mr Oliver gave a presentation and answered a number of questions, particularly with regard to Tamworth station and the West Coast Railway. The committee were informed:

- Off-peak ticket prices start at 9am, but once on the train, it is not possible to buy an off-peak ticket, so once on the train, even after 9am, full price must be paid
- Fares are set nationally, so charging structures are responsible for the determination of pricing, leading to discrepancy in the cost of fares at certain times
- A new member of staff has been employed in Tamworth Station
- A new ticket machine has been installed in Tamworth Station
- Work is scheduled to begin on the lifts in 2016
- Handrails / safety treads were to be updated during 2015
- New rail lines are required on West Coast railway
- The reason most trains only have 4 carriages, when 8 would be more appropriate, for example on trains to Euston, is that some stations are not able to accommodate longer trains, as their platforms are too short or because of level crossings at certain points

The following Work Plan was formally approved, with Subjects for Consideration to be for immediate scrutiny and Subjects Proposed to be reviewed at a later date:

<b>Subjects for Consideration</b>
High Conception Rates in Under 18s
Low GCSE Results
Inequality in Life Expectancy Across the Borough
New Business Growth
<b>Subjects Proposed</b>
Local Plan Regeneration
Britain in Bloom
Review of Petition scheme

## Meeting 3

21<sup>st</sup> July 2015

A Teenage Pregnancy Scoping Document was submitted by Cllr J. Goodall:

**‘Teenage Pregnancy Rates: A Scoping Document to Scrutinise the High Conception Rates in 15-17 Year Olds in the Borough of Tamworth’**

An Education Scoping Document was submitted by Cllr R. Kingstone:

**‘Education - A Scrutiny Proposal’**

Scoping documents will be attached separately

Updates were given to the committee on both documents

The Work Plan was considered and the following approved:

<b>Committee Date</b>	<b>Subjects for Consideration</b>
25 <sup>th</sup> August 2015	Education Skills Board – Invite someone from the board to speak
25 <sup>th</sup> August 2015	Low GCSE Results
20 <sup>th</sup> October 2015	High Conception Rates in Under 18s
TBC	Inequality in Life Expectancy across the Borough
TBC	New Business Growth
TBC	Local Plan Regeneration
TBC	Britain in Bloom
TBC	Review of Petition Scheme

## Meeting 4

3rd August 2015

This meeting was a call-in of 'Service charges for Council owned stock' report, which had been considered at Cabinet on 9<sup>th</sup> July 2015

The meeting was attended by Cabinet Members: Cllr D. Cook and Cllr M. Thurgood and the following officers:

T. Mustafa (Head of Landlord Services)

S. Philp (Housing Manager)

N. Missenden (Public Relations Officer)

J. Clift (Democratic and Elections Officer)

This was an extra-ordinary meeting of the Aspire & Prosper Scrutiny Committee, from which the public were excluded and because the report contains exempt information (as defined in Paragraph 3 in Part 1 of Schedule 12A of the Local Government Act 1972) it will not be included in this report.

A number of questions were asked of the officers and Cabinet members, followed by much discussion.

The outcome of the call-in was:

**Resolved:** That following discussion, this committee is satisfied with the decision taken in principle by Cabinet on 9<sup>th</sup> July 2015 about the proposed consultation on Service Charges.

# Meeting 5

25<sup>th</sup> August 2015

An Education Skills Board update was given by Cllr J. Goodall, who had been unsuccessful in effecting a commitment to attend from anyone on the ESB, despite numerous attempts

Press and Public were excluded from the meeting and an update was given on GCSE Results across Tamworth, by Cllr R. Kingstone

Cllr J. Goodall gave an update on Teenage Pregnancy, following a visit to Cornerstone Housing Charity and a radio interview given in order to try to raise awareness of the issue. No feedback was received from Touch FM following the interview

The committee approved the following Work Plan:

<b>Committee Date</b>	<b>Subjects for Consideration</b>
20 <sup>th</sup> October 2015	Education Skills Board – Invite someone from the board to speak
24 <sup>th</sup> November 2015	High Conception Rates in Under 18s
TBC	Inequality in Life Expectancy across the Borough
TBC	New Business Growth
TBC	Local Plan Regeneration
TBC	Britain in Bloom
TBC	Review of Petition Scheme

## Meeting 6

20<sup>th</sup> October 2015

Mr D. Poole addressed the committee re Post-16 Education. He covered:

- Apprenticeships and the Apprenticeship Ambassador Programme, which promotes Apprenticeships to businesses
- Appointment of a Project Manager to look at vocational opportunities in Tamworth, eg through the Local Enterprise Partnership and Young Enterprise Initiatives
- Funding Agency – working with Councils and private organisations to create apprenticeships
- Drop-out rate of approximately 30% for apprenticeships
- An overall target of 3 million apprenticeships by 2020
- 6<sup>th</sup> form education and quality of provision
- Get Set Programme – to engage young people who drop out of school at 16
- South Staffordshire College (who have been awarded capital funding to help develop a Technical Centre at the Tamworth campus)

Mr T. Leese addressed the committee re Teenage Pregnancy, covering areas of good practice and problems around the issue. A report has been produced: 'Focus On Teenage Pregnancy in Tamworth' which is a joint strategic needs assessment and can be found in Appendix 2.

Inequality of life expectancy in Tamworth was agreed as the next priority on the scrutiny agenda and the committee agreed the following work plan:

<b>Committee Date</b>	<b>Subjects for Consideration</b>
24 <sup>th</sup> November 2015	Inequality in Life Expectancy across the Borough
TBC	New Business Growth
TBC	Local Plan Regeneration
TBC	Britain in Bloom
TBC	Review of Petition Scheme

## Meeting 7

24<sup>th</sup> November 2015

The meeting was chaired by Cllr T. Clements, due to the absence of the Chair, Cllr J. Goodall

An Education update was given by Cllr R. Kingstone, who proposed that due to the delay in engagement from various agencies, the item be postponed for discussion until May/June 2016

A scoping document to look at Inequality in Life Expectancy across Tamworth was submitted by Cllr J. Goodall:

### **'Inequality in Life expectancy: A Scoping Document to scrutinise the Inequality of life expectancy of residents living in different areas of Tamworth'**

The document will be attached separately

The Inequality in life expectancy scrutiny was postponed until the January 19<sup>th</sup> meeting, due to the absence of the Chair

Scrutiny of Future Regeneration of the High-rise Flats was proposed by Cllr Dr S. People. This was not voted for, but was accepted upon the principle that members did not object and was added to the Work Plan, which was approved thus:

<b>Committee Date</b>	<b>Subjects for Consideration</b>
19 <sup>th</sup> January 2016	Inequality in Life Expectancy across the Borough
19 <sup>th</sup> January 2016	High Conception Rates in Under 18s
May/June	Education
TBC	Future Regeneration for the High Rise Flats
TBC	New Business Growth
TBC	Local Plan Regeneration
TBC	Britain in Bloom
TBC	Review of Petition Scheme

## Meeting 8

19<sup>th</sup> January 2016

Leader of the Council, Cllr D. Cook, addressed the committee with regard to the scrutiny of 'Future Regeneration of the High-Rise Flats' representing the Director of Housing & Health and the Portfolio Holder, as neither was available to attend the meeting. Cllr Cook answered questions and provided information including the following:

- There are currently no plans to regenerate the high-rise flats
- The high-rise flats are still popular with the over 55s
- A stock condition survey was undertaken two years ago, which covered approximately 60% of all council properties
- The approximate cost of the survey was £40-45 per property
- The Council need to be financially aware over the next 30 year period, in order to ascertain what is viable, even though the budgets are set every 5 years, as, moving forward, it will be something that needs reviewing in the future
- The required remedial works to the balconies will be undertaken following the results of the structural survey, which is currently in process

No scoping document was received for this scrutiny. This was requested at the meeting, with the subject to be reviewed after the structural report is received

The results of the structural survey have been requested by the Scrutiny Officer: W. Johnson and the Chair

The scoping document 'Inequality in Life Expectancy: A scoping document to scrutinise the Inequality of life expectancy of residents living in different areas of Tamworth' was discussed and ideas raised with regard to the best way to begin the scrutiny of this subject.

