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14 August 2024

AUDIT SCRUTINY COMMITTEE

A meeting of the **Audit Scrutiny Committee** will be held on **Tuesday, 27th August, 2024** in the **Council Chamber, Forde House, Brunel Road, Newton Abbot, TQ12 4XX** at **10.00 am**

PHIL SHEARS
Managing Director

Membership:

Councillors Morgan (Chair), Radford (Vice-Chair), Jackman, Purser, Thorne, Jeffries, Ryan and Steemson

Please Note: Filming is permitted during Committee meeting with the exception where there are confidential or exempt items, which may need to be considered in the absence of the press and public. By entering the Council Chamber you are consenting to being filmed.

A G E N D A

Part I

1. **Apologies for Absence**
2. **Minutes of the previous meeting** (Pages 3 - 6)
To approve and sign the minutes of the meeting held on
3. **Declarations of Interest.**
4. **Public Questions (If any)**
5. **Members Questions (if any)**
Members of the Council may ask questions of the Chairman subject to procedural rules.

The deadline for questions is no later than three clear working days before the meeting.

6. **Audit Progress and Sector Update June 2024** (Pages 7 - 22)
7. **Draft Accounts** (Pages 23 - 40)
8. **Regulation of Investigatory Powers Act (RIPA) compliance report and policy update** (Pages 41 - 88)
9. **Financial Instruction and Contract Rules Waivers** (Pages 89 - 94)
10. **Local Government (Access to Information) Act 1985 - Exclusion of Press and Public**
RECOMMENDED that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of item 11 on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraph 7 of Part 1 of Schedule 12A of the Act.

Part II: Items suggested for discussion with the press and public excluded

11. **Fraud Risk Assessment 2024** (Pages 95 - 112)
12. **Part I Items suggested for discussion with the press and public included**

To RESOLVE that the press and public be allowed into the meeting.

Part I - Items suggested for discussion with the press and public included

13. **Internal Audit Plan and Charter 2024-2025** (Pages 113 - 122)

If you would like this information in another format, please telephone 01626 361101 or e-mail info@teignbridge.gov.uk

AUDIT SCRUTINY COMMITTEE**26 JUNE 2024**Present:

Councillors Jackman, Morgan, Radford, Thorne, Jeffries, Ryan and Steemson

Apologies:

Councillors Purser

Officers in Attendance:

Martin Flitcroft, Chief Finance Officer & Head of Corporate Services

Sue Heath, Audit Manager

Christopher Morgan, Trainee Democratic Services Officer

Jack Williams, Performance Data Analyst

Graham Davey, Housing Enabling and Development Manager

13. APPOINTMENT OF CHAIR

It was proposed by Councillor Radford and seconded by Councillor Jackman that Councillor Morgan be elected as Chair of Audit Scrutiny Committee for 2024-2025.

A vote was taken – all were in favour.

Resolved

that Councillor Morgan be elected as Chair of Audit Scrutiny Committee for 2024-2025.

14. APPOINTMENT OF DEPUTY CHAIR

It was proposed by Councillor Morgan and seconded by Councillor Thorne that Councillor Radford be elected as Chair of Audit Scrutiny Committee for 2024-2025.

A vote was taken – all were in favour.

Resolved

that Councillor Morgan be elected as Chair of Audit Scrutiny Committee for 2024-2025.

15. MINUTES OF THE PREVIOUS MEETING

It was proposed by Councillor Morgan and seconded by Councillor Radford that the minutes of the previous meeting be agreed as a correct record and signed by the Chair.

A vote was taken – all were in favour.

Resolved

That the minutes of the previous meeting be agreed as a correct record and signed by the Chair.

16. DECLARATIONS OF INTEREST.

None

17. HOUSING HEALTH AND SAFETY AUDIT UPDATE

The Housing Enabling and Development Manager introduced the item.

He spoke on Housing stock, the need for social housing, compliance, and that 6 of the 11 recommendations had been implemented. 3 are underway and the last few are almost complete. He also discussed the appointment of a housing compliance officer. He informed the committee that there were 67 housing properties in the district including Gypsy and Traveller sites.

18. INTERNAL AUDIT ANNUAL REPORT

The Audit Manager introduced the item to the Committee.

She explained the audit planning process and that mutually convenient times were agreed with officers for audit work. The risk management work was still pending. Strata is audited by the Devon Audit Partnership and audit reports could be circulated to the Committee members. Post-audit satisfaction surveys were used to help identify any improvements. A fraud risk analysis was maintained to address fraud risks and were ongoing. It was suggested an item on fraud could come to a future committee meeting.

It was proposed by Cllr Morgan and seconded by Councillor Ryan that the report be noted.

A vote was taken – all were in favour

Resolved that the report be noted.

19. RISK MANAGEMENT STRATEGY

The Performance and Data Analyst introduced the item to the Committee.

He noted that few changes has occurred to the strategy since 2020. The Committee asked to hear the discussions with Executive Members regarding risk management.

It was proposed by Cllr Morgan and seconded by Councillor Thorne that the Risk Management Strategy be noted and recommended to Full Council for approval.

A vote was taken – all were in favour.

Resolved that the Risk Management Strategy be noted and recommended to Full Council for approval.

20. STRATEGIC AND CORPORATE RISK REPORT

The Performance and Data Analyst introduced the item to the Committee.

It was noted that Members non-compliance with the code of conduct was considered high risk. The Committee highlighted the importance of staff members receiving defusal training.

It was proposed by Councillor Morgan and seconded by Councillor Jackman that the report be noted.

A vote was taken – all were in favour

Resolved that the report be noted

21. ANNUAL GOVERNANCE STATEMENT 2023-2024

The Audit Manager introduced the item.

The CIPFA and SOLACE framework had been used for the governance review. Several actions were planned to address governance weakness. Members raised concerns at the Member-Officer protocol not being agreed. The Committee asked for update reports on planned actions.

It was proposed by Councillor Morgan and seconded by Councillor Jeffries that the Committee recommends to Council that the Annual Governance Statement is approved.

A vote was taken – all were in favour.

Resolved that the Committee recommends to Council that the Annual Governance Statement is approved.

The Committee also noted the Audit team were in the process of recruiting an independent member and that a glossary of terms would be attached to future agendas.

The meeting commenced at 10.00 am and finished at 12.00 pm.

Chair
Cllr Sally Morgan

Teignbridge District Council

Audit progress report and sector updates

August 2024

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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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Introduction

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This paper provides the Audit and Standards Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes a series of sector updates in respect of these emerging issues which the Committee may wish to consider.

Members of the Audit and Standards Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications:

<https://www.grantthornton.co.uk/industries/public-sector/local-government/>

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either your Engagement Lead or Engagement Manager.

Progress at August 2024

Financial Statements Audit

Background

Our work enables us to give an opinion as to whether the financial statements:

- give a true and fair view of the financial position of the audited body and its expenditure and income; and
- have been prepared properly in accordance with the relevant accounting and reporting framework as set out in legislation, applicable accounting standards and other directions.

We issued our opinion on the Council's financial statements for the year ended 31 March 2021 on 2 May 2024.

In the Audit Scrutiny Committee on 22 March 2024, we discussed the 'backstop' option for the 2021/22 and 2022/23 audits. Under the current backstop proposal, we will issue the disclaimed opinions by 13 December 2024. The current deadline for issuing the opinion on the 2023/24 financial statements is 28 February 2025 before that would also be captured under the backstop arrangements. In the following pages we set out the deliverables of how we plan to meet that deadline.

Audit status

We commenced our planning work in early 2024 and issued the Audit Plan to the Audit Scrutiny Committee in March 2024.

We plan to commence the final fieldwork stage of our audit at the end of September 2024.

Value for Money

Under the 2020 Audit Code of Practice, we are required to undertake sufficient work to satisfy ourselves that the Council "has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources."

Our initial risk assessment will build on our understanding of your arrangements, taking into account any findings from previous work on value for money. Our risk assessment is included within our Audit Plan which was taken to the March 2024 Audit Scrutiny Committee, and covers the three criteria set out in the National Audit Office's Code of Audit Practice:

- Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;
- Governance: how the body ensures that it makes informed decisions and properly manages its risks; and
- Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.

We will keep our risk assessment under continuous review. Where appropriate, we will update our risk assessment to reflect emerging risks or findings and report this to you. Our final commentary in the Auditor's Annual Report will include:

- a summary of our findings on any risks identified during our work;
- our judgements on the adequacy of the Council's arrangements for each of the three reporting criteria, as set out above;
- any recommendations made to management as a result of our work; and
- a follow up of progress against any recommendations raised in previous audits.

Our work on Value for Money has commenced and will be reported alongside the Audit Findings Report.

Progress at August 2024 (cont.)

Other areas

Certification of claims and returns

The certification of the Housing Benefits claim for 2021/22 was issued on 9 December 2023.

Our work on the 2022/23 and 2023/24 Housing Benefits claim remains on-going.

Events

We provide a range of workshops and network events, including the Chief Accountants workshop, which Officers from the Council attended in early 2024.

We will also provide technical and sector updates for the Audit Scrutiny Committee.

Audit Fees

PSAA have published their scale fees for 2023/24 [2023/24 auditor appointments and audit fee scale – PSAA](#).

For Teignbridge District Council these fees are £144,930 for the Council audit. These fees are derived from the procurement exercise carried out by PSAA in 2022. They reflect both the increased work auditors must now undertake as well as the scarcity of audit firms willing to do this work.

Meetings

During the financial year, we have met with Martin Flitcroft and Simon Arthurs and will increase the frequency of these meetings as we head into the audit period.



Audit Deliverables

Below are some of the audit deliverables planned for 2023/24.

2023/24 Deliverables	Planned Date*	Status
Audit Plan We are required to issue a detailed audit plan to the Audit Scrutiny Committee setting out our proposed approach in order to give an opinion on the Council's 2023/24 financial statements.	22 March 2024	Complete
Audit Findings Report The Audit Findings Report will be reported to the Audit Scrutiny Committee.	December 2024 - TBC	Not yet due
Auditors Report This includes the opinion on your financial statements.	December 2024 - TBC	Not yet due
Auditor's Annual Report This report communicates the key outputs of the audit, including our commentary on the Council's value for money arrangements.	December 2024 - TBC	Not yet due

*The planned dates are subject to national timetables, agreement with officers and unforeseen technical issues that may arise during the audit period. However, our expectations is to complete all necessary work by 31/12/2024

Audit Backstop - update

As we have previously updated, the Government consulted in February 2024 on a proposal to introduce a series of statutory backstops to bring the local audit system back on track. The proposals also included a series of updates to the NAO's Code of Audit Practice.

Our understanding was that the necessary regulations to enact the backstop legislation were due to be laid before Parliament prior to summer recess in July 2024. This would have enabled the legislative framework which would have enabled the 30 September 2024 backstop to be implemented.

With a new Government coming into power after the General Election in July 2024, a proposal has been made to introduce legislation which will include five further backstop dates up to and including financial year 2027/28 to allow full assurance to be rebuilt over several audit cycles. The proposed backstop dates are:

- Financial years up-to-and-including 2022/23: 13 December 2024
- Financial year 2023/24: 28 February 2025
- Financial year 2024/25: 27 February 2026
- Financial year 2025/26: 31 January 2027
- Financial year 2026/27: 30 November 2027
- Financial year 2027/28: 30 November 2028

We are working with Officers to identify appropriate Audit Scrutiny Committee dates to ensure that the sign off of the 31 March 2022, 31 March 2023 and 31 March 2024 audits is completed in advance of the relevant backstop dates.

Audit sign off as at 31 May 2024

As at the end of May, we had signed 136 audits for 2022/23, representing 65% of our local government population. We envisage achieving a 75% sign off rate by the end of September. This compares with a sign off rate for other firms at the end of May of 7% (18 audits). If the backstop is extended to the end of the year – we envisage this figure moving to 80% completion.

We had signed off 81% of our 2021/22 audits by the end of May. We envisage achieving an 85% sign off rate by the end of September. Other firms had signed off 48% of audits by the end of May.

Audit year	Grant Thornton audits signed	Grant Thornton audits signed	Other firms
	Position as at end of May 2024 (%)	Forecast position end of Sep 2024 (%)	Position as at end of May 2024 (%)
2022-23	65	75	7
2021-22	81	85	48
2020-21	92	92	81

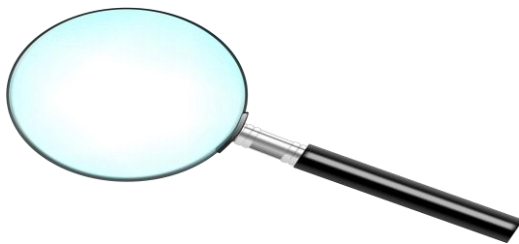
Change of external auditor – how to get the best out of new arrangements

With 2023/24 being the first year of a new five-year PSAA contract for external audit, and the year-end (31 March 2024) having just passed, many Local Authorities will now be starting to work closely with a new incoming external auditor. Audit delays from the past mean that for some Local Authorities, this will be the first close experience of working with an external auditor for several years.

When it works well, external audit can provide management with valuable insight and, at the same time, demonstrate to the public that there has been proper use of, and accounting for, public money. To get the best out of this year's audit though, many Local Authorities will need to take effective steps to close-down the prior year backlog whilst simultaneously ensuring a smooth transition between different external auditors.

A recent Local Government Association “Must know” guide on working with auditors may help with navigating the unique challenges that this year's audit cycle poses. The guide provides an oversight of internal and external audit functions and outlines what to expect from external audit, and when to expect it.

For the full guide, see [Must know guide: Working with auditors | Local Government Association](#).



Working well with a new external auditor

- **Understand the respective responsibilities of the Local Authority and the external auditor.**
- **Be open to early meetings between senior executives and the new external auditor.**
- **Understand that outgoing and incoming external auditors will need time to confer.**
- **Introduce the Head of Internal Audit.**
- **Facilitate introductions for the Audit Committee.**
- **Share the timetable and be clear about how timetable risk will be managed.**
- **Provide a named single point of contact and appropriate supporting resources.**
- **Provide early information around any new projects, including commercial projects.**
- **Provide appropriate access to IT systems and records.**
- **Respond promptly to requests for information.**
- **Ensure that all relevant staff affected by the external audit process understand what to expect and why it is important.**

LGA Improvement and Assurance Framework

On 24 May 2024 the Local Government Association (LGA) published an Improvement and Assurance Framework which is applicable to unitary, county, district and borough councils in England, and to English authorities with all types of governance system.

There has not previously been a document or framework which sets out, in one place, the various required components of local government assurance, how they all fit together, how to use them effectively and what improvement support is available to help. This framework aims to:

- 15 support councils to understand how to use the components within the framework and how they fit together;
- increase the effectiveness of assurance in the sector. While it cannot itself prevent failures, its use may reduce the risk – and costs – of statutory or non-statutory intervention, whether by Oflog, central government or other regulators;
- make it easier for local residents and businesses to understand how to hold their local authority to account.

The framework includes content on:

- A definition of assurance.
- How does accountability work?
- Components of the improvement and assurance framework.
- Working with auditors.
- Guidance on taking a structured and robust approach to considering commercial activity.

- Guidance for officers in key statutory roles and for key committees including the Audit Committee.
- How does the council hold itself to account?
- Key principles of good assurance and accountability.

The framework can be accessed here:

<https://www.local.gov.uk/publications/improvement-and-assurance-framework-local-government-0>



The State of the Locals

In April, shortly before the recent local government elections, a “State of the Locals” report found that public trust in government at all levels is falling, but that public trust in local councillors and the Local Authorities they run is still almost twice as strong as public trust in the national UK government.

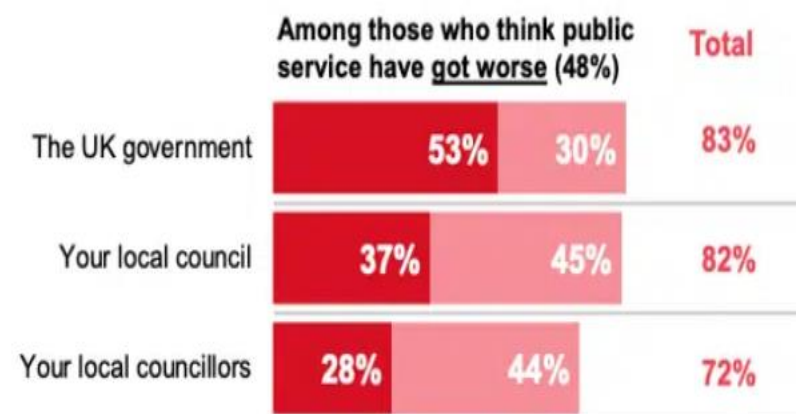
The report, published by the Local Government Information Unit (LGIU), found that the public do recognise the role that Local Authorities and their members play and do credit them when things go well. However, the report also found that the public believe services have got worse over the last five years overall; believe Local Authorities play a significant role in this (although not as great a role as the national government); and do not always understand what Local Authorities do.

For new members joining local government for the first time and for the more experienced members starting or continuing their term, it’s worth reflecting on LGIU findings. From the surveys that LGIU carried out, detailed findings show that people feel residents should be included more within decision-making processes; but there remains a low level of public awareness about what local government does.

This may be a good time to revisit communications strategies. Educating the public about the role and functions of local government, as well as the outcomes that members are actually able to achieve, might not only protect trust at its current level above national government, but also pave the way for a stronger level of trust overall in the future.