A proposal was submitted by Cllr M. Greatorex that the Officers prepare a briefing note around the subject, in order to ascertain what services/initiatives are already in place, before deciding what the committee need to look at in relation to this topic.

A briefing note has been requested and at the time of writing this report, it has been confirmed that R. Barnes, S. Pointon and possibly J. Topham will be attending the meeting on 8<sup>th</sup> March, in order to address the committee on issues relating to the subject.

## Meeting 8 (Continued)

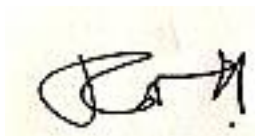
19<sup>th</sup> January 2016-03-05

Education scrutiny was discussed, with Cllr S. People requesting further information about post-16 provision in Tamworth.

Officers have been invited and at the time of writing either A. Goodwin or K. Adderley are expected to attend in April, to report on findings of a meeting of the ESB in February.

The following Work Plan was approved:

<b>Committee Date</b>	<b>Subjects for Consideration</b>
8 <sup>th</sup> March 2016	Inequality in Life Expectancy across the Borough
5 <sup>th</sup> April 2016	Education
TBC after structural report received	Future Regeneration for High Rise Flats
TBC after review of MACs	High Conception Rates in Under 18s
TBC	New Business Growth
TBC	Local Plan Regeneration
TBC	Britain in Bloom
TBC	Review of Petition Scheme



**Councillor Joy Goodall**

Chair of Aspire and Prosper Scrutiny Committee



# **Healthier & Safer Scrutiny Committee**

## **2015/16 Annual Report**

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## **Introduction**

2015/16 has been another busy year for Tamworth Borough Council's Healthier & Safer scrutiny committee members.

The committee carried out an in-depth scrutiny of the Borough Council's updated Safeguarding Children and Adults at Risk of Abuse and Neglect policy prior to it being presented to Full Council.

The opening hours of the minor injuries unit at Sir Robert Peel hospital were discussed with the local CCG and the Chief Executive of Burton Hospitals NHS Foundation Trust and the committee submitted a unanimous response to the CCG's public consultation.

DBS checks for current and future elected members of Tamworth Borough Council and the Dosthill Park public space protection order were also been examined by the committee.

The committee will start looking at the inequality of life expectancy across the Borough of Tamworth at the end of March, as part of a joint scrutiny with the Aspire and Prosper scrutiny committee.

The committee had also planned a joint scrutiny of teenage pregnancy in Tamworth, however, this will start in June after Staffordshire County Council's review of the MAC project has been completed and the results have been published.

2015/16 has also seen the start of what is possibly the biggest piece of scrutiny ever undertaken by any of Tamworth Borough Council's past or present scrutiny committees. The Healthier and Safer committee is working in conjunction with Alzheimer's UK to make Tamworth a Dementia Friendly Community.

The work to make Tamworth a Dementia Friendly Community started in February 2016 and may take up to a year to complete. It is important to take enough time to get this right for the current and future residents of the Borough of Tamworth.

## **11 June 2015 / 2 July 2015**

### **Work plan for 2015/16**

The committee voted to scrutinise several items during 2015/16

- Invite Cllr Lees for a discussion on the Staffordshire Health and Wellbeing Board
- Teenage Pregnancy (from a safer sex/health point of view)
- Safeguarding of Children & the Vulnerable
- ASB/Safety Hub, policy changes over the coming year
- Dementia/is Tamworth Dementia friendly?

## **13 August 2015**

### **Safeguarding Children and Adults at Risk of Abuse and Neglect Policy**

A scoping document was produced asking Scrutiny to evaluate how has Tamworth Borough Council learned from the recent reports e.g., Rotherham and how confident are the Borough Council that the public can be reassured that the policies, systems and processes in place are robust and embedded.

In response, Tamworth Borough Council's Portfolio Holder for Communities and Public Health and the Solicitor to the Council and Monitoring Officer reported to the committee in relation to the draft policy and procedure on Safeguarding Children and Adults at Risk of Abuse and Neglect.

The policy had been updated to take account of the Care Act 2014 and other associated requirements. The policy is to be presented for approval to Council at its next meeting on 15 September 2015.

Following several questions and comments from the members, the committee resolved to endorse the policy and procedure ahead of Council on 15 September 2015 and to receive a quarterly statistical report on referrals made through the Safeguarding Channel at Tamworth Borough Council arising from and under the Policy.

### **DBS Checks**

The committee voted for all elected members have a DBS check completed. The Chair agreed to take the proposal to the next Cabinet meeting and seek approval for all current and future elected members of Tamworth Borough Council to undertake a DBS check.

## **17 September 2015**

### **Staffordshire Health and Wellbeing Board**

Staffordshire's southern area elected representative on the Staffordshire Health and Wellbeing Board, Cllr Roger Lees of South Staffordshire Council, gave a presentation on the Health and Wellbeing Board.

### **Proposed Changes to the Opening Hours of the Minor Injuries Unit at Sir Robert Peel Hospital**

Three representatives from NHS South East Staffordshire & Seisdon Peninsula Clinical Commissioning Group and the Chief Executive of Burton Hospitals NHS Foundation Trust met the committee and gave a presentation on the proposal to change the opening hours of the Minor Injuries Units at Sir Robert Peel and Samuel Johnson Hospitals. Several probing questions and comments were put by all members of the committee and the committee agreed to hold another meeting to discuss the issues further and agree a submission to the CCG's public consultation.

## **15 October 2015**

### **Committee Submission to SES and SP CCG Consultation on Sir Robert Peel MIU**

Following a discussion on the presentation given at the previous meeting of the Healthier and Safer committee, the members voted unanimously to submit the following submission to CCG Consultation on Sir Robert Peel MIU.

This Committee regrets the proposed potential overnight closure of the Robert Peel Minor Injuries Unit and urges the CCG to consider and implement all back office savings elsewhere rather than closing this front line service.

### **DBS Checks for Current and Future Elected Members of Tamworth Borough Council**

The Chairman reported that the Protection of Freedoms Act 2012 took Councillors outside of the Safeguarding of Vulnerable Groups Act 2006 regime entirely. It was then stated that members could undertake DBS Scotland checks, however, due to Scottish Law these checks would only show unspent convictions committed in Scotland and not the rest on the United Kingdom.

Several members pointed out that they had DBS checks from their involvement in local schools and community groups. However,

The Chairman pointed out that to continue with DBS checks would produce a two-tier system for elected members with those who have DBS checks from their involvement in local schools and community groups and those who work in the private sector and have no involvement in groups or projects that require a DBS check.

Following a discussion the committee voted unanimously to take no further action on DBS checks.

## **19 November 2015**

### **Consultation - Dosthill Park Public Space Protection**

Tamworth Borough Council's Neighbourhood Service Manager gave a report on the Dosthill Park public space protection order.

The committee approved delegation to the Portfolio Holder for Communities and Public Health for the implementation of a Public Space Protection Order at the access road to Dosthill Hall, Dosthill Park and agreed that if any changes are proposed following a review then they shall be reported back to the Committee.

## **7 January 2016**

The meeting was postponed and rearranged for 10 March 2016 to allow time to send out invitations to discuss dementia.

## **4 February 2016**

### **Update from Staffordshire Health Select Committee**

It was agreed for the Chairman, in conjunction with Tamworth Borough Council's Legal Officer, to ask the South Staffordshire and Shropshire Healthcare NHS Foundation Trust of their involvement in the use of the Libraries across Staffordshire and what are they doing?"

### **Safeguarding Children and Adults at Risk of Abuse and Neglect**

Further to the recommendation at 13 August 2015 meeting, The Committee received the first quarterly report written by Tamworth Borough Council's Children and Families Safeguarding Officer.

The Committee reviewed and endorsed the report and agreed future reports would be bi-annual for a 6-month period at the July and January meetings.

## Dementia

Prior to the meeting the Chairman and Vice Chairman met with representatives of Alzheimer's UK at their office in Cannock to gain information on Dementia Friendly Community status and it was agreed for an Alzheimer's UK Officer to meet with the Healthier and Safer committee to discuss in detail the required process.

The committee met with Kat Horner, Alzheimer's UK Dementia Action Alliance Co-ordinator (West Midlands) and was briefed about the Staffordshire and Stoke-on-Trent Dementia Action Alliance (DAA) and how Tamworth could become "dementia-friendly." The committee was informed membership is completely free and there are 3 initiatives in becoming a Dementia Friendly Community.

1. Dementia Friends Initiative – This is an Alzheimer's initiative raising awareness and understanding about dementia by organising a free, one-hour Dementia Friends awareness session to inform people and educate people so that dementia is understood.
2. Dementia Action Alliance (DAA) – This was launched in 2012 as part of the Prime Minister's Challenge on dementia and aims to improve the lives of people living with dementia and their carers through concerted action. They work with local business and organisations to see how they can become more dementia friendly, and ask them to sign up as a member of the DAA by completing a simple action plan. All that is asked is that members take steps to better support anyone living with dementia in their local area.
3. A Local Dementia Action Alliance (LDAA) is the coming together of the member organisations in a local area. This can include local businesses, high street shops, community groups, faith groups, schools, colleges, libraries, residential homes, health and social care providers as everyone can help.

Once a LDAA is formed, the organisation can then apply to the Alzheimer's DAA for recognition as a Dementia Friendly Community.

This means the organisation will have its own page listed on [www.dementiaaction.org.uk](http://www.dementiaaction.org.uk). It will be able to use the DAA logo and the "Working to become Dementia Friendly" symbol.

The organisation will have recognition as a dementia friendly business and will be part of the wider Dementia Friendly Community across Staffordshire and Stoke-on-Trent giving access to networks, support and information and it will be part of a Social Movement to bring about change, working with other organisations across the county in partnership and helping to raise community spirit.

A Question and Answer session ensued, it was confirmed that Staffordshire County Council is already a member of the Dementia Action Alliance as is South Staffordshire Council.

The Chairman asked how much it will cost Tamworth Borough Council to become a Dementia Friendly Community and Ms Horner replied that of all of the West Midlands councils who have gone through the process only one spent any money and that £2,000 to produce leaflets after the accreditation had been gained.

The committee agreed unanimously to start the process of becoming a Dementia Friendly Community but bear in mind the possible cross over implications with Staffordshire County Council (mental health services) & the Staffordshire & Stoke-on-Trent Partnership.

The Chairman agreed to take the lead and Cllr S Goodall and Cllr A Couchman offered to support; however, it may require a cabinet decision further down the line.

### **Inequality of Life Expectancy Across the Borough of Tamworth**

The committee agreed for Cllr James to meet the Chair of Aspire and Prosper Scrutiny Committee and discuss a joint scrutiny committee meeting to discuss Inequality of Life Expectancy Across the Borough of Tamworth,

## **10 March 2016**

### **Presentation by Community Pharmacy Contractors**

A presentation on the current Government consultation on proposed changes to community pharmacy with PSNC and other pharmacy and non-pharmacy bodies, including patient and public representatives will be given by Stacy Kelly on behalf of South Staffordshire and North Staffs and Stoke Pharmacy committees.

### **Dementia Update**

The committee will be updated on the ongoing process to make Tamworth a Dementia Friendly Community.

### **Inequality of Life Expectancy Across the Borough**

The committee will be updated on the scrutiny of inequality of life expectancy across the Borough.



## **Forward Plan 1 March 16 - 30 June 2016**

The forward plan for 1 March 16 - 30 June 2016 will be discussed and any additions to the work plan for the remainder of 2015-16 will be considered.

## **24 March 2016**

The agenda will be confirmed at the Healthier and Safer meeting on 10 March 2016. However, the following items will be on the agenda.

### **Dementia Update**

The committee will be updated on the ongoing process to make Tamworth a Dementia Friendly Community.

### **Inequality of Life Expectancy Across the Borough**

The committee will be updated on the scrutiny of Inequality of Life Expectancy Across the Borough.

## **Forward Plan 1 March 16 - 30 June 2016**

The forward plan for 1 March 16 - 30 June 2016 will be discussed and any additions to the work plan for the remainder of 2015-16 will be considered.

## **21 April 2016**

The agenda will be confirmed at the Healthier and Safer meeting on 10 March 2016. However, the following items will be on the agenda.

### **Dementia Update**

The committee will be updated on the ongoing process to make Tamworth a Dementia Friendly Community.

### **Inequality of Life Expectancy Across the Borough**

The committee will be updated on the scrutiny of Inequality of Life Expectancy Across the Borough.

## **Healthy Staffordshire Select Committee**

The Healthy Staffordshire Select committee have held nine committee meetings and has one meeting planned to take place before the end of the current electoral year.

The Select committee have scrutinised a wide range of health issues during 2015/16

- Hearing aid commissioning policy for the North Staffordshire Clinical Commissioning Groups
- Hearing aid commissioning policy for the South Staffordshire Clinical Commissioning Groups
- Improving Lives Programme
- End of Life and Cancer Care Programme
- Joint working between the Healthy Staffordshire Select Committee and Healthwatch
- Minor Injuries Unit at Sir Robert Peel Hospital, Tamworth and Samuel Johnson Hospital, Lichfield
- Proposed changes to the provision of specialist inpatient haematology services at Stafford County Hospital
- “Living My Life My Way” - Strategy for Disabled People
- Independent Futures
- Emotional Wellbeing and Mental Health Services Working Group - Final Report

The Healthy Staffordshire Select committee also held eight public accountability sessions during 2015/16 with the various NHS Foundation Trusts that cover the health of Staffordshire.

Two meetings each with Burton Hospitals NHS Foundation Trust and University Hospitals North Midlands NHS Trust and one each with Staffordshire and Stoke-on-Trent Partnership NHS Trust, South Staffordshire and Shropshire Healthcare NHS Foundation Trust, North Staffordshire Combined Healthcare NHS Trust and West Midlands Ambulance Service NHS Trust.

Full details of all County Council Health Select committee meetings and public accountability sessions are available on the County Council's website

<http://moderngov.staffordshire.gov.uk/mgCommitteeDetails.aspx?ID=871>



Cllr Andrew James – Chairman  
Healthier & Safer scrutiny committee

TUESDAY 15<sup>TH</sup> MARCH, 2016**REPORT OF THE PORTFOLIO HOLDER FOR COMMUNITIES AND PUBLIC HEALTH****COUNTER TERRORISM AND SECURITY ACT 2015****EXEMPT INFORMATION**

None

**PURPOSE**

To secure Council approval to adopt the proposed Prevent Strategy 2015-2017 and the underpinning action plan both contained within appendices A and B.

**RECOMMENDATIONS**

That Members approve the proposed Prevent Strategy and action plan, noting that Cabinet have previously considered the report at its meeting of the 14<sup>th</sup> January 2016 and recommended it for approval by Council.

**EXECUTIVE SUMMARY**

The Counter-Terrorism and Security Act 2015 received Royal Assent on 12 February 2015.

The Act introduced a number of measures relating to terrorism:

Part 1 introduced D provisions to impose temporary restrictions on travel;  
Part 2 covers measures related to the investigation and prevention of terrorism;  
Part 3 relates to the retention of relevant internet data;  
Part 4 introduced measures related to the aviation, shipping and rail networks;  
Part 5 of the Act introduced measures that are intended to reduce the risk of an individual being drawn into terrorism.  
Part 6 makes amendments to the Terrorism Act 2000 in relation to insurance against payments made in response to terrorist demands, and port and border controls;  
Part 7 covers other general and miscellaneous provisions related to the introduction and operation of the Act.