For a full copy of the LGIU report, see [The State of the Locals 2024 - LGIU](#)

State of the Locals extract: Who do the public think are responsible?



Productivity plans – new guidelines revealed and a note of caution

On 16th April 2024, Local Government Minister Simon Hoare wrote to all Local Authority Chief Executives, asking them to formally begin compiling their productivity plans. Key things for members to be aware of are:

- There is no formal template and there are no specific metrics to report;
- Four categories are proposed for consideration. These surround resources; technology; reducing wasteful spend; and the barriers preventing progress;
- Metrics and performance indicators are expected to be included in the plans, but Local Authorities can decide for themselves which ones are relevant to include;
- Plans should be three to four pages long and need to be returned to DLUHC by 19th July 2024, with members having endorsed them first; and
- For transparency, plans should then be published on the Local Authority's website, so that residents can see them and, over time, monitor progress.

Whilst this may feel like additional burden, there will presumably be scope for using key performance indicator metrics already available.

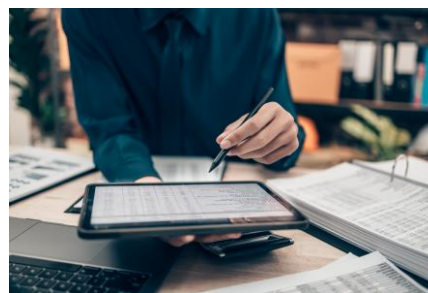
The current intention of government is not to use Productivity Plans for rating or scoring or for league tables, but rather to inform policy considerations in the future. However, most Councils will remember that the Times recently used Office for Local Government data to compile and publish its own league table, so far without any redress from national government.

For Productivity Plan metrics, as for any other performance indicators, it will be important to be clear about what drives the metrics. Whether for a three-to-four-page productivity plan or for any other domain, simply obtaining data isn't enough. Understanding the data, explaining it to residents, and acting on it is ultimately what matters most.

For recent comments from the Local Government Lawyer on Simon Hoare's letter to Chief Executives and on the Times's league table see:

[Government reveals guidelines for new council 'productivity plans' \(localgovernmentlawyer.co.uk\)](https://localgovernmentlawyer.co.uk/government-reveals-guidelines-for-new-council-productivity-plans/)

[Councils cry foul after Oflog data used for Times article on 'worst-performing councils' \(localgovernmentlawyer.co.uk\)](https://localgovernmentlawyer.co.uk/councils-cry-foul-after-oflog-data-used-for-times-article-on-worst-performing-councils/)



Housing and homelessness – continuing crisis and a new reform

The Levelling-Up, Housing and Communities (LUHC) Committee published a report on the finances and sustainability of the social housing sector on 29th April 2024, arguing that the Government needs to deliver 90,000 more social homes for rent each year to alleviate the “continuing chronic shortage” of social housing.

Just one day later, latest quarterly statistics on statutory homelessness and households in temporary accommodation were released. They made for sobering reading when compared with equivalent quarterly statistics from the previous year, underlining the real affect that our shortage of housing is having:

- 4.8% increase in overall initial assessments for homelessness year on year;
- 15.8% increase in households owed a relief duty this year compared to last;
- 15.3% increase in households owed a main homelessness duty;
- 12.1% increase in households in temporary accommodation;
- 15% increase in households with children in temporary accommodation.

For short term responses to homelessness, the February 2024 announcement that the Government would top up local authority homelessness prevention grants by £109 million will doubtless be helpful, as perhaps could be some certainty around the future of no-fault eviction laws. For a long-term solution though, addressing the supply of housing stock itself may still the best means of addressing the root cause of homelessness issues.

A new reform came into effect on the same day that homelessness statistics were published. Since 30th April, Local Authorities have been empowered to buy land for development through using Compulsory Purchase Orders without paying inflated ‘hope value’ costs. ‘Hope value’ estimates the cost land could be worth if it was developed on in the future, often meaning that Local Authorities have been forced to pay potentially thousands more to buy the land they need for housing and/ or have become entrenched in protracted disputes.

Housing and homelessness are complex areas and there is unlikely to be any quick fix solution. The new reform may help stimulate the building activity needed to address at least one part of the problem though, and in this respect is likely to be welcome.

For a full copy of the LUHC Committee report, see

[The Finances and Sustainability of the Social Housing Sector \(parliament.uk\)](https://www.parliament.uk/publications/2024/04/levelling-up-housing-and-communities-committee-report-on-the-finances-and-sustainability-of-the-social-housing-sector/)

For the latest statistics on homelessness and households in temporary accommodation, see [Statutory homelessness in England: October to December 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/statutory-homelessness-in-england-october-to-december-2023)

For details of the new reform around hope values, see [New powers for councils to help build more affordable homes - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/new-powers-for-councils-to-help-build-more-affordable-homes)

Design for life – the smart regeneration journey to 2030

Leading think tank Localis published an analysis of local regeneration policy on 8th May 2024, making a series of recommendations to national government around how best to develop the public realm over the rest of this decade.

Localis highlighted that local regeneration projects, particularly in urban areas, are key to addressing the national housing crisis; national net zero targets; and national health aspirations.

Recommendations that the report called on national government to implement included:

- Return to strategic regional planning;
- Establish regional planning offices;
- Provide single revenue and capital budgets to Local Authorities instead of splitting the budgets;
- Stop loosening regulation over council asset sales;
- Mandate that local and regional development plans will include carbon assessments and promote urban sites;
- Provide long term financial settlements, to reduce fiscal uncertainty and encourage public-private partnership; and
- For health and wellbeing aspects of regeneration, base additional funding on demographic profiles.

Localis described local authorities as “the hinge around which regeneration actors revolve.” Whilst their recommendations would require changes in national policy, there are best practice questions that Local Authorities can be asking themselves now:

- Is our planning department properly financed?
- Are our regeneration goals sufficiently balanced across housing, carbon and community health needs?
- Do we have effective ongoing relationships with partners so that we can leverage short term funds quickly when they do become available?
- Can we scale up capacity for regeneration by pooling leverage with local NHS bodies, the third sector and community organisations?

For a full copy of the Localis report, see

<https://www.localis.org.uk/research/design-life-smart-regeneration-journey-2030/>



Simpler Recycling – new rules to be aware of

The Department for Environment, Food and Rural Affairs (DEFRA) announced on 9th May 2024 that simpler recycling rules are going to be introduced. Local Authorities are likely to be required to comply by 2026. The new rules aim to simplify recycling processes and boost recycling rates, although they have met with significant criticism.

To be ready for compliance with the new rules, Local Authorities need to prepare for:

Standardisation:

All Local Authorities in England will be required to collect a consistent set of recyclable materials: Plastics; Glass; Metals; Paper and Card; and Food Waste. The intention is to remove uncertainty and variation around the country about what can and cannot be recycled.

A three-bin arrangement:

'Dry recycling' items such as cardboard and paper, tins and glass will be collected in one bin. Organic waste (food and garden) will be collected in a second bin. Residual (non-recyclable) waste will be collected in a third.

Weekly and fortnightly requirements:

Food waste collection will be required weekly. Local Authorities will be required to collect residual waste on a fortnightly basis, even if at present they have already successfully transitioned to a three-weekly cycle.

Critics have pointed out that mixed dry recycling may contaminate paper and lead to less of it being recycled; whilst the move away from three weekly residual waste collection in favour of a fortnightly residual waste collection is likely to reduce recycling overall. Nevertheless, the reform has been passed and Local Authorities will need to be ready. Important steps to take now are:

- Review and update the Waste Management Strategy;
- Engage with finance business partners to ensure that activity will be accurately recorded and, in turn, translated to relevant new funding claims;
- Explore whether the changes in themselves generate new income opportunities; and
- Assess the readiness of contract delivery partners.

For DEFRA's comments on the reform, see [Simpler bin collections for England to boost recycling - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/simpler-bin-collections-for-england-to-boost-recycling)



Audit Committee resources

The Audit Committee and organisational effectiveness in local authorities (CIPFA):

<https://www.cipfa.org/services/support-for-audit-committees/local-authority-audit-committees>

LGA Regional Audit Forums for Audit Committee Chairs

These are convened at least three times a year and are supported by the LGA. The forums provide an opportunity to share good practice, discuss common issues and offer training on key topics. Forums are organised by a lead authority in each region. Please email ami.beeton@local.gov.uk LGA Senior Adviser, for more information.

Public Sector Internal Audit Standards

<https://www.gov.uk/government/publications/public-sector-internal-audit-standards>

Code of Audit Practice for local auditors (NAO):

<https://www.nao.org.uk/code-audit-practice/>

Governance risk and resilience framework: material for those with a leadership responsibility on good governance (CfGS):

<https://www.cfgs.org.uk/material-for-those-with-a-leadership-responsibility-on-good-governance/>

The Three Lines of Defence Model (IAA)

<https://www.theiia.org/globalassets/documents/resources/the-iias-three-lines-model-an-update-of-the-three-lines-of-defense-july-2020/three-lines-model-updated-english.pdf>

Risk Management Guidance / The Orange Book (UK Government):

<https://www.gov.uk/government/publications/orange-book>

CIPFA Guidance and Codes

The following all have a charge, so do make enquiries to determine if copies are available within your organisation.

Audit Committees: Practical Guidance For Local Authorities And Police

<https://www.cipfa.org/policy-and-guidance/publications/a/audit-committees-practical-guidance-for-local-authorities-and-police-2022-edition>

Delivering Good Governance in Local Government

<https://www.cipfa.org/policy-and-guidance/publications/d/delivering-good-governance-in-local-government-framework-2016-edition>

Financial Management Code

<https://www.cipfa.org/fmcode>

Prudential Code

<https://www.cipfa.org/policy-and-guidance/publications/t/the-prudential-code-for-capital-finance-in-local-authorities-2021-edition>

Treasury Management Code

<https://www.cipfa.org/policy-and-guidance/publications/t/treasury-management-in-the-public-services-code-of-practice-and-crosssectoral-guidance-notes-2021-edition>



Teignbridge District Council
Audit Scrutiny
27 August 2024
Part i

2023/24 DRAFT FINAL ACCOUNTS & TREASURY MANAGEMENT

Purpose of Report

To introduce Members to the draft final accounts for 2023/24. Update on the latest treasury management lending list and draft results for 2023/24.

Recommendation(s)

The Audit Scrutiny Committee note:

- (1) That the draft statement of accounts for 2023/24 have been published**
- (2) The current authorised lending list at appendix 1**
- (3) The draft treasury management results for 2023/24 at appendix 2**

Financial Implications

The financial implications are contained throughout the report. The main implication is that the accounts have been closed and general reserves are slightly above the budgeted level anticipated at 31 March 2024 - £2.434 million. See section 3.

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Legal Implications

See section 7 – the Accounts and Audit Regulations 2015 set out the requirements for the production and publication and audit of the annual statement of accounts.

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Risk Assessment

Major risks are summarised in section 6. The most significant of these is the level of future funding from Central Government and the level of reserves held to meet future unexpected variations in income.

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Environmental/ Climate Change Implications

The revenue budget supports the funding of a Climate Change Officer and associated budget – see section 9.

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Report Author

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Executive Member

Councillor Richard Keeling – Executive Member for Resources

Appendices/Background Papers

Appendix 1 – Treasury management lending list
Appendix 2 – Draft Treasury management results 2023/24

1. PURPOSE

- To introduce Members to the draft statement of accounts for 2023/24
- To report the latest treasury management lending list as shown in Appendix 1
- To report on the draft financial results of the treasury management function for the year ended 31 March 2024 as shown in Appendix 2

2 BACKGROUND

- 2.1** The accounts and audit regulations 2015 set out the requirements for the production and publication of the annual statement of accounts. The statement usually has to be produced and certified by the chief finance officer by 31 May however the Covid 19 pandemic has triggered amendments to this deadline by extending this to the end of July for 2021/22. The regulations have since been amended and reverted to 31 May as the target date for production of the 2022/23 and 2023/24 statement of accounts. These changes failed to recognize the additional demands of the external auditors who increased the challenge and robustness around use of and reliance on estimates within the numbers when producing the accounts by such a date when the reversion was proposed. The LGA requested that the date for production be re-set to a more realistic date of 30 June but this was ignored by the previous Government and CIPFA. We published the accounts on 14

June for 2023/24 slightly earlier than 2022/23 accounts which were published at the end of June 2023. The accounts currently have to be approved by 30 September 2024. The incoming Government have now announced updated dates to clear the back log of accounts audits with 28 February 2025 being the new back stop date for 2023/24.

- 2.2** The statement of accounts and financial records for 2021/22 and 2022/23 have yet to be audited by our external auditors Grant Thornton. This was due to audit resourcing issues which are being addressed and has been an issue across the country for a significant number of audits. We understand that with the Government proposals to introduce revised backstop dates for the audit of the two years 2021/22 and 2022/23 it will result in these two years accounts not being audited. The backstop date proposed subject to legislation is 13 December 2024 for the years 2021/22 and 2022/23. Grant Thornton is required to provide the opinion on the 2023/24 statement of accounts by 30 September 2024 with a back stop date of 28 February 2025 with sign off ultimately being by referral to a Full Council meeting. Grant Thornton have advised that they will commence their audit in the Autumn.
- 2.3** The availability of the accounts and records for inspection by interested persons has been advertised on the website www.teignbridge.gov.uk/statementofaccounts see Draft Statement of Accounts 2023/24. This also advises that the external auditor will be accessible to receive in writing any objections to the accounts from 17 June 2024 to 26 July 2024.
- 2.4** An updated treasury management statement and authorised lending list was approved at the 2024 February budget meeting. This was based on the latest edition of the treasury management code published by the Chartered Institute of Public Finance & Accountancy (CIPFA). The statement is detailed in section 4 below and is shown for information at Appendix 1.

3 DRAFT STATEMENT OF ACCOUNTS 2023/24

- 3.1** The draft statement of accounts has been certified by Martin Flitcroft as the responsible finance officer and is available on the website. www.teignbridge.gov.uk/statementofaccounts see public inspection notice Audit of Accounts 31 March 2024 in the downloads section. The final version will be brought to the next appropriate meeting of Audit Scrutiny Members with further explanation for consideration and recommendation to Council once we know that the audit has been completed.
- 3.2** A brief explanation and overview of the figures is given in the narrative statement on pages 8 to 21. Capital expenditure and details of property, plant and equipment are given in the balance sheet on page 32 and relevant notes 14 to 16 and 23 from page 65. Reserves are shown on the balance sheet and analysed on page 31. The draft closing general reserves at 31 March 2024 of £2.434 million are an improvement on the original budget of £134,000 but also reflect the February 2024 budget proposals to increase general reserves to

£2.4 million. Savings have also been identified as part of the continuing reaction to the budgetary issues to deal with likely shortfalls over the medium term financial plan which have been added to earmarked reserves.

- 3.3** An analysis of the variations to original budget is contained within the narrative statement. These have arisen mainly because of the increase in income from leisure memberships and other leisure income, however others have reduced e.g. planning application fees. Interest received on investment income was significantly higher due to the increased interest rates. Savings were made in expenditure in many areas including staffing, training, water, rates, fuel, leasing and audit fees. Some costs have risen including bed and breakfast costs, contractors costs, purchase/maintenance of equipment and other miscellaneous costs. Further Government grants were received to assist with new burdens.

The summary of net savings to the original budget set for 2023/24 is detailed below and reconciled to the detail in the narrative statement on page 13 of the draft 2023/24 statement of accounts.

The surplus funds include underspends and income not spent which have been moved to earmarked reserves and also additional funds to allow the general reserve balance to increase to £2.434 million.

Rates payable (£0.315) million
Staffing costs (£0.193) million
Audit fees (£0.102) million
Fuel costs (£0.253) million
Leisure membership income (£0.090) million
Interest received (£1.059) million
Contractors costs £0.251 million
Planning application income £0.108 million
Bed & breakfast costs £0.195 million
Miscellaneous cost £0.225 million
Purchase/maintenance of equipment £0.130 million
Repairs and maintenance £0.069 million
Electric/gas £0.061 million
Other costs £0.145 million
Business rates income/pooling gain (£0.657) million
New burdens/other grant movements £0.093 million

Total (favourable) variance (£1.392) million

The Modern 25 agenda contributed to the underspend including reduction in grants paid, increases in income for concessions & other income, reducing marketing and advertising, increasing the CIL income allocation to revenue, using grants received to fund substantive posts etc.

The probable budget approved in February 2024 assumed a £200,000 use of the earmarked funding reserve for 2023/24. Savings were made to ensure this

reserve was untouched at 31 March 2024 and an invest to save reserve could be set up as recommended by the recent Peer review.

The savings compared to probable budget included salaries, business rates, audit fees, leasing costs, fuel and increased income from interest received and leisure membership fees. These savings were partially offset by additional costs for repairs & maintenance, bed and breakfast costs, contractors services, purchase/maintenance of equipment, reductions in other fees and charges e.g. planning fees and sales

4. TREASURY MANAGEMENT AUTHORISED LENDING LIST (Appendix 1)

4.1 The authorised treasury management lending list was approved at the 2024 February budget meeting. Officers continue to monitor all ratings to ensure they meet the Council's lending criteria.