This report focuses on Part 5 of the Act, which introduced a general duty on authorities to have due regard to the need to prevent people from being drawn into terrorism. It also requires County Councils, in two-tier areas, to form a panel to assess and support individuals who are vulnerable to being drawn into extremism. The District Council is required to co-operate with such panels (and the police) in the carrying out of their functions.

The National Prevent Strategy has three objectives:

1. respond to the ideological challenge of terrorism and the threat faced from those who promote it;
2. prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support ; and
3. work with sectors and institutions where there are risks of radicalisation which we need to address.

The new strategy also provides a definition of extremism in the context of Prevent.

“Extremism is vocal or active opposition to fundamental British values; including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs. We also include in our definition of extremism calls for the death of members of our armed forces, whether in this country or overseas”

The Prevent strategy was explicitly changed in 2011 to deal with all forms of terrorism and with non-violent extremism, which can create an atmosphere conducive to terrorism and can popularise views which terrorists then exploit. It also made clear that preventing people becoming terrorists or supporting terrorism requires challenge to extremist ideas where they are used to legitimise terrorism and are shared by terrorist groups. And the strategy also means intervening to stop people moving from extremist (albeit legal) groups into terrorist-related activity.

Our Prevent work is intended to deal with all kinds of terrorist threats to Tamworth. The most significant of these threats nationally is currently from terrorist organisations in Syria and Iraq, and Al Qa’ida associated groups, but terrorists associated with the extreme right also pose a continued threat to our safety and security. The white supremacist ideology of extreme right-wing groups has also provided both the inspiration and justification for people who have committed extreme right-wing terrorist acts.

The Home Office has developed a DVD-based facilitated training package for delivery across the public sector to enable workers to recognise and refer those who are vulnerable to radicalisation. This training package is known as WRAP (Workshop Raising Awareness of Prevent). There is a requirement that this training be delivered by existing staff in partner agencies including the Council who have the requisite training themselves. Due to capacity issues both in the Council and with partner agencies this approach is not sustainable. The Home Office have provided a one off grant of £10K for this financial year to each local authority for local initiatives within the Prevent arena. The proposal is to develop an e learning package to provide the training which will also provide the necessary sustainability.

The Council is expected to adopt a risk-based approach to delivering the Prevent Duty. The Prevent Duty guidance issued by the Secretary of State suggests that local delivery should be underpinned by three key elements: effective leadership, working in partnership and appropriate capabilities.

The Prevent Duty guidance states that those in leadership positions are expected to:

- Establish or use existing mechanisms for understanding the risk of radicalisation;
- Ensure staff understand the risk and build the capabilities to deal with it;
- Communicate and promote the importance of the duty; and
- Ensure staff implement the duty effectively.

The Local Authority already has a number of processes in place to make sure that it has an awareness and understanding of the risk of radicalisation in its area:

- The Chief Executive receives a copy of the Counter-Terrorism Local Profile (CTLP) and any specific risks relating to Tamworth will be shared directly with the Chief Executive.
- The Authority is represented on the Staffordshire Prevent Board by the Head of Community Safety and Development and receives updates through this forum.

Section 36 of the Act requires each upper tier local authority to ensure that a panel (known as the Channel Panel) is in place with the function of assessing the extent individuals are vulnerable to being drawn into terrorism.

Channel is a multi-agency approach, led by Staffordshire County Council and Stoke-on-Trent City Council with Staffordshire Police, to provide support to individuals who are at risk of being drawn into terrorist related activity.

Channel seeks to:

- Establish an effective multi-agency referral and intervention process to identify vulnerable individuals;
- Safeguard individuals who might be vulnerable to being radicalised, so that they are not at risk of being drawn into terrorist related activity;
- Provide early intervention to protect and divert people away from the risks they face and reduce vulnerability.

It is known that violent extremists exploit vulnerabilities in individuals to drive a wedge between them, their families and their communities. As a minimum there must be information evidencing a concern that the individual is either moving towards support for terrorism, or an attraction to terrorism or a vulnerability to radicalisation.

In line with other safeguarding processes Prevent is everyone 'business'. The process is, 'notice' a member of staff has concern about an individual in relation to radicalisation, 'check' are there any reasons for the change in behaviour, 'share' discuss with Prevent/safeguarding lead or other colleague, 'refer' , if staff still has concerns contact Staffordshire Police Prevent Team

### **OPTIONS CONSIDERED**

Due to the legislative order the Council is restricted into any alternative methods of meeting our legal requirements under the Act.

### **RESOURCE IMPLICATIONS**

A training programme for all members and staff can be met by the 'one off' Government grant of £10k received this financial year

### **LEGAL/RISK IMPLICATIONS BACKGROUND**

The Prevent programme is a legal requirement under the Counter Terrorism and Security Act 2015.

Section 17 of the Crime and Disorder Act 1998 places a "duty" on the Council to exercise its various functions with due regard to the likely effect of the exercise of those functions on the need to do all that it reasonably can to prevent crime and disorder in its area.

### **SUSTAINABILITY IMPLICATIONS**

The strategy will be subject to review 2017.

### **BACKGROUND INFORMATION**

Included in executive summary

### **REPORT AUTHOR**

Dave Fern Head of Community Safety and Development

### **LIST OF BACKGROUND PAPERS**

Cabinet 14<sup>th</sup> January 2016

Counter-terrorism strategy (CONTEST) (HM Government)

<https://www.gov.uk/government/publications/counterterrorism-strategy-contest>

CONTEST, UK strategy for countering terrorism: annual report for 2014 (HM Government)  
<https://www.gov.uk/government/publications/contest-ukstrategy-for-counteringterrorism-annual-report-for-2014>

Prevent Strategy 2011 (HM Government)  
<https://www.gov.uk/government/publications/preventstrategy-2011>

Counter-Terrorism and Security Act 2015  
<http://www.legislation.gov.uk/ukpga/2015/6/contents>

Prevent Duty Guidance: for England and Wales (HM Government)  
<https://www.gov.uk/government/publications/prevent-dutyguidance>

Channel guidance (HM Government)  
<https://www.gov.uk/government/publications/channelguidance>

## **APPENDICES**

Appendix A Prevent Strategy 2015-2017  
Appendix B Prevent Delivery Plan 2015

# Tamworth Prevent Strategy 2015 – 2017

## Introduction

The threat from terrorism to the UK remains real and serious. An attack could take place at any time and any organisation could be directly or indirectly affected. Acts of terrorism vary in scale and purpose, some aim merely to inflict superficial damage or cause public distress to draw attention to a particular cause but others can be more violent and indiscriminate with far-reaching consequences.

The current threat level from international terrorism for the UK is assessed as SEVERE.

## The Counter Terrorism and Security Act and National Prevent Strategy

The Counter Terrorism and Security (CTS) Bill was introduced in the Parliament on 26<sup>th</sup> November 2014 and received Royal Assent on 12<sup>th</sup> February 2015. The provisions of the new Act are wide ranging, covering security aspects to better reduce risks from those who may be suspected of terrorism-related activities. The new legislation strengthens the application of CONTEST, the government's counter-terrorism strategy. 'Prevent' is one of the four strands of CONTEST strategy the others being Prepare (for attack), Protect (the public) and Pursue (the attackers).

The National Prevent Strategy has three objectives:

1. respond to the ideological challenge of terrorism and the threat faced from those who promote it;
2. prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support ; and
3. work with sectors and institutions where there are risks of radicalisation which we need to address.

The Home Office works with local authorities, police, health plus other public sector agencies and community organisations to deliver the Prevent Strategy.

The new strategy also provides a definition of extremism in the context of Prevent.