4.2 The lending list has been updated for the latest ratings and is included at appendix 1. Yorkshire Building Society has moved from Tier 3 to Tier 2.

5. TREASURY MANAGEMENT RESULTS 2023/24 (Appendix 2)

- The financial results of the treasury management function are reported to Council in accordance with the Chartered Institute of Public Finance and Accountancy 'Treasury Management Code 2021'. Teignbridge's lending has been carried out in accordance with its defined strategy and with adherence to its restricted list of approved investment institutions. There was no long term borrowing in 2023/24. Current forecasts do not anticipate long-term external borrowing during 2024/25 or 2025/26, however this is dependent on the rate of progress of capital schemes.
- The Council's treasury team continue to use internal borrowing in order to minimise interest costs. As at the end of 2023/24, the capital financing requirement (CFR) (underlying need to borrow) was £22.6 million. By using existing balances to fund this internally during 2023/24 rather than borrowing externally, the Council saved around £86,971 over the year. This is based on the cost of borrowing 50% of CFR at the PWLB's 2023/24 average 10-year certainty rate and 50% at the 2023/24 average 25-year certainty rate (less potential interest earned at the average rate of 4.88%). Any borrowing which is undertaken will be in line with the Council's prudential indicators and treasury management strategy which were approved at the February 2024 Council budget meeting.
- The average funds available for investment decreased in 2023/24 by £1.2 million to £39.7 million, from £40.9 million in 2022/23. This is mainly due to an increase in capital financing requirement (internal borrowing) of £1.5m.
- Net interest earned has increased from £792,870 in 2022/23 to £1,936,259 in 2023/24. The average rate achieved was 1.94% in 2022/23 and 4.88% in

2023/24. The Bank of England's base rate increased three times during the year, from 4.25% as at 01 April 2023 to 5.25% by March 2024.

- At the August 2024 Bank of England Monetary Policy Committee (MPC) meeting, there was the first reduction interest rates since March 2020, with base rate reduced to 5.00%. The bank cautioned that rates will not be cut "too quickly or too much" and that policy would "remain restrictive for sufficiently long until the risks to inflation returning to the 2% target had dissipated further". Economic forecasts show further cuts to base rate, which is anticipated to be at 4.5% by December 2024 and around 3% by the end of 2025.
- Following the withdrawal of LIBOR rates, the benchmark being used is now the compounded 12-month SONIA (Sterling Overnight Index Average), which represents the actual rates at which banks lend to one another. For 2022/23, this rate was 2.2435%. In 2023/24 this was 5.07%. The slightly lower Teignbridge average is reflective of the need to keep a proportion of investments liquid in order to manage day to day cash-flow.
- Full details of draft treasury management results and prudential indicators are shown in Appendix 2.

6. RISKS

The major risks to be aware of are around future funding and the adequacy of reserves going forward. General reserves are maintained at a value higher than originally budgeted and earmarked reserves have been increased to help deal with future forecast funding changes and potential reductions in income. Further clarity is required on the level of Government support. These risks may impact on the performance of treasury management and borrowing levels moving forward.

Preparation and approval of the accounts are required by the Accounts and Audit Regulations 2015 and if these regulations are not adhered to the auditors could qualify the accounts.

7. MAIN IMPLICATIONS

The implications members need to be aware of are as follows:

7.1 Legal

The Financial Accounts for 2023/24 need to be produced and audited in accordance with the Accounts & Audit Regulations 2015.

Monitoring and reporting of the treasury management results is required by the CIPFA Treasury Management Code.

7.2 Resources

The report notes that general reserves have been increased to a level higher than originally budgeted at 31 March 2024 and interest earned in 2023/24 from treasury management has increased significantly from that obtained in 2022/23.

8. GROUPS CONSULTED

The draft accounts have been advertised as available for inspection and are available on the website. We await the commencement of the audit work required by the external auditors.

9. ENVIRONMENTAL/CLIMATE CHANGE IMPACT

The revenue budget supports the appointment of a climate change officer and associated budget.

10. DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)

10.00 a.m. on 3 September 2024

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TEIGNBRIDGE DISTRICT COUNCIL TREASURY MANAGEMENT:
AUTHORISED LENDING LIST FROM 27 AUGUST 2024

The current authorised lending list has been updated to take account of changes in ratings and banks and is shown below for approval. The list applies both to investments made direct with counterparties and those placed via agency or custody arrangements with third parties such as treasury advisors or financial management companies. The use of such arrangements provides access to a wider range of counterparties (all of which must be included on the list below and assessed on the same security criteria).

Specified Investments

Type of Lender	Details	
1. Current Banker	Lloyds Bank	£3,000,000 limit
2. Local Authorities	All	No limit
3. UK Debt Management Office Deposit Facility (UK government AA-/Aa3/AA rated) no limit.		
4. UK Treasury Bills (UK government AA-/Aa3/AA rated) no limit.		
5. Top UK-registered Banks and Building Societies, subject to satisfactory ratings. Updated below to reflect information provided by treasury advisors.		

Institution	Tier	90 day limit	180 day limit	364 day limit	Overall limit
		£	£	£	£
Handelsbanken plc	1	3,000,000	2,000,000	1,000,000	3,000,000
HSBC Bank plc	1	3,000,000	2,000,000	1,000,000	3,000,000
Lloyds Bank plc and Bank of Scotland plc	1	3,000,000	2,000,000	1,000,000	3,000,000
Nationwide Building Society	1	3,000,000	2,000,000	1,000,000	3,000,000
NatWest Bank	1	3,000,000	2,000,000	1,000,000	3,000,000
Royal Bank of Scotland	1	3,000,000	2,000,000	1,000,000	3,000,000
Santander UK plc	1	3,000,000	2,000,000	1,000,000	3,000,000
Close Brothers Ltd	2	2,000,000	1,000,000		2,000,000
Coventry Building Society	2	2,000,000	1,000,000		2,000,000
Skipton Building Society	2	2,000,000	1,000,000		2,000,000
Standard Chartered Bank	2	2,000,000	1,000,000		2,000,000
Sumitomo Mitsui Banking Corporation Europe Ltd	2	2,000,000	1,000,000		2,000,000
Yorkshire Building Society	2	2,000,000	1,000,000		2,000,000
Clydesdale Bank	3	1,000,000			1,000,000
Goldman Sachs International Bank	3	1,000,000			1,000,000
Leeds Building Society	3	1,000,000			1,000,000
Principality Building Society	3	1,000,000			1,000,000

TEIGNBRIDGE DISTRICT COUNCIL TREASURY MANAGEMENT:
AUTHORISED LENDING LIST FROM 27 AUGUST 2024

6. Money market funds, subject to maintenance of AAAmf rating.		
CCLA Public Sector Deposit Fund	AAAmmf	£3,000,000 limit
Abrdn Liquidity Fund	AAAmmf	£3,000,000 limit
Blackrock Liquidity Fund	AAAmmf	£3,000,000 limit
LGIM Liquidity Fund	AAAmmf	£3,000,000 limit
Morgan Stanley Liquidity Fund	AAAmmf	£3,000,000 limit
7. Non-specified: CCLA Property and Diversified Income Funds - £2,000,000 limit		

Bank regulations force banks to maintain “capital buffers”, classifying their deposits according to duration. Instant access accounts and short deposits are not attractive to banks as they cannot be counted towards those buffers. For this reason, interest rates on most “call” accounts remain low.

Other Non-specified investments

These will be considered on a case-by case basis, using the decision-making framework laid out in the Commercial Strategy and the requirements of the Prudential Code and Statutory Guidance on Investments and Minimum Revenue Provision.

Investments which may be considered include

Renewable energy/social impact investments

On-lending to key partners/stakeholders in relation to jointly beneficial projects

Lending in instances where doing so would protect the local economy

Teignbridge District Council Treasury Management Year End Review 2023-24

Teignbridge District Council has adopted CIPFA's *Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes 2021 Edition*. One of the requirements is the provision of a year-end report of treasury management activities.

Activities Undertaken: Daily lending and borrowing from 1 April 2023 to 31 March 2024:

Fixed lending

Shaded rows indicate start or end dates falling into other years. Interest shown relates to those days in 2023-24.

Borrower	Rate (%)	Amount	Start date	End date	Days	Interest (£)
Nationwide	1.46	1,000,000	11/05/2022	10/05/2023	39	1,560.00
London Borough Of Haringey	3.17	3,000,000	21/09/2022	20/09/2023	172	44,814.25
Debt Management Office	3.845	1,500,000	03/02/2023	19/04/2023	18	2,844.25
Cheshire East Council	3.85	3,000,000	15/03/2023	19/04/2023	18	5,695.89
Debt Management Office	3.845	500,000	09/02/2023	06/04/2023	5	263.36
Debt Management Office	3.865	1,000,000	13/02/2023	19/04/2023	18	1,906.03
Debt Management Office	3.86	1,500,000	15/02/2023	19/04/2023	18	2,855.34
Debt Management Office	3.89	1,000,000	20/02/2023	19/04/2023	18	1,918.36
Debt Management Office	3.925	1,000,000	27/02/2023	19/04/2023	18	1,935.62
Debt Management Office	3.985	500,000	01/03/2023	09/05/2023	38	2,074.38
Debt Management Office	3.995	1,500,000	01/03/2023	25/05/2023	54	8,865.62
Debt Management Office	3.95	3,000,000	15/03/2023	28/04/2023	27	8,765.75
London Borough of Barking & Dagenham	4.45	1,000,000	15/03/2023	25/05/2023	54	6,583.56
Debt Management Office	4.1	1,000,000	28/03/2023	25/05/2023	54	6,065.75
Debt Management Office	4.1	4,000,000	03/04/2023	22/05/2023	49	22,016.44

Appendix 2

Borrower	Rate (%)	Amount	Start date	End date	Days	Interest (£)
Debt Management Office	4.05	500,000	04/04/2023	21/04/2023	17	943.15
Debt Management Office	4.11	2,000,000	05/04/2023	25/05/2023	50	11,260.27
Debt Management Office	4.06	500,000	06/04/2023	21/04/2023	15	834.25
North Lanarkshire Council	4.28	3,000,000	17/04/2023	15/03/2024	333	117,143.01
Debt Management Office	4.05	2,000,000	17/04/2023	19/04/2023	2	443.84
Debt Management Office	4.06	1,000,000	17/04/2023	24/04/2023	7	778.63
Debt Management Office	4.135	2,000,000	17/04/2023	25/05/2023	38	8,609.86
Debt Management Office	4.165	1,000,000	19/04/2023	25/05/2023	36	4,107.95
Debt Management Office	4.28	1,000,000	28/04/2023	19/06/2023	52	6,097.53
Debt Management Office	4.305	2,000,000	02/05/2023	19/06/2023	48	11,322.74
Debt Management Office	4.31	1,000,000	02/05/2023	23/06/2023	52	6,140.27
Debt Management Office	4.205	1,000,000	03/05/2023	23/05/2023	20	2,304.11
Debt Management Office	4.275	1,000,000	09/05/2023	22/05/2023	13	1,522.60
Debt Management Office	4.13	1,000,000	10/05/2023	12/05/2023	2	226.30
Debt Management Office	4.35	1,000,000	11/05/2023	12/05/2023	1	119.18
Debt Management Office	4.35	1,000,000	11/05/2023	15/05/2023	4	476.71
Debt Management Office	4.38	2,000,000	12/05/2023	03/07/2023	52	12,480.00
Nationwide	4.63	1,000,000	15/05/2023	13/05/2024	322	40,845.48
Debt Management Office	4.415	6,000,000	15/05/2023	03/07/2023	49	35,561.92
Debt Management Office	4.45	1,500,000	22/05/2023	19/07/2023	58	10,606.85
Debt Management Office	4.38	1,000,000	23/05/2023	25/05/2023	2	240.00
Debt Management Office	4.525	1,000,000	31/05/2023	19/07/2023	49	6,074.66
Debt Management Office	4.525	1,000,000	01/06/2023	21/07/2023	50	6,198.63
Debt Management Office	4.57	4,000,000	01/06/2023	08/08/2023	68	34,055.89

Appendix 2

Borrower	Rate (%)	Amount	Start date	End date	Days	Interest (£)
Debt Management Office	4.38	1,000,000	15/06/2023	19/06/2023	4	480.00
Debt Management Office	4.4	1,000,000	15/06/2023	23/06/2023	8	964.38
Debt Management Office	4.525	500,000	15/06/2023	30/06/2023	15	929.79
Debt Management Office	4.675	5,000,000	15/06/2023	08/08/2023	54	34,582.19
Debt Management Office	4.67	1,000,000	20/06/2023	08/08/2023	49	6,269.32
London Borough of Barking & Dagenham	5.35	2,000,000	26/06/2023	24/11/2023	151	44,265.75
Debt Management Office	4.94	1,500,000	03/07/2023	14/08/2023	42	8,526.58
Debt Management Office	5.11	1,000,000	11/07/2023	11/09/2023	62	8,680.00
Debt Management Office	4.88	500,000	17/07/2023	31/07/2023	14	935.89
Debt Management Office	5.07	2,000,000	17/07/2023	21/08/2023	35	9,723.29
Debt Management Office	5.075	1,000,000	17/07/2023	23/08/2023	37	5,144.52
Debt Management Office	5.085	500,000	17/07/2023	25/08/2023	39	2,716.64
Debt Management Office	5.14	3,000,000	17/07/2023	14/09/2023	59	24,925.48
Debt Management Office	5.135	1,000,000	24/07/2023	14/09/2023	52	7,315.62
Debt Management Office	5.145	1,000,000	31/07/2023	14/09/2023	45	6,343.15
Debt Management Office	5.15	5,000,000	01/08/2023	14/09/2023	44	31,041.10
Debt Management Office	5.145	2,000,000	15/08/2023	19/09/2023	35	9,867.12
Debt Management Office	5.155	1,000,000	15/08/2023	22/09/2023	38	5,366.85
Debt Management Office	5.16	500,000	15/08/2023	25/09/2023	41	2,898.08
Debt Management Office	5.175	2,500,000	15/08/2023	29/09/2023	45	15,950.34
Debt Management Office	5.205	1,500,000	15/08/2023	09/10/2023	55	11,764.73
Debt Management Office	5.235	1,000,000	15/08/2023	19/10/2023	65	9,322.60
Debt Management Office	5.26	1,000,000	18/08/2023	19/10/2023	62	8,934.79

Appendix 2

Borrower	Rate (%)	Amount	Start date	End date	Days	Interest (£)
Debt Management Office	5.26	1,000,000	22/08/2023	19/10/2023	58	8,358.36
Debt Management Office	5.255	2,000,000	25/08/2023	19/10/2023	55	15,836.99
Debt Management Office	5.255	500,000	30/08/2023	19/10/2023	50	3,599.32
Debt Management Office	5.255	3,000,000	31/08/2023	19/10/2023	49	21,163.97
Debt Management Office	5.245	4,000,000	01/09/2023	19/10/2023	48	27,590.14
Debt Management Office	5.24	1,000,000	15/09/2023	29/09/2023	14	2,009.86
Debt Management Office	5.29	1,500,000	15/09/2023	23/10/2023	38	8,261.10
Debt Management Office	5.3	1,500,000	15/09/2023	27/10/2023	42	9,147.95
Debt Management Office	5.315	1,500,000	15/09/2023	06/11/2023	52	11,358.08
Debt Management Office	5.335	2,500,000	15/09/2023	20/11/2023	66	24,117.12
Debt Management Office	5.19	4,000,000	20/09/2023	22/09/2023	2	1,137.53
Debt Management Office	5.19	1,000,000	22/09/2023	24/11/2023	63	8,958.08
Lloyds	5.3	1,000,000	22/09/2023	20/09/2024	192	27,879.45
Nationwide	5.26	1,000,000	22/09/2023	19/03/2024	179	25,795.62
Debt Management Office	5.17	1,000,000	25/09/2023	29/09/2023	4	566.58
Debt Management Office	5.195	1,000,000	02/10/2023	23/11/2023	52	7,401.10
Debt Management Office	5.2	4,000,000	02/10/2023	24/11/2023	53	30,202.74
Debt Management Office	5.2	1,000,000	10/10/2023	24/11/2023	45	6,410.96
Debt Management Office	5.215	2,500,000	16/10/2023	24/11/2023	39	13,930.48
Debt Management Office	5.22	1,500,000	16/10/2023	04/12/2023	49	10,511.51
Debt Management Office	5.23	2,000,000	16/10/2023	19/12/2023	64	18,340.82
Debt Management Office	5.24	2,500,000	16/10/2023	04/01/2024	80	28,712.33
Debt Management Office	5.19	1,000,000	20/10/2023	19/12/2023	60	8,531.51
Debt Management Office	5.185	1,000,000	27/10/2023	04/01/2024	69	9,801.78

Appendix 2

Borrower	Rate (%)	Amount	Start date	End date	Days	Interest (£)
Debt Management Office	5.19	5,000,000	01/11/2023	04/01/2024	64	45,501.37
Debt Management Office	5.19	1,000,000	02/11/2023	04/01/2024	63	8,958.08
Debt Management Office	5.17	500,000	13/11/2023	23/11/2023	10	708.22
Debt Management Office	5.19	500,000	13/11/2023	22/01/2024	70	4,976.71
Debt Management Office	5.18	1,000,000	15/11/2023	29/12/2023	44	6,244.38
Debt Management Office	5.18	1,000,000	15/11/2023	22/01/2024	68	9,650.41
Debt Management Office	5.18	1,000,000	15/11/2023	23/01/2024	69	9,792.33
Debt Management Office	5.18	1,500,000	15/11/2023	29/01/2024	75	15,965.75
Debt Management Office	5.18	3,000,000	15/11/2023	09/02/2024	86	36,614.79
Lloyds	5.38	500,000	15/11/2023	10/01/2024	56	4,127.12
Debt Management Office	5.17	1,000,000	16/11/2023	24/11/2023	8	1,133.15
London Borough of Barking & Dagenham	5.45	2,000,000	24/11/2024	26/02/2024	94	28,071.23
Debt Management Office	5.17	1,000,000	21/11/2023	24/11/2023	3	424.93
Debt Management Office	5.18	500,000	01/12/2023	04/01/2024	34	2,412.60
Debt Management Office	5.18	5,000,000	01/12/2023	09/02/2024	70	49,671.23
Debt Management Office	5.19	500,000	05/12/2023	22/12/2023	17	1,208.63
Debt Management Office	5.19	1,000,000	15/12/2023	22/12/2023	7	995.34
Debt Management Office	5.2	2,500,000	15/12/2023	09/02/2024	56	19,945.21
Debt Management Office	5.2	2,000,000	15/12/2023	19/02/2024	66	18,805.48
Debt Management Office	5.2	1,500,000	15/12/2023	23/02/2024	70	14,958.90
Debt Management Office	5.19	1,000,000	19/12/2023	20/12/2023	1	142.19
Debt Management Office	5.19	1,000,000	22/12/2023	15/03/2024	84	11,944.11
Debt Management Office	5.19	3,000,000	02/01/2024	15/03/2024	73	31,140.00
Debt Management Office	5.19	1,000,000	3702/01/2024	19/03/2024	77	10,948.77

Appendix 2

Borrower	Rate (%)	Amount	Start date	End date	Days	Interest (£)
Debt Management Office	5.19	1,000,000	02/01/2024	22/03/2024	80	11,375.34
Blackpool Council	5.55	3,000,000	15/01/2024	19/04/2024	77	35,124.66
Lloyds	5.19	500,000	10/01/2024	12/02/2024	33	2,346.16
West Berkshire Council	5.63	1,000,000	15/01/2024	17/06/2024	77	11,876.99
Debt Management Office	5.18	3,000,000	15/01/2024	19/04/2024	77	32,783.01
Santander	5.3	1,000,000	16/01/2024	15/01/2025	76	11,035.62
Debt Management Office	5.18	1,500,000	29/01/2024	25/03/2024	56	11,921.10
Debt Management Office	5.18	500,000	01/02/2024	11/03/2024	39	2,767.40
Debt Management Office	5.18	3,000,000	01/02/2024	19/04/2024	60	25,545.21
Debt Management Office	5.18	1,000,000	09/02/2024	19/04/2024	52	7,379.73
Debt Management Office	5.19	500,000	15/02/2024	08/04/2024	46	3,270.41
Debt Management Office	5.19	1,500,000	15/02/2024	22/04/2024	46	9,811.23
Debt Management Office	5.19	1,000,000	15/02/2024	23/04/2024	46	6,540.82
Debt Management Office	5.19	1,500,000	15/02/2024	26/04/2024	46	9,811.23
Lloyds	5.25	500,000	20/02/2024	27/03/2024	36	2,589.04
Debt Management Office	5.19	1,000,000	26/02/2024	28/02/2024	2	284.38
Debt Management Office	5.19	1,000,000	01/03/2024	19/04/2024	31	4,407.95
Debt Management Office	5.19	2,500,000	01/03/2024	26/04/2024	31	11,019.86
Debt Management Office	5.19	1,000,000	05/03/2024	30/04/2024	27	3,839.18
Debt Management Office	5.19	1,000,000	15/03/2024	27/03/2024	12	1,706.30
Debt Management Office	5.185	500,000	21/03/2024	30/04/2024	11	781.30
Debt Management Office	5.185	500,000	25/03/2024	30/04/2024	7	497.19
Lloyds	5.29	500,000	27/03/2024	30/04/2024	5	362.33

Sub-total fixed lending

£1,564,547.39

Appendix 2

Deposits were also made into the following call accounts and money market funds, dependent upon cash flow:

Bank	Account terms	Interest Earned £
Santander UK plc	2.56% - 3.31%	12,781.17
Public Sector Deposit Fund	4.1223% - 5.3052%	149,816.21
Lloyds Call account	4.16% - 5.14%	59,498.91
Aberdeen Standard	4.0554% - 5.3131%	149,607.51
Lloyds plc deposit/current account	0.01%	7.97
Sub-total call accounts and money market funds		£371,711.77
Grand total all lending		£1,936,259.16

Temporary Borrowing 1 April 2023 to 31 March 2024:

Lender	Terms %	Amount lent £	Dates	Days lent in year	Interest paid in year £
Lloyds Bank	Base + 1%	Variable	Overdraft agreement	0	0.00

Teignbridge District Council Interim Performance Report for the Period 1 April 2023 to 31 March 2024

	Apr-Mar 2022-23	Apr-Mar 2023-24
(i) Short Term Funds Invested		
Interest received and receivable for the period	£792,870	£1,936,259
Maximum period of investment on any one loan made in the period (loans roll into 2023-24*)	364 days*	333 days
"Fixed" investment rates in period.	0.55% - 4.45%	4.05% - 5.63%
(ii) Short Term Funds Borrowed		
Interest paid and payable for the period	£0	£0
Number of new "fixed" loans borrowed in the period	0	0
Maximum period of borrowing on any one "fixed" loan borrowed in the period.	0	0
"Fixed" borrowing rates.	n/a	n/a
(iii) Average Net Interest Rate Earned 39	1.94%	4.88%

(iv) **Average Short Term Net Lending**

£40,879,114

£39,713,330

Regular Monitoring

Monthly reports are prepared for the Chief Finance Officer which forecast interest payable and receivable for the year. The Chief Finance Officer presents a monthly report to CMT and updates the Executive Committee on a quarterly basis. These reports include any policy updates, such as changes to the official lending list, based on the latest ratings information. Full council receives an annual review and strategy statement and a mid-year review.

Total net interest received in 2023-24 was £1,936,259. This compares to £792,870 in 2022-23. This increase was due to higher interest rates, as average funds held decreased (attributable to an increase in internal borrowing for capital expenditure). Average interest rates increased from 1.94% in 2022-23 to 4.88% in 2023-24. Base rate increased as follows during the year, as raising interest rates is the main measure employed by the Bank of England (BOE) to suppress inflation:

Rate as at 01/04/23	4.25%
11/05/23	4.50%
22/06/23	5.00%
03/08/23	5.25%

The compounded 12-month SONIA (Sterling Overnight Index Average) rate as at 31 March 2024 was %. 5.07%.

Treasury Management Indicators

These are part of the Prudential Indicators, as agreed at Full Council on 27 February 2024. They are available on request or on the Teignbridge website agenda for that meeting.

**Teignbridge District Council
Audit Scrutiny
27 August 2024
Part 1**

**REGULATION OF INVESTIGATORY POWERS ACT (RIPA)
COMPLIANCE REPORT and POLICY UPDATE**

Purpose of Report

- To advise members of any instances in which the Council has used its powers under RIPA, and
- to seek members approval for minor amendments to the Council's RIPA Surveillance Policy and Procedures.

Recommendation(s)

The Audit Scrutiny Committee is recommended to approve the updated RIPA Surveillance Policy and Procedures.

Financial Implications

None.

Legal Implications

None. The Council is meeting its statutory duty to maintain RIPA procedures and report on its use of the powers.

Risk Assessment

The risks of breaching the RIPA are very low as the Council has not, and is unlikely to use it.

Environmental / Climate Change Implications

None.

Report Author

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Executive Member

Councillor Richard Keeling – Executive Member for Resources

1. INTRODUCTION / BACKGROUND

- 1.1 The Regulation of Investigatory Powers Act 2000 (RIPA) regulates the use and methods of surveillance carried out by public bodies.
- 1.2 Local authorities, including Teignbridge, may only carry out covert surveillance where this is directed and not intrusive, and is in relation to an offence which is punishable with a custodial sentence of at least 6 months (or would be an offence under the Licensing Act i.e. sales of alcohol to underage children).
- 1.3 The Council is therefore very unlikely to make use of its RIPA powers, and consequently no RIPA applications have been made or authorised since our Housing Benefit investigation functions were transferred to the Department for Work and Pensions, pre-2014.
- 1.4 In accordance with the RIPA Code of Practice we must nevertheless, maintain internal procedures, should the situation change and the need for surveillance arise.

2. RIPA SURVEILLANCE POLICY AND PROCEDURE

- 2.1 As mentioned, in order to remain “RIPA ready” and to ensure officers are aware of what types of activity may require authorisation, it is important that policies and procedures remain current and relevant.
- 2.2 An updated Surveillance Policy and Procedures is therefore appended for members’ approval. Tracked changes are shown to identify minor changes. These are mainly around the need to ensure officers are cautious in their use of the internet and social media sites to conduct checks, and also to add

clarification around members of the public volunteering information to the Council as part of our normal functions (e.g. use of the report a fraud form or other enforcement activities). Further details can be seen in the document.

- 2.3 Our processes are also due to be examined in a forthcoming inspection by the Investigatory Powers Commissioner's Office (IPCO) and members will be updated on the outcome of that review.

3. CONCLUSION

The Council has not used its RIPA powers since 2014.

Members are asked to approve the minor amendments to the Surveillance Policy and Procedures as shown.

4. GROUPS CONSULTED

Not applicable.

5. DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)

Not applicable.

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THE REGULATION OF INVESTIGATORY POWERS ACT 2000

(RIPA)

SURVEILLANCE POLICY & PROCEDURES

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Date: December 2004

Amended June and September 2006; October 2007; June 2008; May 2009; June 2009; October 2010; October 2011; March 2013; June 2013; reviewed August 2014; January 2015, November 2017, January 2018, August 2024.

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Appendix 1 - List of Authorising Officer Posts

Appendix 2 - RIPA Flow Chart

Appendix 3 - RIPA A Forms: Directed Surveillance

Appendix 4 - RIPA B Forms: Covert Human Intelligence Source (CHIS)

Appendix 5 – Covert surveillance and property interference code of practice

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

Appendix 6 – Covert human intelligence sources code of practice

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

NB:

The Regulation of Investigatory Powers Act 2000 ('RIPA') refers to 'Designated Officers'. For ease of understanding and application within Teignbridge District Council, this Corporate Policy & Procedures Document refers to 'Authorising Officers'. For the avoidance of doubt, all references to duly certified Authorising Officers refer to 'Designated Officers' under RIPA.

ACKNOWLEDGEMENTS:

- (1) *The Council is most grateful to the Assistant Commissioners of the Office of Surveillance Commissioners:*
- a) *His Honour the late Lord Colville of Culross for conducting an audit of the Council's policy and procedures in November 2003 and June 2006;*
 - b) *His Honour Dr. Colin Kolbert for conducting an audit of the Council's policy and procedures in May 2009;*
 - c) *Mr Neil Smart for conducting audits of the Council's policy and procedures in October 2011 & October 2014*
 - d) *Mr Paul Gration for conducting an audit of the Council's policy and procedures in February 2018*
 - e) *Mr Graham McCrory MBE for conducting and audit of the Council's policy and procedures in March 2021*
 - f) *and for their most instructive and helpful comments which have supported the reviews of the Council's Corporate Policy Procedures Document.*
- (2) *The Council acknowledges with thanks the work carried out by Birmingham City Council in preparing and reviewing their RIPA policy which was originally used as a basis for its Policy by Teignbridge District Council.*

1. Introduction

- 1.1 This Policy is based upon the requirements of the Regulation of Investigatory Powers Act 2000 ('RIPA') and Home Office's Codes of Practice on Covert Surveillance and Covert Human Intelligence Sources (covert surveillance should be used only rarely and in exceptional circumstances), and the Office of Surveillance Commissioners Procedures and Guidance. The codes should be consulted, from time to time, to ensure this Document remains up to date.

[RIPA codes - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

- 1.2 Since the implementation of RIPA, important provisions have been implemented which state that local authority Authorising Officers may not authorise Directed Surveillance unless it is for the purpose of preventing or detecting a criminal offence which is punishable by a maximum term of **at least 6 months' imprisonment** (subject to certain exceptions). The requirement to **obtain judicial approval** for authorisations and renewal of authorisations has also been introduced. These are set out in detail in Section 2.
- 1.3 The authoritative position on RIPA is the Act itself and any Officer who is unsure about any aspect of this Document should contact the ~~Business Lead for Environment, Health and Wellbeing~~ Chief Finance Officer and Head of Corporate Resources who is also **Senior Responsible Officer** for RIPA, for advice and assistance. The role of the Senior Responsible Officer is to be responsible for the integrity of the process to authorise directed surveillance within the Council, to ensure compliance with the provisions of RIPA, to engage with the Commissioners and inspectors when they conduct their inspections and where necessary, overseeing the implementation of any post-inspection plans recommended or approved by a Commissioner. The Senior Responsible Officer should be a member of the "corporate strategic leadership team" (~~The Senior Responsible Officer is the Business Lead for Environment, Health and Wellbeing and a member of the corporate leadership team~~) and should be responsible for ensuring that all authorising officers are of an appropriate standard in light of any recommendations in the inspection reports prepared by the Office of Surveillance Commissioners, and ensuring that any concerns are addressed. Appropriate training and development (including refresher training) will be organised and training given to investigating officers, Authorising Officers, and other senior managers.
- 1.4 The Senior Responsible Officer will maintain and check the Central Register of all RIPA authorisations, reviews, renewals, cancellations and rejections. The relevant Authorising Officer will send the Senior Responsible Officer (through the ~~Legal Administrative Assistant~~ Audit and Information Governance Manager) the original forms of authorisation, review, renewal, cancellation or rejection as soon as reasonably practicable after completion, but in any event within five working days including (where appropriate) the necessary approval from the Magistrates' Court (see 1.2 above and Part 2 below) for entry in the Central Record, oversight and secure filing. Surveillance practitioners should work from copies.

- 1.5 RIPA and this Document are important for the effective and efficient operation of the Council's actions with regard to covert surveillance and Covert Human Intelligence Sources. This Document will, therefore, be kept under review by the Senior Responsible Officer. Authorising Officers are requested to bring any suggestions for continuous improvement of this Policy to the attention of the Senior Responsible Officer either directly or through the Council's Enforcement Forum.
- 1.6 If you are in any doubt about RIPA, this document or the related legislative provisions, please consult the Senior Responsible Officer.
- 1.7 In terms of monitoring e-mails and internet usage, it is important to recognise the important interplay and overlaps with the Council's e-mail and internet policies and guidance, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Data Protection Act ~~1998~~ 2018 and its Codes of Practice. Under normal circumstances, the Council's e-mail and Internet policies should be used, as any surveillance is likely to be more relevant under the contract of employment terms as opposed to RIPA.
- 1.8 **At no time should the Council undertake any surveillance that interferes with any private property, e.g. residential property or private vehicle. Local Authorities are not permitted to authorise the placing of tracking devices on a person or in a private vehicle. Please consult the Senior Responsible Officer for further guidance or clarification in relation to this paragraph. However, circumstances may arise that involve some degree of trespass in order to conduct surveillance activity (e.g. placing recording devices). If any trespass is being considered during the course of surveillance the matter should be referred to the Senior Responsible Officer as a matter of urgency.**

2. Changes to the Local Authority Surveillance Regime

1st November 2012 saw two important changes to the local authority surveillance regime come into force. These were recommended by the [Home Office Review](#) into counter-terrorism and security powers (published on 26th January 2011). Before the 2010 General Election, both coalition partners promised to overhaul Regulation of Investigatory Powers Act 2000 (RIPA) which regulates, amongst others, local authorities when conducting covert surveillance and accessing communications data. They argued that such surveillance was often used to investigate minor offences and in a disproportionate manner. ~~(see also the latest [Big Brother Watch Report](#)).~~

2.1 Magistrates' Approval

The Protection of Freedoms Act 2012 came into force on 1st November 2012. Chapter 2 of Part 2 of the 2012 Act (sections 37 and 38) amends RIPA so as to require local authorities to obtain the approval of a Magistrate for the use of any one of the three covert investigatory techniques available to them under RIPA namely Directed Surveillance, the deployment of a Covert Human Intelligence Source (CHIS) and accessing communications data. An approval is also required if an authorisation to use such techniques is being renewed. In each case, the role of the Magistrate is to ensure that the correct procedures have been followed and the relevant factors have been taken account of. The new provisions allow the Magistrate, on refusing an approval of an authorisation, to quash that authorisation.

Section 38 of the 2012 Act makes provision for Magistrates' approval of local authority authorisations for the use of Directed Surveillance and the deployment of a CHIS. It does this via by adding a new section 32A to Part 2 of RIPA.