"Extremism is vocal or active opposition to fundamental British values; including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs. We also include in our definition of extremism calls for the death of members of our armed forces, whether in this country or overseas"

The Prevent strategy was explicitly changed in 2011 to deal with all forms of terrorism and with non-violent extremism, which can create an atmosphere conducive to terrorism and can popularise views which terrorists then exploit. It also made clear that preventing people becoming terrorists or supporting

terrorism requires challenge to extremist ideas where they are used to legitimise terrorism and are shared by terrorist groups. And the strategy also means intervening to stop people moving from extremist (albeit legal) groups into terrorist-related activity.

Our Prevent work is intended to deal with all kinds of terrorist threats to Tamworth. The most significant of these threats is currently from terrorist organisations in Syria and Iraq, and Al Qa'ida associated groups, but terrorists associated with the extreme right also pose a continued threat to our safety and security. The white supremacist ideology of extreme right-wing groups has also provided both the inspiration and justification for people who have committed extreme right-wing terrorist acts.

## **Training**

There is a National Training programme available for all agencies to access which is currently being rolled out across the County to enable frontline staff to identify signs of an individual being drawn into extremism. WRAP (Workshop to Raise Awareness of Prevent) is a key hour long briefing tool used across all sectors and a counterterrorism e learning package will be available in the future.

## **The Channel Process**

Section 36 of the Act requires each local authority to ensure that a panel (known as the Channel Panel) is in place in its area with the function of assessing the extent to which individuals are vulnerable to being drawn into terrorism, and

- to prepare a plan in respect of identified individuals who the panel considers should be offered support for the purpose of reducing their vulnerability to being drawn into terrorism;
- if the necessary consent is given, to make arrangements for support to be provided to those individuals in accordance with their support plan;
- to keep under review the giving of support to an identified individual under a support plan;
- to revise a support plan, or withdraw support under a plan, if at any time the panel considers it appropriate;
- to carry out further assessments, after such periods as the panel considers appropriate, of an individual's vulnerability to being drawn into terrorism in cases where the necessary consent is refused or withdrawn to the giving of support under a support plan, or the panel has determined that support under a plan should be withdrawn
- to prepare a further support plan in such cases if the panel considers it appropriate



The District Council is defined in the legislation as a partner of the local panel and is required to cooperate with the panel, and the police, in carrying out their functions.

Staffordshire has a Channel panel and complies with the legislation.

## **Safeguarding**

Protecting people becoming radicalised and drawn into terrorism

Is a form of safeguarding and many of the factors that increase the risk of radicalisation are the same as for other safeguarding issues such as child sexual exploitation, neglect, involvement in risky, behaviours, etc.

The Council has a duty to ensure their functions (including any that are contracted out) have regard to the need to safeguard and promote the welfare of children under Section 11 of the Children Act 2004.

Similarly, the Care Act 2014 introduced a general duty on the Local Authority to promote individuals' well-being, that includes protection from abuse and physical, mental health and emotional well-being. The Authority, therefore, needs to ensure that its discharge of its functions under the Counter-Terrorism and Security Act 2015 dovetail with its broader safeguarding arrangements.

## **Use of local authority resources**

Councils should ensure that publically owned venues and resources do not provide a platform for extremists and are not used to disseminate extremist views. This includes ensuring that IT equipment available to the general public uses filtering solutions which limits access to terrorist and extremist materials.

Where appropriate, when new contracts for the delivery of their services are being made, to ensure that the principles of the duty are written in to those contracts in a suitable form.

## **Governance Arrangements**

Locally strategy and policy will be agreed by the Tamworth Strategic Partnership having due regard to the Staffordshire Prevent Board which has all district authority representation. On going monitoring and evaluation of the Prevent action plan will be undertaken by the community safety partnership joint operations group (JOG). More timely interventions to identified individuals can be heard at the weekly Tamworth Vulnerability Partnership (TVP) this being not withstanding any referral to the Channel process.

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## Tamworth Prevent Delivery Plan 2015

This delivery plan outlines the key partnership activities that are intended to support the achievement of the three objectives of the Prevent strategy:

1. Respond to the ideological challenge of terrorism and the threat faced from those who promote it.
2. Prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support.
3. Support sectors and institutions where there are risks of radicalisation.

The delivery plan reflects the requirements of the Prevent Duty (introduced by the Counter-Terrorism and Security Act 2015)

No.	Activity	Lead / Partners	Key Milestones	Timescale	Impact / Outcomes
<b>1.</b>	<b>Partnership</b>				
1.1 Page 49	Develop and strengthen governance / communication channels between the Staffordshire Prevent Board, the Tamworth Strategic Partnership (TSP) and operational partnership arrangements (e.g. Joint Operations Group, CSP Hubs etc).	Head of Community Safety & Development	Clear communication / governance channels are agreed.  Roles / responsibilities in relation to Prevent are agreed and implemented.	April 2016	Partnership is working collectively and consistently to address risk, duplication is avoided and outcomes within the delivery plan are being achieved.
1.2	Ensure that the Staffordshire Channel Panel constitution, terms of reference, arrangements, referral process and outcomes are fully understood by all partner agencies locally.	Head of Community Safety & Development	Awareness briefing delivered at local partnership meetings e.g. JOG.  Partner organisations respond to requests for information and involvement in a timely manner.	April 2016	A wide range of agencies are making appropriate referrals to Prevent. Vulnerable individuals are appropriately supported and risks in relation to radicalisation / extremism are reduced.
1.3	To explore any links in reported hate crime	Head of Community	Liaise with CACH	Ongoing	Any links identified are

No.	Activity	Lead / Partners	Key Milestones	Timescale	Impact / Outcomes
	and incidents to the Prevent agenda, any symptoms exhibited of extremism	Safety & Development	(local hate crime organisation) to identify any trends, patterns etc.		appropriately tasked and referred.
<b>2. Community Engagement and Involvement</b>					
2.1	Raise awareness in community-based organisations about Prevent. This includes awareness of: where to seek help and advice locally, how to raise concerns and challenge agreed undesirable behaviours and how to ensure that charitable donations are not inadvertently used to support extremism.	VAST ./ Community Development Officers	Use data to identify and prioritise key communities / community groups with which to engage.  Production of communication plan.	Ongoing	Increased awareness and knowledge of Prevent.  Increase in appropriate Prevent referrals, so that vulnerable individuals are appropriately supported and risks in relation to radicalisation / extremism are reduced.
2.2	Utilise ongoing engagement with communities in order for continued awareness of ideologies present in the Tamworth area, ensure awareness of key influencers on our community and further the understanding of charities involved and members who attend community fundraising events.	VAST / All agencies	Allocation of roles and responsibilities.  Plan approved by participating partner organisations.	Ongoing	Reduction in fear of crime.  Improved community reassurance.
2.3	Raise awareness of elected members about Prevent, how they can raise concerns and where they can seek advice and help locally and support them to utilise their role as community champions / mediators to effectively engage with the community about Prevent.	Tamworth Borough Council/ Staffordshire County Council	Delivery of communication plan.	Ongoing	Communities are resilient and are empowered to tackle radicalisation and extremism.
2.4	Offer support to families in the form of educating and challenging extreme views through ongoing work with families by Local Support Teams, the BRFC programme and the FIP.	Staffordshire County Council (Tamworth) District Commissioning Lead		Ongoing	

No.	Activity	Lead / Partners	Key Milestones	Timescale	Impact / Outcomes
2.5	Identify opportunities for shared communication and marketing across the partnership, including making use of social media as a forum to promote a balanced view when high profile cases are featuring heavily in the media.	Head of Community Safety & Development		Ongoing	
<b>3. Risk Assessment / Risk Management</b>					
3.1	<p>Develop and strengthen the communication of the (Counter Terrorism Local Profiles) CTLP to all key stakeholders, to allow risks to be identified and responded to.</p> <p>The Community Safety Partnership to review risk in their local areas and develop relevant and proportionate actions to address risk.</p>	Head of Community Safety & Development	<p>Brief relevant Partners on the CTLP</p> <p>Review risk and develop relevant and proportionate actions to address these risks.</p> <p>Actions in place which include relevant and proportionate response to risks identified in CTLP.</p>	April 2016	<p>Increased awareness, understanding and ownership of risk.</p> <p>Risks identified and are responded to appropriately.</p> <p>Partnership is working collectively and consistently to address risk, duplication is avoided and outcomes within the delivery plan are being achieved.</p>
3.2	Incorporate the Prevent Duty into existing policies and procedures, so that it becomes part of day-to-day work.	Head of Community Safety & Development	<p>Identify key policies / procedures which need to include reference to Prevent Duty.</p> <p>Shared, consistent wording for policies which can be utilised across the partnership is in</p>	April 2016	Improved and joined up policies and procedures are in place, which ensure that the local response to Prevent is being implemented effectively and desired outcomes are achieved.