Directed Surveillance ~~is often used to be~~ conducted by local authorities to investigate housing benefit fraud, however, since this service was transferred to the DWP under the Single Fraud Investigation Service in 2014, the likelihood of the council using RIPA has considerably reduced. (See Serious Offence test below). ~~amongst other things, investigate a benefit fraud or to collect evidence of anti-social behaviour. Typical methods include covertly following people, covertly taking photographs of them and using hidden cameras to record their movements. A typical example of a CHIS, in a local authority context, is an informant using his relationship with his employer to regularly disclose information about benefit fraudsters working in a factory.~~

From 1st November 2012, the internal authorisation for such surveillance methods is not to take effect until such time (if any) as a Magistrate has made an order approving it (section 32A(2)). Approval can only be given if the Magistrate is satisfied that:

- (a) There were reasonable grounds for the authorising officer approving the application to believe that the Directed Surveillance or deployment of a CHIS was necessary and proportionate and that there remain reasonable grounds for believing so.

- (b) The authorising officer was of the correct seniority within the organisation i.e. a Director, Head of Service, Service Manager or equivalent as per the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010/521) (“the 2010 Order”).
- (c) The granting of the authorisation was for the prescribed purpose, as set out in the 2010 Order i.e. preventing or detecting crime *(and satisfies the Serious Offence Test for Directed Surveillance (see below))*.
- (d) Any other conditions set out in any order under Part 2 of RIPA is satisfied (none at present).

In addition to the above, where the authorisation is for the deployment of a CHIS, the Magistrate must be satisfied that:

- (e) The provisions of section 29(5) have been complied with. This requires the local authority to ensure that there are officers in place to carry out roles relating to the handling and management of the CHIS as well as the keeping of records (as per the Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000/2725)).
- (f) Where the CHIS is under 16 or 18 years of age, the requirements of the Regulation of Investigatory Powers (Juveniles) Order 2000 (SI 2000/2793) have been satisfied. This sets out rules about parental consent, meetings, risk assessments and the duration of the authorisation. Note that the authorisation of such persons to act as a CHIS must come from the Managing Director.
- (g) Where the application is for the renewal of a CHIS authorisation, a review has been carried out by the local authority and the Magistrate has considered the results of the review.

The ~~new~~ provisions make it clear that the authorising officer is not required to apply in person and there is no need to give notice to either the subject of the authorisation or their legal representatives (Section 32B(2)). This reflects the covert nature of the exercise of the investigatory powers under RIPA.

Section 10 of this policy explains the procedure and form for seeking Magistrates’ approval.

2.2 Directed Surveillance and the Serious Crime Test

The Home Office Review also recommended that where local authorities wish to use RIPA to authorise Directed Surveillance, this should be confined to cases

where the offence under investigation is a serious offence. This recommendation was put into effect by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2012, SI 2012/1500](#). ~~which was made in June.~~

The 2012 Order amends the [Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010, SI 2010/521](#) ("the 2010 Order"), which prescribes which officers, within a public authority, have the power to grant authorisations for the carrying out of Directed Surveillance and the grounds, under Section 28(3) of RIPA, upon which authorisations can be granted. At present local authorities have one ground; where it is necessary "for the purpose of preventing or detecting crime or preventing disorder" (Section 28(3)(b)).

From 1st November 2012, local authority Authorising Officers may not authorise Directed Surveillance unless it is for the purpose of preventing or detecting a criminal offence and it meets the condition set out in the New Article 7A(3)(a) or (b) of the 2010 Order. Those conditions are that the criminal offence which is sought to be prevented or detected is punishable, whether on summary conviction or on indictment, by a maximum term of **at least 6 months of imprisonment**, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

2.3 Communications Data (important - see further section 8)

Chapter 2 of Part 1 of RIPA allows local authorities, as well as others, to access communications data about an individual from any Communications Service Provider (CSP) (e.g. a telephone or mobile phone service provider).

Once again, an authorisation or notice to obtain communications data from a CSP shall not take effect until a Magistrate has made an order approving it. The magistrate must be satisfied that:

- (a) There were reasonable grounds for the Designated Person (the person authorising the obtaining of the data) within the local authority to believe that obtaining communications data was necessary and proportionate and that there remain reasonable grounds for believing so.
- (b) The Designated Person was of the correct seniority within the local authority in accordance with the Regulation of Investigatory Powers (Communications Data) Order 2010 (SI 2010/480) i.e. Director, Head of Service, Service Manager or equivalent.
- (c) The granting or renewal of the application was only for the prescribed type of communications data to be acquired for the prescribed purpose as set out in the above Order (i.e. subscriber and service use data (e.g. mobile phone subscriber information

and itemised call records) to be acquired only for the purpose of preventing or detecting crime or preventing disorder).

- (d) Any other conditions set out in an order made by the Secretary of State under Chapter 2 of Part 1 of RIPA are satisfied (none at present).

3. Operation of the Policy and Authorising Officer Responsibilities

- 3.1 It is essential that Chief Officers and Authorising Officers in their Service Areas, take personal responsibility for the effective and efficient operation of this Policy.
- 3.2 [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010 \(SI 2010 No. 521\)](#) states that the Authorising Officer for a local authority can be a Director, Head of Service, Service Manager or equivalent.
- 3.3 Authorising Officers who have been duly certified should ensure relevant members of their staff are also suitably trained as 'Applicants' so as to avoid common mistakes appearing on Forms for RIPA authorisations. Training ~~dates are set and are available through the Corporate Training Programme.~~ *Ad hoc* arrangements can be made by contacting the Senior Responsible Officer.
- 3.4 Authorising Officers should ensure that staff who report to them follow this Policy and do not undertake or carry out any form of surveillance without first obtaining the relevant authorisations in compliance with this Policy.
- 3.5 Authorising Officers should 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 s/he is satisfied the health and safety of Council employees/agents are suitably addressed and/or risks minimised, so far as is possible, and proportionate to/with the surveillance being proposed. If an Authorising Officer is in any doubt, s/he should obtain prior guidance from his/her Chief Officer, the District Council's Health & Safety Officer and/or the Senior Responsible Officer.
- 3.6 Authorising Officers must acquaint themselves with the relevant Codes of Practice issued by the Home Office regarding RIPA. Any failure to comply exposes the Council to unnecessary legal risks and criticism from the Office of Surveillance Commissioners. Cancellations must be promptly dealt with.
- 3.7 Coming across **confidential information** during a surveillance must be given prior thought before any applications are authorised, as failure to do so may invalidate the admissibility of any evidence obtained. Thought must be given before any forms are signed to the retention and disposal of any material obtained under a RIPA Authorisation. Where there is any possibility of confidential information being obtained through covert surveillance, the application must be authorised by the Managing Director.
- 3.8 The current time limits for an authorisation are 3 months for Directed Surveillance. A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by a Magistrate.

- 3.9 Applications for renewals should not be made until shortly before the original authorisation period is due to expire but local authorities must take account of factors, which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a Magistrate to consider the application.
- 3.10 The Authorising Officer must ensure proper regard is had to **necessity and proportionality** before any forms are signed. 'Stock phrases' or cut and paste narrative must be avoided at all times as the use of the same may suggest that insufficient detail had been given to the particular circumstances of any person likely to be the subject of the claim. Any **equipment** to be used in any approved surveillance must also be properly controlled, recorded and maintained for audit purposes. Further detailed information relating to necessity and proportionality is contained in this guidance at Sections 6.13 and 6.14.

4. General Information on RIPA

- 4.1 The Human Rights Act 1998 (which brought much of the European Convention on Human Rights and Fundamental Freedoms 1950 into UK domestic law) 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 home and correspondence.
- 4.2 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** (see Sections 6.13 and 10.10); **and**
 - (c) **proportionate** (see Sections 6.14 and 10.10).
- 4.3 It is fundamental to all authorisations that they are granted before any activity takes place and thus, before anyone can tell what will happen or has happened. In other words, the need for an authorisation has to be judged at the time of authorisation, not with the benefit of hindsight. (the "Kinloch" judgement (Kinloch v Her Majesty's Advocate (2012) UK56 62).
- 4.4 The Regulation of Investigatory Powers Act 2000 ('RIPA') provides a statutory mechanism (i.e. 'in accordance with the law') for authorising covert surveillance and the use of a 'covert human intelligence source' ('CHIS') – e.g. undercover agents. It also permits Public Authorities to compel telecommunications and postal companies to obtain and release communications data to themselves, in certain circumstances. Please see section on Communications Data at Section 8. 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 seeks to ensure both the public interest and the human rights of individuals are suitably balanced.
- 4.5 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. Authorising Officers are those whose posts appear in **Appendix 1** to this Document.
- 4.6 If the correct procedures are not followed, evidence may be disallowed by the courts, a complaint of maladministration could be made to the Ombudsman, and/or the Council could be ordered to pay compensation. Such action would not, of course, promote the good reputation of the Council and will, undoubtedly, be the subject of adverse press and media interest. It is essential, therefore, that all involved with RIPA comply with this Document and any further guidance that may be issued, from time to time, by the Senior Responsible Officer.

- 4.7 A flowchart of the procedures to be followed for Directed Surveillance appears at **Appendix 2**.

5. What RIPA Does and Does Not Do

5.1 RIPA does:

- require prior authorisation of directed surveillance;
- prohibit the Council from carrying out intrusive surveillance;
- compel disclosure of communications data from telecom and postal service providers (See Section 8);
- require authorisation of the conduct and use of a CHIS;
- require safeguards for the conduct and use of a CHIS;
- permit the Council to obtain Communications records from Communications service providers.

5.2 RIPA does not:

- make unlawful conduct which is otherwise lawful;
- prejudice or dis-apply 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, it does not affect the Council's current powers to obtain information via the DVLA or to get information from the Land Registry as to the ownership of a property.

5.3 **If the Authorising Officer or any Applicant is in any doubt, s/he should ask the Senior Responsible Officer BEFORE any directed surveillance is authorised, renewed, cancelled or rejected.**

If a CHIS is being considered the advice of the Senior Responsible Officer must always be sought before any authorisation is given and renewal, cancellation or rejection of any authorisation given.

6. Types of Surveillance

6.1 'Surveillance' includes

- monitoring, observing, listening to persons, watching or following their movements, listening to their conversations and other such activities or communications.
- 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.

6.2 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. In many cases, Officers will be behaving in the same way as a normal member of the public (e.g. in the case of most test purchases), and/or will be going about Council business openly (e.g. a market inspector walking through markets).

- 6.3 Similarly, surveillance will be overt if the subject has been told it will happen (e.g. where a noisemaker is warned (preferably in writing) that noise will be recorded if the noise continues, or where a licence is issued subject to conditions, and the licensee is told that officers may visit without notice or identifying themselves to the owner/proprietor to check that the conditions are being met).

6.4 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). It cannot, however, be “necessary” if there is reasonably available an overt means of finding out the information desired.

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

6.6 Directed Surveillance

Directed Surveillance is surveillance which:-

- is covert; and

- is not intrusive surveillance – (see definition below – the Council must not carry out any intrusive surveillance) or any interference with private property);
- is not carried out in an immediate response to events which would otherwise make seeking authorisation under the Act unreasonable, e.g. 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) of RIPA*).

6.7 Private information in relation to a person includes any information relating to his private and family life, his home and 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 that s/he comes into contact, or associates, with.

6.8 Similarly, although overt town centre CCTV cameras do not normally require authorisation, if the camera(s) are to be directed for a specific purpose, to observe particular individual(s), 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.

6.9 **For the avoidance of doubt, only those Officers designated and certified to be ‘Authorising Officers’ for the purpose of RIPA can authorise ‘Directed Surveillance’ IF, AND ONLY IF, the RIPA authorisation procedures detailed in this Document are followed. If an Authorising Officer has not been ‘certified’ for the purposes of RIPA, s/he can NOT carry out or approve/reject any action under RIPA. For further information about Authorising Officers, please see Appendix 1.**

6.10 **Intrusive Surveillance**

This is when it:-

- is covert;
- relates to residential premises and/or private vehicles; and
- involves the presence of a person in the premises or in the vehicle or is carried out by a surveillance device in the premises/vehicle. Surveillance equipment mounted outside the premises will not be intrusive, unless the device consistently provides information of the same quality and detail as might be expected if they were in the premises/vehicle.

- 6.11 **This form of surveillance cannot be carried out or approved by the Council. Only the police and other law enforcement agencies are permitted to use such powers. The Council has no powers to interfere with private property.**

6.12 **Employee Surveillance using covert surveillance**

Following a decision by the Surveillance Tribunal, it has been established that RIPA authorisation is not required where the surveillance is undertaken as part of an investigation in relation to an employee's misconduct or breach of the terms and conditions of the employee's contract of employment, i.e. any investigation undertaken other than into an alleged criminal offence.

However, such surveillance may still potentially be viewed as infringing the employee's right of privacy as established under Article 8 of the Human Rights Act.

Where such surveillance, pertaining to a non-criminal investigation into the conduct of an employee, is required, officers are required to complete an appropriate form and then forward the form to the Audit Manager for approval.

The authorising officer will apply the same criteria as if the request was for RIPA authorisation.

Once authorised, a signed copy of the authorised form must be kept within Audit. **There is no requirement to log the authorisation on the Corporate Database.**

6.13 ***"Necessity"***

The authorising officer must be satisfied that the use of covert surveillance is necessary for one of the purposes specified in s. 28(3) of RIPA. In order to be satisfied, the conduct that it is aimed to prevent or detect must be identified and clearly described, particularly if it is questionable whether serious crime criteria are met. Often missed is an explanation of why it is necessary to use the covert techniques requested.

Local authority authorising officers may not authorise Directed Surveillance unless it is for the purpose of preventing or detecting a criminal offence and the criminal offence which is sought to be prevented or detected is punishable, whether on summary conviction or on indictment, by a maximum term of **at least 6 months of imprisonment**, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

Surveillance being carried out to tackle disorder (e.g. anti social behaviour) can no longer be authorised as Directed Surveillance unless the disorder includes criminal offences satisfying the above criteria.

Details of the legislation setting out these changes can be found in Section 2 of this document.

6.14 **“Proportionality”**

Proportionality means ensuring that the surveillance is the least intrusive method to obtain the required information having considered all reasonable alternatives. This requires consideration of not only whether surveillance is appropriate but also the method to be adopted, the duration and the equipment to be used.

Proportionality is a key concept of RIPA and the OSC often states in its inspection reports that officers have not properly understood this concept or have not demonstrated compliance within the authorisation form.

The term contains four concepts. It is necessary to explain how the conclusion has been reached that the activity is proportional to what it seeks to achieve by:-

- balancing the size and scope of the operation against the gravity and extent of the perceived mischief, i.e. it is not a “sledgehammer to crack a nut”,
- explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others,
- demonstrating that the activity is an appropriate use of the legislation and the only reasonable way, having considered all others, of obtaining the necessary result, and
- providing evidence of other methods considered and why they were not implemented.

In other words, this involves balancing the intrusiveness of the activity on the target 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 – each case will be judged and be unique on its merits – or if the information which is sought could be reasonably be obtained by other less intrusive means. All such activity must be carefully managed to meet the objective in question and must not be arbitrary or unfair. Extra care should also be taken over any publication of the product of the surveillance.

It is important that when setting out the proportionality of the surveillance, that the applications include clear statements of the other reasonably possible methods of obtaining the desired

information and the reasons why they have been rejected. This approach will apply, equally, to arguments for the necessity of the surveillance.

In the event of a challenge to the surveillance, the courts will assess whether what was authorised was both necessary and proportionate for the purpose of the investigation. The Act requires that the Authorising officer should have believed this to be the case before granting an authorisation. Thus, it would primarily be to the authorising officer's comments that attention would be paid. It is important, therefore, that Authorising officers express their own view, rather than referring back to and relying on the explanations given by the applicant.

6.15 **Examples of different types of Surveillance**

Type of Surveillance	Examples
<u>Overt</u>	<ul style="list-style-type: none"> - Police Officer or Parks Warden on patrol - Signposted Town Centre CCTV cameras (in normal use) - Recording noise coming from outside the premises after the occupier has been warned that this will occur if the noise persists. - Most test purchases (where the officer behaves no differently from a normal member of the public).
<u>Covert</u> but not requiring prior authorisation	<ul style="list-style-type: none"> - CCTV cameras providing general traffic, crime or public safety information.
<u>Directed</u> must be RIPA authorised.	<ul style="list-style-type: none"> - Officers follow an individual or individuals over a period, to establish whether s/he is <u>flytipping. working when claiming benefit.</u> - Test purchases where the officer has a hidden camera or other recording device to record information which might include information about the private life of a shop-owner, e.g. where s/he is suspected of running his business in an unlawful manner. - CCTV cameras set up covertly to observe a particular spot or person.

<p><u>Intrusive –</u> <u>Council cannot</u> <u>do this!</u></p>	<p>- Planting a listening or other device (bug) in a person's home or in/on their private vehicle/person.</p>
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6.16 **Further Information**

Further guidance on surveillance can be found in the Home Office Code of Practice:
<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligence-sources-codes-of-practice>

6.17 **Confidential Information**

Special safeguards apply with regard to confidential information which is defined in Chapter 4 of the Covert surveillance and property interference code of practice as communications subject to legal privilege, communications between a Member of Parliament and another person on constituency matters, confidential personal information or confidential journalistic material. So for example, extra care should be taken where, through the use of surveillance, it is likely that knowledge will be acquired of communications between a Minister of religion and an individual relating to the latter's spiritual welfare, or between a Member of Parliament and a constituent relating to constituency matters, or wherever matters of medical or journalistic confidentiality or legal privilege may be involved.

All applications for covert surveillance that may result in the acquisition of knowledge of matters subject to legal privilege should state whether the surveillance is intended to obtain knowledge of matters subject to legal privilege and the authorising officer must be satisfied that the proposed surveillance is proportionate to what is sought to be achieved.

If the covert surveillance is not intended to result in the acquisition of knowledge of matters subject to legal privilege but it is likely that such knowledge will nonetheless be acquired, the application should state all steps which will be taken to ensure that any knowledge of matters subject to legal privilege which is obtained is not used in law enforcement investigations or criminal prosecutions.

Special consideration must also be given to authorisation that involves confidential personal information, confidential constituent information and confidential journalistic material. Where such material has been acquired and retained, the matter should be reported to the relevant Commissioner or Inspector during his next inspection and the material be made available to him if required.

Local authorities are unlikely to come across this kind of information during routine surveillance operations. However you should be alive

to the possibility, for example where you will be carrying out surveillance of someone who may attend a church, mosque or hospital.

In cases where you will be acquiring confidential information as part of a Directed Surveillance operation, the authorisation has to be granted by the Managing Director

If you are in any doubt in relation to the potential acquisition, handling and dissemination of confidential information, advice should be sought from the Senior Responsible Officer.

Further guidance is available in the Home Office Codes of Practice.

6.18 **Collateral Intrusion**

Before authorising surveillance the authorising officer should also take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation (collateral intrusion). Measures should be taken, wherever practicable, to avoid or minimise unnecessary intrusion into the lives of those not directly connected with the investigation or operation.

Those carrying out the surveillance should inform the authorising officer if the investigation or operation unexpectedly interferes with the privacy of individuals who are not covered by the authorisation. When the original authorisation may not be sufficient, consideration should be given to whether the authorisation needs to be amended and re-authorised or a new authorisation is required. Further guidance is available in the Home Office Codes of Practice.

6.19 **Retention and destruction of product of surveillance**

Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements for a suitable period and subject to review.

There is nothing in RIPA which prevents material obtained from properly authorised surveillance from being used in other investigations. Authorising Officers must ensure, therefore, that arrangements are in place for the handling, storage and destruction of material obtained through the use of covert surveillance. Authorising Officers must also ensure compliance with the appropriate data protection requirements and any relevant codes of practice produced by individual authorities relating to the handling and storage of material.

7 Conduct and Use of a Covert Human Intelligence Source (CHIS)

Since the commencement of RIPA there have been no CHIS authorisations at Teignbridge. It would be highly unusual for the Council to make use of a CHIS and any officer considering such a course should consult the Senior Responsible Officer at the earliest opportunity.

Who is a CHIS?

- 7.1 Someone who conceals or misrepresents their true identity or purpose and establishes or maintains a personal or other relationship for the covert purpose of obtaining information or providing access to any information to another person.

To ascertain whether a person is a CHIS three questions must be asked:

- Is the person establishing or maintaining a personal or other relationship with a person?
- Is that relationship being used for a covert purpose?
- Is the covert purpose facilitating
 - the obtaining of information or providing access to information to another person; or
 - the disclosing of information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship?

- 7.2 RIPA does not 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 Report a Fraud form. In order to assist staff recognising when public volunteers of information may be required to be authorised as a CHIS, officers should refer to para. 2.21 of the CHIS Code of Practice 2022 which provides the following helpful examples:

Example 1: A member of the public volunteers a piece of information to a member of a public authority regarding something they have witnessed in their neighbourhood. The member of the public is not a CHIS. They are not passing information obtained as a result of a relationship which has been established or maintained for a covert purpose.

Example 2: A caller to a confidential hotline (such as Crimestoppers, the HMRC Fraud Hotline, the Anti-Terrorist Hotline, or the Security Service public telephone number) reveals that they know of criminal or terrorist activity. Even if the caller is involved in the activities on which they are reporting, the caller would not be considered a CHIS as the information is not being disclosed on the basis of a relationship which was established or maintained for that covert purpose. However, should the caller be asked to maintain their relationship with those involved and to continue to supply information (or it is otherwise envisaged that they will do so), an authorisation for the use or conduct of a CHIS may be appropriate.

What must be authorised?

7.3 The Conduct or Use of a CHIS require prior authorisation.

- **Conduct** of a CHIS = Establishing or maintaining a personal or other relationship with a person for the covert purpose of (or is incidental to) obtaining and passing on information.
- **Use** of a CHIS = Actions inducing, asking or assisting a person to act as a CHIS and the decision to use a CHIS in the first place.

7.4 **The Council can use a CHIS IF, AND ONLY IF, THE RIPA procedures, as detailed in this Document, are followed. Authorisation for CHIS's can only be granted if it is for the purposes of "preventing or detecting crime or of preventing disorder".**

7.5 Record keeping:

Particulars to be contained in records

The following matters are specified for the purposes of paragraph (d) of section 29(5) of the 2000 Act (as being matters particulars of which must be included in the records relating to each source):

- (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) had 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

- 7.6 Special safeguards apply to the use or conduct of juvenile sources (i.e. under 18 year olds). On no occasion can a child under 16 years of age be authorised to give information against his or her parents. Only the Managing Director and/or the Senior Responsible Officer are duly authorised by the District Council to use Juvenile Sources, as there are other onerous requirements for such matters.

Vulnerable Individuals

- 7.7 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.
- 7.8 A Vulnerable Individual will only be authorised to act as a source in the most exceptional of circumstances. Only the Managing Director and/or the Senior Responsible Officer, are duly authorised by the District Council to use Vulnerable Individuals, as there are other onerous requirements for such matters.

Test Purchases

- 7.9 Carrying out test purchases will not (as highlighted above) 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 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).

- 7.10 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.

Anti-social behaviour activities (e.g. noise, violence, race etc)

- 7.11 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 (e.g. the decibel level) will not normally capture private information and, therefore, does not require authorisation.
- 7.12 Recording sound (with a DAT recorder) on private premises could constitute intrusive surveillance, unless it is done overtly. For example, it will be possible to record if the noisemaker is warned that this will occur if the level of noise continues. Placing a stationary or mobile video camera outside a building to record anti social behaviour on residential estates will require prior authorisation

Further information

- 7.13 Further guidance on CHIS can be found in the Home Office's Code of surveillance, a copy of which can be found at:

[Covert surveillance code of practice - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61222/Covert_surveillance_code_of_practice.pdf) and

[Covert Human Intelligence Sources code of practice 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/110422/Covert_Human_Intelligence_Sources_code_of_practice_2022.pdf)

8 Acquisition of Communications Data

What is Communications Data?

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

Procedure

- 8.2 There are two powers granted by s22 RIPA in respect of the acquisition of Communications data from telecommunications and postal companies ("Communications Companies").
- 8.3 To date there has been no need to acquire communications data and none is envisaged. The training requirement for authorised persons is onerous.
- 8.4 Should a situation where it is necessary to obtain communications data arise, this can be obtained from a clearing house for a one-off fee without the need for training.
- 8.5 Should there be a demand for communications data in the future, training and authorisation can be undertaken.
- 8.6 **No Council officers are authorised to obtain communications data.**

All enquiries in relation to communications data should be made to the Senior Responsible Officer.

9 Covert surveillance of Social Networking Sites

- 9.1 The use of the internet and, in particular social networking sites, can provide useful information for Council staff carrying out investigations. These investigations may relate to the various enforcement roles within the council – for example Fraud, Licensing or Environmental Health, but will equally apply to some non-enforcement teams, such as Debt Collection or Housing. The use of the internet and social networking site may potentially fall within the definition of covert directed surveillance. This is likely to result in the breaching of an individual's Article 8 rights under the Human Rights Act (the right to privacy)
- 9.2 In using social media for the gathering of evidence:

- Officers must not “friend” individuals on social networks
- Officers should not use their own private accounts to view the social networking accounts of other individuals
- Officers viewing an individual’s profile on a social networking site should do so only once on order to obtain evidence to support or refute their investigation
- Further / repeat viewing of open profiles on social network sites to gather evidence or to monitor an individual’s status , must only take place once RIPA authorisation has been granted and approved by a Magistrate.
- Officers should be aware that it may not be possible to verify the accuracy of information on social networking sites and, if such information is to be used as evidence, steps must be taken to ensure its validity.

Officers contemplating use of internet for obtaining information about individuals should refer to section on Online Covert Activity (paras. 3.10 10 3.17 in the Home Office Cover Surveillance and Property Interference Code of Practice 2018 for further guidance.

~~Further guidance on the use of social networking sites can be found in section 289 of the OSC Procedure and Guidance 2016~~

Note: This is a current and fast developing area in which RIPA may be engaged. If you are using the internet or social networking sites in any form for gathering information about an individual you must contact the Senior Responsible Officer for guidance.

10 Authorisation Procedures

- 10.1 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. **Appendix 2** provides a flow chart of process from application consideration to recording of information.

Authorising Officers

- 10.2 Forms can only be signed by Authorising Officers. Authorised posts are listed in **Appendix 1**. This Appendix will be kept up to date by the Senior Responsible Officer, and added to as needs require.
- 10.3 Authorisations under RIPA are separate from delegated authority to act under the Council’s Scheme of Delegation. All RIPA authorisations are for specific investigations only, and must be reviewed, renewed or cancelled once the specific surveillance is complete or about to expire. **The authorisations do not lapse with time!** However, they can be renewed by serving a new authorisation or notice for further months, within any time within the current life of the notice.

Training Records

- 10.4 Proper training will be given, or approved by the Senior Responsible Officer before Authorising Officers are certified to sign any RIPA Forms. A certificate of training will be provided to the individual and a Central Register of everyone who has undergone training or a one-to-one meeting with the Senior Responsible Officer on such matters will be kept by the Senior Responsible Officer.
- 10.5 If the Senior Responsible Officer feels that an Authorising Officer has not complied fully with the requirements of this Document, or the training provided to him, the Senior Responsible Officer duly authorised to retract that Officer's certificate and authorisation until s/he has undertaken further approved training or a one-to-one meeting with the Senior Responsible Officer.

Application Forms

- 10.6 Only the RIPA forms set out in this Document or other forms approved by the Senior Responsible Officer may be used. Any other forms used will be rejected by the Authorising Officer and/or the Senior Responsible Officer

10.7 **'A Forms' (Directed Surveillance) – See Appendix 3**

- Form A1 **Application** for Authority for Directed Surveillance
Form A2 **Review** of Directed Surveillance Authority
Form A3 **Renewal** of Directed Surveillance Authority
Form A4 **Cancellation** of Directed Surveillance

10.8 **'B Forms' (CHIS) – See Appendix 4**

Since the commencement of RIPA there have been no CHIS authorisations at Teignbridge. It would be highly unusual for the Council to make use of a CHIS and any officer considering such a course should consult the Senior Responsible Officer at the earliest opportunity.

- Form B1 **Application** for Authority for Conduct and Use of a CHIS
Form B2 **Review** of Conduct and Use of a CHIS
Form B3 **Renewal** of Conduct and Use of a CHIS
Form B4 **Cancellation** of Conduct and Use of a CHIS

Grounds for Authorisation

- 10.9 Directed Surveillance (A Forms); or the Conduct and Use of the CHIS (B Forms) can be authorised by the Council only on the grounds of preventing or detecting crime or preventing disorder. **No other grounds are available to local authorities.**

Assessing the Application Form

10.10 Before an Authorising Officer signs a Form, **s/he must:-**

- (a) Be mindful of this Policy , the Training provided by the Senior Responsible Officer and any other guidance issued, from time to time, by the Senior Responsible Officer on such matters;
- (b) Satisfy his/herself that the RIPA authorisation is:-
 - (i) **in accordance with the law**;
 - (ii) **necessary** in the circumstances of the particular case on the grounds mentioned in paragraph 6.13 above; **and**
 - (iii) **proportionate** to what it seeks to achieve. (see para 6.14)
- (c) In assessing whether or not the proposed surveillance is:-
 - (i) Necessary - the crime or disorder that it is aimed to prevent or detect must be identified and clearly described, including an explanation of why it is necessary to use the covert techniques requested, and
 - (ii) Proportionate - consider whether there are any other non-intrusive methods of obtaining the information and, if there are none, whether the proposed surveillance is no more than necessary to achieve the objective as the **least intrusive method will be considered proportionate by the courts.** See paragraph 5.13 for a more detailed explanation of proportionality.
- (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 and the matter may be an aspect of determining proportionality;
- (e) Set a date for review of the authorisation and review on or before that date;
- (f) Ensure that any RIPA Departmental Register is duly completed, and that a copy of the RIPA Forms (and any review/renewal/cancellation of the same) is forwarded to the Senior Responsible Officer's Central Register, **within five working days, including the day authorisation is granted, of the relevant authorisation, review, renewal, cancellation or rejection**;
- (g) The Senior Responsible Officer will allocate a Unique Reference Number (URN) for the application as follows:-

Year / Department / Number of Application

- (h) If unsure on any matter, obtain advice from the Senior Responsible Officer before signing any forms.

Additional Safeguards when Authorising a CHIS

- 9.11 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 a controller and handler is appointed for any CHIS employed and that the record keeping requirements of Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI2725) are met; and
 - (g) if unsure on any matter, obtain advice from the Senior Responsible Officer before signing any forms.

10.11 **Seeking Magistrates' Approval**

Background

Chapter 2 of Part 2 of the Protection of Freedoms Act 2012 (sections 37 and 38) came into force on 1st November 2012. ~~This changes the procedure for the authorisation of local authority surveillance under RIPA.~~

~~From 1st November 2012 It requires~~ local authorities ~~are required~~ to obtain the approval of a magistrate for the use of any one of the three covert investigatory techniques available to them under RIPA namely Directed Surveillance, the deployment of a Covert Human Intelligence Source (CHIS) and assessing communications data.

An approval is also required if an authorisation to use such techniques is being renewed. In each case, the role of the magistrate is to ensure that the correct procedures have been followed and the relevant

factors have been taken account of. There is no requirement for the magistrate to consider either cancellations or internal reviews.

Home Office Guidance

The Home Office has published guidance on the Magistrates' approval process both for local authorities and the Magistrates' Court. <https://www.gov.uk/government/publications/changes-to-local-authority-use-of-ripa>

This guidance is non-statutory but provides advice on how local authorities can best approach these changes in law and the new arrangements that need to be put in place to implement them effectively. It is supplementary to the legislation and to the two statutory Codes of Practice made under RIPA.

For a brief summary of the approval process please see flowchart at Appendix 5

The New Magistrates' Approval Process

1. The first step will be to apply for an internal authorisation in the usual way. Once this have been granted, the local authority will need to contact the local Magistrates' Court to arrange a hearing.
2. The hearing is a 'legal proceeding' and therefore local authority officers need to be formally designated to appear, be sworn in and present evidence or provide information as required by the magistrate. The local authority will need to formally designate certain officers for this purpose under section 223 of the Local Government Act 1972.
3. The Home Office suggests that the investigating officer will be best suited to fulfill this role but the Authorising Officer may also want to attend to answer any questions.
4. The local authority will provide the magistrate with a copy of the original RIPA authorisation. This forms the basis of the application to the magistrate and should contain all information that is relied upon. In addition, the local authority will provide the magistrate with two copies of a partially completed judicial application/order form (which is included in the Home Office Guidance) **(see the example form at Appendix 5.)**
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118173/local-authority-england-wales.pdf pg18
5. The hearing will be in private and heard by a single magistrate who will read and consider the RIPA authorisation and the judicial application/order form. He/she may have questions to clarify points or require additional reassurance on particular matters. 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.

6. The magistrate 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. He/she will also consider whether there continues to be reasonable grounds. In addition the magistrate must be satisfied that the Authorising Officer was of an appropriate level within the local authority and that the authorisation was made in accordance with any applicable legal restrictions (e.g. meets the Serious Crime Test for Directed Surveillance).
7. The order section of the above mentioned form will be completed by the magistrate and will be the official record of his/her decision. The local authority will need to retain a copy of the form after it has been signed by the magistrate.

Magistrate's Options

The magistrate may decide to –

- ***Approve the grant/renewal of the authorisation***

The grant/renewal of the authorisation will then take effect and the local authority may proceed to use the surveillance technique mentioned therein

- ***Refuse to approve the grant/renewal of the authorisation on a technicality***

The RIPA authorisation will not take effect and the local authority may **not** use the surveillance technique in that case. The authority will need to consider the reasons for the refusal. A technical error in the form may be remedied without the need to go through the internal authorisation process again. The authority can then reapply for Magistrates' approval.

- ***Refuse to approve the grant/renewal and quash the authorisation***

A magistrate may refuse to approve the grant or renewal of an authorisation and decide to quash the original authorisation. This may be because he/she believes it is not necessary or proportionate. The RIPA authorisation will not take effect and the local authority may not use the surveillance technique in that case. The magistrate must not exercise his/her power to quash the authorisation unless the local authority has had at least two business days from the date of the refusal in which to prepare and make further representations to the court.

Appeals

The local authority may only appeal a magistrate's decision to refuse approval of an authorisation, on a point of law by making an application for Judicial Review in the High Court.

The Investigatory Powers Tribunal (IPT) will continue to investigate complaints by individuals about the use of RIPA techniques by public bodies, including local authorities. If, following a complaint to them, the IPT finds fault with a RIPA authorisation it has the power to quash the magistrate's order which approved the grant or renewal of the authorisation. It can also award damages if it believes that an individual's human rights have been violated by the local authority.