No.	Activity	Lead / Partners	Key Milestones	Timescale	Impact / Outcomes
			place.		
3.3	Embed referral process within operational practice to ensure that practitioners are aware of the systems that are in place to identify and refer people who may be at risk of radicalisation.	Head of Community Safety & Development/ Safeguarding Leads	Incorporate into local safeguarding training programme	December 2015	A wide range of agencies make appropriate referrals to Prevent, to ensure that vulnerable individuals are appropriately supported and risks in relation to radicalisation / extremism are reduced.
<b>4.</b>	<b>Staff Training</b>				
4.1	Establish a pool of multi-agency trained (Workshop to Raise Awareness of Prevent) WRAP facilitators who are Home Office accredited and able to deliver WRAP training.	Head of Community Safety & Development	Pool of trained, accredited WRAP facilitators in place.	April 2016	All agencies are able to access accredited, high quality training to ensure that the partnership workforce is equipped to recognise and respond to risk.
4.2	Develop Prevent Workforce Development / Training plan, which prioritises delivery based on risk and need and maximises opportunities for shared training across the partnership. Ensure this is linked with Safeguarding Board training strategies. Ensure training includes awareness of the risks and vulnerabilities associated with both international and domestic extremism and the undercurrent of Right Wing thinking particularly in the youth community.	Head of Community Safety & Development	Prevent Training Plan (which includes identification of partners in need of training and awareness) in place and being implemented.  Agreed process in place for utilising WRAP facilitators.	April 2016	Frontline staff (including contractors) have a good understanding of Prevent, are trained to recognise vulnerability to being drawn into terrorism and are aware of available programmes to deal with this issue.
<b>5.</b>	<b>Use of Resources</b>				
5.1	Ensure that appropriate safeguards / conditions are included in standard hiring / funding agreements.	Head of Leisure/ Head of Assets	Standard hiring / funding agreements include appropriate conditions and	April 2016	Publicly owned venues and resources (including IT) do not provide a platform for extremists and are not used

No.	Activity	Lead / Partners	Key Milestones	Timescale	Impact / Outcomes
			monitoring frameworks in place to ensure that these are implemented.		to disseminate extremist views.
5.2	Ensure grants, including small grants applications, require reference to how group will prevent and / or report radicalisation.	Head of Partnerships	Shared, consistent wording for contracts which can be utilised across the partnership is in place.	April 2016	
5.3	Work in partnership to continue to assess venues of note and establish any activities of concern.	Head of Community Safety & Development	Open communication and referral process.	Ongoing	
5.4	Work to identify extremist activity on the internet and attempt to combat internet radicalisation, including the development of strategies to engage with vulnerable individuals to develop an understanding of the radicalising influence of online material, its scale and prevalence.	Head of Community Safety & Development	<p>Good practice on how to address issues of radicalisers using the internet to promote extremism is shared and implemented.</p> <p>Existing e-safety programmes reflect terrorism / radicalisation as a risk to users of the internet.</p> <p>Venues with public / service user IT access (e.g. schools, libraries etc) have explored their existing e-security</p>	March 2016	

No.	Activity	Lead / Partners	Key Milestones	Timescale	Impact / Outcomes
			mechanisms and processes and made any necessary changes.		
5.5	Support third sector organisations to ensure that their governance arrangements are robust and that they have clear processes in place to ensure that funds are not inadvertently used to support extremist activity or views.	VAST		Ongoing	Third sector venues and resources do not provide a platform or inadvertently support extremists and are not used to disseminate extremist views.

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## COUNCIL

15 MARCH 2016

### REPORT OF THE SOLICITOR TO THE COUNCIL

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

##### EXEMPT INFORMATION

None

##### PURPOSE

This report advises Members of the proposed amendments to the Corporate Policy governing the Regulation of Investigatory Powers Act 2000 in light of the new requirements introduced by recent legislative change and Home Office Guidance and seeks their consideration and recommendations in relation thereto.

##### RECOMMENDATIONS

###### That the Council

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

##### EXECUTIVE SUMMARY

The Council has a number of statutory functions that involve officers investigating the conduct of others with a view to bringing legal action against them. The Council has also been given powers under the Regulation of Investigatory Powers Act 2000 (RIPA) which enable it to carry out Directed Surveillance in certain strict circumstances. RIPA provides a legal framework for the control and regulation of surveillance and information gathering techniques which public bodies such as Tamworth Borough Council have to comply with. These powers have been amended and changed in accordance with various pieces of legislation. The last change resulted in a revised RIPA Policy being approved by the Council in December 2012. The Protection of Freedoms Act 2012 now requires that local authority authorisations under RIPA for Directed Surveillance or CHIS can only become effective on the granting of an order approving the authorisation by a Justice of the Peace. Further a local authority can now only have an authorisation under RIPA for the use of Directed Surveillance where the local authority is investigating criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco under the Licensing Act 2003 of the Children

and Families Act 2014.

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

The current policy prepared in 2012 does not reflect recent changes to legislation and Home Office Codes of Practice.

The attached draft policy and protocol, the proposed changes are tracked in the document, will ensure that the acquisition and disclosure of data is lawful, necessary and proportionate, so that the Council is not held to be in breach of the Human Rights Act and that data obtained under such measures would be used to assist in the successful prosecution of relevant criminal offences. The draft policy and protocol was considered by Audit and Governance Committee on 28 January 2016 and Cabinet on 18 February 2016, they considered the changes to the RIPA policy on Directed Surveillance, Covert Human Intelligence Sources (CHIS) and Acquisition of Communications Data, were satisfied that the changes met the requirements imposed on the Council in terms of the legislation and Codes of Practice, and recommended approval.

## **OPTIONS CONSIDERED**

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

## **RESOURCE IMPLICATIONS**

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

## **LEGAL/RISK IMPLICATIONS**

Failure to follow the policy and procedure could result in the Council being open to challenge, unnecessary legal risk and ultimately responsible in damages for any breach of the Codes of Practice and Human Rights legislation. The Office of Surveillance Commissioners would also severely criticise such failure and the adverse publicity arising therefrom could damage the Council's reputation and not serve in its best interests.

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

Risk has been identified in the following areas: training of Officers, Collateral Intrusion and changes to legislation and procedures surrounding RIPA, However this has been addressed, regular training of Officers takes place, the Netconsent function and email is used to disseminate the policy and inform training events. The Solicitor

to the Council reviews the policy regularly to ensure legislative and Home Office compliance. Quarterly reports are made to Audit & Governance Committee and an annual report to full Council. Finally provision exists in the policy itself to mitigate any other associated risks.