Please note: It has been agreed at Teignbridge District Council that ~~for the first few~~ applications support will be provided by the legal team in preparing for and applying for authorisation. The legal team have regular contact with the magistrates' court listing office and can assist with listing and procedure.

Duration

- 10.13 The Form **must be reviewed in the time stated renewed and/or cancelled (see below)** once it is no longer needed. The 'authorisation' to carry out/conduct the surveillance lasts for a maximum of 3 months (from authorisation) for Directed Surveillance, and 12 months (from authorisation) for a CHIS. However, whether the surveillance is carried out/conducted or not, in the relevant period, does not mean the 'authorisation' is 'spent'. In other words, **the Forms do not expire.** The forms have to be reviewed, renewed and/or cancelled (once they are no longer required).
- 10.14 Authorisations can be renewed in writing when the maximum period in the Authorisation has expired. The Authorising Officer must consider the matter afresh, including taking into account the benefits of the surveillance to date, and any collateral intrusion that has occurred. An Authorisation cannot be renewed after it has expired. In such event, a fresh Authorisation will be necessary.
- 10.15 The renewal will begin on the day when the authorisation would have expired. In exceptional circumstances, renewals may be granted orally in urgent cases and last for a period of seventy-two hours.

Cancellation

- 10.16 If, during the currency of an authorisation, the authorising officer is satisfied that the authorisation is no longer necessary s/he **must cancel it**. It is a statutory requirement that authorisations are cancelled as soon as they are no longer required. Authorisations may be cancelled orally. When and by whom this was done should be endorsed on the cancellation form when it is completed, and recorded on the Central Register of Authorisations.

It is not appropriate to simply say that the authorisation is cancelled. Although there is no requirement for any further details to be recorded when cancelling a directed surveillance authorisation, the Surveillance Commissioners consider that it would be sensible to

complete the authorisation process in a form similar to other parts of the authorisation where relevant details can be retained together.

When cancelling an authorisation, the authorising officer should:

- Record the date and times (if at all) that surveillance took place and the order to cease the activity was made;
- The reason for the cancellation;
- Ensure that surveillance equipment has been removed and returned;
- Provide directions for the management of the product;
- Ensure that detail of persons subjected to surveillance since the last review or renewal is properly recorded;
- Record the value of the surveillance or interference (ie whether the objectives as set out in the authorisation were met).

11 Working With / Through Other Agencies

- 11.1 When some other agency has been instructed on behalf of the Council to undertake any action under RIPA, this Policy 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. They must be made aware explicitly what they are authorised to do.
- 11.2 When some other agency (e.g. Police, Customs & Excise, Inland Revenue etc):-
- (a) wish 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, s/he must obtain a copy of that agency's RIPA form for the record (a copy of which must be passed to the Senior Responsible Officer for the Central Register) and/or relevant extracts from the same which are sufficient for the purposes of protecting the Council and the use of its resources;
 - (b) wish to use the District Council's premises for their own RIPA action, the Officer should, normally, co-operate, 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 co-operation in the agent's RIPA operation. In such cases 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 other Agency wish to use Council resources for general surveillance, as opposed to specific RIPA operations, an appropriate letter requesting the proposed use, extent of remit, duration, who will be undertaking the general surveillance and the purpose of it must be obtained from the Police or other Agency before any Council resources are made available for the proposed use.

If in doubt, please consult with the Senior Responsible Officer at the earliest opportunity.

12. Record Management

- 12.1 **The Council must keep a detailed record of all authorisations, reviews, renewals, cancellations and rejections in Service Areas and a Central Register of all Authorisation Forms will be retained securely in the legal department and maintained on behalf of the Senior Responsible Officer by the Legal Administrative Assistant. The Central Record will be monitored by the Senior Responsible Officer.**

12.2 **Records maintained in the Department**

The following documents must be retained by the Authorising Officer's Department:-

- 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).

- 12.3 Each form will have a URN. The Senior Responsible Officer will issue the relevant URN to Applicants. The cross-referencing of each URN takes place within the Forms for audit purposes. The relevant

Departmental code to be followed is as per **Appendix 1**. Rejected Forms will also have URN's.

Central Register maintained by the Senior Responsible Officer

- 12.4 Authorising Officers must forward the original of each Form to the Senior Responsible Officer for the Central Register, as soon as reasonably practicable after the authorisation, review, renewal, cancellation or rejection. The Senior Responsible Officer will monitor the same and give appropriate guidance, from time to time, or amend this Document, as necessary.
- 12.5 The District Council will retain records and include these in our document retention schedule for a period of at least three years from the ending of the authorisation after which the records will be reviewed and destroyed. The Office of the Surveillance Commissioners (OSC) can audit/review the Council's policies and procedures, and individual Authorisations, Reviews, Renewals, Cancellations and rejections.
- 12.6 In accordance with the Council's Sharepoint and digital working guidance, it is important the the "one version of the truth" principle is maintained, to ensure that multiple copies for RIPA documents are not produced unnecessarily. This helps assure data quality and enables retention polices to be complied with.

12.7 Review of activity by elected Members

Elected Members of a local authority should review the authority's use of the 2000 Act and set the policy annually. at least once a year. and consider internal reports on the 2000 Act on at least a quarterly basis to ensure that it is being used consistently with the local authority's policy and that all policy remains fit for purpose. They should not however be involved in making decisions on specific authorisations.

The review arrangements at Teignbridge District Council are that:

- 12.7.1 The policy is reviewed by the Audit Scrutiny Committee ~~Executive Portfolio Holder for Corporate Services~~.
- 12.7.2 The ~~Portfolio Holder~~ Senior Responsible Officer (though the Audit Manager) reports on the use of RIPA to the Council's Audit Scrutiny Committee

13 Conclusion

- 13.1 Where there is an interference with the right to respect for private life and family guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority

for the interference, or if it is held not to be necessary or proportionate to the circumstances, the consequences of not obtaining or following the correct authorisation procedure set out in RIPA and this Document, may be that the action (and the evidence obtained) will be held to be unlawful by the Courts pursuant to Section 6 of the Human Rights Act 1998, and consequently inadmissible.

- 13.2 Obtaining an authorisation under RIPA and following this Document, will ensure, therefore, that the action is carried out in accordance with the law and subject to stringent safeguards against abuse of anyone's human rights.
- 13.3 **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 authorisations without thinking about their own personal and the Council's responsibilities.**
- 13.4 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.
- 13.5 For further advice and assistance on RIPA, please contact the Senior Responsible Officer
- 13.6 Further guidance can also be obtained from:
- Office of Surveillance Commissioners
 - www.surveillancecommissioners.gov.uk
 - Home Office www.homeoffice.gov.uk

APPENDIX 1

List of Authorising Officer Posts

Managing Director	Phil Shears
Audit Manager	Sue Heath
Revenue, Benefits & Fraud Manager	Tracey Hooper
Environmental Protection Manager	David Eaton

Relevant Departmental Codes:-

HB	-	Housing Benefit	ES	-	Environment & Safety
PR	-	Property	AUD	-	Audit
PL	-	Planning	GS	-	Green Spaces
HSG	-	Housing			

IMPORTANT NOTES

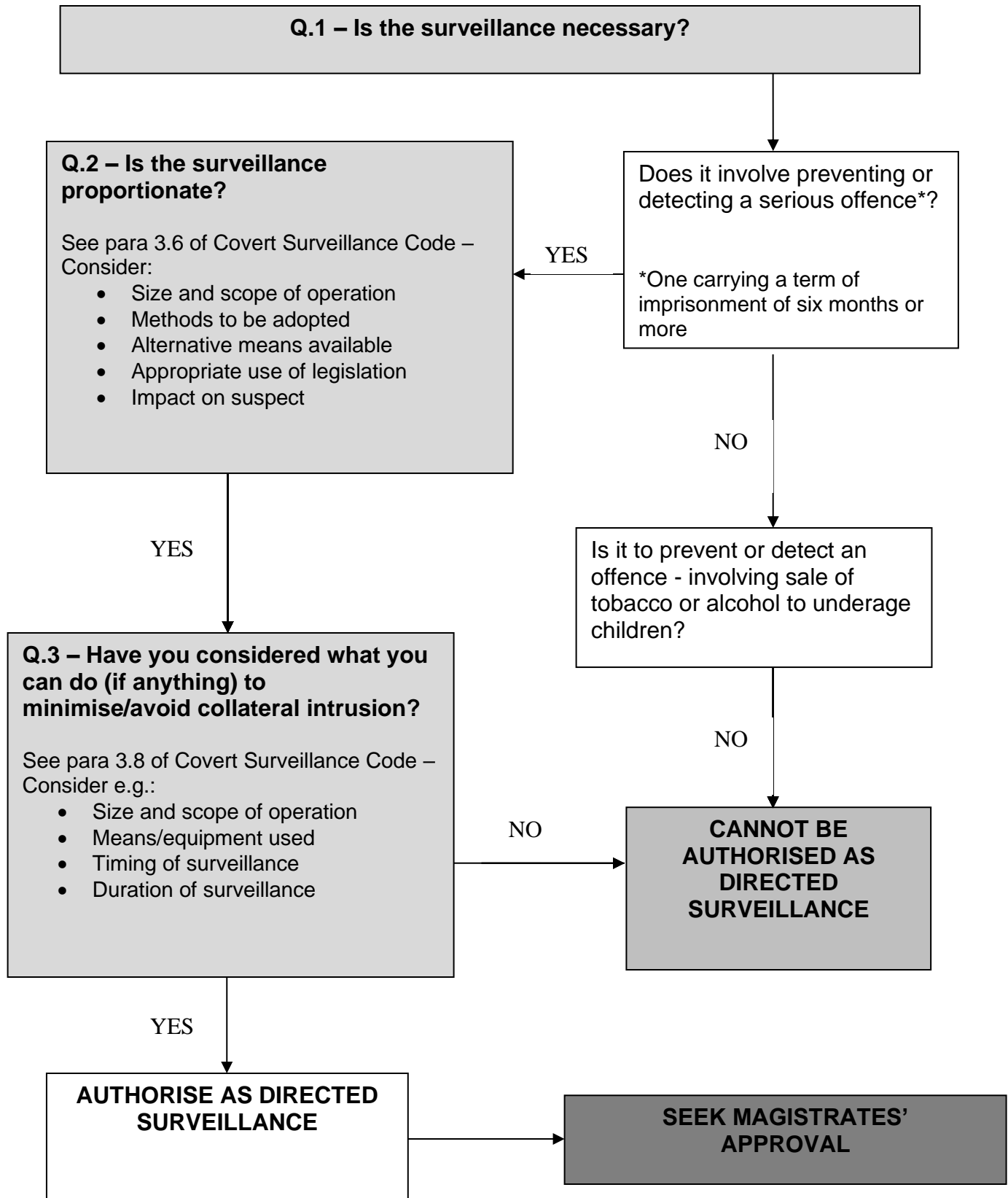
- A. Even if a post is identified in the above list the persons currently employed in such posts are not authorised to sign RIPA Forms (including a renewal, review or

cancellation) unless s/he has been certified by the Managing Director or Senior Responsible Officer to do so.

- B.** Only the Managing Director and the Senior Responsible Officer are authorised to sign Forms relating to Juvenile Sources and Vulnerable individuals (see paragraph 6 of this document) or where there is any possibility of confidential information being obtained.
- C.** To add, delete or substitute a post, the request must be to the Managing Director or Senior Responsible Officer for consideration, as necessary.
- D.** If in doubt, ask the Senior Responsible Officer BEFORE any directed surveillance and/or CHIS is authorised, reviewed, renewed, rejected or cancelled.

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RIPA Flowchart - Authorising Directed Surveillance



RIPA FORMS: DIRECTED SURVEILLANCE

Application for Authorisation to carry out Directed Surveillance

Review of a Directed Surveillance Authorisation

Application for **Renewal** of a Directed Surveillance Authorisation

Cancellation of a Directed Surveillance Authorisation

NB: If in doubt, ask the Senior Responsible Officer **BEFORE** any directed surveillance is authorised, reviewed, renewed, cancelled or rejected.

RIPA FORMS: COVERT HUMAN INTELLIGENCE SOURCE (CHIS)

Application for authorisation of the **Use** or **Conduct** of a Covert Human Intelligence Source (CHIS)

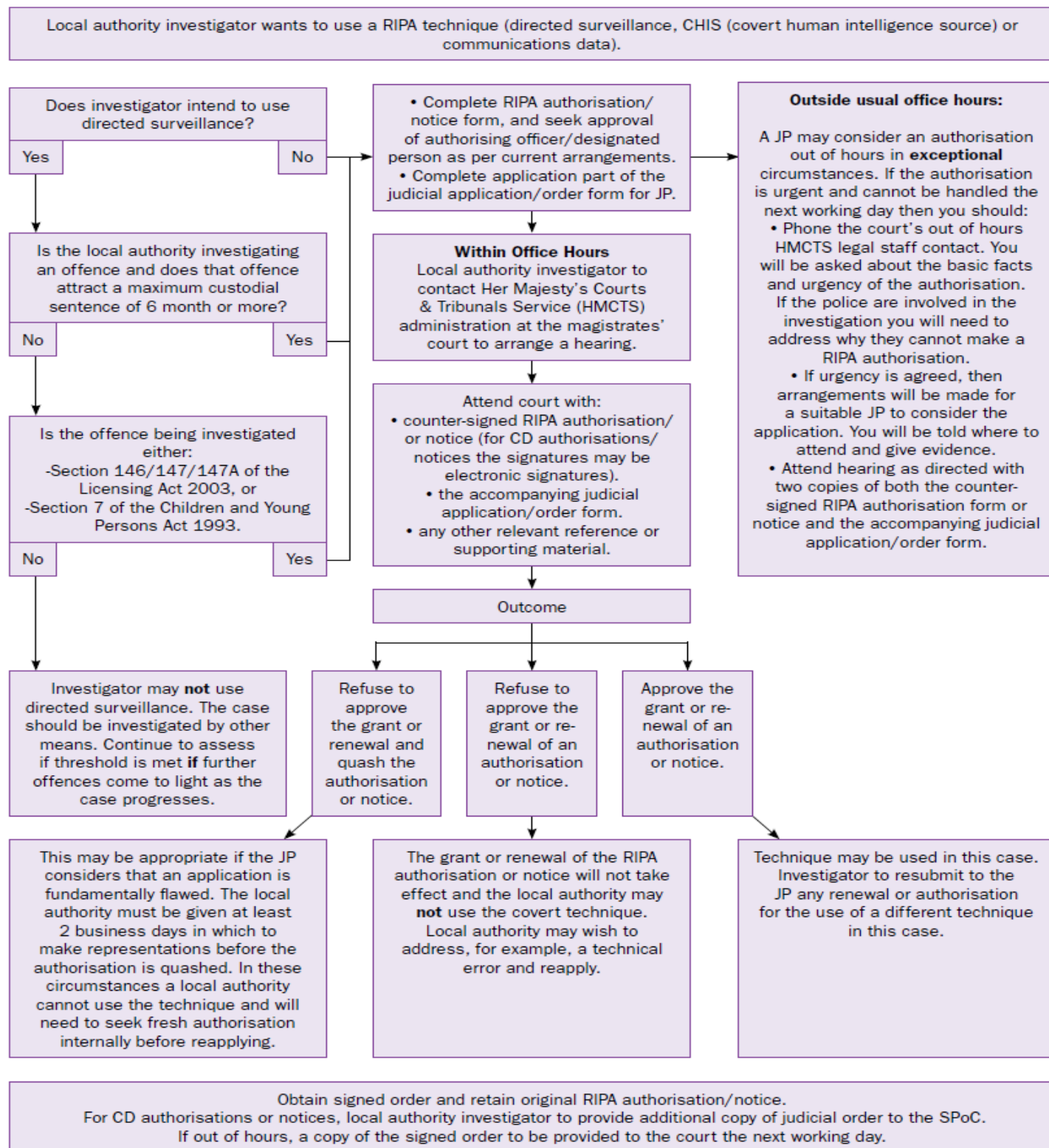
Review of a CHIS

Application for **Renewal** of a CHIS

Cancellation of a CHIS

NB: Forms not attached – please refer to the Senior Responsible Officer BEFORE any CHIS is authorised, reviewed, renewed, cancelled or rejected.

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



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

Local authority:.....

Local authority department:

Offence under investigation:.....

Address of premises or identity of subject:

.....

.....

Covert technique requested: (tick one and specify details)

Communications Data

☐

Covert Human Intelligence Source

☐

Directed Surveillance

☐

Summary of details

.....

.....

.....

.....

.....

.....

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:.....

Teignbridge District Council
Audit Scrutiny
27 August 2024
Part 1

FINANCIAL INSTRUCTIONS and CONTRACT RULES WAIVERS

Purpose of Report

To inform Members of the number of times the Financial Instructions and Contract Procedure Rules have been waived and the reasons for this.

Recommendation(s)

The Audit Scrutiny Committee resolves to note the report.

Financial Implications

None - advisory report only.

Legal Implications

There are no specific legal implications arising out of this report. The reporting of Waivers to the Audit Scrutiny Committee is a requirement of the Financial Instructions and Contract Procedure Rules within the Constitution.

Risk Assessment

Risks are evaluated when individual waiver approval is sought. Waivers would not be approved if they presented unacceptable risk.

Environmental / Climate Change Implications

None.

Report Author

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Executive Member

Councillor Richard Keeling – Executive Member for Resources

Appendices/Background Papers

None.

1. PURPOSE

- 1.1 To inform Members of the number of times the Financial Instructions and Contract Procedure Rules have been waived and the reasons for this.

2 BACKGROUND

- 2.1 The Financial Instructions and Contract Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every member and officer of the Council and anyone acting on its behalf. Sometimes there are instances where the rules cannot be followed and requests are made to waive them. One of the following criteria must be met:

1	LIFE OR DEATH There is significant chance that the life or health of officers, members, or the public will be put at real risk.
2	INCREASED COST / LOSS OF INCOME The Council will incur significant avoidable costs or lose significant income.
3	LIMITED MARKETS The Council would be wasting its time tendering as supply of the product or service is demonstrably restricted to one or few businesses.
4	URGENT ACTION REQUIRED The Council would be criticised for failing to act promptly.

3 WAIVERS

- 3.1 The following waivers have been processed since the 22 March 2024 monitoring report:

Proposing Officer	Proposal / Reason	Approval
Senior Policy Planning Officer	Purchase of consultation platform and associated AI tools TDC were awarded Department for Levelling Up, Housing and Communities (DLUHC) project funding under the PropTech Innovation Fund to utilise digital	Planning Policy Manager

	<p>tools to improve land assessment and/or citizen engagement.</p> <p>Value: £68,610</p> <p>Reason: Limited market / urgent action: only one supplier was able to provide a consultation/engagement platform and bespoke interactive urban design programme with integrated AI options. Must meet project delivery deadline at end of 2024 to prevent loss of grant funding.</p>	
Housing Needs Lead	<p>Refugee support through Teignbridge Community and Voluntary Services (CVS)</p> <p>To progress continuation of CVS community led support for refugees within the district.</p> <p>Value: £174,572 for two years</p> <p>Reason: Continuation of the existing service provider for two years to prevent a break in support services. This is funded through grant funding from Homes for Ukraine Scheme.</p>	<p>Chief Finance Officer & Head of Corporate Services</p> <p>Managing Director / Leader of the Council</p>
Housing Accommodation Lead	<p>Appointment of agency worker</p> <p>Contract extension of existing agency worker until Sept 2024 to provide cover within the Housing temporary accommodation team whilst recruiting for a vacant post.</p> <p>Value: £85,314</p> <p>Reason: Limited market / urgent action: required to meet an immediate staffing need due to increased pressures on the Housing temporary accommodation team.</p> <p>Note: This is in part a retrospective waiver but also includes ongoing costs.</p>	Housing Needs Lead

Community Safety and Safeguarding Manager	<p>ASB Hotspot Funding</p> <p>Use of ASB Hotspot Funding from Home Office and the Police and Crime Commissioner to deliver an ASB Hotspot Patrol in Newton Abbot.</p> <p>Value: £25,000</p> <p>Reason: Limited market / urgent action: required to meet short deadline to commence the project and use funding by 31 March 2025. Limited suppliers able to patrol the areas identified and have accredited staff. Appointed supplier already has an established working relationship with the local police and have undertaken relevant police training.</p>	Head of Community Services and Improvement
Programme Manager, South West Regional Coastal Monitoring Programme	<p>Wave buoy spares waiver addendum</p> <p>Original waiver approved in November 2021 for the purchase of wave buoy spares which can only be sourced through one supplier in the UK as manufactured in the Netherlands. This supplier has changed the purchasing rules. Previously both South West Coastal Monitoring (Teignbridge District Council) and South East Coastal Monitoring (New Forest District Council), received 5% discount if ordered at the same time, but this now has to be a single order to get the discount.</p> <p>Value: The cost for the spares is estimated at £40k per year throughout the life of the Coastal Monitoring Programme which is currently funded until the end of March 2027. All costs to TDC of the Coastal Monitoring Programme are recovered by the 100% Environment Agency funding.</p> <p>Reason: Limited Market due to specialist area, and to repay New Forest District Council (South East Coastal Monitoring).</p>	<p>Original waiver approved by Head of Place and Commercial Services, Managing Director and Leader of the Council.</p> <p>As this update relates merely to change of payee (i.e. via New Forest DC) and is fully funded, the amendment was noted and recorded by Internal Audit.</p>

4. IMPLICATIONS, RISK MANAGEMENT & CLIMATE CHANGE IMPACT

4.1 Financial

There are no direct financial implications as this is an advisory report only. The financial impacts of the spending covered by the waivers were assessed at the time these procurements were carried out.

4.2 Legal

The reporting of Waivers to the Audit Scrutiny Committee is a requirement of the Financial Instructions and Contract Procedure Rules within the Constitution.

4.3 Risks

Risks are evaluated when individual waiver approval is sought. Waivers would not be approved if they presented unacceptable risk.

5. CONCLUSION

That the report be noted.

6. GROUPS CONSULTED

Not applicable.

7. ENVIRONMENTAL/CLIMATE CHANGE IMPACT

Not applicable.

8. DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)

Not applicable.

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Teignbridge District Council
Audit Scrutiny
27 August 2024
Part 1

INTERNAL AUDIT PLAN and CHARTER 2024-2025

Purpose of Report

To advise members of the planned internal audit work, and to request approval of the Internal Audit Charter (Terms of Reference).

Recommendation(s)

The Audit Scrutiny Committee APPROVES the Audit Plan and Charter.

Financial Implications

None. The service will be delivered within the approved budget.

Legal Implications

The Council is meeting its statutory requirement to provide an internal audit function.

Risk Assessment

Not applicable.

Environmental/ Climate Change Implications

Not applicable.

Report Author

Sue Heath – Audit and Information Governance Manager
Tel: 01626 215258 Email: sue.heath@teignbridge.gov.uk

Executive Member

Councillor Richard Keeling – Executive Member for Resources

1. PURPOSE

To present the current plan of internal audit work for 2024-2025, and the Internal Audit Charter (terms of reference), for Members' approval.

2. BACKGROUND

- 2.1 The Council is required under the Accounts and Audit Regulations (2015), to maintain an adequate and effective internal audit service which evaluates the effectiveness of the Council's risk management, control and governance processes.
- 2.2 The minimal level of audit is not prescribed but it must be considered sufficient to give an annual evidence based assurance opinion at the end of the year.

3. AUDIT PLAN 2024-2025

- 3.1 The following factors are taken into account in planning the audit work:
 - the Council's priorities which are outlined in the [draft One Teignbridge Council Strategy 2024-2029](#) and [former Strategy 2016-2025](#)
 - the contents of risk registers
 - the complexity of systems or functions, value and volume of transactions
 - vulnerability or past susceptibility to fraud or error
 - time since last audited and results of any other reviews
 - knowledge gained through previous audits and from other corporate work
 - changes to systems either planned or known to have occurred
 - local, national and legislative issues
 - requests from the senior management and statutory officers
- 3.2 Audit Plans should be adaptable so they may react to unforeseen issues or new risks. The plan could therefore be subject to in-year changes. These will be reported to members in our monitoring report.
- 3.3 **Resources** – audits will continue to be delivered by a mixture of in-house resource (Teignbridge Auditor and Audit Manager) supplemented by external resource from the Devon Audit Partnership. Where assurance has been provided by other bodies, we will make use of this where appropriate to do so.
- 3.4 The Audit Plan is included at Appendix A.

4. AUDIT CHARTER

- 4.1 Internal Audit's purpose, authority and responsibility must be formally defined to give it the status required to carry out its work independently.
- 4.2 These terms of reference are provided for through a **Charter** (see Appendix B below) which members are asked to approve.

5. MAIN IMPLICATIONS

The implications members need to be aware of are as follows:

5.1 Legal

The Council is meeting its statutory obligation to provide an internal audit function.

5.2 Resources

The service will be delivered within budget.

6. GROUPS CONSULTED

Strategic Leadership Team and Corporate Management Team.

7. ENVIRONMENTAL/CLIMATE CHANGE IMPACT

Not applicable.

8. DATE OF IMPLEMENTATION (CONFIRMATION OF DECISION SUBJECT TO CALL-IN)

Not applicable.

INTERNAL AUDIT CHARTER 2024-2025

APPENDIX B

INTRODUCTION

This document describes the purpose, authority, and principal responsibilities of the Council's Internal Audit Section.

DEFINITION, FUNCTION and MISSION OF INTERNAL AUDIT

Internal auditing is an independent, objective, assurance providing activity designed to add value and improve the Council's operations. It helps the Council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

Internal Audit will advise management where internal control systems can be improved, and seek to promote compliance with corporate policies and procedures, and accomplishment of corporate priorities, through its systematic review of the Council's activities. It aims to enhance and protect organisational value by providing risk-based and objective assurance, advice and insight.

AUTHORITY, INDEPENDENCE, and OBJECTIVITY

Internal Audit's statutory authority is derived from Section 151 of the Local Government Act 1972 and the Accounts and Audit Regulations which state that:

"a relevant body must undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control..."

To be effective, Internal Audit must remain sufficiently independent of the activities it audits to enable auditors to perform their duties in a manner which facilitates impartial and professional judgements and recommendations. Internal Auditors should ideally have no operational responsibilities. Where this is unavoidable, consideration will be given to seeking assurance from a third party outside the internal audit activity where appropriate.

Internal Audit forms part of the Council's Corporate Services. The Audit Manager reports organisationally to the Head of Corporate Services, and functionally to the Audit Scrutiny Committee (*who act as "the Board" for the purposes of the Public Sector Audit Standards*) on audit matters. Close liaison with the Section 151 Officer (responsible for financial affairs) is maintained to ensure his Section 151 duties are fulfilled, and the Audit Manager has direct access to the Managing Director as and when required. A management restructure is in progress and it is anticipated that from the Autumn, the Audit Manager will report to a new post – Finance and Audit Manager. As already mentioned, there remains direct access to the Strategic Managers and the Managing Director should this be required.

Internal Audit staff have unrestricted access at any time to such records, assets, personnel and premises, including those of partner organisations, as necessary for the proper fulfilment of their responsibilities. Any officer, or member of the Council

shall, if required, make available such documents or records required for audit purposes and shall supply the auditor with such information and explanation as considered necessary for that purpose.

This statutory role and rights of access are recognised and endorsed within the Council's Financial Instructions (Constitution).

STANDARDS & PROFESSIONALISM

Internal Audit must work in accordance with 'proper audit practices'. Proper practice is defined by the Public Sector Internal Audit Standards which are used to guide audit activity. Team members are also governed by the Code of Ethics of their professional body as well as the Council's internal Code of Conduct. New Standards are due to come into force next year (2025-2026)

For an internal audit function to be effective, the following core principles must be present:

- Integrity
- Competence and due professional care
- Is objective and free from undue influence (independent)
- Aligns with strategies, objectives and risks of the organisation
- Demonstrates quality and continuous improvement
- Effective communication
- Promotes organisational improvement
- Is insightful, proactive and future focussed

SCOPE AND RESPONSIBILITIES

Heads of Service and Service Managers are responsible for ensuring that internal control arrangements are sufficient to address the risks facing their services.

The scope of Internal Audit allows for unrestricted coverage of the control environment comprising risk management and corporate governance. This means that all of the Council's operations, resources, services and responsibilities are included. Where the scope of Internal Audit's work extends to services provided through partnership, an assessment will be made as to whether Internal Audit staff conduct assurance work themselves, or rely on assurance provided by others.

Internal Audit activity can include:

- reviewing, appraising and reporting on the soundness and adequacy of systems of internal control, whether operations are being carried out as planned, and corporate priorities being met

- reviewing, appraising and reporting on the reliability and integrity of financial and management information, including data quality and performance measurement
- assessing and reporting on the extent to which assets and interests are accounted for and safeguarded from loss
- supporting and encouraging improvements in the efficiency, economy and effectiveness of services
- provision of advice on all risk and control, including interpretation of the Council's Financial Instructions and Contract Procedure Rules
- advising on control and risk implications of enhancements to existing/new systems
- promoting best practice in the Council's risk management and governance processes
- working in partnership with other bodies to secure robust internal control that protects the Council's interests
- co-ordinating with the work of external auditors and other review functions
- investigating frauds and irregularities where necessary and undertaking other special investigations as appropriate

INTERNAL AUDIT MANAGEMENT

The Audit and Information Governance Manager is responsible for:

- managing the Internal Audit service, determining the scope and methods of audit activity
- ensuring that Internal Audit staff operate within current auditing standards and ethical standards of professional bodies where relevant
- ensuring that Internal Audit staff are impartial, unbiased, and avoid conflicts of interest
- developing operational Audit Plans based on an assessment of risk and in consultation with senior management; reporting Audit Plans to the Audit Scrutiny Committee for approval; and implementation thereafter
- taking account of the adequacy and outcomes of risk management, performance management and other assurance processes when compiling Audit Plans
- maintaining a suitably resourced, professional audit staff with sufficient knowledge, skills and experience to carry out planned audits
- liaison with the Council's external auditors to achieve co-ordination of work where possible both with external audit and other review agencies where appropriate
- reporting to the Strategic Leadership Team (*i.e. "senior management" as defined by the Public Sector Internal Audit Standards*) and the Audit Scrutiny Committee on the results of audit activities, and the effectiveness of the actions taken by management to implement agreed recommendations
- reviewing the Council's risk management and governance arrangements

- providing the Strategic Leadership Team and the Audit Scrutiny Committee with an annual assurance report on the adequacy of the Council's internal control systems

FRAUD AND CORRUPTION

Managing the risk of fraud and corruption is the responsibility of management. Internal Audit procedures alone, cannot guarantee that fraud and corruption will be detected. Internal Audit does not have responsibility for the prevention or detection of fraud and corruption. Internal Auditors will, however, be alert in all their work to the risks and exposures that could provide opportunity for fraud or corruption. They may investigate suspected frauds and irregularities where appropriate, and will act upon reports received via the Council's Whistleblowing Policy and Anti Fraud, Theft and Corruption Strategy.

The Audit Manager must be informed of all suspected or detected fraud, corruption or improprieties so they may be considered in terms of the adequacy of the relevant internal controls, and be evaluated for the annual opinion on the control environment.

AUDIT REPORTING

Audit assignments will be the subject of formal reports in order to communicate the findings of the audit and encourage management to take prompt mitigating action if risks have been identified.

Reports will be issued in draft form to the managers responsible for the area under review for agreement of the factual accuracy of findings. On receipt of management comments, including acceptance or rejection of recommendations, reports will be finalised with agreed action dates where applicable. Each report will include an opinion on the adequacy of the control environment governing the activity that has been audited. Reports with Fair or Poor assurance ratings will be brought to the attention of the Strategic Leadership Team.

Audit reports will be provided to members of the Audit Scrutiny Committee and a summary of audit work given at Audit Scrutiny meetings. If the failure to implement an audit recommendation is deemed to present the Council with an unacceptable risk, the matter will be reported to the Audit Scrutiny Committee and the manager concerned may be required to give an explanation.

At the end of each audit year, the Audit Manager will give an annual assurance opinion and report which can be used to inform the Council's Annual Governance Statement. The annual opinion will conclude on the overall adequacy of the framework of governance, risk and control, and will summarise the work and other assurance sources that support the opinion.

LOCAL AND NATIONAL ISSUES AND RISKS

The annual audit planning process ensures that new or emerging risks are considered. The Audit Manager consults the Strategic Leadership Team on the issues and risks inherent to their service areas to help identify any potential areas of concern for audit review. Risk registers are examined to ensure high scoring risks are taken into account. The audit 'universe' (list of auditable activities) and resulting plan are further informed by the review of Council minutes; corporate knowledge, and issues arising from past audits, and service reviews.

The Audit Plan is approved by the Audit Scrutiny Committee, however, it is recognised that this is flexible and can be revised should unforeseen issues arise, or priorities change throughout the year.

Individual audit projects within the plan focus on the control systems for key risks within each area. Both systems based and risk based approaches may be used. Mitigating actions from the operational risk register may also be tested to assess how well risks are being managed.

Awareness of national issues is maintained through membership of and subscription to professional bodies such as the Chartered Institute of Public Finance Accountants; advisory services; Better Governance Forum; liaison with external audit; and with other local authorities.

PROVISION OF THE SERVICE

The service is provided by an in-house Audit / Information Governance Manager and Auditor, supplemented with external resource as needed. This "mixed provision" service from a combination of internal and external resource provides a good skills base.

The audit team aim to deliver audit work in accordance with the Public Sector Internal Audit Standards.

Service delivery is monitored through a quality assurance and improvement measures which include key performance indicators such as achievement of the Audit Plan, customer feedback, assessment against the Public Sector Internal Audit Standards, and a value for money indicator which can be included to benchmark the cost of the service if required.

RESOURCES AND SKILLS

A budget is in place for 2024-2025 which supports the resources (outlined above) to deliver the plan.

The Council recognises both CIPFA and the Chartered Institute of Internal Auditors (CIIA) qualification for internal auditing. The Audit Manager is a full member of the Chartered Institute of Internal Auditors.

Training needs are assessed on an ongoing basis and are reviewed during annual staff Personal Development and Performance meetings. The aim is to ensure auditors are operating at a level which fulfils the Council's requirements and meets professional standards.

If the necessary skills for a particular assignment were not available in house, the external budget provides flexibility to source these externally, as required.

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