## **SUSTAINABILITY IMPLICATIONS**

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

## **REPORT AUTHOR**

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

## **LIST OF BACKGROUND PAPERS**

Regulation of Investigatory Powers Act 2000

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

The Protection of Freedoms Act 2012

Home Office – Covert Surveillance and Property Interference Code of Practice

Home Office – Covert Human Intelligence Sources Code of Practice

## **APPENDIX 1**

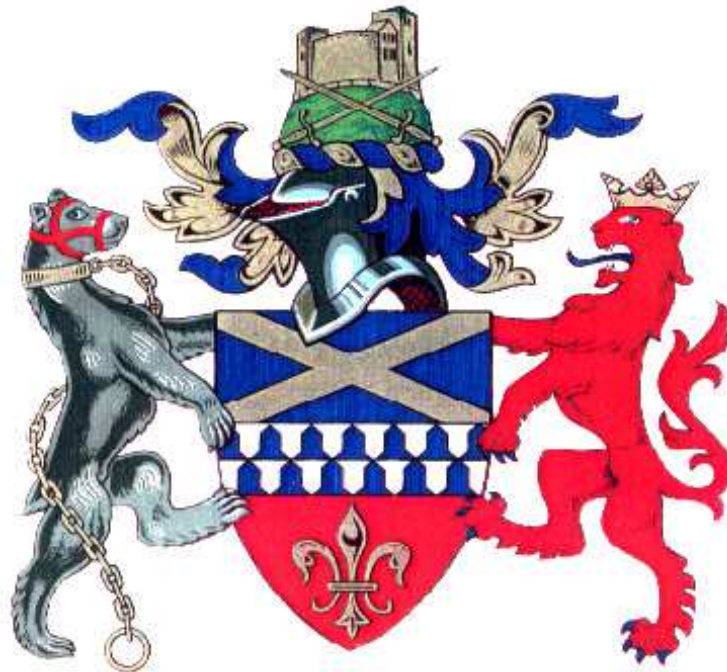
Proposed RIPA Policy and Procedure

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# TAMWORTH BOROUGH COUNCIL

## POLICY & PROCEDURE

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



Jane Marie Hackett  
Solicitor to the Council  
Tamworth Borough Council  
Policy date: Review: Revised: January 2016

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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 1<sup>st</sup> November 2012. These have been issued by the Home Office to both Local Authorities and Magistrates.

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

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

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

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

<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, following completion copies of RIPA Forms are immediately sent to the Solicitor to the Council (or any other relevant authority), that they are sent in **sealed** envelopes and marked '**Strictly Private & Confidential**'. Any failure to comply exposes the Council to unnecessary legal risk and criticism from the Office of Surveillance Commissioners. Any cancellations must be dealt with in similar manner,
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.
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 action plans recommended or approved by a Commissioner.
9. 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.
10. Quarterly reports on the use of RIPA will be considered by the Audit and Governance Committee.

## Section C

### GENERAL INFORMATION ON RIPA

1. The Human Rights Act 1998 requires the Council, and organisations working on its behalf, pursuant to Article 8 of the European Convention, to respect the private and family life of citizens, their homes and their correspondence.
2. The European Convention did not, however, make this an absolute right, but a qualified right. Accordingly, in certain circumstances, the Council may interfere in the citizen's right mentioned above, if such interference is:-
  - (a) **in accordance with the Law;**
  - (b) **necessary** in the circumstances of the particular case; **and**
  - (c) **proportionate** to what it seeks to achieve.
3. The Regulation of Investigatory Powers Act 2000 ('RIPA') provides a statutory mechanism (ie. 'in accordance with the law') for authorising **covert surveillance** and the use of a '**covert human intelligence source**' ('CHIS') – eg. undercover agents. It seeks to ensure that any interference with an individual's right under Article 8 of the European Convention is necessary and proportionate. In doing so, RIPA and this Policy and Procedure document seeks to ensure both the public interest and the human rights of individuals are suitably balanced.
4. Directly employed Council staff and external agencies working for the Council are covered by the Act for the time they are working for the Council. All external agencies must, therefore, comply with RIPA and the work carried out by agencies on the Council's behalf, must be properly authorised by one of the Council's designated Authorising Officers. They may also be inspected by the 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 Investigatory Powers Tribunal and 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. An example would be a camera inside residential premises. 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.**

### **“Necessity”**

The covert surveillance activity must be necessary in the circumstances of the particular case. The surveillance has to be necessary and required to achieve the aims of the investigation and it must fulfil the criteria required in law relating to a criminal offence or offences that are either punishable, whether on summary conviction or indictment by a maximum term of at six months imprisonment or more, or are related to the underage sale of alcohol and tobacco. The application must

explain in detail why it is necessary to use covert surveillance to achieve this aim for example why is it not possible to obtain the information from another source.

### **“Proportionality”**

This term contains three concepts:-

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

**Proportionality** involves balancing the intrusiveness of the activity on the subject and others who might be affected by it against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the circumstances of the case, or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair. The interference with the person's right should be no greater than that which is required to meet the aim and objectives.

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

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

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

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

## **Section F**

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

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

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

An example would be where a Council member of staff uses social media sites to obtain information on a person's activities. If the member of staff became a "friend" using a pseudo account to conceal their identity intending to obtain private information this is covert activity, and as such will require an authorisation for directed surveillance. However there is also the possibility that the member of staff is engaged in intrusive surveillance if the social media site connects to a room in a person's private dwelling. In addition should the member of staff engage in any form of relationship with the person s/he is likely to become a CHIS, authorisation is required and management by a Controller and Handler, records need to be kept and a risk assessment completed, care has to be taken to avoid such status drift.



## **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.

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## 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 and maintain 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 investigation will obtain confidential information;
- Whether the authorisation was granted by an individual directly involved in the investigation;
- The date approved by the Magistrate
- 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:

<b>Chief Executive</b>	Tony Goodwin
<b>Executive Director Corporate Services</b>	John Wheatley
<b>Director Assets &amp; Environment</b>	Andrew Barratt

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:** The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 (“the 2012 Order”) states that a local authority can now only grant an authorisation under RIPA for the use of **Directed Surveillance** where the local authority is investigating (1) criminal offences which attract a maximum custodial sentence of six months or more or (2) criminal offences under sections 146, 147 or 147A of the Licensing Act 2003 or sections 91 and 92 of the Children and Families Act 2014 relating to the sale of alcohol and/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 or more.

## **APPLICATION PROCESS**

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

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

The procedure is as follows;

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

The applicant will complete the relevant application form ensuring compliance with the statutory provisions shown above. The application form will be submitted to an Authorising Officer for consideration. If authorised, the applicant will also complete

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

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

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

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

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

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

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

The JP may decide to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Applications**

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

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

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

**Duration of Applications**

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

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

## **Reviews**

The reviews are dealt with internally by submitting the review form to the authorising officer. 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 and**
  - (ii) **necessary** in the circumstances of the particular case on the ground mentioned (see section on necessity at page 10) **and**
  - (iii) **proportionate** to what it seeks to achieve by acquiring such data. (see section on proportionality at page 11)
- (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 no longer provision under RIPA for urgent oral authorisations.



## 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.**

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

To obtain communication data the request must be submitted through a “Single Point of Contact” (“SPoC”). The National Anti-Fraud Network (NAFN) have been given the responsibility to act as the SPoC for all local authorities. **No Council can obtain communications data through RIPA without using NAFN.**

The role of the SPoC is to enable and maintain effective co-operation between a public authority and communications service providers in the lawful acquisition and disclosure of communications data. All SPoC officers are registered with the Home Office.

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 NAFN as the SPoC. The application process is conducted online using their system. If an investigating officer is considering making an application to obtain communications data they should contact the SPoC for advice and to complete the application process.

In completing the online 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.

“Proportionality” 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. It is regarded that there will be no collateral intrusion in relation to subscriber checks as no matter who the number is registered to they will form some part of investigative enquiries. 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 for example 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 such as itemised billing 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 online application form it is automatically forwarded to the SPoC. If the SPoC is satisfied that the application should proceed, the Application and the draft Notice to the Communications Service Provider will be electronically forwarded for consideration by an Authorising Officer<sup>1</sup>. If the SPoC decides that the application is not justified it will be rejected. If the SPoC requires further information, in order to consider the application this will be requested from the investigating officer.

The Authorising Officer must consider:

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

and

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

The Authorising Officer will complete the online 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 by the Authorising Officer it will also need approval by a Magistrate. The online forms will be completed so that NAFN can acquire the data should it be approved.

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).

## 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

## 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

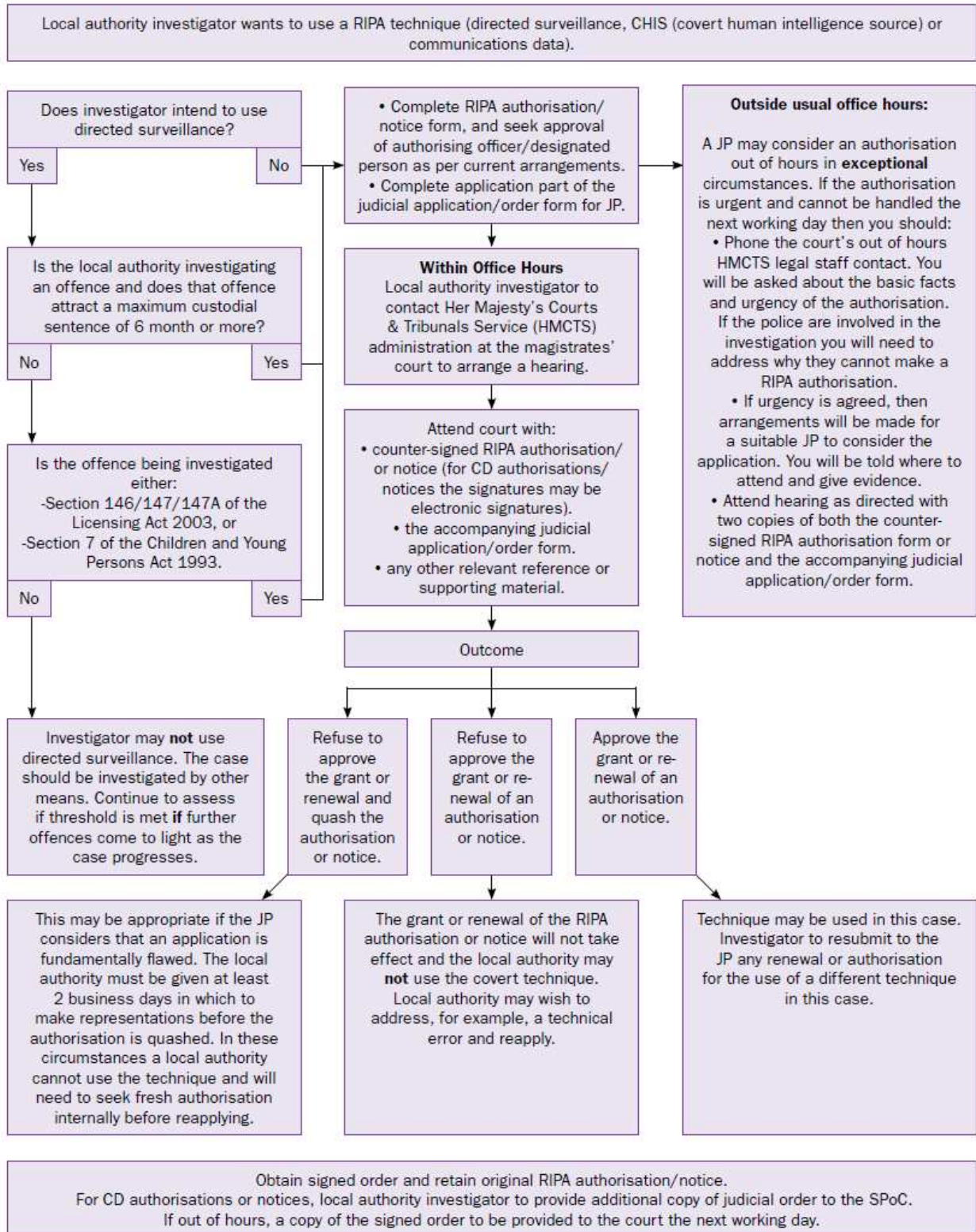
RIPA Section 22 notice to obtain communications data from communications service providers

Reporting an error by a CSP to the IOCCO

Reporting an error by a public authority to the IOCCO

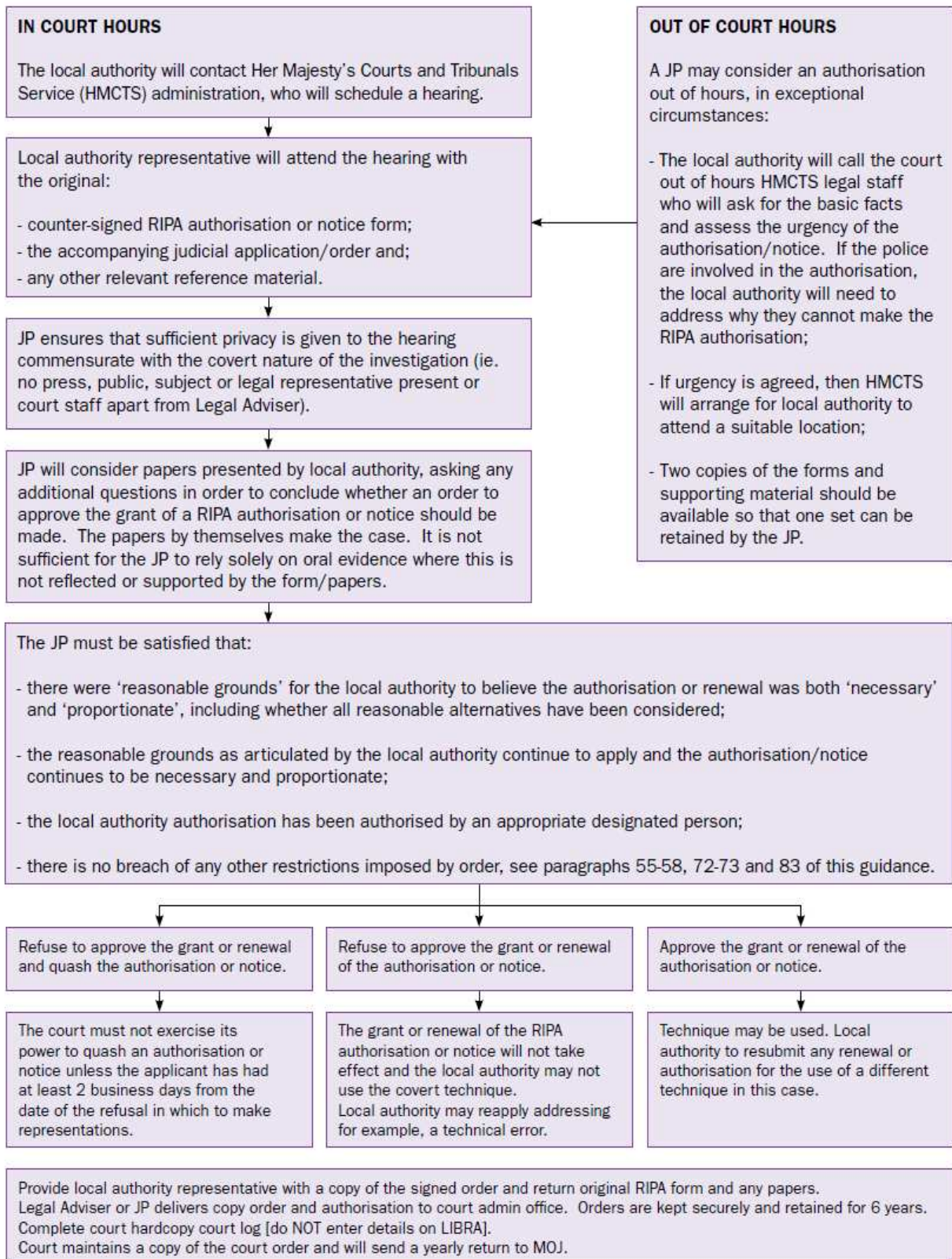
Annex A Local Authority Procedure

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 Court Procedure

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



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

Local thorty:.....

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: