



Scrutiny & Overview Committee

MONDAY 13TH MAY 2013 AT 5.30 P.M.

COUNCIL CHAMBER, PARK NORTH, NORTH STREET, HORSHAM

Councillors:	George Cockman (Chairman)	
	Brian Donnelly (Vice Chairman)	Josh Murphy
	John Chidlow	Brian O'Connell
	Philip Circus	Jim Rae
	Leonard Crosbie	Kate Rowbottom
	Laurence Deakins	David Sheldon
	Duncan England	David Skipp
	Jim Goddard	Tricia Youtan

You are summoned to the meeting to transact the following business

Tom Crowley
Chief Executive

AGENDA

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1. Apologies for absence	
2. To approve as correct the record of the meeting of the Scrutiny & Overview Committee held on 4 th March 2013	1
3. To receive any declarations of interest from Members of the Committee	-
4. To receive any announcements from the Chairman of the Committee or the Chief Executive	-
5. To receive any replies from Cabinet/Council regarding Scrutiny and Overview Recommendations	
6. Issues of Scrutiny Membership	
7. Business Improvement Working Group – To receive an update from the Chairman. Notes of the meeting held on 23 rd April 2013 attached	7

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8.	Crime and Disorder Working Group - To receive an update from the Chairman. Notes of the meeting held on 13 th March 2013 attached	12
9.	Finance and Performance Working Group – To receive an update from the Chairman. Notes of the meeting held on 18 ^h April 2013 attached	16
10.	Social Inclusion Working Group – To receive an update from the Chairman. Notes of the meeting held on 18 th March 2013 attached.	20
11.	Health Provision Working Group – To receive an update from the Chairman on the meetings held on 20 th March (notes attached) and 30 th April 2013	27
12.	Scrutiny and Overview Committee Annual Report 2012/13 – draft attached	31
13.	Regulation of Investigatory Powers Act 2000 – report and revised Corporate Policy and Procedures Document attached	50
14.	To receive any suggestions for the Scrutiny and Overview Work Programme	
15.	West Sussex Joint Scrutiny - continuance of scrutiny arrangements and new Terms of Reference and protocol; proposed joint scrutiny project on flooding. To receive an update from the Chairman.	
16.	Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as urgent because of the special circumstances	

SCRUTINY & OVERVIEW COMMITTEE

4TH MARCH 2013

Present: Councillors: George Cockman (Chairman), Brian Donnelly (Vice-Chairman), John Chidlow, Philip Circus, Leonard Crosbie, Laurence Deakins, Duncan England, Brian O'Connell, Jim Rae, Kate Rowbottom, David Sheldon, David Skipp

Apologies: Councillors: Jim Goddard, Josh Murphy, Tricia Youtan

Also present: Councillors: Ian Howard, Gordon Lindsay

Officers: Rod Brown, Head of Planning and Environmental Services
Katherine Eberhart, Director of Corporate Resources

SO/58 **MINUTES**

The minutes of the meeting of the Committee held on 14th January 2013 were approved as a correct record and signed by the Chairman.

SO/59 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

SO/60 **ANNOUNCEMENTS FROM THE CHAIRMAN OF THE COMMITTEE OR THE CHIEF EXECUTIVE**

There were no announcements.

SO/61 **TO RECEIVE ANY REPLIES FROM CABINET/COUNCIL REGARDING SCRUTINY AND OVERVIEW RECOMMENDATIONS**

The Committee noted the comprehensive written response from the Cabinet Member for the Local Economy to the recommendations of the Supporting Local Businesses Working Group. The Working Group Members had received the response and a meeting would be convened in three months' time to consider progress on the actions taken in light of the Working Group's recommendations.

SO/62 **BUSINESS IMPROVEMENT WORKING GROUP – TO RECEIVE AN UPDATE FROM THE CHAIRMAN**

The Chairman of the Business Improvement Working Group presented the notes of the meeting held on 22nd January 2013 and a report on the progress of the Working Group's work programme.

SO/62 Business Improvement Working Group – to receive an update from the Chairman (continued)

The Working Group had reviewed the Council's use of consultants; its recommendations and those of the Finance and Performance Working Group had been noted, and the Council had approved relevant changes to the Contract Standing Orders.

The review of Contract Standing Orders had been completed; the significantly revised CSOs had been approved by the Council and were supported by a new Horsham Procurement Code.

The Working Group had reviewed the Council's process for vehicle procurement. Subject to receiving some final information from the Head of Operational Services, the review was complete. The Chairman of the Working Group would write to the Cabinet Member for Efficiency and Resources and to Operational Services staff to highlight the successes of the department in relation to vehicle procurement, servicing and repairs, and the positive impact that had on resources.

The Working Group had approved the revisions to the Council's Corporate Policy and Procedures Document on the Regulation of Investigatory Powers Act 2000. It would continue to consider any further proposed amendments.

The Working Group would review the S106 grant process at its meeting on 23rd April 2013.

The Working Group was seeking instruction from the Committee about whether it should conduct reviews that it had been tasked to undertake as part of its work programme but which had not yet commenced. Instruction was sought about the reviews of the performance in Development Management and the performance and productivity of the Planning Services Department. The Chairman of the Working Group felt that the reviews were a separate and wider piece of work to the Chief Executive's review of the issues arising from the Henfield planning appeal.

Committee Members expressed concern that performance levels were below target and also questioned whether the targets were too low.

Members were informed that income from planning fees had increased and that, for the year to date, income was exceeding budget expectations.

The Cabinet Member for Living and Working Communities referred to the changes in the management structure within Planning Services, how the scheme for delegated authority should provide an improved service, and how for major applications, if a decision was not possible within the determination period, that an extension could be sought with the agreement of the applicant.

SO/62 Business Improvement Working Group – to receive an update from the Chairman (continued)

The Head of Planning and Environmental Services referred to the period of staffing changes and promotions since the summer of 2012, the knock-on effect of a significant number of posts having to be filled, and the benefit of retaining experienced planning staff members. He predicted that the positive results of those changes would become fully evident in the next six months.

The Chairman of the Committee outlined an alternative procedure. Instead of embarking on a full review, the Business Improvement Working Group would require a regular update from the Executive and Management on their programme of improvements. This would begin with a statement of the current situation under three headings: Concern, Intended Response, Timescale. This and subsequent statements would form the objects of the Working Group review. Committee Members considered the merit of that suggestion but felt that a review was now required.

The Committee voted and agreed to instruct the Business Improvement Working Group to undertake the said reviews. The Working Group would scope the reviews and regularly report to the Committee.

The Working Group was also seeking the Committee's views about how it could consider proposed improvements and changes to services arising from the Business Transformation Programme in order to clarify its role but avoid duplication of effort with the BTP.

RESOLVED

- (1) That the notes of the Business Improvement Working Group meeting held on 22nd January 2013 be received
- (2) To instruct the Business Improvement Working Group to proceed with reviews of the performance in Development Management and the performance and productivity of the Planning Services Department

REASON

- (1) All notes of Working Group meetings are to be received by the Committee
- (2) To fulfil the Committee's scrutiny function by authorising the Working Group to review specific Council services

SO/63 **CRIME AND DISORDER WORKING GROUP - TO RECEIVE AN UPDATE FROM THE CHAIRMAN**

The Chairman of the Crime and Disorder Working Group presented the notes of the inaugural meeting held on 30th January 2013. The Working Group had approved its terms of reference and had received a training session relating to the relevant legislation and the role and duties of the Working Group.

The Chairman had attended the Community Safety Partnership Board (CSP) meeting and the Community Safety Advisory Group meeting.

A draft CSP Plan was being prepared and would be discussed at the Working Group meeting to be held on 13th March 2013.

RESOLVED

That the notes of the Crime and Disorder Working Group meeting held on 30th January 2013 be received

REASON

All notes of Working Group meetings are to be received by the Committee.

SO/64 **FINANCE AND PERFORMANCE WORKING GROUP - TO RECEIVE AN UPDATE FROM THE CHAIRMAN**

The Chairman of the Finance and Performance Working Group presented the notes of the meeting held on 6th February 2013.

The Working Group had noted that a forecasted underspend of £474,326 was being projected for the budget 2012/13.

The Working Group had received an analysis of the Council's income sources for 2009/10 compared to those for 2013/14. The Council was increasingly reliant on income sources other than government grants and council tax, such as car parking charges, rent from commercial properties, planning land charges and fees.

The Chairman of the Committee suggested that the Working Group might wish to request further details about the costs of salaries for casual and temporary staff because this had been almost double what had been budgeted, and also enquire about how many agency staff employed by Operational Services had subsequently been offered permanent employment at the Council. The Director of Corporate Resources reported that there would be an increase in those costs because of the Council's increased use of temporary contracts. Overall, however, there was an underspend in relation to the total salary budget.

SO/64 Finance and Performance Working Group - to receive an update from the Chairman (continued)

The Working Group had noted the increased cost of Operational Services vehicles purchasing fuel at the garage forecourt because the depot fuel tank was no longer in use following a fuel theft in late 2012. It had suggested that WSCC be contacted to explore the possibility of the Council benefiting from its fuel purchasing power. A Committee Member suggested that the Head of Operational Services might also enquire about other fuel buying networks that exist in the region and which operate across a wider area and number of local authorities.

The Committee noted that the Council had been successful in attracting funding through the Government's Weekly Collection Fund for an education campaign which would hopefully help to counteract the level of recycling waste rejects and the associated costs of sending those rejected collections to landfill. The campaign was expected to commence in April/ May 2013. The Director of Corporate Resources reported that subscriptions by residents signing up to pay for garden waste collection were, to date, well in excess of what had been expected; from 1st June 2013 valid membership stickers would be required to be displayed on bins.

RESOLVED

That the notes of the Finance and Performance Working Group meeting held on 6th February 2013 be received

REASON

All notes of Working Group meetings are to be received by the Committee.

SO/65 **SOCIAL INCLUSION WORKING GROUP – TO RECEIVE AN UPDATE FROM THE CHAIRMAN**

There had been no further meetings of the Social Inclusion Working Group and therefore there was no update from the Chairman. The Working Group would meet on 11th March 2013 and commence its review of 'Poverty Amongst an Ageing Population'.

SO/66 **HEALTH PROVISION WORKING GROUP – TO RECEIVE AN UPDATE FROM THE CHAIRMAN**

There had been no further meetings of the Health Provision Working Group. The Chairman of the Working Group reported that its Members had attended the Health and Wellbeing Advisory Group meeting on 7th February 2013 to hear the local Clinical Commissioning Group (CCG) representatives outline their preparations and objectives; the CCG would take on responsibility for designing health services as from 1st April 2013.

SO/66 Health Provision Working Group – to receive an update from the Chairman
(continued)

The Working Group would invite the CCG representatives to meet again to discuss services at Horsham Hospital, some time after April 2013.

The Working Group Members had wondered how, without a hospital manager, oversight and overall co-ordination of services at Horsham Hospital could be achieved; the CCG would consider that and evaluate the options.

The next Working Group meeting would be held on 20th March 2013.

SO/67 **TO RECEIVE ANY SUGGESTIONS FOR THE SCRUTINY AND OVERVIEW
WORK PROGRAMME**

There were no suggestions for the Scrutiny & Overview work programme.

SO/68 **ITEMS NOT ON THE AGENDA BUT CONSIDERED URGENT**

There were no urgent items.

The meeting finished at 6.35 p.m. having commenced at 5.30 p.m.

CHAIRMAN

Notes of the Scrutiny and Overview Committee
Business Improvement Working Group
23rd April 2013

- Present:** Councillors: Brian O'Connell (Chairman), Peter Burgess,
John Chidlow, Malcolm Curnock, Frances Haigh
- Apologies:** Councillor David Jenkins
- Also present:** Councillors Philip Circus, Leonard Crosbie, George Cockman,
Brian Donnelly, Duncan England, Jim Goddard
- Officers:** Jocelyn Brown, Principal Solicitor (Planning, Contracts & Litigation)
Rod Brown, Head of Planning and Environmental Services
Hilary Coplestone, Planning Services Manager
Ian Jopling, Head of Operational Services
Sue McMillan, Head of Financial and Legal Services

1. RECORD OF THE MEETING HELD ON 22nd JANUARY 2013

The notes of the meeting held on 22nd January 2013 were approved as a correct record.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. ANNOUNCEMENTS

Andrew Dunlop had resigned from the Council and was therefore no longer a Member of the Working Group. The vacancy on the Working Group would be filled in due course.

4. CO-OPTION OF MEMBERS TO THE WORKING GROUP

The Working Group agreed to co-opt Councillors Philip Circus, Leonard Crosbie, Duncan England and Jim Goddard to the Working Group to assist with its work and in particular the review of Development Management and Planning Services.

5. SECTION 106 GRANT PROCESS

Officers explained the S106 grant process and tabled a flowchart detailing the stages for processing Planning Obligations. A Section 106 Agreement was a private legal agreement between the Planning Authority and the

applicant/developer and any others that may have an interest in the land. Its purpose was to make acceptable development which would otherwise be unacceptable in planning terms. The land, rather than the person or organisation that developed the land, was bound by a Section 106 Agreement.

Planning Obligations were mainly used, following the granting of planning permission, to prescribe the nature of development, to compensate for any loss or damage created by a development, or to mitigate a development's impact.

Planning Obligations must meet three statutory tests: they have to be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

Affordable housing would continue to be delivered through Planning Obligations rather than the Community Infrastructure Levy (CIL). The Levy had not yet been introduced and a further consultation was under way about rescheduling its commencement from April 2014 to April 2015. It would be a new charge that local planning authorities could choose to levy on certain new development to help fund local infrastructure, rather than rely on individual planning agreements.

Members queried how local authorities accessed and used S106 monies, and highlighted the need to use that money before any time clauses in S106 agreements were triggered which would result in repayments to developers. Horsham District Council had a Monitoring Officer to ensure that S106 agreements were implemented and monies used.

Members noted that the Planning Obligations Panel was required because of significant S106 monies which had been collected before April 2010, when the CIL Regulations came into force, that were still to be allocated. The Panel provided a transparent mechanism and an audit trail for the use of those monies. The Working Group requested that it receive, at its meeting on 28th May 2013, the terms of reference of the Planning Obligations Panel and details of the current S106 monies it was considering.

6. REVIEW OF DEVELOPMENT MANAGEMENT AND THE PERFORMANCE AND PRODUCTIVITY OF PLANNING SERVICES

The Chairman explained that he was the Deputy to the Cabinet Member for Living and Working Communities. The Legal Services Department had confirmed that there was no conflict of interest in his participation of a review of Development Management and Planning Services. The role of a Deputy Cabinet Member was not a recognised or approved office within the Council's Constitution and the proposed review was not examining a decision of the Cabinet but would be an overview of service delivery.

The Working Group agreed that the review should initially focus on Development Management; consideration would be given at a later stage about whether to review Strategic Planning.

The Working Group requested that a flowchart be prepared for its meeting on 28th May 2013, detailing the stages of the planning application process, and another chart showing the relevant management structure, the individual posts in each department and any current vacant posts.

The Working Group, at its meeting on 9th July 2013, would consider how to survey the views of Members, staff and stakeholders.

The Working Group agreed the following terms of reference for the review:

1. To examine and comment as required on the current processes within the planning service
 - (a) establish the current procedures and documents
 - (b) consider whether the current procedures need to be amended or updated, or a new system introduced
2. To examine and comment, as required, on the structure of the Development Management department
 - (a) establish the current staffing levels by department and the management structure
3. To consult with staff, Members and service users on the perceived issues within Planning Services
 - (a) the survey of staff, Members and stakeholders could be verbal and/or written and consideration be given to confidentiality
4. To review, as required, the workloads and future workloads of Planning Services
 - (a) to consider whether the current monitoring targets are realistic
5. To consider whether the current planning policy fairly reflects the needs of Horsham District and stakeholders
6. To consider the historical structure of the Planning Services department (up to the year 2000, from 2000 to 2008, and from 2008 to the present day)
7. To consider the historical levels of staff costs in the Planning Services department

8. To consider the Council's communication of planning law to the public and stakeholders
9. To consider restrictions imposed on the Council by the National Planning Policy Framework
10. To consider the enforcement procedure.

7. VEHICLE PROCUREMENT - UPDATE

The Head of Operational Services tabled an updated fleet list which provided a vehicle inventory and details of the age of vehicles, the maximum allowable mass, whether vehicles were owned, leased or hired, the year when each vehicle was originally budgeted for replacement and the current proposed replacement date.

He, in response to the Members' query about those vehicles which had been budgeted for replacement in 2010 and 2011 but had not yet been replaced, explained that money budgeted for replacements, but which had not been used, was carried over.

Members had previously asked for confirmation about the reliability and life expectancy of certain vehicles which had been in operation since 1995. The Head of Operational Services reported that an assessment was made of vehicles during their usage and as their replacement date approached to evaluate their condition, whether any repairs were required and their residual value on the second hand vehicle market. In some cases, vehicles were refurbished and/or an additional second-hand equivalent vehicle was purchased which resulted in a reduction in the level of usage of existing vehicles which would hopefully extend their life. Some vans in use by the fitters were still capable of prolonged use and had not yet been replaced.

Horsham District Council owned almost all of its fleet vehicles. A large supply of spares was not retained because spare parts could be readily sourced and delivered, and because of a restricted amount of space.

Members asked about the proposed replacement in 2018/19 of a number of sideloader refuse collection vehicles and the high accumulative cost that would create for the Council. The Head of Operational Services confirmed that the costs were included in the capital projections and that some of those vehicles could last beyond 2018/19 by adhering to the maintenance programme and because the vehicles no longer entered the landfill sites.

The Chairman confirmed that he would write to the Cabinet Member for Efficiency and Resources and staff at the Hop Oast Depot, to highlight the successes of the Operational Services Department in relation to vehicle procurement, servicing and repairs, and the positive impact on resources.

**8. REGULATION OF INVESTIGATORY POWERS ACT 2000 - UPDATE
REPORT AND REVISED CORPORATE POLICY AND PROCEDURES**

The Working Group noted the update report and the revisions to the Council's Corporate Policy and Procedures Document on the Regulation of Investigatory Powers Act 2000 (RIPA). The revisions were required in order to comply with a number of legislative changes and in particular the Protection of Freedoms Act 2012 which restricted local authorities' use of RIPA. The new changes meant that internal RIPA authorisation would not take effect until judicial approval (via an application to the Magistrates' Court) was obtained for directed surveillance, covert Human Intelligence sources, and communications data. Use of RIPA to authorise directed surveillance (covert surveillance on individuals in public places) should be confined to cases where the offence under investigation carried a maximum custodial sentence of six months or more.

Members noted that Horsham District Council had not used RIPA for a number of years.

The Working Group agreed to recommend that the Scrutiny and Overview Committee recommend Council to adopt the revised RIPA Corporate Policy and Procedures Document.

9. BUSINESS TRANSFORMATION PROGRAMME (BTP) - UPDATE

The Chairman reported on his attendance at the Business Transformation Advisory Group meeting on 27th March 2013. The Programme was currently focussed on upgrades to the Council's telephony and computer systems; quotations were awaited.

It was hoped that proposed changes would include certain staff members being trained to deal with a range of general telephone enquiries. This would be beneficial because it would free up officers' time from dealing with many of those calls.

The Chairman confirmed that he would continue to report back on developments in relation to the Business Transformation Programme.

10. MEETING DATES

The Working Group had agreed an additional meeting on 28th May 2013.

Following that the Working Group would meet on 9th July, 22nd October 2013, and 28th January, 29th April and 8th July 2014.

The meeting finished at 7.40 p.m. having commenced at 5.30 p.m.

CHAIRMAN

Notes of the Scrutiny and Overview Committee
Crime and Disorder Working Group
13th March 2013

Present: Councillors: Kate Rowbottom (Chairman), David Coldwell,
Christine Costin, Duncan England, Frances Haigh, Jim Sanson

Also present: Councillors: George Cockman, Sue Rogers

Apologies: Councillor Jim Goddard

Officers: Greg Charman, Community Safety Manager
Neil Worth, Community Safety Officer

**1. TO APPROVE AS CORRECT THE RECORD OF THE MEETING HELD
ON 30TH JANUARY 2013**

The notes of the meeting held on 30th January 2013 were approved as a correct record.

2. TO RECEIVE ANY DECLARATIONS OF INTEREST

Councillor Coldwell declared that he was the substitute Member for the Council's representative on the Police and Crime Panel.

3. ANNOUNCEMENTS FROM THE CHAIRMAN OR CHIEF EXECUTIVE

3.1 CSP Strategic Board meeting

The Chairman reported that she had attended the Horsham District Community Safety Partnership (CSP) Board meeting on 13th February 2013 and welcomed its Chairman, Councillor Sue Rogers, to the meeting.

Councillor Rogers reported that Chief Inspector Howard Hodges, District Commander of Horsham, had attended his first CSP Strategic Board meeting, and that Debbie Beck, Senior Policy Officer at the Sussex Police and Crime Commissioner's Office, had attended and had reported on the Commissioner's plans and priorities and how they link with the Partnership. New representatives were expected from the West Sussex Fire and Rescue Service and also the Surrey and Sussex Probation Service. The CSP Board had considered whether it should use an IT system which would allow data input by multi-agencies; a finance working group had been established to examine this. Working Group Members

asked about the security of information held on such an IT system and were informed that ownership of data was retained by the organisation that posted that data but they could invite others, including CSP partners, to view the information.

3.2 Community Safety Advisory Group

The Chairman reported that she had attended the Community Safety Advisory Group meeting on 28th February 2013. The CSP Draft Plan had been discussed at that meeting.

3.3 Sussex Police comments on proposed planning developments

Members had previously asked whether Sussex Police was required to comment on proposed planning developments and to highlight any potential crime and disorder issues. The Council's Planning Department had provided a response that stated that Sussex Police, in October 2008, had asked to be consulted on the following types of application: domestic applications of ten or more units, commercial applications that exceed 1,000 sq metres of floor space, and any other applications which would benefit from crime prevention advice (although no examples had been provided).

Members felt that the Community Safety team should have an increased input and that the Strategic Planning Department could regularly seek their views. Development Control Committee reports did include a standard paragraph that asked how the proposal would help to reduce crime and disorder; this could be strengthened by seeking comments from internal and external sources.

The Working Group agreed to request that an officer from Planning and Environmental Services Department be invited to attend its next meeting to discuss the procedure for obtaining comments about crime and disorder reduction in relation to planning applications, and to ask whether any refinements could be made or if input from others could be beneficial.

4. WEST SUSSEX STRATEGIC COMMUNITY SAFETY PARTNERSHIP

The Working Group noted, for information, details from the West Sussex CSP briefing document that explained the role and priorities of the West Sussex Strategic CSP and the Horsham CSP. Members also noted the West Sussex Community Safety Agreement 2012/13.

5. ANALYTICAL SUPPORT TO HORSHAM DISTRICT CSP BY WEST SUSSEX COUNTY COUNCIL

Members were informed of West Sussex County Council's decision to cease production of analytical crime data as from April 2013; in future that data would be provided by Sussex Police. Natalie Brahma-Pearl, Chair of Horsham District CSP, would be contacting WSCC to ask why that decision had been made without consultation with the West Sussex Strategic CSP or the Horsham District CSP. The Sussex Police and Crime Commissioner's Office would also enquire about this matter and compare the situation to the arrangements which exist for the East Sussex Strategic CSP.

This reduction in analytical support would be raised at the next West Sussex Strategic CSP Board meeting. Although the figures would no longer be provided by WSCC's Insight Team at an in-depth level, if issues arose that required urgent attention, data analysis would be available on request. Working Group Members suggested that a Service Level Agreement with WSCC might be a possible way forward to secure a reasonable and timely service in such circumstances.

6. COMMUNITY SAFETY PARTNERSHIP DRAFT PLAN 2013/14

The Community Safety Manager and the Community Safety Officer gave a presentation on the draft CSP Plan for 2013/14. The draft Plan had been discussed at the CSP Conference on 7th March 2013. A number of emerging priorities had been identified and agreed by the statutory CSP members and the representatives of District residents and organisations.

The CSP Plan would focus on six key priorities: reduce anti-social behaviour, improve road safety, reduce domestic burglaries, reduce violence against the person, reduce repeat and vulnerable victims, and improve engagement and reassurance. A lead organisation would be assigned to each of the priorities, and each priority would have an action plan, which the Working Group could use to monitor progress.

Members were informed that community safety work had been funded by the Home Office but it would, as from 1st April 2013, be funded by the Police and Crime Commissioner's Office and she would be seeking evidence of value for money and efficient use of that funding. Other income streams would be explored including consideration of whether S106 agreements / Community Infrastructure Levy money could provide funding for CCTV and other community safety features for new developments. The Working Group agreed that the Head of Planning and

Environmental Services should be invited to attend its next meeting to discuss this.

The Working Group highlighted the importance of how crime statistics were presented so as not to cause potential alarm and that they should be carefully explained.

The CSP Draft Plan and action plans would shortly be circulated to Members of the Working Group for comment prior to publication on 1st April 2013.

7. WORK PROGRAMME

The Working Group identified a number of further issues for its consideration at future meetings which included the following:

- Procedures for obtaining comments about crime and disorder reduction in relation to planning applications, and the potential for greater input from Community Safety officers.
- Assessing whether value for money was being achieved in the use of community safety funding by the Police and Crime Commissioner's Office. A standard agenda item would appear relating to finance / value for money.
- Review of progress on the action plans for the CSP Plan's priorities.

The Working Group recognised that it needed to remain flexible and to be able to discuss other matters that may arise.

It was suggested that the CSP Strategic Board agenda should include an item of business for questions that may be raised by the Scrutiny Committee or the Working Group.

8. FUTURE MEETING DATES

The Working Group had previously agreed to generally meet on a quarterly basis which would work well with the Horsham District CSP Board which also held quarterly meetings. The Working Group agreed to meet at 3:00 p.m. on 19th June and 25th September 2013.

The meeting finished at 4.05 p.m. having commenced at 3.00 p.m.

CHAIRMAN

Notes of the Scrutiny and Overview Committee
Finance and Performance Working Group
18th April 2013

Present: Councillors: John Bailey, George Cockman, Leonard Crosbie, Jim Goddard, Frances Haigh, Brian O'Connell, Stuart Ritchie

Also present: Councillors: Roger Arthur and David Holmes

Apologies: Councillor Jim Rae

Officers: Katherine Eberhart, Director of Corporate Resources
Ian Jopling, Head of Operational Services
Sue McMillan, Head of Financial and Legal Services

1. ELECTION OF A CHAIRMAN FOR THE MEETING

Councillor Gordon Lindsay was no longer the Chairman of the Working Group because of his recent appointment as a Cabinet Member. Members expressed their thanks to Councillor Lindsay and wished him well in his new role.

Councillor Leonard Crosbie was elected as Chairman for the meeting.

2. TO APPROVE AS CORRECT THE RECORD OF THE FINANCE AND PERFORMANCE WORKING GROUP MEETING ON 6TH FEBRUARY

The notes of the Finance and Performance Working Group meeting held on 6th February 2013 were approved as a correct record of the meeting, subject to altering the date in the first paragraph of page 3 to read "April 2013".

3. TO RECEIVE ANY DECLARATIONS OF INTEREST

There were no declarations of interest.

4. ANNOUNCEMENTS FROM CHAIRMAN OR CHIEF EXECUTIVE

There were no announcements.

5. BUDGET ISSUES

(i) New Homes Bonus Adjustment Grant amount for 2013/14

The Head of Financial and Legal Services reported that the Council had received an additional £15,195 as a New Homes Bonus Adjustment Grant for 2013/14. This funding represented the unused resources from the £500 million taken from Revenue Support Grant to finance the New Homes Bonus Scheme in 2013/14. The 2013/14

Adjustment Grant amount was in addition to the grant allocation of £1,166,463 that Horsham District Council had received.

(ii) Procurement approach to fuel costs

The Head of Operational Services reported on how the Council, since 2012, purchased diesel for its fleet of vehicles via Laser Energy, an energy buying group representing over a hundred public bodies. It was the largest energy consortium in the south of England. The Council had to comply with public procurement law when purchasing certain goods, works or services. European procurement regulations, designed to open up the EU's public procurement market to competition, were applicable if supplies above a threshold of £173,934 were to be procured. Laser Energy complied with the regulations. There had been a theft of fuel from the storage tank at Hop Oast Depot in late 2012. A new and more secure tank would be purchased and installed; quotations were being sought. Members emphasised the need for continued accurate monitoring of fuel usage by fleet vehicles.

The Head of Operational Services would attend the Working Group meeting on 15th May 2013 to answer Members' queries about why the transport services budget for repairs and maintenance was higher than expected. The Head of Financial and Legal Services agreed to prepare a report for that meeting to provide details of that budget over recent years and to identify any trends. Similar reports, if requested, could be prepared for other budgets and Heads of Service invited to future meetings to discuss their budgets.

6. CENSUS JOINT COMMITTEE MEETING

The Working Group received the draft minutes of the CenSus Joint Committee meeting held on 22nd March 2013.

The Working Group noted that there had been an ICT failure at Worthing Borough Council when fibre switch equipment, just prior to a replacement programme, had failed. Deloitte, the internal auditor of the Adur-Worthing partnership, completed a detailed review of the failure. As a result of the findings CenSus ICT had compiled an action plan which was being monitored by the CenSus Joint Committee. Corrective measures were being undertaken which would reduce the risk of further disruption. Horsham District Council, as the lead authority, would address the situation and any required actions would be rolled out to the councils.

The Working Group requested that Ian Henderson, Interim Head of CenSus ICT, be invited to attend the Working Group meeting when it received the notes of the CenSus Joint Committee meeting to be held on 21st June 2013.

Members expressed their concern at the ICT failure and noted the work being undertaken in response. It was acknowledged that the

partnership between the four councils continued to bring shared benefits and savings.

The Working Group was informed of a recent issue with an apparent increase in the level of missed public telephone calls to the CenSus Partnership. An increased volume of calls was experienced in March and April due to changes in benefit claimant circumstances and following the issue of Council Tax bills. Additional staff members were being employed and other existing staff members were being transferred to deal with telephone enquiries. Mid Sussex District Council managed this service and would report back to the CenSus Joint Committee. The Working Group expressed its concern and suggested that timely preparations and adequate staffing levels be in place for the same time next year.

The Working Group requested to receive the financial reports provided on a quarterly basis to the CenSus Joint Committee.

7. COMPARATIVE COSTS OF COUNCIL SERVICES

The Head of Financial and Legal Services gave a presentation which compared the costs of a range of council services in 46 local authorities in East Sussex, West Sussex, Kent, Hampshire and Surrey. The presentation slides would be circulated to the Working Group Members.

Members noted that Horsham District Council set one of the lowest Council Tax charges (and it was in the lowest quartile), received a low level of Government Grant per head of population when compared to other councils (the second lowest of the regional councils), and had an average level of reserves. Economic Development income was at a healthy level.

The Council's waste collection costs were above average but that cost would be reduced in 2013/14 because of the decision to charge for green waste collections.

The Council's Development Management costs were slightly above average which reflected the higher level of planning applications received, the Council's planning enforcement work, recent appeal costs, and because the Council did not charge for pre-application advice.

In general, Horsham District Council services were provided at a relatively low cost and the Council operated within its budget constraints.

Members expressed their thanks to the Head of Financial and Legal Services for preparing the information and suggested that this could be an annual exercise. The Audit Commission produced a comparison mostly of local authorities in the Home Counties in its "Statistical Nearest Neighbours" analysis and that information could also be used.

8. MEETING DATES

Working Group meetings would be held on the following dates:

15th May, 7th August, 13th November, and 4th December 2013

An informal meeting with the Cabinet was scheduled on 12th December
6th January 2014

An informal meeting with the Cabinet was scheduled on 9th January
5th February and 14th May 2014

The meeting ended at 7.35 p.m. having commenced at 5.30 p.m.

CHAIRMAN

Notes of the Scrutiny and Overview Committee
Social Inclusion Working Group
18th March 2013

- Present:** Councillors: Claire Vickers (Chairman), Peter Burgess,
George Cockman, Christian Mitchell, Godfrey Newman,
Kate Rowbottom, David Skipp, Tricia Youtan
- Also present:** Councillors: Leonard Crosbie, Duncan England, Frances Haigh,
David Sheldon
- By invitation:** Janice Leeming, Chief Executive, Age UK Horsham District
- Officers:** Clare Ebelewicz, Senior Youth and Older Persons Officer
Jill Scarfield, Head of Strategic Planning and Performance

**1. TO APPROVE AS CORRECT THE RECORD OF THE MEETING HELD
ON 3RD DECEMBER 2012**

The notes of the meeting held on 3rd December 2012 were approved as a correct record.

2. TO RECEIVE ANY DECLARATIONS OF INTEREST

There were no declarations of interest.

3. ANNOUNCEMENTS FROM THE CHAIRMAN OR CHIEF EXECUTIVE

There were no announcements.

4. REVIEW OF POVERTY AMONGST AN AGEING POPULATION

The Chairman welcomed Janice Leeming, Chief Executive, Age UK Horsham District, to the meeting.

The Working Group approved the scope and terms of reference of its review which would focus on a broad examination of poverty, extending beyond that of financial hardship, affecting the increasing ageing population in the District.

Members acknowledged that an ageing population had implications for the services that the Council, agencies and families provided.

Agenda item 10

Social Inclusion Working Group

18th March 2013

Janice Leeming outlined the work of Age UK Horsham District and its Strategic Plan for 2012-2015. Its mission was to provide activities and services that promoted, influenced and improved wellbeing and quality of later life. Age UK Horsham District worked in partnership with other organisations. There was a significant concentration of people aged over 65 years and aged 45 to 64 years (i.e. future retirees) in the south of Horsham District. The majority of older people (65%) lived in rural areas. There was a relatively high and increasing life expectancy but some people were living longer in ill health or with a disability.

Horsham District was less deprived than other areas of West Sussex but there was deprivation and 17% of older people lived in income-deprived households. Horsham District was the safest place in West Sussex and one of the safest places to live in the UK.

Quality of life issues were identified by older people as the key drivers of health and wellbeing, whether that was choice and control, living independently, health and wellbeing including living in communities where that they felt they belonged and were valued and could contribute, feeling and being safe, and with access to community activities, facilities and transport.

Age UK had published a report 'Improving later life - Understanding the oldest old' which referred to those in their mid-80s and above; a copy of the report had been emailed to Working Group Members.

Age UK Horsham District had five main objectives in its strategic goals: to focus on what people in later life wanted and needed, to focus on core services and do few things well, to reach more people, to focus on free charitable services, and to recognise and respond to the size, variability and rural nature of the District.

Age UK Horsham District wished to double its Home Visiting and Help at Home services, to reach more people through its Information and Advice Service, to expand its dementia/ frail specialist support and day centres, and to redevelop and double the reach of its 'Arun' magazine.

The Home Visiting Service helped to alleviate loneliness and isolation; it was hoped that more funding would be obtained for this.

Age UK Horsham District had succeeded in providing benefits advice over the past year which had resulted in £1 million of unclaimed benefits being obtained. That free service was heavily oversubscribed; two part time members of staff provided the service. Age UK Horsham District had recently secured funding from WSCC to continue its work researching loneliness and social isolation and potential solutions. A Village Agent

project was being piloted in Billingshurst and Shipley which would assist older people to access services and provide advice where required. Age UK was working with a number of partners including HDC, WSCC, Horsham District Community Transport, and the Senior Persons' Council (the meetings of which Janice Leeming attended).

Age UK was sometimes consulted by local health service providers when older patients were discharged from hospital and required support. WSCC was commissioning work about health and wellbeing which would consider support for those returning home from hospital and about services that could help to tackle social isolation.

The Working Group welcomed the valuable work being carried out by Age UK and thanked Janice Leeming for her presentation.

In discussion Members commented as follows:

- That working after the age of 65 could be beneficial for some older people.
- Younger people could be encouraged to engage with older people by being helpers which was a rewarding role.
- There should be adequate provision of public toilets.
- Some older people required help to complete official forms which were often lengthy and/or difficult to fill in.
- That there could be greater engagement with health service providers and the Clinical Commissioning Groups (CCGs) to ensure support for older patients when discharged. The Government and the CCGs favoured support to be provided for older people outside of a hospital setting where possible and funding would be available for that care. An opportunity existed for the provision of such a service (and Janice Leeming explained that Age UK was keen to develop new services and would consider such opportunities).
- The possibility of surrogate grandparents could be considered.
- Many organisations provided services and support to the older population and there should be a means to share good practice and to avoid any duplication of work.
- Greater liaison with Parish Councils would be beneficial in light of the fact that 65% of older people lived in rural areas of the District.

- Owning a pet could provide companionship for older people and have a beneficial effect on health and wellbeing. Schemes and charities such as the Cinnamon Trust could provide support.
- Residents in sheltered housing schemes could experience loneliness at weekends when the warden may not be present and fewer activities were provided.
- The Casserole Club, operating in Reigate and Banstead, was an example of a scheme where people could provide meals to neighbours who required or could benefit from that. It strengthened neighbourhood relations, supported older people and addressed social isolation.
- Horsham Shopmobility was a useful service that provided manual and powered wheelchairs and motorised scooters to anyone, young and old, who had mobility issues, for shopping in Horsham town. The scheme could be replicated in other towns and large villages.
- There had been an issue about community transport buses not being able to park in disabled parking bays in Horsham but that had been resolved. It was important that such transport could park in disabled bays in other towns to ensure accessibility for users.

The Senior Youth and Older Persons Officer outlined the work undertaken by Horsham District Council. Its report 'Preparing for an Ageing Population 2011-2016' noted the changing demographics of the Horsham District, the implications and opportunities for Council services, and examined the needs of an ageing population.

Data comparing the District's population figures between 2001 and 2011 showed there had been increases of 15% in the 75 to 79 age group, 31% in the 80 to 84 age group, 29% in the 85 to 89 age group, 30% in the 90 to 94 age group, and 53% in the 95 to 99 age group. The Head of Strategic Planning and Performance informed Members that further relevant analysis of Census 2011 data, on a ward by ward basis, was being prepared and would be provided in due course.

The Council supported Age UK Horsham District with an annual grant, supported the Senior Persons' Council, produced the Older People's Directory, supported Impact Initiatives which ran Dingemans in Steyning for those aged 55 and above, provided a Community Link Alarm Service, operated the Horsham Shopmobility Service, published the 'Life is for Living' newsletter, its Leisure Link team supported the development of sporting activities for older people across the District, and Horsham Museum had a Reminiscence Service. The Preparing for an Ageing Population Advisory Group met three to four times a year and had supported the Pride of Place Campaign and the Council would produce a

quarterly newsletter for Parish and District Councillors to promote good practice in relation to supporting older people.

The Head of Strategic Planning and Performance explained that there were reasons for fuel poverty within the District: there was higher than average level of households which did not have gas heating, and a number of homes that were constructed in such a way that made insulation difficult to achieve. The Cabinet had agreed that Horsham District Council would be an affiliate member to the WSCC-led Warmer Energy Saving Homes programme which was being set up in response to the Government's Green Deal policy, a national initiative to improve energy efficiency in UK households. A Members' Seminar would take place on 5th June 2013 to explain the Green Deal scheme.

The Working Group agreed to invite the following to attend a future meeting: a representative of the Senior Persons' Council, Community Development and Assessment officers. The Working Group wished to discover what older people themselves had indicated that they needed in terms of services and support.

5. PROPOSAL FOR A HORSHAM TOWN ACCESS AUDIT

The Head of Strategic Planning and Performance reported on the possibility of undertaking an access audit of Horsham town, looking at physical access and also access to information and services, which could add value to the Review of Poverty amongst an Ageing Population. Work being undertaken by various Council departments such as Economic Development and Business Transformation involved the issue of access. External organisations/groups such as Age UK, Pride of Place, the Horsham and District Access Forum, Senior Persons' Council, Horsham District Community Partnership were interested in access issues and could also contribute.

David Smith, Interim Equalities Officer, would liaise with the Economic Development team on access issues in connection with the enhancement project for West Street, Horsham and the planned development at the Bishopric, Horsham. He would participate in the next Horsham Town walkabout and be consulted on other relevant projects.

The Strategic Planning and Performance team would assemble information about the work on access issues being undertaken by various organisations and would suggest co-ordinated action where possible. The Council could eventually aim to promote Horsham town and District as a place that was welcoming, user-friendly and easily accessible to older people and those with a disability or mobility issues. It was suggested that relevant Cabinet Members' Advisory Groups and Working Group Chairmen be invited to contribute to this work, and also that consideration be given to the use of S106 agreement money for works to provide and improve public access.

6. WORK PROGRAMME UPDATES

Information Shop for Young People

The Working Group had agreed to share the students' research findings and suggestions for improvements with West Sussex County Council and Central Sussex YMCA, and to encourage them to increase and improve the use of the Information Shop and to liaise with the students in progressing that work.

A meeting was being arranged. Tanbridge House School had been kept informed and the students who had conducted the review would be invited to attend the meeting. It was suggested that Councillor Peter Evans, WSCC Cabinet Member for Children's Services, and Councillor Richard Burrett, WSCC Chairman of the Children and Young People's Services Select Committee, could be invited to attend.

Review of how the Council is represented on outside bodies

The Working Group noted the updated list detailing the Council's representation on outside bodies, and where the Council's representation was no longer required or where the outside body no longer existed. Previous queries from the Scrutiny Committee and the Working Group had been followed up and relevant revisions had been made.

Members noted that the Council had not been represented on the Gatwick Area Conservation Campaign since 2010; that organisation was separate to the Gatwick Greenspace Group on which the Council was represented.

The Council's representation on the Billingshurst Leisure Centre Advisory Committee would be checked. The WSCC Health Overview and Scrutiny Committee had been renamed WSCC Health Adult Services Committee and that change would be noted.

A revised version of the list would be circulated to all Councillors for final comments.

Members noted that several years ago Council representatives on outside bodies would report back by means of a summary note being tabled at Council meetings but that practice had ceased.

Southern Water's metering programme

The Working Group noted the article that had been published in the Horsham District News magazine for Spring 2013.

7. MEETING DATES 2013/14

The Working Group noted that its meetings would be held at 5:30 p.m. on the following dates:

17th June, 23rd September, 2nd December 2013, and

10th March and 16th June 2014.

The meeting finished at 7.20 p.m. having commenced at 5.30 p.m.

CHAIRMAN

Notes of the Scrutiny and Overview Committee
Health Provision Working Group
20th March 2013

Present: Councillors: David Skipp (Chairman), Frances Haigh,
Liz Kitchen, Kate Rowbottom, Claire Vickers,

Also present: Councillor George Cockman

Apologies: Councillor John Chidlow, Tricia Youtan

1. TO APPROVE AS CORRECT THE RECORD OF THE MEETING HELD ON 10TH DECEMBER 2012

The notes of the meeting held on 10th December 2012 were approved as a correct record.

2. TO RECEIVE ANY DECLARATIONS OF INTEREST

There were no declarations of interest.

3. ANNOUNCEMENTS FROM THE CHAIRMAN OR CHIEF EXECUTIVE

There were no announcements.

4. SERVICE DEVELOPMENTS IN HORSHAM

The Working Group Members noted the organisational charts for the NHS Horsham and Mid Sussex Clinical Commissioning Group (CCG). The charts provided details about the governance structure, the CCG Governing Body, the CCG Joint Locality Group, and the Clinical Directors' current portfolios for members of the CCG Delivery Group.

Dr. Simon Dean was the Horsham Locality Chair. The Working Group would support him in his efforts to represent and develop services in Horsham.

The Working Group wished to continue its communication with the local CCG. The Chairman attended the WSCC Health and Adult Social Care Select Committee meetings alongside CCG representatives, and he also had meetings with Michael Wilson, Chief Executive, Surrey and Sussex Healthcare Trust (SASH). He would report back on these and other relevant meetings.

Working Group Members had attended the meeting of the Health and Wellbeing Advisory Group on 7th February 2013 when the local CCG representatives outlined their preparations and objectives. The CCG would take on responsibility for designing health services as from 1st April 2013.

5. LINK REPORT: STEP-DOWN PATHWAYS INVOLVING HORSHAM HOSPITAL

The Working Group noted the West Sussex LINK report 'Step-Down Pathways involving Horsham Hospital – Patient experience of hospital transfer and discharge', dated February 2013.

6. SERVICES AT HORSHAM HOSPITAL – RESPONSES RECEIVED FROM NHS TRUSTS AND OTHER PROVIDERS

Members were impressed by the range of services provided at Horsham Hospital but wondered how, without a hospital manager, oversight and overall co-ordination of services at Horsham Hospital could be achieved.

Responses to the Working Group's enquiries about services provided at Horsham Hospital had been received from the local CCG, the Sussex Community NHS Trust, the Sussex Community Dermatology Service, NHS Surrey, the Sussex Partnership NHS Foundation Trust, the Brighton and Sussex Diabetic Eye Screening Programme, Harmoni, and WSCC Social Services. Responses had not yet been received from the Surrey and Sussex Healthcare NHS Trust and from the Western Sussex Hospitals NHS Trust.

It was noted that the CCGs seemed to favour some services to be provided, where possible, in the community and outside of a hospital setting. Members, however, wished for services at Horsham Hospital to be supported, developed and promoted. The Chairman reported that there was vacant space at the hospital that could be refurbished for the extension of or introduction of health services.

The Working Group agreed to ask the CCG to clarify the statistics it had provided because they did not clearly reveal the level of usage at Horsham Hospital. Members also wanted to know the attendance figures for clinics at Horsham Hospital when compared to the total capacity. The local CCG would soon be publishing a paper about the future of Horsham Hospital and a copy would be requested.

Members praised the work of the Minor Injuries Unit. The Sussex Community NHS Trust was commissioned to provide that service; the commissioners were the NHS Sussex / Horsham and Mid Sussex CCG who were responsible for commissioning additional activity and resource at the Unit. The Sussex Community NHS Trust's response stated that it was not experiencing any difficulties in hiring and retaining staff at the Minor Injuries Unit. Members had previously commented that the Unit may not be as well used as it could be, perhaps because it was only open between 9:00 a.m. and 5:00 p.m. and because of possible difficulties in the past in hiring staff and resourcing extended hours of opening, and because some local residents may not be aware of the Unit. The Chairman suggested that the Working Group might again consider the Unit's usage and enquire about the potential for extending its opening days and hours given that staffing levels were no longer an issue.

Members commented that Horsham Hospital was a convenient location for certain health services and suggested that more referrals by GPs could increase the level of usage. An increasing ageing population also meant that greater use should be, and was likely to be, made of services at the hospital.

The majority of health services at Horsham Hospital were provided by the Sussex Community NHS Trust (SCT). The Working Group agreed to request that SCT representatives be invited to attend its next meeting to discuss its services and in particular the Minor injuries Unit, the Horizon Unit, management of services and the possibility of running a day unit. Questions would be prepared and sent in advance to the representatives; the Chairman agreed to email all Horsham District Councillors to ask if they had any questions or issues they wanted to be raised.

The Working Group also agreed to request that CCG representatives be invited to attend a future meeting; it was suggested that Michael Wilson and Dr. Simon Dean also be invited to attend that meeting.

7. WEST SUSSEX COUNTY COUNCIL TASK AND FINISH GROUP ON NHS TRANSITION

The Working Group noted the report by the West Sussex County Council Task and Finish Group; the Group informed WSCC's policy development on its leadership and scrutiny role for health. Its report had also been circulated to others including the CCGs for West Sussex, the Health and Adult Social Care Select Committee, district and borough councils, and to the Chief Executive of NHS Sussex and the Local Area Director of the Surrey and Sussex Local Area Team.

Many of the Group's findings and recommendations related to other organisations including the CCGs and district and borough councils. WSCC had requested a response to the recommendations. The Task and Finish Group would reconvene towards the end of 2013 to review the recommendations and assess how the new NHS system was working.

The recommendations included the following: ensuring that there was relevant scrutiny of health issues and that district and borough councils played a full part in the Health and Adult Social Care Select Committee (HASC), there should be closer working between HASC and district and borough councils, WSCC and district and borough councils should ensure appropriate liaison arrangements were in place with CCGs and NHS providers, CCGs should invite local councillors to observe meetings of their governing bodies when commissioning plans were being developed and considered, local councillors should be kept updated on health system developments (e.g. by a Members' Seminar), and Public Health should work with local councillors of all tiers of local government to ensure health and wellbeing considerations were woven into all aspects of their work.

The Working Group welcomed those recommendations and expressed its wish to be actively involved in discussions about health provision and to liaise with, and make its views known to, the key organisations in the new NHS system.

8. FUTURE MEETING DATE

Proposed dates for the next Working Group meeting in late April or May 2013 would be circulated.

The meeting finished at 6.40 p.m. having commenced at 5.30 p.m.

CHAIRMAN

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Scrutiny and Overview Committee Annual Report 2012/13

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[Agenda item 12](#)

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Introduction by the Chairman of the Scrutiny and Overview Committee



Scrutiny and Overview has been active on a wide front in 2012-2013. In addition to the 15 non-Executive Committee Members, 12 of whom have been involved in the Working Groups, another 13 Horsham District Councillors have also been involved in scrutiny work.

The Council elections in 2011 saw an intake of nearly 20 new Council Members. In the second year of the Council term the experience gained by being involved in scrutiny work has been crucial and beneficial for the new Members and has helped them to 'find their feet'. Equally, they have introduced new experience and skills to the Council.

Scrutiny, in its various formats, is where much of the work of the Council is learned and developed, where Members work alongside one another and get to know the Council's officers, and other Members from outside their own political groups. Some Members gain their first experience of chairing a meeting in a Working Group.

In total 28 Councillors, 11 of which were part of the new intake to the Council, have been involved in at least one Scrutiny Working Group. Given that Cabinet Members cannot take part in the Scrutiny function, this year has seen 78% of eligible Members being involved in Scrutiny work. This is a healthy statistic indicating that the strength and experience of the Council in general is being significantly raised.

One new standing Working Group has been established in 2012-13: the Crime and Disorder Working Group. Recent legislation requires District Councils to review and scrutinise the work of Community Safety Partnerships which brings together the work of various agencies including the Police, Fire & Rescue, the NHS, the Probation Service and County and District councils.

This new Working Group works alongside the other established standing Working Groups: Business Improvement, Social Inclusion, Finance & Performance (which combines the work of two formerly separate working groups: Budget Review and Performance Management).

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A number of ad hoc, short-term Working Groups have brought into action some scrutiny functions which have been less widely used in the past.

The Supporting Local Businesses Working Group invited people from different areas of the District to provide evidence and comments. This was very useful in gathering information and each contribution acted as a catalyst for further discussion with other participants and Members of the Council. Scrutiny is always effective where it encourages the sharing of good practice, and where it offers Council Members a wider understanding of the District than they would gain from their own wards. The high level of attendance at the meetings by Council officers whose work related to the main focus of the review was also important. One of the very significant results of this Working Group's review was the opening up of many new channels of communication involving Members, Parish Councillors, local businesses, Chambers of Trade and Council officers. Involvement in the process was an outcome in itself.

The Southern Rail's Performance in Severe Weather Working Group took the scrutiny processes outside of the Council's functions at the request of the public. It resulted in an extremely full discussion with representatives of Southern Rail and Network Rail about the recent history of rail services and a mass of new proposals and strategies for the future to help prevent disruption to services during periods of severe weather.

The Health Provision Working Group held its first meeting in December 2012 and it is concentrating on the future role of Horsham Hospital, again involving representatives from different areas of health.

Two other issues have arisen for Scrutiny in ways different from the traditional routes.

In July 2012, I was invited, as Chairman of the Scrutiny and Overview Committee, to attend a presentation by a group of students from Tanbridge House School. They presented a report on Horsham's Information Shop, having undertaken research about the services and advice it provides for young people and about its facilities. Their presentation was superb and the quality of the students' report was sustained with equal articulation throughout the question and answer session. Given the importance of the subject and the extraordinarily high standard of their research and presentation I reported my visit to the Social Inclusion Working Group which readily agreed to invite the students to speak to the group. This took place in the Council Chamber in the autumn, and other Members shared my impression of the excellence of their work and performance. The Committee is keen to progress the recommendations more quickly and is contacting the other relevant authorities to work together to achieve that aim. It has been a significant 'first' for the Committee to involve local students in a review and its success indicates that we should look for ways to repeat the process.

The second issue related to a particular planning application which was presented to the Development Control South Committee and which raised a high level of concern among the Members involved. It was not possible to

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scrutinise it directly because one of the key rules of Scrutiny is that a decision may not be scrutinised by people who have been involved in making the decision. It was felt that the best way forward in these circumstances was for the Council officers to present a report to the Committee on the issues and 'lessons learned' and for Members to debate the report. Subsequent to that, the Business Improvement Working Group received a mandate from the Scrutiny and Overview Committee to undertake a review of Development Management and Planning Services. The Working Group drafted the terms and conditions for the review at its meeting on 23rd April 2013. It is expected that, being a major review, it may take the rest of 2013 to complete.

Meanwhile, the Council is engaged in a Business Transformation Programme which is intended to make major changes. That work continues and the Scrutiny and Overview Committee may in due course be involved in scrutinising work emerging from it.

Councillor George Cockman
Chairman of Scrutiny & Overview Committee

May 2013

How Scrutiny and Overview works at Horsham District Council

Since the Scrutiny and Overview Committee was introduced in Horsham District Council in 2001 it has provided the Council with its own 'watchdog' or 'critical friend'.

Scrutiny and Overview is a common sense approach to reviewing decisions and policies and considering whether they are right for the District, ensuring that Horsham District Council remains effective and accountable.

One of its principal purposes is to improve the decision-making process and to make it clear and accessible. It does this by:

- Reviewing and developing policy recommendations for the Cabinet's consideration
- Providing a means to review the Council's own achievements against its planned targets
- Setting out to influence Council/Cabinet decisions and policies
- Playing a part in the community leadership role of the Council i.e. by reviewing services provided by other organisations on issues that affect the public and by calling individuals/organisations to account
- Contributing to democracy by stimulating public engagement

The Scrutiny and Overview Committee's terms of reference are:

- To assist in the strategic development of policy
- To review issues of local concern
- To review the policy of others within and outside the Council
- To call in Cabinet decisions
- To scrutinise the Council's decision-making processes
- To monitor the internal and external delivery of services
- To review specific services
- To monitor and scrutinise the activities of outside bodies

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Structure of the Scrutiny and Overview Committee and its Working Groups

Membership of the Scrutiny and Overview Committee:

Councillor George Cockman (Chairman)

Councillor Brian Donnelly (Vice Chairman)

Councillors John Chidlow, Philip Circus, Leonard Crosbie, Laurence Deakins, Duncan England, Jim Goddard, Josh Murphy, Brian O'Connell, Jim Rae, Kate Rowbottom, David Sheldon, David Skipp, Tricia Youtan.

INSERT DIAGRAM

COUNCIL

CABINET

RECOMMENDATIONS

S&O COMMITTEE

STANDING WORKING GROUPS

Business Improvement Working Group
Crime & Disorder Working Group
Finance and Performance Working Group
Social Inclusion Working Group

SHORT TERM WORKING GROUPS

Health Provision
Supporting Local Businesses
Southern Rail's Performance in Severe Weather

How the Scrutiny and Overview function has developed

A new Chairman, Councillor George Cockman (Independent), was elected as Chairman of the Scrutiny and Overview Committee for 2012-13. He had previously held this post in the earlier years of Scrutiny.

One Committee Member resigned from the Committee and was replaced by another Councillor as from the September 2012 meeting.

Six Committee meetings were held between July 2012 and May 2013.

The Council's Director of Corporate Resources acts as a Scrutiny Champion.

Cabinet Members have attended Committee meetings to report on progress on, or have provided written responses to, the Committee's recommendations. The Committee continues to closely monitor the progress of work arising from its recommendations.

The Committee's Working Group's have undertaken and are undertaking significant scrutiny and review in matters such as crime and disorder, health provision, poverty amongst an ageing population, the planning application process and service, local rail services, and supporting local businesses.

The Committee and its Working Groups are working well and engaging with a range of other organisations such as Age UK, Horsham and Mid Sussex Clinical Commissioning Group, NHS Trusts, Southern Rail, Network Rail, Southern Water, Tanbridge House School, Parish and Neighbourhood Councils.

Joint Scrutiny arrangements across West Sussex

Trial joint scrutiny arrangements were established across West Sussex in 2010-11 to enable the County, District and Borough councils to work together to scrutinise specific topics of common interest. The arrangements are overseen by a Joint Scrutiny Steering Group which meets approximately twice a year. The Chairman of Horsham District Council's Scrutiny and Overview Committee attends those meetings.

In 2012-13 the Steering Group agreed that the existing contract with the West Sussex Citizens Advice Bureau Consortium for the provision of generalist community legal advice should be extended for a further two years at the current level of funding. It concluded that this had been a very positive project, providing useful learning for future joint scrutiny projects and showing the benefit of having arrangements to enable joint working on projects as and when the need arose.

The Steering Group reviewed the trial joint scrutiny arrangements in December 2012 and concluded that they should be formalised. West Sussex County Council has agreed that the joint scrutiny is now a permanent

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arrangement and agreed a revised protocol which takes account of the Steering Group's review and findings.

For 2013-14 the intention is to conduct a joint scrutiny review of the multi-agency involvement and control of major flooding incidents across West Sussex.

Horsham District Council is committed to participating in the joint scrutiny work.

Scrutiny Working Groups

There are four permanent Scrutiny Working Groups which monitor and review different aspects of the Council's business.

Business Improvement Working Group

The Business Improvement Working Group scrutinises business improvement proposals and encourages consideration of best practice. It reports its findings to the Scrutiny and Overview Committee in terms of benefits, effect on services, risk and progress, and investigates matters related to operational effectiveness.

The Working Group held five meetings between July 2012 and April 2013.

The Council's use of consultants – the Working Group has completed its review. Revised procedures have been developed which take account of the Working Group's recommendations. If a Head of Service agrees that the use of a consultant is required, he/she will prepare a business case for the approval by the Director of Corporate Resources. The business case will provide the reason for hiring the consultant, the length of time of the contract, the estimated cost, and the defined scope of the work to be completed. The Head of Service is responsible for ensuring a written contract is agreed and that the consultant's performance is monitored regularly. The Council approved relevant changes to the Contract Standing Orders which relate to the procurement of consultants.

Procurement, repair and replacement of Council vehicles - the Working Group has completed its review. A Procurement Policy has been developed. Operational Services suggest which vehicles a department should purchase which should create a fleet commonality that will bring economic and logistical benefits. The Working Group considered the potential impact on Council resources when a significant number of vehicles need to be replaced at the same time in the future, the timescales for the refurbishment or replacement of vehicles, and the fuel purchasing policy for the Council's fleet vehicles. The Working Group is satisfied with the Council's vehicle procurement process,

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the servicing and repairs of vehicles, and the positive impact this has on resources.

Review of Draft Contract Standing Orders - the Working Group considered the draft Contract Standing Orders which had been approved by the Council in December 2012. The revised CSOs were supported by a new 'Horsham Procurement Code', a plain English document which provided more detail on the procurement process.

Regulation of Investigatory Powers Act 2000 (RIPA) – the Working Group is responsible for reviewing the effectiveness of the RIPA Policy on an annual basis. The Working Group considered revisions to the Council's Corporate Policy and Procedures Document on RIPA which are required to reflect relevant legislative changes. The new changes mean that internal Council RIPA authorisation will not take effect until judicial approval (via an application to the Magistrates' Court) is obtained for directed surveillance, covert Human Intelligence sources, and communications data. The Council has not used the Policy for a number of years. The Scrutiny and Overview Committee will be asked to recommend that the Council adopts the revisions.

Business Transformation Programme - The Chief Executive updated the Working Group on the key projects that will be delivered which include a review of Council services, a comprehensive review of staff terms and conditions, a review of the Council's senior management structure, and office accommodation. A Business Transformation Manager has been appointed. The Working Group has offered to consider proposed improvements and changes to Council services arising from the Programme and to comment on proposed changes before they are implemented.

Section 106 Grant Process – The Working Group is considering the S106 grant process. A Section 106 Agreement is a private legal agreement between the Planning Authority and the applicant/developer and any others that may have an interest in the land. Its purpose is to make acceptable development which may otherwise be unacceptable in planning terms.

Review of Performance in Development Management and the performance and productivity of Planning and Environmental Services – The Working Group commenced this significant review in April 2013 and co-opted an additional four Councillors to assist. The review will examine the current processes within the planning service, current and future workloads, the monitoring of targets, the departmental structure and staffing levels, and how the Council communicates planning law to the public and stakeholders. Staff members, Councillors and service users will be consulted.

Crime and Disorder Working Group

This newly-established permanent Working Group held its inaugural meeting in January 2013. It will generally meet on a quarterly basis. The Scrutiny and Overview Committee approved its establishment because legislation requires

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every local authority to have a committee with the power to review and scrutinise, and make reports or recommendations, regarding the functioning of the local Community Safety Partnership. The new legislation forms part of the Government's commitment to strengthen the accountability of local Community Safety Partnerships and enhance the role of local councillors and local communities in preventing and reducing crime.

The Working Group will scrutinise the work of the Community Safety Partnership and the partners who comprise it, to make reports and/or recommendations to the Scrutiny and Overview Committee or Council or any of the Responsible Authorities with respect to the discharge by the Partnership of its crime and disorder functions; and to act as a 'critical friend'.

Finance and Performance Working Group

In 2012, the former Budget Review and the Performance Management Working Groups were merged to form the Finance and Performance Working Group. It scrutinises the Medium Term Financial Strategy and monitors, on a quarterly basis, the Council's performance against the District Plan, the key performance indicators and the major projects list, and receives regular finance reports. It reviews the monthly financial outturn report, identifies areas of excellence and areas for improvement and refers matters to the Business Improvement Working Group for consideration and noting. It also requests reports on areas of concern regarding service performance or overspend / underspend, and raises issues of concern with the Cabinet following a review by the Working Group.

The Working Group calls Cabinet members to provide details of service performance. It identifies and, where necessary, questions budget and performance targets, reviews the impact of budget changes upon the delivery of corporate priorities, and considers any other relevant performance and financial matters identified by the Scrutiny and Overview Committee.

The Working Group, on a quarterly basis, receives reports on the Council's receipt of complaints, compliments and suggestions, and also whether the Council has used the Regulation of Investigatory Powers Act 2000 to undertake covert surveillance. The Working Group receives biannual reports about Freedom of Information requests.

The Working Group met nine times between July 2012 and May 2013.

There have been changes to the way budgets are monitored. Heads of Service and budget holders are required to submit a budget database on a monthly basis with details of expenditure to the month end and an estimate of the outturn at the year end. This system will encourage budget holders to highlight any significant changes in their budgets.

The Cabinet Member for Efficiency and Resources reported on the plans for a more strategic approach to maintenance of the Council's property assets.

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The Working Group has monitored the Council's major projects, many of which have been completed. The Working Group has requested careful management of the projects in relation to the charging for Green Waste Collection and the Terms and Conditions for Council staff members.

Social Inclusion Working Group

The Social Inclusion Working Group makes recommendations on initiatives to develop the Council's approach to social inclusion, equality and diversity, access to services and supporting vulnerable people, anti-poverty initiatives, and relevant health matters.

The Working Group met four times between July 2012 and March 2013 and undertook a number of reviews.

Southern Water's Metering Programme - Southern Water has a programme to install nearly 500,000 water meters across the South East by 2015. Installation work in the Horsham District is almost complete. The Working Group examined the rationale used by Southern Water to identify which residents will need assistance and support, and the level and range of support that will be offered to those households which may be adversely affected by the move to water metering. Horsham District Council issued a press release and an article was featured in the Horsham District News magazine (Spring 2013 edition) which advised and encouraged residents affected by higher bills to contact Southern Water to discuss which tariff may be suitable for them and to access other support options and advice.

Review of how the Council is represented on outside bodies - the Working Group has completed a review of the Council's representation on external organisations.

Review of Poverty among an Ageing Population. – The Working Group has commenced a significant review which will consider a broad examination of poverty, extending beyond that of financial hardship, affecting the increasing ageing population in Horsham District. The Working Group will consider the impact of social isolation and loneliness and issues relating to vulnerability, how older people access services, how information is provided, and will work with relevant organisations and agencies to identify issues relating to 'poverty' and consider the support that can be offered or improved, and seek engagement with older residents in the District who wish to contribute to the review. A report and recommendations will be presented to the Scrutiny and Overview Committee and relevant organisations to encourage them to take action which is achievable and deliverable.

Information Shop for Young People - The Working Group is progressing a review of the Horsham Information Shop for Young People which provides advice and support services for young people between 13 and 25 years on the drugs and alcohol, sexual health, career and job choices, finances, and housing issues. This service is provided by the County Council. Research was

undertaken by students at Tanbridge House School. They presented their findings to the Working Group and recommended improvements to the service and to the Shop with the aim of encouraging awareness of its existence and its use. The Working Group agreed to support the recommendations and is keen to progress them more quickly. It has shared the information with West Sussex County Council and Central Sussex YMCA and will work with them to implement improvements.

Temporary Working Groups

Health Provision

The Scrutiny and Overview Committee established the Health Provision Working Group to consider the present health provision at Horsham Hospital including acute services, outpatient services and inpatient facilities, access to services at the hospital, future plans by the local Clinical Commissioning Group and NHS Trusts for the use of Horsham Hospital and the benefits of these plans to the residents of the District, and the future role of the hospital.

The Working Group met three times between December 2012 and April 2013 and its Members attended the Health and Wellbeing Advisory Group meeting in February 2013 to hear from the representatives of the Horsham and Mid Sussex Clinical Commissioning Group about their preparations to assume responsibility for designing health services as from 1st April 2013.

The Working Group has discussed the services provided at the hospital by the Sussex Community NHS Trust and will be inviting other providers and the representatives of the local Clinical Commissioning Group to attend future meetings to discuss issues affecting Horsham Hospital. The Working Group wishes to see services supported, developed and promoted.

Supporting Local Businesses

The Supporting Local Businesses Working Group met five times between April and October 2012 to examine the situation in the market towns and villages in Horsham District in terms of empty retail units, small local businesses and post offices and how they might be supported in the current difficult financial climate.

The Scrutiny and Overview Committee approved the Working Group's recommendations. Measures would be considered to encourage local businesses to bid for Council contracts of £50,000 and less. The possibility of sliding scales for business rates would be reviewed, and the recommendation about free Council advice for small businesses would be considered. The Committee welcomed the sharing of information and increased liaison, and viewed this as a fine example of how to encourage engagement with the Council and between communities.

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The Cabinet Member for the Local Economy provided a detailed response to the recommendations. A further meeting of the Working Group will be convened in 2013 to consider progress on the actions taken in response to the recommendations.

Southern Rail's Performance in Severe Weather

This review was initiated in response to concerns about Southern Rail's performance following disruption to rail services because of severe weather conditions in December 2010. The Working Group met four times between July and October 2012 to examine the issues and to consider what action Southern Rail and Network Rail had taken, and what safeguards are in place, to deal with disruption when trains fail as a result of severe weather. It also looked at Southern and Network Rail's methods of communication to staff and passengers at times of disruption.

Southern Rail and Network Rail reported on their plans to improve services and deal with periods of extreme weather. More modern trains, which were technically better at dealing with snow and ice, were now in operation. Train drivers had received training on driving trains in adverse conditions. Points and conductor rail heating was being implemented along the network. If severe weather was anticipated, decisions about changes to rail services would be taken by an Emergency Weather Action Team on the day before the implementation of changes to the service. Making more timely decisions would allow information about a reduced or revised service to be provided to passengers in good time and via a range of media.

The Working Group recommended that Southern Rail and Network Rail be requested to confirm their commitment to keep the Council informed of all actions related to maintaining services in severe weather, to allow the Council to share that information with the electorate and to monitor progress, to request Southern Rail to confirm that their on-duty railway staff would be equipped to receive direct communication from the rail control centre. Southern Rail and Network Rail confirmed that they are willing to keep the Council updated about such actions.

The Working Group will reconvene in summer 2013 to hear from Southern Rail and Network Rail about how their procedures and communications operated in practice during the periods of snow and ice in Winter 2012/13.

Updates on previous reviews

Disability Access to the Council's Services

The Scrutiny and Overview Committee requested the Cabinet Member for a Safer and Healthier District for further details about how the Council would improve the delivery of disability services following a review by the Social Inclusion Working Group. In particular, details were sought about how the Council intended to actively seek feedback at strategic levels from local people with disabilities including visual impairment, deafness and learning disabilities to ensure Council communication was accessible.

Details were also sought about how the Council would take proactive action to foster good relations with people with disabilities and non-disabled people because a range of communication techniques were required.

The Committee welcomed the responses which provided ideas for continuous improvement and noted that the Cabinet Member would be working with the Chairman of the Horsham and District Access Forum to ensure continuous improvement.

Progress on Climate Change

The Cabinet Member for the Environment updated the Committee about the work that had been undertaken on climate change initiatives since the recommendations of the Progress on Climate Change Working Group had been approved by the Committee at its meeting on 16th January 2012.

The recommendations included efforts to reduce carbon dioxide emissions for the District and for the Council's buildings and transport. The Nottingham Declaration had been replaced by 'Climate Local' which was a voluntary statement that local authorities could make to show the actions that councils proposed to take to tackle climate change and prepare for potential future changes to the climate.

An Advisory Group would be established in 2013 to consider whether the Council should sign up to Climate Local and what actions it could take.

Future work and how to get involved

Horsham District Council's Communication Policy

The Committee, in May 2012, noted that the Council had undertaken a review of its communications policy which resulted in changes being implemented and a new strategy being adopted. The Committee decided to review the new practices in due course and suggested that take place after 12 months.

A review of the communications policy will feature on the Committee's work programme for 2013-14. It will consider the external communications policy and how the Council communicates in general including its website and the residents' survey.

Review of Performance in Development Management and the performance and productivity of Planning and Environmental Services

The Business Improvement Working Group commenced this review in April 2013. It will examine the current processes within the planning service, current and future workloads, the monitoring of targets, the departmental structure and staffing levels, and how the Council communicates planning law to the public and stakeholders. Staff members, Councillors and service users will be consulted.

Trade waste

The issue of trade waste has been discussed by Members as deserving of consideration by a short-term Working Group. As with other short-term reviews, issues of timing and potential disruption to the service during the review have to be taken into account. It is likely that trade waste will find its way onto the 2013-2014 Scrutiny work programme.

Deputy Cabinet Members and Scrutiny

A possible issue for Scrutiny in the future lies in the practice of Cabinet Members appointing deputies to work alongside them. At present, these posts are unofficial and therefore there is nothing written about them in the Constitution. Even so, questions arise about the possible blurring of the essential distinction between Executive and Scrutiny: if Cabinet Members are excluded from activity in Scrutiny processes, should the same apply to deputy Cabinet Members?

The Independent Remuneration Panel will be asked to examine the deputy Cabinet Member role which may be formalised and defined in terms which would confirm an involvement with the Executive that would preclude membership of the Scrutiny and Overview Committee and its Working Groups.

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Horsham would not be the first district council to appoint deputy Cabinet Members whose role is formalised and defined. Another implication for Scrutiny has arisen in some councils which have gone this way. Quite often, a Cabinet Member may ask the deputy to review some policy or practice having invited a number of other Members to take part with the intention of making changes – the practice would not be dissimilar to the way some of our advisory groups have operated. However, the overall result has been interpreted as a reduction in the Scrutiny function.

There is an interesting and important debate here if things do develop in Horsham as they have in some other authorities. The question to be faced is: Have the 'critical friend' role and the independence of Scrutiny been compromised in a shift towards scrutiny and review being subsumed within the authority of the Executive? The question may lead to the creation of a new Scrutiny Working Group.

Getting involved

Horsham District Council welcomes contributions to the Scrutiny process and wishes to encourage people to make suggestions for the work programme, to attend meetings or to ask questions.

Please contact the Scrutiny and Committee Support Officer or complete and return the attached suggestion form.

Contact Details

Scrutiny and Committee Support Officer
Horsham District Council
Park North
North Street
Horsham
West Sussex
RH12 1RL

Telephone: 01403 215138

E-mail: scrutiny@horsham.gov.uk

Website: <http://www.horsham.gov.uk/council/members/scrutiny-overview.aspx>

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WORK PROGRAMME SUGGESTION FORM

Insert suggestion form

Report to Scrutiny and Overview Committee

13th May 2013

By the Senior Responsible Officer, Head of Financial and Legal Services

INFORMATION REPORT

Not exempt



Agenda item 13

Update on Horsham District Council Corporate Policy and Procedures: The Regulation of Investigatory Powers Act 2000

Executive Summary

The purpose of this report is to provide Members with an update on the changes to the Regulation of Investigatory Powers Act 2000 ("RIPA") and to provide a revised copy of the Council's Corporate Policy & Procedure Document.

Members are requested to consider this report, and recommend that Council adopt the revised Corporate Policy and Procedure Document in order to comply with the legislative changes to RIPA.

Recommendations

The Scrutiny and Overview Committee is recommended to:

- i) Note the contents of this report; and
- ii) Recommend that Council adopt the revised RIPA Corporate Policy and Procedure Document in order to comply with the legislative changes to RIPA.

Reasons for Recommendations

- i) To ensure compliance with statutory requirements, in particular, RIPA and the Protection of Freedoms Act 2012.
- ii) To ensure that the Council uses RIPA only as permitted by legislation.

Background Papers

- i) Report to Scrutiny and Overview Committee 10 May 2010
- ii) Office of Surveillance Commissioners Inspection Report June 2011
- iii) Report to Business Improvement Working Group 23 October 2012
- iv) Report to Business Improvement Working Group 23 April 2013

Consultation: Senior Solicitor (Monitoring/Standards)

Wards affected: All

Contact: Selena Saroy **Extn:** 5507

Background Information

1 Introduction

The purpose of this report

- 1.1 The purpose of this report is to provide Members with an update on the changes to the Regulation of Investigatory Powers Act 2000 (“RIPA”) and to provide a revised copy of the Council’s Corporate Policy & Procedure document.

Background/Actions taken to date

- 1.2 The Office of Surveillance Commissioners (the “OSC”) inspected the Council on 21 October 2005, following which the Council prepared and implemented its RIPA policy to reflect the outcome and feedback from the inspection.
- 1.3 On 12 October 2006 the Council’s Cabinet:
 - 1.3.1 Approved the Corporate Policy and Procedure Document on the Regulation of Investigatory Powers Act 2000; and
 - 1.3.2 Authorised the Council Secretary and Solicitor to update, amend, delete add/or substitute relevant provisions as necessary.
- 1.4 The OSC carried out a further inspection on 5 June 2008 and as a result of feedback from this inspection, a number of amendments and additions were made to the Council’s policy. The Policy was then further amended in September 2010 to reflect the changes brought about by the 2010 Order.
- 1.5 The OSC then inspected the Council on 16 June 2011. Whilst the Inspector reviewed the Council’s policy, there were no recommendations to amend the policy in any way.
- 1.6 On 10 July 2012, the Business Improvement Working Group recommended that the Council revise part of its Corporate Policy to reflect the legislative changes to RIPA, the Protection of Freedoms Act 2012 and the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012.
- 1.7 On 23 April 2013, the Business Improvement Working Group recommended that the Scrutiny and Overview Committee recommend that Council adopt the revised RIPA Corporate Policy and Procedure Document in order to comply with the legislative changes to RIPA.

2 Statutory and Policy Background

Statutory background

- 2.1 The Regulation of Investigatory Powers Act 2000 (“RIPA”);
- 2.2 The Regulation of Investigatory Powers (Directed Surveillance & Covert Human Intelligence Sources) Order 2010 (The 2010 Order);
- 2.3 Home Office RIPA Covert Surveillance and Property Interference Revised Code of Practice pursuant to Section 71 of RIPA;
- 2.4 The Protection of Freedoms Act 2012; and
- 2.5 The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 (The 2012 Order).

Relevant Council policy

- 2.6 Horsham District Council’s Corporate Policy & Procedures Document on RIPA, the revised copy of which is attached at Appendix One.

3 Details

- 3.1 The Regulation of Investigatory Powers Act 2000 (“RIPA”) came into force in 2000. RIPA regulates public authorities in their conduct of both covert surveillance and accessing communications data.
- 3.2 RIPA legislation and relevant Home Office Codes of Practice identifies the strict circumstances in which authorities are permitted to use RIPA. The legislation also sets out that all authorities are to have in place a RIPA policy and procedure. Compliance with RIPA and the relevant Codes of Practice continues to be assessed by the Office of Surveillance Commissioners.
- 3.2 The Council has a RIPA policy and procedure in place, which was last reviewed and updated in September 2010.
- 3.3 The Protection of Freedoms Act 2012 (the “Act”) received Royal Assent on 01 May 2012, and brought a number of changes to the operation of RIPA. In effect, the Act restricts authorities’ use of RIPA, and many of the changes are in force.
- 3.4 The new changes mean that whilst senior officers within local authorities can continue to authorise an application to use RIPA where they are satisfied that the surveillance is necessary and proportionate, that internal authorisation does not take effect until judicial approval is granted.

- 3.5 The Act will require all RIPA authorisations to be approved by a Justice of the Peace in respect of:
- 3.5.1 Directed surveillance;
 - 3.5.2 Covert Human Intelligence sources (CHIS); and
 - 3.5.3 Communications Data;
- 3.6 The Council will therefore be required to seek judicial approval before using RIPA, as until judicial approval has been sought, the authorisation or notice from the specified officer does not take effect.
- 3.7 Prior to an application to the Magistrates Court for Judicial Approval, the Council must ensure that it has followed correct procedures and the appropriate factors have been considered by the Authorised Officer. In the absence of a robust Corporate Policy and Procedure document for authorising RIPA requests, the Council may not be granted Judicial Approval to use a RIPA technique.
- 3.8 A revised copy of the Council's Corporate Policy & Procedures Document on RIPA is attached as Appendix 1. As requested by Members previously, tracked changes are included on the document. Changes included:
- 3.8.1 Updating the legislation where appropriate; and
 - 3.8.2 Moving sections from their original position for ease of reference, identified within the 'comments' section.
- 3.9 The Corporate Policy and Procedures Document refers to a number of Appendices, many of which formed copies of the Council's RIPA forms, which are not accessible by the public. The appendices have not, therefore, been duplicated within this Corporate Policy and Procedures Document, as these required no changes. The appendices will, however, be accessible by officers via the Council's intranet pages.
- 3.10 The Council's current Forms will be retained, but an additional two documents shall be appended:
- 3.10.1 A flowchart to show the Local Authority Procedure to make an application for Judicial Approval (attached as Appendix Two); and
 - 3.10.2 The Application for Judicial Approval for authorisation for RIPA techniques (attached as Appendix Three).

4 Next Steps

- 4.1 The Scrutiny and Overview Committee should:
- 4.1.1 Note the contents of this report;

- 4.1.2 Recommend that Council adopt the revised RIPA Corporate Policy and Procedure Document in order to comply with the legislative changes to RIPA.

5 Outcome of Consultations

- 5.1 The Senior Solicitor (Monitoring/Standards) has been consulted on this report and has confirmed that further revisions must be made to the Council's Corporate Policy and Procedures document.

6 Other Courses of Action Considered but Rejected

- 6.1 Not appropriate. The Business Improvement Working Group met on 23 April 2013 and recommended that the Scrutiny and Overview Committee recommend Council to adopt the revised RIPA Corporate Policy and Procedure Document in order to comply with the legislative changes to RIPA.

7 Staffing Consequences

- 7.1 There are no staffing consequences associated with this report, although Members should note that the changes will alter the way in which officers seek authorisation to undertake surveillance.

8 Financial Consequences

- 8.1 There are no direct financial consequences as a result of this report.

Appendix 1

Consequences of the Proposed Action

What are the risks associated with the proposal? Risk Assessment attached Yes/No	Failure to follow legislation and comply with the relevant Codes of Practice may result in the Council being criticised by the Office of Surveillance Commissioners. Failure to comply may also affect the admissibility of any evidence obtained by covert surveillance or from undercover agents. No
How will the proposal help to reduce Crime and Disorder?	Section 17 of the Crime and Disorder Act 1998 requires the Council to do all that it reasonably can to reduce crime and disorder. It is imperative that those officers whose duties may require them to investigate crimes and to use covert surveillance are aware of the duties and requirements of RIPA. Failure to comply with RIPA obligations may result in evidence being inadmissible and this may harm any prosecution or enforcement action.
How will the proposal help to promote Human Rights?	<p>The Council, as a public authority is not to act in a way that is incompatible with a Convention right, i.e. the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (the "ECHR").</p> <p>Article 8 ECHR requires the Council, and organisations working on its behalf, to respect the private and family life of citizens, their home and their correspondence. This is a qualified right. The Council may interfere in the citizen's right if it is in accordance with the law and is necessary in a democratic society. In respect of RIPA, the necessity is more likely to be for the purposes of the prevention of disorder or crime.</p> <p>RIPA provides a statutory mechanism (within the law) for authorising covert surveillance and the use of undercover agents. RIPA ensures that any interference with Article 8 rights is necessary and proportionate.</p> <p>Article 6 ECHR provides for a right to a fair trial. Evidence or information obtained under RIPA must be obtained correctly so as not to prejudice this right. The correct use and application of RIPA should allow evidence to be admissible in court.</p>
What is the impact of the proposal on Equality and Diversity? Equalities Impact Assessment attached Yes/No/Not relevant	Having robust and regularly monitored policies and procedures in force will aid the Council in complying with equality and diversity legislation. No
How will the proposal help to promote sustainability?	This report will not have an impact on sustainability.

HORSHAM DISTRICT COUNCIL

Corporate Policy & Procedures Document

On

The Regulation of Investigatory Powers Act 2000

(RIPA)

Sue McMillan
Senior Responsible Officer
Head of Financial and Legal Services
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Version 1: July 2006
Version 2: July 2008
Version 3: September 2010
Version 4: September 2012

Version 5: March 2013

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A. Corporate Policy Statement

1. The Council takes seriously its statutory responsibilities and will, at all times, act in accordance with the law and take necessary and proportionate action when undertaking surveillance as permitted under the Regulation of Investigatory Powers Act 2000 ("RIPA") and related legislation. For this purpose, the Head of Financial and Legal Services is duly authorised to keep this document up to date and amend, delete, add or substitute relevant provisions, as necessary.
2. It is this Council's Policy that:
 - 2.1 All covert surveillance exercises for the purposes of preventing or detecting crime or of preventing disorder conducted by the Council comply with the requirements of the Regulation of Investigatory Powers Act 2000 and related legislation;
 - 2.2 Only the Authorised Officers for the Department proposing to undertake covert surveillance are permitted to authorise a covert surveillance operation;
 - 2.3 No Authorised Officer should authorise a covert surveillance operation until he or she has demonstrated that he or she has the competence to do so;
 - 2.4 The Council shall only grant an authorisation for the use of Directed Surveillance where the Council is investigating particular offences, in particular, those which meet the crime threshold;
 - 2.5 The Council shall carry out a covert technique following an order granted by a Justice of Peace that approves the internal authorisation;
 - 2.6 A Covert Human Intelligence Source shall only be used rarely and in exceptional circumstances; and
 - 2.7 The Council shall consider the guidance provided by the Home Office and ensure that it adheres to the RIPA provisions effectively.
3. The Council's Constitution and in particular the provisions of the Scheme of Delegation to Officers as set out in Part 3F empowers the following officers to grant, review, renew and cancel authorisations under the Regulation of Investigatory Powers Act 2000:
 - 3.1 Chief Executive;
 - 3.2 Director of Community Services;
 - 3.3 Director of Corporate Resources;
 - 3.4 Director of Development and Environment;
 - 3.5 Head of Housing and Community Development;
 - 3.6 Head of Leisure and Economic Development;
 - 3.7 Head of Financial and Legal Services;
 - 3.8 Head of Corporate Support Services;
 - 3.9 Head of Planning and Environmental Services, and
 - 3.10 Head of Operational Services.

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4. Following an Office of Surveillance Commissioners ("OSC") inspection on 21 October 2005 this document was prepared to reflect the outcome of and feedback from the inspection.

5. On 12 October 2005 the Council's Cabinet:

5.1 approved the Corporate Policy and Procedure Document on RIPA and;

5.2 authorised the Council Solicitor to update, amend, delete add or substitute relevant provisions as necessary.

6. Following an OSC inspection on 05 June 2008 this document was amended to reflect feedback from the inspection. Further amendments were made in September 2010 as a result of legislative changes.

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7. Significant amendments were made to this document in Autumn 2012 to reflect legislative changes under Chapter II of Part 2 of the Protection of Freedoms Act 2012 ("PFA") which amends RIPA and requires the Council to obtain judicial approval before using covert investigatory techniques. The changes will require the Council to:

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7.1 Obtain internal authorisation by the Authorised Officers before it uses a RIPA technique; and

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7.2 Obtain Judicial Approval to bring its RIPA authorisation into effect (an order approving the authorisation or notice is granted by a Justice of the Peace (JP)).

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B. Definitions

RIPA The Regulation of Investigatory Powers Act 2000

Authorised Officers RIPA refers to "Designated Officers". For ease of understanding and application this document refers to Authorised Officers. These Authorised Officers are referred to in Appendix 1 and may include other officers who are duly added to or substituted by the Senior Responsible Officer. The Authorised Officer's responsibilities are set out in section C of this document.

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Senior Responsible Officer is the Head of Financial and Legal Services. The Senior Responsible Officer's responsibilities are set out in section C of this document.

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Central Register The Central Register will contain copies of RIPA authorisations, cancellations, renewals and Magistrates Orders (where appropriate) and shall be retained by the Senior Responsible Officer.

Members Elected Members of Horsham District Council. Members' responsibilities are set out in Section C of this document.

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SPOC The Home Office accredited "Single Point of Contact". The SPOC's responsibilities are set out in section H of this document.

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CHIS A "Covert Human Intelligence Source". Details about the role, conduct and use of a CHIS are set out in section G of this document.

PFA The Protection of Freedoms Act 2012.

Office of Surveillance Commissioners ("OSC") The Office of Surveillance Commissioners is the statutory body to monitor compliance with RIPA. The Council is regularly inspected by the OSC.

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C. Introduction

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This Corporate Policy and Procedures document is based on the requirements of the Regulation of Investigatory Powers Act 2000 ("RIPA"), related legislation and guidance, including but not limited to:

- (i) The Home Office's Code of Practice for Directed Surveillance Covert Human Intelligence Sources ("CHIS") and Disclosure of Communications Data;
- (ii) The Regulation of Investigatory Powers (Communications Data) Order 2003;
- (iii) The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010;
- (iv) The Protections of Freedoms Act 2012;
- (v) The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 (SI 2012/1500)
- (vi) The non-statutory Home Office's Guidance to Local Authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for Directed Surveillance; and
- (vii) The non-statutory Home Office's Guidance for Magistrates' Courts in England and Wales for a Local Authority application seeking an order approving the grant or renewal of a RIPA authorisation or notice.

RIPA regulates the use of investigatory powers exercised by various bodies, including local authorities, and ensures that these powers are used in accordance with the human rights of individuals who are subject to surveillance.

The investigatory powers which are relevant to a local authority are directed covert surveillance for specific operations or specific investigations and the use of Covert Human Intelligence Sources. RIPA specifies when certain types of surveillance are permitted, the extent of the surveillance and specifies who can authorise the use of RIPA.

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The authoritative position on RIPA is the Act itself and any officer who is unsure about any aspect of this Corporate Policy and Procedures document should contact the Senior Responsible Officer for advice and assistance. All Authorised Officers, other Senior Managers and operational officers who have received appropriate training may apply for an authorisation. Refresher training will be organised as and when appropriate.

Copies of this document are available on the internet and intranet. The relevant forms are also available on the intranet.

Individuals with responsibilities in promoting compliance with this Corporate Policy and Procedures document are the Senior Responsible Officer, Authorised Officers and Members.

Responsibilities of the Senior Responsible Officer, Authorised Officers, and Members)

Comment [s1]: Section E moved to ensure that the document deals with responsibilities prior to RIPA process

Senior Responsible Officer

1. The Senior Responsible Officer is the Head of Financial and Legal Services. The Senior Responsible Officer is responsible for:
 - 1.1. The integrity of the process in place to authorise surveillance and interference with wireless telegraphy;
 - 1.2. compliance with the Act;
 - 1.3. engagement with the OSC and inspectors when they conduct their inspections;
 - 1.4. where necessary, overseeing the implementation of any post-inspection action plans recommended or approved by an OSC officer; and
 - 1.5. Maintaining and checking the Central Register of all authorisations, reviews, renewals, cancellations and rejections. Following the completion of internal procedures, any judicial approval, reviews, renewals, or rejections should also be retained within the Central Register.
2. The Senior Responsible Officer will ensure that all Authorised Officers and Members are made fully aware of and receive copies of this document.

Comment [s2]: This paragraph was moved from its original position

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Authorised Officers

3. It will be the responsibility of Authorised Officers to ensure that relevant members of staff are also suitably trained as Applicants (staff who will complete the relevant forms for a RIPA authorisation and approval) so as to avoid common mistakes appearing on Authorisation forms.
4. Authorised Officers must ensure that staff who report to them follow this document and do not undertake any form of surveillance without first obtaining the relevant internal authorisation and where appropriate judicial approval in compliance with this document.
5. Authorised Officers must pay particular attention to Health and Safety concerns and issues that may be raised by any proposed surveillance activity. Under no circumstances should an Authorised Officer authorise any RIPA form unless and until they are satisfied that the health and safety of the employee or agent are properly considered, addressed, the risks of which are minimised, and the activity is necessary and proportionate to the surveillance being proposed.
6. It is the responsibility of the relevant Authorised Officers to ensure that the Senior Responsible Officer receives the relevant completed form within one week of completion.

7. Authorised Officers must ensure that when sending copies of any forms to the Senior Responsible Officer for inclusion in the Central Register, that they are sent in **sealed** envelopes and marked **"Strictly Private & Confidential - RIPA"**.
8. Authorised Officers must ensure that requests for access to and disclosure of Communications Data under RIPA and the Regulation of Investigatory Powers (Communication Data) Order 2003, are made through the Council's accredited SPOC.

Members

9. Members will monitor the Council's use of RIPA and consider this Corporate Policy & Procedures Document at least annually and refer to Council if there are any concerns. Members will consider internal reports on the Council's use of the RIPA on a quarterly basis to ensure that staff are complying with this Corporate Policy and Procedures Document in a consistent manner, and that it remains fit for purpose.
10. The Senior Responsible Officer will prepare a quarterly report which will state the number of internal authorisations and judicial approvals in the previous quarter and a brief outline of the reasons for the Council's use of RIPA.

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Review of Council's RIPA Corporate Policy and Procedures Document

11. RIPA and this document are important to the effective and efficient operation of the Council's action with regard to the use of covert surveillance and Covert Human Intelligence Sources. This document will be kept under review by Members & the Senior Responsible Officer. Authorised Officers must bring suggestions for continuous improvements to the attention of the Senior Responsible Officer at the earliest opportunity.

Comment [s3]: This paragraph was moved from its original position

Risks of non-compliance with this Corporate Policy and Procedure Document

12. RIPA provides a legal framework for a public authority to authorise conduct which engages Article 8 ECHR. It does this by ensuring that use of the relevant techniques are authorised only if the tests of necessity, proportionality and legitimate aim are satisfied.
13. Where there is an interference with the right to respect for private life and family life that may engage Article 8 of the European Convention on Human Rights 1950, and where there is no other source of lawful authority for the interference or if the use of RIPA is held not to be necessary or proportionate to the circumstances, the consequences of not obtaining or following the correct authorisation procedure may be that the action and the evidence obtained, is held to be inadmissible by the Courts pursuant to Article 6 European Convention on Human Rights 1950.

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14. 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 the abuse of anyone's human rights.

Comment [s4]: Moved from section M

15. Requests for authorisation under RIPA must be considered by designated senior officers and detailed records must be kept by the Council. As the Surveillance Commissioner, the Interception of Communications Commissioner and the Investigatory Powers Tribunal can oversee the Council's use of RIPA, it is essential that the Council follows this Corporate Policy and Procedures document.

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16. If the correct procedures are not followed, a complaint of maladministration could be made to the Local Government Ombudsman, and/or the Council could be ordered to pay compensation. Such action would not, of course, promote the Council's reputation and will, undoubtedly, be the subject of adverse press and media interest.

17. The Council's use of RIPA may be considered by the Office of Surveillance Commissioner's and the Investigatory Powers Tribunal. Further details are set out in section J.

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evidence may be disallowed by the courts¶

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18. 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. A flow chart of the internal procedures to be followed is set out within Appendix 2.

If you are in any doubt on RIPA, the related legislative provisions or this document, please consult the Senior Responsible Officer at the earliest opportunity.

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D. RIPA

1. The Council, as a public authority, is not to act in a way that is incompatible with the rights protected under the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (the "ECHR"). The Human Rights Act 1998 (which brought much of the ECHR into domestic law) requires the Council, and organisations working on its behalf, to also meet this obligation.
- 2 The investigatory powers which are relevant to the Council and require consideration of human rights are:
 - 2.1 Directed covert surveillance for specific operations or specific investigations;
 - 2.2 The use of Covert Human Intelligence Sources; and
 - 2.3 Obtaining and disclosing Communications Data.
3. RIPA does not allow the use of any other covert techniques by the Council to be authorised. In particular, the Council cannot be authorised under RIPA to intercept the content of a communication.

In accordance with the law

4. RIPA provides a statutory mechanism (meeting the test of "in accordance with the law") for authorising Directed Covert Surveillance, the use of Covert Human Intelligence Sources (a "CHIS") e.g. undercover agents and obtaining and disclosing Communications Data. RIPA 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, the RIPA seeks to ensure that both the public interest and the human rights of individuals subject to surveillance are suitably balanced.
5. In accordance with Article 8 ECHR the Council and organisations working on its behalf must respect the private and family life of citizens, their home and their correspondence. This is, however, a qualified right, as the Council may interfere in the citizen's right if it is in accordance with the law, is necessary in a democratic society and is proportionate.
6. Accordingly, in certain circumstances, the Council may interfere with the Article 8 rights, if such interference is:
 - 6.1 **in accordance with the law;**
 - 6.2 **necessary; and**
 - 6.3 **proportionate.**
7. A RIPA authorisation may only be granted if the Authorised Officer believes that the conduct is necessary and proportionate for one or more of the statutory purposes. The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 and the Regulation of Investigatory Powers (Communications Data)

Order 2010 provide that the Council may only authorise the use of covert techniques for the purpose of "the prevention or detection of crime or the prevention of disorder".

8. At the start of an investigation, Council officers will need to satisfy themselves that what they are investigating is a criminal offence. Directed surveillance is an invasive technique and at the point it is decided whether or not to authorise its use it must be clear that the threshold is met and that it is necessary and proportionate to use it.

Necessary and proportionate

9. When the Council seeks to use its powers under RIPA, and has determined that its actions would be in accordance with the law, it must consider whether the surveillance or use of the CHIS is **necessary** to the particular operation or enquiry and whether the surveillance or sourcing suggested is **proportionate**:
 - 9.1 Firstly, RIPA requires that the person granting an authorisation believes that the authorisation is necessary in the circumstances of a particular case e.g. one or more of the statutory grounds in section 28(3) RIPA for directed surveillance applies;
 - 9.2 Secondly, if the activities are necessary, the person granting the authorisation must believe that the activities are proportionate to what is sought to be achieved by carrying them out. The following factors should be considered as set out in paragraph 3.6 of the Home Office Code of Practice:
 - 9.2.1 Balancing how intrusive the activity is on the individual and/or others who might be affected by the surveillance against the need for the surveillance activity;
 - 9.2.2 Balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
 - 9.2.3 Explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
 - 9.2.4 Considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
 - 9.2.5 Evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.
 - 9.3 The surveillance activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the

objectives of the surveillance in question and must not be arbitrary or unfair;

9.4 Lastly, **Authorised Officers** must consider the risk of "collateral intrusion", which is intrusion on, or interference with, the privacy of persons other than the individual subject of surveillance. Measures must be taken wherever practicable to avoid unnecessary collateral intrusion and minimise any intrusion of individuals not directly connected with the investigation or operation.

10. Directly employed Council staff and external agencies working for the Council may be permitted to assist the Council when using RIPA powers for the time they are working for or on behalf of the Council. All external agencies must, therefore, comply with RIPA and any legislation relating to Data Protection and **Equalities**.

Comment [s5]: Paragraphs 9 and 10 have been moved from their original positions

11. Any activity carried out by agencies on the Council's behalf must be properly authorised by one of the Council's designated **Authorised Officers**. **Authorised Officers** are those officers identified in Appendix 1 and may include other officers who are duly added to or substituted by the Senior Responsible **Officer**.

Comment [s6]: This paragraph has been moved from its original position

12. RIPA does:

- 12.1 require prior authorisation **and judicial approval** of directed surveillance;
- 12.2 prohibit the Council from carrying out intrusive surveillance;
- 12.3 require authorisation of the conduct and use of a CHIS; and
- 12.4 require safeguards for the conduct and use of a CHIS.

13. RIPA does not:

- 13.1 make unlawful conduct which is otherwise lawful;
- 13.2 prejudice or disapply 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 information from the Land Registry as to the ownership of a property.

If the Authorising Officer or any Applicant is in any doubt, they should ask the RIPA Co-ordinating Officer BEFORE any directed surveillance and/or CHIS is authorised, renewed, cancelled or rejected.

RIPA and use of **email**

Comment [s7]: This section was moved from its original position

14. In terms of monitoring e-mails and internet usage, it is important to recognise the interplay and overlap 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 and its related guidance and Codes of Practice.

RIPA forms should only be used where **relevant** and they will only be **relevant** where the **criteria** listed on the forms is fully met.

15. Logs of access to the Internet and use of e-mail are maintained by the Head of Corporate Support Services. With effect from 05 January 2004 local authorities gained new powers and responsibilities under RIPA to access Communications Data (for the purpose of preventing or detection of crime or preventing disorder) by virtue of the Regulation of Investigatory Powers (Communications Data) Order 2003 ("the 2003 Order") which brought into effect the provisions of Chapter II of RIPA. Requests for access to and disclosure of such data will only be able to be made through a Designated Officer (in accordance with RIPA and the 2003 Order) who is also a Home Office accredited Single Point of Contact ("SPOC"). The Council will continue to ensure that it has at least one accredited SPOC in place for this purpose.

E. Types of Surveillance and Definitions

Comment [s8]: Section F was moved here to ensure that a full introduction to RIPA is set out

1. 'Surveillance' is defined at section 48(2) RIPA and includes:

- 1.1 monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications;
- 1.2 recording anything monitored, observed or listened to in the course of surveillance;
- 1.3 surveillance by or with the assistance of a surveillance device (any apparatus designed or adapted for use in surveillance).

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Surveillance can be either overt or covert.

2. Overt Surveillance

- 2.1 Most surveillance carried out by the Council will be overt, as there will be nothing secretive, clandestine or hidden about the surveillance. In many cases, officers' behaviour will be the same as a member of the public (for example in the case of most test purchases), and/or will be going about Council business openly (for example a Neighbourhood Warden walking through the estate).
- 2.2 Surveillance will be overt if the subject of the surveillance has been informed that it will occur (for example where a noisemaker is warned (preferably in writing) that noise will be recorded if the noise continues, or where an entertainment 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.)

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3. Covert Surveillance

- 3.1 Covert Surveillance is carried out in a manner designed to ensure that the person subject to the surveillance is unaware of it taking place (section 26(9)(a) of RIPA).
- 3.2 RIPA regulates two types of covert surveillance, (Directed Surveillance and Intrusive Surveillance) and the use of CHIS.

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4. Intrusive Surveillance

- 4.1 Intrusive Surveillance is when the Surveillance activity:
 - 4.1.1 Is covert;
 - 4.1.2 Is carried out in relation to anything taking place on any residential premises (including hotel bedrooms, prison cells and rented accommodation), or in any private vehicle (including hire or company cars, boats or caravans). The Office of the Surveillance Commissioner's guidance says that gardens and driveways are not included within the definition of "residential premises"; and
 - 4.1.3 Involves the presence of a person in the premises or in the vehicle or is carried out by a surveillance device.

4.2 Surveillance of premises used for legal consultation is also to be treated as Intrusive Surveillance e.g. any place of business of any professional legal advisor.

4.3 Surveillance equipment mounted outside the premises or vehicle 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 or vehicle.

FOR THE AVOIDANCE OF DOUBT:

- Council officers must not carry out Intrusive Surveillance; and
- Intrusive Surveillance can only be carried out by the Police and other Law Enforcement Agencies.

5. Directed Surveillance

5.1 Directed Surveillance is defined in section 26(2) RIPA as surveillance which:

5.1.1 Is covert but not intrusive surveillance (**the Council must not carry out any intrusive surveillance**);

5.1.2 is undertaken for the purpose of a **specific investigation** or specific operation in such a manner as is **likely to result in the obtaining of private information** about a person (whether or not one specifically identified for purposes of an investigation or operation); and

5.1.3 Is not carried out in an immediate response to events which would otherwise make seeking authorisation under the Act unreasonable, for example, spotting something suspicious and continuing to observe it.

Likely to result in the obtaining Private Information

5.2 "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 that person and others with whom he or she comes into contact, or is an associate.

5.3 Although overt town centre CCTV cameras do not normally require authorisation, if the camera is tasked for a specific purpose, which involves prolonged surveillance on a particular person, authorisation will be required. The way a person runs their business may also reveal information about his or her private life and the private lives of others.

6. Confidential Information

- 6.1 Particular care should be taken in cases where the subject of the investigation might reasonably expect a high degree of privacy where confidential information is involved.
- 6.2 "Confidential Information" consists of such matters as legal privilege, confidential personal information or sensitive personal data (as defined within the Data Protection Act 1998) or confidential journalistic information.
- 6.3 Where the Council is likely to obtain confidential information through its use of surveillance, the authorisation for such surveillance must be provided by the Chief Executive or in his absence his nominated Deputy, instead of any Authorised Officer.
- 6.4 "Legally Privileged information" applies to communications between a professional legal adviser and their client or any person representing their client which are made in connection with the giving of legal advice to the client or in contemplation of legal proceedings.
- 6.5 The Council is permitted to use its RIPA powers to obtain information including Legally Privileged information. However, such an application for obtaining Legally Privileged Information should only be made in exceptional and compelling circumstances. Particular regard should be given to the test of proportionality. Similar considerations should also be given to authorisations that involve Confidential Personal Information and Confidential Journalistic Material.
- 6.6 "Confidential Personal Information" is information held in confidence relating to the physical or mental health or spiritual counselling information held by Ministers of religion concerning an individual (whether living or dead) who can be identified from that information. Examples include consultation notes or correspondence between a Health Professional and a patient.
- 6.7 'Confidential Journalistic Material' includes material acquired or created for the purposes of journalism subject to an undertaking to hold it in confidence.

7. For the purposes of RIPA:

- 7.1 Surveillance is covert if, and only if, it is carried out in a manner that is calculated to ensure that persons who are subject to the surveillance are unaware that it is or may be taking place;
- 7.2 A purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if and only if the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose; and
- 7.3 A relationship is used covertly, and information obtained is disclosed covertly, if and only if it is used or, as the case may be, disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

FOR THE AVOIDANCE OF DOUBT:

- Only those officers certified to be Authorised 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 Authorised Officer has not been 'certified' for the purposes of RIPA, he or she must NOT carry out or approve/reject any request made under this document; and
- Where relevant, Officers of the Council, its agents or persons acting on behalf of the Council must only carry out the Surveillance activity when judicial approval has been granted.

8. Examples of different types of Surveillance

Type of Surveillance	Examples
<u>Overt Surveillance</u>	<ul style="list-style-type: none"> ▪ Police Officer or Parks Warden on patrol. ▪ Sign-posted 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 Surveillance</u> but not requiring prior RIPA authorisation	<ul style="list-style-type: none"> ▪ CCTV cameras providing general traffic, crime or public safety information.
<u>Directed Surveillance requiring prior RIPA authorisation</u>	<ul style="list-style-type: none"> ▪ Officers follow an individual or individuals over a period to establish whether he or she is in employment or claiming benefit or off long term sick from employment. ▪ Test purchases where the officer has a hidden camera or other recording device to record information. This might include information about the private life of a shop-owner, for example, where he or she is suspected of operating their business in an unlawful manner.
<u>Intrusive Surveillance</u> - The Council must NOT carry out this type of surveillance	<ul style="list-style-type: none"> ▪ Planting a listening or other device ("bug") in a person's home or in their private vehicle.

The statutory RIPA Code of Practice on Covert Surveillance and Property Interference sets out that routine patrols, observation at trouble 'hotspots', immediate response to events and overt use of CCTV are all techniques which do not require RIPA authorisation.

RIPA does not apply in circumstances where members of the public volunteer information to the Council via contact numbers set up to receive information.

NOTE: If the Council acts covertly but Article 8 rights are not engaged, then no RIPA authorisation is necessary e.g. covertly monitor traffic flows. The Council must, however, assess whether or not it requires RIPA authorisation.

F. DIRECTED SURVEILLANCE

Comment [s9]: This section has been introduced to this document for ease of reference.

1. Under section 28(1) RIPA, the Council may authorise the use of Directed Surveillance but will need to seek Judicial approval of the grant or authorisation under RIPA.
2. For the purposes of section 26(2) RIPA, surveillance is “directed” if it is:
 - 2.1 Covert, but not intrusive surveillance (i.e. it takes place somewhere other than residential premises, particular premises where legal consultations take place or private vehicles);
 - 2.2 Conducted for the purposes of a specific investigation or operation e.g. pre-planned against a specific individual or group;
 - 2.3 Likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and
 - 2.4 Conducted otherwise than as an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable to seek an authorisation under RIPA.
3. Amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (“the 2010 Order”) mean that the Council can now only grant an authorisation under RIPA for the use of directed surveillance where it is investigating particular types of criminal offences with a specific crime threshold.

Crime threshold

4. A RIPA authorisation may only be granted if the Authorised Officer believes that the conduct is necessary and proportionate for one or more of the statutory purposes, including but not limited to the purpose of preventing or detecting crime or of preventing disorder.
5. The appropriateness of authorising Directed Surveillance must be considered carefully as the use of Directed Surveillance is dependent on the offence under investigation. In accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010, the Council may only authorise use of directed surveillance where they are investigating meets the following conditions:
 - 5.1 The offence under investigation carries a custodial sentence of six months or more; or
 - 5.2 The offence is an offence under:
 - 5.2.1 Section 146 Licensing Act 2003: the sale of alcohol to children;
 - 5.2.2 Section 147 Licensing Act 2003: allowing the sale of alcohol to children
 - 5.2.3 Section 147A Licensing Act 2003: persistently selling alcohol to children; or

5.2.4 Section 7 of the Children and Young Persons Act 1933 the sale of tobacco etc. to persons under eighteen.

6. The Council cannot authorise the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences or to investigate low-level offences which may include, for example, littering, dog control and fly-posting.
7. It is possible that during an investigation, that the type and seriousness of offences may change. If it becomes apparent that the activity being investigated does not amount to a criminal offence or that it would be a less serious offence that does not meet the threshold the Council must cease using Directed Surveillance. If a Directed Surveillance authorisation is already in force it should be cancelled via the formal channels.
8. The Council must ensure that its internal procedures are followed and authorisation is sought against a specific offence that meets the crime threshold. There will be occasions where evidence is sought and may be used for various charges, some of which may fall below the crime threshold. In these circumstances, it will be for the Courts to decide what evidence it shall admit in proceedings and the weight given to such evidence.

Authorised Officer

9. An authorisation for the carrying out of Directed Surveillance shall not be granted unless the Authorising Officer believes:
 - 9.1 The authorisation is necessary – that the use of Directed Surveillance is necessary for the purposes of preventing or detecting crime or of preventing disorder; **and**
 - 9.2 The authorised surveillance is proportionate to what is sought to be achieved by carrying out the surveillance.

What surveillance conduct is authorised?

10. The conduct that is authorised by an authorisation for the carrying out of directed surveillance is any conduct that:
 - 10.1 consists in the carrying out of directed surveillance of any such description as is specified in the authorisation; and
 - 10.2 is carried out in the circumstances described in the authorisation and for the purposes of the investigation or operation specified or described in the authorisation.

Confidential Information

11. Where it is likely that confidential information or matters subject to legal privilege will be sought, the Directed Surveillance may only be authorised by the Head of Paid Service, or the person acting as the Head of Paid Service.

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

1. Who is a CHIS?

1.1 Section 26(8) RIPA states that a person is a Covert Human Intelligence Source (CHIS) if:

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(a) He or she establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within the paragraph (b) or (c):

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(b) He or she covertly uses the relationship to obtain information or to provide access to any information to another person; or

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(c) He or she covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.

1.2 For the purposes of this section, a relationship is used covertly, and information obtained by the use of such a relationship or as a consequence of the existence of such a relationship is disclosed covertly, **if and only if** it is used or disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure of the information.

2. Necessity and Proportionality

2.1 Section 29(2) RIPA specifies that Authorised Officers shall not grant an authorisation for the conduct or use of a CHIS unless he or she believes:

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2.1.1 that the authorisation is necessary on one of the statutory grounds, which for Council activities, would be for the prevention or detection of crime or preventing disorder;

2.1.3 that the authorised conduct or use is proportionate to what is sought to be achieved by that conduct or use; and

2.1.4 that there are arrangements for the CHIS's case in force as are necessary for ensuring that:

Comment [s10]: The following arrangements update the wording in the original Policy and Procedures Document

2.1.4.1 there will at all times be an appropriate officer (normally the Investigating Officer) who will have day-to-day responsibility for dealing with the CHIS on behalf of the Council, and for the CHIS's security and welfare;

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2.1.4.2 there will at all times be another officer who will have general oversight of the use made of the CHIS;

2.1.4.3 there will at all times be an officer who will have responsibility for maintaining a record of the use made of the CHIS;

2.1.4.4 the records relating to the CHIS that are maintained by the Council will always contain particulars of all such matters as specified in the Regulation of Investigatory Powers (Source Records) Regulations 2000; and

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2.1.4.5 the records maintained that disclose the identity of the CHIS will not be available to persons except to the extent

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that there is a need for access to them to be made available to those persons.

3. What must be authorised?

3.1 The use of a CHIS or the conduct of a CHIS requires prior authorisation:

3.1.1 **Conduct** of a CHIS is 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;

3.1.2 **Use** of a CHIS is the action of inducing, asking or assisting a person to act as a CHIS (including the decision to use a CHIS).

3.2 A CHIS includes undercover officers, public informants and people who make test purchases.

3.3 The Council will need to seek judicial approval of the grant or renewal of any authorisation under RIPA.

3.4 The Council is not required to provide the true identity of the CHIS either on the application form or verbally to the JP.

3.5 Additional safeguards when authorising a CHIS are required and are set out in Section I, page 32.

4. What is authorised?

4.1 The conduct that is authorised by an authorisation for the conduct or the use of a CHIS is any conduct that:

(a) is comprised in any such activities involving conduct of a CHIS, or the use of a CHIS, as are specified or described in the authorisation;

(b) consists in conduct by or in relation to the person who is so specified or described as the person to whose actions as a CHIS the authorisation relates; and

(c) is carried out for the purposes of, or in connection with, the investigation or operation so specified or described.

The Council is permitted to use a CHIS IF, AND ONLY IF, RIPA procedures detailed in this document are followed.

Security and Welfare

4.2 Before authorising the use or conduct of a source, the Authorised Officer should ensure that a risk assessment is carried out to determine:

4.2.1 The risk to the CHIS; and

4.2.2 The likely consequences if the role of the CHIS becomes known to the individual subject of the surveillance or those involved in the surveillance activity.

- 4.3 The Council should also consider the ongoing security and welfare of the CHIS, after the end or cancellation of the RIPA authorisation.

5. Juvenile Sources

- 5.1 Authorisations for juvenile sources can only be granted by the Chief Executive or in his absence his authorised Deputy. Additional safeguards must be in place where a Juvenile Source is used.
- 5.2 The Council cannot authorise the use of a CHIS under the age of 18 without carrying out a special risk assessment in relation to any risk of physical injury or psychological distress to the source that may arise. The Authorising Officer must also be satisfied that any risks identified are justified and have been explained to and are understood by the CHIS. If the local authority is authorising the use of a CHIS against his parents or carers particular consideration must be given to whether this is justified.
- 5.3 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.
- 5.4 Where a CHIS is under the age of 16 arrangements must also include ensuring that an appropriate adult (usually a parent or carer) is present at every meeting with the Council.

6. Vulnerable Individuals

- 6.1 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.
- 6.2 A Vulnerable Individual may only act as a source in the most exceptional of circumstances.
- 6.3 Authorisations for the use of a Vulnerable Individual as a CHIS can only be authorised by the Chief Executive or in his absence his authorised Deputy. The authorisation to use a Vulnerable Individual as a CHIS is effective only where Judicial approval has been sought. If there is any doubt regarding sufficiency of rank of the Authorising officer, the JP shall request the Council representative obtain confirmation from the Council's Monitoring Officer.

7. Confidential Information

- 7.1 In cases where a CHIS is deployed and it is likely that the Council will obtain confidential information, the internal authorisation must be sought from the Chief Executive or in his absence his nominated Deputy.

- 7.2 "Confidential information" consists of such matters as Legal Privilege, confidential personal information or confidential journalistic information. Further details are provided in Section E above.

Matters subject to Legal Privilege

8. Where the activities of a CHIS will result in the CHIS obtaining, providing access to or disclosing matters subject to legal privilege, a local authority must obtain prior approval from the Surveillance Commissioners before authorising such conduct.

Test Purchases

9. Carrying out test purchases will not require the purchaser to establish (i.e. set up) 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).
10. Determining whether someone is a CHIS is a matter of judgment according to all the circumstances of a case. For example, 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)

Comment [s11]: Inserted from original Policy document

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.
12. Recording sound (with a DAT recorder or other similar device) on private premises could constitute intrusive surveillance, unless it is done overtly. For example, it will be possible to sound record if the noisemaker is warned that this will occur if the level of noise continues.
13. No machine should be used which pre-records or post-records without the individual being informed, as this may form Intrusive Surveillance. For example, placing a stationary or mobile video camera outside a building to record anti social behaviour on residential estates will require prior authorisation.

H. Acquisition and Disclosure of Communications Data

Comment [s12]: Section J moved so that the RIPA powers sit together

Communications Data

1. Under section 22(3) RIPA, the Council may authorise the acquisition of Communications Data. The Council will, however, need to seek judicial approval of the grant or renewal of an "authorisation" or of the giving or renewal of a "notice" under RIPA in accordance with sections 23A and 23B RIPA.
2. Communications Data is "who", "when", and "where" of a communication, but not the "what" – the content of what was said or written. RIPA groups Communications Data into three types:
 - (i) Traffic data, which includes information about where the communications are made or received;
 - (ii) Service user information, such as the type of communication, time sent and its duration; and
 - (iii) Subscriber information which includes billing information such as the name, address, bank details of the subscriber of telephone or internet services.
3. Specifically, section 21(4) RIPA defines "Communications Data" to mean any of the following:
 - (a) any traffic data comprised in or attached to a communication (whether by the sender or otherwise) for the purposes of any postal service or telecommunications system by means of which it is being or may be transmitted;
 - (b) any information which includes none of the contents of a communication (apart from any information falling within paragraph (a)) and is about the use made by any person:
 - (i) of any postal service or telecommunications service; or
 - (ii) in connection with the provision to or use by any person of any telecommunications service, of any part of a telecommunication system;
 - (c) any information not falling within paragraph (a) or (b) that is held or obtained, in relation to persons to whom he provides the service, by a person providing a postal service or telecommunications service.
4. Only Communications Data falling within (b) and (c) above may be authorised or required to be obtained by means of an authorisation given, or notice made on behalf of the Council under Sections 22(3) and (4) of RIPA. The Council may only acquire service user information or subscriber information.

Comment [s13]: Moved from original position of paragraph 4

5. "Traffic data", in relation to any communication, means:

- (a) any data identifying, or purporting to identify, any person, apparatus or location to or from which the communication is or may be transmitted,
- (b) any data identifying or selecting, or purporting to identify or select, apparatus through which, or by means of which, the communication is or may be transmitted,
- (c) any data comprising signals for the actuation of apparatus used for the purposes of a telecommunication system for effecting (in whole or in part) the transmission of any communication, and
- (d) any data identifying the data or other data as data comprised in or attached to a particular communication,

but that expression includes data identifying a computer file or computer program access to which is obtained, or which is run, by means of the communication to the extent only that the file or program is identified by reference to the apparatus in which it is stored.

Notices to a Communications Service Provider

- 7. Under Section 22(4) of RIPA the Council may serve a 'Notice' on a Communications Service Provider requiring them to collect or retrieve the data and produce it to the Council. The Notice is given by a Designated Person or Authorised Officer, but must be served by a SPOC.
- 8. Section 22(4) states that where it appears to an Authorised Officer that a postal or telecommunications operator is or may be in possession of, or be capable of obtaining, any communications data, the Authorised Officer may, by notice to the postal or telecommunications operator, require the operator:
 - (a) if the operator is not already in possession of the data, to obtain the data; and
 - (b) in any case, to disclose all of the data in his possession or subsequently obtained by him.
- 9. The authorisation or Notice under RIPA for Communications Data may only relate to Service User Information or Subscriber Information.

FOR THE AVOIDANCE OF DOUBT:

The Council can only be authorised under RIPA to obtain Communications Data where it is necessary for the purpose of preventing or detecting crime or of preventing disorder (section 22(2) RIPA).

Designated Persons or Authorised Officers

- 10. Designated Persons are defined within RIPA and the 2003 Order and for the purposes of this Policy are the RIPA Authorised Officers. Designated Persons or Authorised Officers may grant an authorisation via the internal

authorisation procedure to permit an Officer of the Authority to collect or retrieve communications data. Such internal authorisation is not, however, effective unless and until judicial approval has been sought.

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11. An authorisation under Section 22(3) of RIPA is granted by the Designated Person or Authorised Officer but must be administered by an Officer of the Council who is a Home Office accredited SPOC. The authorisation is designed to authorise an officer within the Council to engage in specific conduct.

Grounds for Authorisations and Notices

12. An Authorised Officer:

- May only grant an authorisation or give a notice under sections 22(3) and 22(4) of RIPA where the Authorised Officer believes that obtaining Communications Data is necessary for the purpose of preventing or detecting crime or of preventing disorder; and
- Must not grant an authorisation or give a notice, unless he believes that obtaining the data in question by the conduct authorised or required by the authorisation or notice is proportionate to what is sought to be achieved by so obtaining the data.

13. The Authorised Officer's counter signature will in all cases show the rank or title of the grade and cover a clear description in his or her own words of what is being authorised and against which subjects or location ('who, what, where, when and how'). For many CD requests the forms are completed electronically, including the insertion of an electronic signature for the designated person. If there is any doubt regarding sufficiency of rank the JP should request the Council representative obtain confirmation from their Monitoring Officer who will be able to advise them.

Comment [s14]: This paragraph was moved from its original position

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¶
2. An Authorised Officer may grant an authorisation under Section 22(3) of RIPA to other officers holding offices, ranks or positions in the District Council as defined in the 2003 Order, to engage in any conduct to which Chapter II of RIPA applies. ¶
¶
3. Chapter II applies to ¶
¶
(a) any conduct in relation to a postal service or telecommunication system for obtaining communications data, other than conduct consisting in the interception of communications in the course of their transmission by means of such a service or system; and ¶
¶
<#>the disclosure to any person of communications data. ¶
¶

Proportionality

14. An Authorised Officer shall not grant an authorisation unless he or she believes that obtaining the data in question by the conduct authorised or required by the authorisation or notice is proportionate to what is sought to be achieved by so obtaining the data.

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15. There is no requirement to provide information about the Council's application to access Communications Data to:

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- 15.1 Any person to whom the authorisation or notice which is the subject of the application relates; or

- 15.2 Any such person's legal representatives.

Form and Duration of Authorisations and Notices

16. An authorisation under section 22(3) of RIPA:
(a) must be granted in writing or (if not in writing) in a manner that produces a record of its having been granted;

- (b) must describe the conduct to which the acquisition and disclosure of Communications Data (Chapter II of RIPA) applies that is authorised and the communications data in relation to which it is authorised;
- (c) must specify the grounds falling within section 22(2) of RIPA by reference to which it is granted. In these circumstances, the ground should be for the purposes of purpose of preventing or detecting crime or of preventing disorder; and
- (d) must specify the office, rank or position held by the person granting the authorisation.

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- 17. A Notice under section 22(4) of RIPA requiring communications data to be disclosed or to be obtained and disclosed:

- (a) must be given in writing or (if not in writing) must be given in a manner that produces a record of its having been given;
- (b) must describe the communications data to be obtained or disclosed under the notice;
- (c) must specify the ground falling within section 22(2) of RIPA by reference to which the notice is given. In these circumstances, the ground should be for the purposes of purpose of preventing or detecting crime or of preventing disorder;
- (d) must specify the office, rank or position held by the person giving it; and
- (e) must specify the manner in which any disclosure required by the Notice is to be made.

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- 18. A notice must not require the disclosure of communications data to any person other than:

- (a) the person giving the notice; or
- (b) such other person as may be specified in or otherwise identified by, or in accordance with, the provisions of the notice;

but the provisions of the notice shall not specify or otherwise identify a person for the purposes of paragraph (b) unless he holds an office, rank or position with the same relevant public authority as the person giving the Notice.

- 19. An authorisation or notice:

- (a) must not authorise or require any data to be obtained after the end of the period of one month beginning with the date on which the authorisation is granted or the notice given; and
- (b) in the case of a notice, must not authorise or require any disclosure after the end of that period of any data not in the possession of, or obtained by, the postal or telecommunications operator at a time during that period.

- 20. An authorisation under section 22(3) RIPA or Notice under section 22(4) RIPA may be renewed at any time before the end of the period of one month applying to that authorisation or notice.

21. A renewal of an authorisation or of a notice must be by the grant or giving of a further authorisation or notice.

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22. Paragraph 19 will have effect in relation to a renewed authorisation or renewal notice as if the period of one month mentioned in that paragraph did not begin until the end of the period of one month applicable to the authorisation or notice that is current at the time of the renewal.

23. Where an Authorised Officer who has given a Notice under section 22(4) is satisfied:

(a) that it is no longer necessary on the relevant grounds falling within section 22(2) of RIPA for the requirements of the notice to be complied with, or

(b) that the conduct required by the notice is no longer proportionate to what is sought to be achieved by obtaining communications data to which the notice relates,

he or she must cancel the notice.

24. Appendix 5 contains the relevant Communications Data Forms.

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I. Authorisation Procedures

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Authorisations for the use of techniques under RIPA are granted:

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1. Internally by an Authorised Officer; and
2. Approved by a Justice of the Peace at the Magistrates' Court, as RIPA authorisations are now subject of an external approval mechanism.

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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 the recording of information. It is the responsibility of the relevant Authorised Officer to ensure that the Senior Responsible Officer receives the relevant forms within one week of its completion.

Comment [s15]: Moved from original position to here.

1. Authorised Officers

Forms must only be signed by Authorised Officers who are specified within the Council's Constitution, and are listed in **Appendix 1**.

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If a Director or Head of Service wishes to add, delete or substitute a post, he or she must refer such a request to the Senior Responsible Officer.

A higher level of authority is required where:

1. The Directed Surveillance or the use or proposed conduct of a CHIS is likely to produce 'confidential information'; or
2. The proposed source of a CHIS is a juvenile or the proposed conduct is by a juvenile source; or
3. The proposed source of a CHIS is a Vulnerable Individual or the proposed conduct is by a Vulnerable Individual.

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In such cases the Authorisation can only be given by the Chief Executive or in his absence his Authorised Deputy.

Authorisations under RIPA are separate from Delegated Authority to act under the Council's Scheme of Delegation. RIPA authorisations are for **specific** investigations only, and must be renewed or cancelled once the specific surveillance is complete or due to expire.

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Officers must ensure that the application process set out within this document is followed, so as to avoid errors which could result in a JP's refusal to grant or renew a RIPA authorisation.

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The authorisations do not lapse with time!¶
¶ 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.¶

2. Training Records

Training will be provided to all Authorised Officers before they are permitted to sign any RIPA Forms. Refresher training will also be provided as and when required. Authorised Officers must ensure that this training is cascaded to officers within their service teams.

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Authorised Officers will be suitably trained and they must exercise their minds every time they are asked to sign a Form. They must not sign or rubber stamp Forms without thinking about their personal or the Council's responsibilities.

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3. Application Forms

Only the RIPA forms set out in this Document must be used when seeking RIPA authorisations, as the Authorised Officer and/or the Head of Financial and Legal Services will reject any alternative forms used.

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Directed Surveillance Forms - Appendix 3

- Form A** Application for Authority to conduct Directed Surveillance
- Form B** Review of Directed Surveillance Authority
- Form C** Renewal of Directed Surveillance Authority
- Form D** Cancellation of Directed Surveillance

CHIS Forms - Appendix 4

- Form E** Application for Authority for Conduct and Use of a 'CHIS'
- Form F** Review of Conduct and Use of a 'CHIS'
- Form G** Renewal of Conduct and Use of a 'CHIS'
- Form H** Cancellation of Conduct and Use of a 'CHIS'

The Council is not required to provide the true identity of the CHIS either on the application form or verbally to the JP.

Communications Data Forms - Appendix 5

- Form I** Application for Communications Data
- Form J** Application for Communications Data - SPOC Rejection Form
- Form K** SPOC Log Sheet
- Form L** SPOC Officers Report
- Form M** Designated Person's Consideration Form: Application for Communications Data
- Form N** Notice under Section 22(4) of RIPA
- Form O** Cancellation of Notice under Section 22(4) of RIPA = Applicant
- Form P** Cancellation of Notice under Section 22(4) of RIPA = SPOC

Under section 23B(2) RIPA there is no requirement to provide information about the Council's application to access Communications Data to:

- Any person to whom the authorisation or notice which is the subject of the application relates; or
- Any such person's legal representatives.

Any boxes not needed on the Form(s) must be clearly marked as being 'NOT APPLICABLE', 'N/A' or a line must be marked through such sections. 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.

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Particular care must be taken when considering and confirming whether the proposed surveillance is proportionate to what it seeks to achieve. The explanation must be full and complete.

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4. Grounds for Authorisation

Directed Surveillance (**Forms A-D**) or the Conduct and Use of the CHIS (**Forms E-H**) can only be authorised by the Council where an Authorised Officer believes that the authorisation is necessary and proportionate for the purpose of preventing or detecting crime or preventing disorder.

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5. Applying for Authorisation

A full description of the proposed surveillance operation must be stated on the relevant Form. Plans should be provided, where possible, and appended to the form, particularly where camera surveillance is also authorised. Care must also be taken to ensure that a full description of the surveillance operation is given on the authorisation Form.

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The use of "cut and paste" entries on Authorisations is not advised as whilst an Officer could exercise careful attention to detail, accuracy and pertinence, there is a small possibility that judicial approval could be refused in the event that the authorisation form is inaccurate.

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Investigating and Authorised Officers should assess the *expiry date* (date for cancellation) for an authorisation (following judicial approval). For example, for Directed Surveillance the authorisation is valid for three months and so if the authorisation commences on 01 March, the expiry date is 31 May and not 01 June.

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6. Assessing the Application Form

A. Before an Authorised Officer signs a RIPA Form, he or she must:

- (i) be mindful of this Corporate Policy & Procedures Document, the training provided and any other guidance issued, from time to time, by the Senior Responsible Officer and/or Council Solicitor on such matters;

(ii) recognise that he or she should not be responsible for authorising investigations or operations in which they are directly involved. However, it has been recognised that this may, on occasion, be unavoidable, especially in the case of small organisations, or where it is necessary to act urgently. Where an Authorised Officer authorises such an investigation or operation, the Council Secretary and Solicitor should be informed so that the central record of authorisations can be updated and when inspected, this can be drawn to the attention of a Commissioner or Inspector;

(iii) Satisfy his or herself that the RIPA authorisation is:

In accordance with the law;

Necessary in the circumstances of the particular case on the grounds mentioned in paragraph 4 above; **and**

Proportionate to what it seeks to achieve.

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Additional Safeguards when Authorising a CHIS

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B. When authorising the conduct or use of a CHIS, the Authorised 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; and
- (e) ensure **records** contain particulars and are not available except on a need to know basis.

The Council is not required to provide the true identity of the CHIS either on the application form or verbally to the JP.

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

C. In assessing whether or not the proposed surveillance is proportionate, consider:

- (i) the seriousness of the matter giving rise to the proposed surveillance and the importance of taking action in respect of it;
- (ii) the implications of not gathering information about the matter;
- (iii) the effects of the proposed surveillance on the subject of the surveillance and on other persons;
- (iv) compare such effects against the seriousness of the matter and the implications of not taking action;
- (v) indicating what, if any, other action instead of that proposed, might be taken; and

(vi) confirming whether the action proposed is likely to be the most effective and the least intrusive means of obtaining the required information.

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 as far as is possible Collateral Intrusion which may assist in determining proportionality;

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Authorised Officers, in giving approval, must state on the form, in detail, why they consider the proposed action to be necessary and proportionate.

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E. Ensure Authorisation forms include name and addresses of those individuals identified as being subject of RIPA techniques and where appropriate the location (with plan) of the proposed RIPA activity.

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F. When signing Authorisations:

- i. Ensure that the date and time of signature are included;
- ii. Check that a higher level of authority is not required (e.g. where the RIPA technique may acquire confidential information, or a juvenile source or a Vulnerable Individual is engaged as a source).

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G. Set a date for review of the internal authorisation and review prior to its expiry to ensure that an application to renew the use of RIPA can be approved by the JP within the expiry date. It is beneficial to review the Authorisation regularly, for example, at least monthly. Put in place appropriate measures to ensure that the authorisation is appropriately managed..

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H. Ensure that the RIPA Departmental Register is duly completed, and that a copy of the RIPA Forms (including any review or cancellation forms) are retained on the departmental file and that the original is forwarded to the Head of Financial and Legal Services **within 1 week of the relevant authorisation, review, renewal, cancellation or rejection.** Copies of the Judicial Approval must also be held on this Register.

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I. Mark up the RIPA Departmental Register with the Unique Reference Number (URN) on all pages when the URN is provided by the Head of Financial and Legal Services.

J. Authorised activities, and therefore authorisations, should be regularly reviewed, i.e. at least every 4 weeks.

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7. Duration

7.1 The current time limits for an authorisation or notice are:

7.1.1 Three months for Directed Surveillance;

7.1.2 Twelve months for a CHIS (one month if the CHIS is under 18); and

7.1.3 Authorisations and notices for Communications Data will be valid for a maximum of one month from the date the JP has approved the grant. This means that the conduct authorised should have been commenced or the notice served within that month.

7.2 The grant, renewal and duration of authorisations is set out in section 43 RIPA.

Reviews

7.3 The Forms **must be reviewed in the time stated and cancelled** once it is no longer needed. The 'authorisation' to carry out/conduct the surveillance lasts for a maximum of 3 months (from authorisation unless cancelled) for Directed Surveillance (e.g. a Directed Surveillance authorisation granted on 01 April 2005 expires on 30 June 2005) and 12 months (from authorisation) for a CHIS (e.g. a CHIS authorisation granted on 01 April 2005 expires on 31 March 2006).

7.4 However, whether the surveillance is carried out/conducted or not, in the relevant period, does not mean the 'authorisation' is 'spent'. **The Forms do not expire.** The forms have to be **reviewed and/or cancelled (once they are no longer required)**.

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Urgent authorisations

7.5 Section 43(1) RIPA states that urgent oral authorisation may granted or renewed, which lasts for a period of seventy-two hours. This, however, is in limited circumstances, and would not normally be relevant to authorisations for Directed Surveillance and use or conduct of a CHIS where judicial approval is required under section 32A RIPA. Any urgent oral authorisation that is otherwise granted or renewed, if not already ratified in a written authorisation, will cease to have effect after 72 hours, beginning with the time when the authorisation was granted (e.g. an urgent authorisation granted at 5.00 pm on 01 June expires at 4.59 pm on 04 June).

Renewals

7.6 Authorisations can be renewed in writing when the maximum period 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.

7.7 The renewal will begin on the day when the authorisation would have expired.

7.8 Applications for renewals should be made just prior to the expiration of the original authorisation. However, the Council must determine the appropriate time to apply for a renewal, but it should be mindful of any matters which may delay the renewal process, for example, intervening

weekends or the availability of the Authorised Officer and a JP to grant approval.

7.9 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.

7.10 Authorisations may be renewed more than once provided that the use of the technique is considered to be necessary and proportionate.

7.11 If during an investigation which has been authorised it becomes clear that the activity being investigated does not amount to a criminal offence or that it would be a less serious offence that does not meet the crime threshold the use of directed surveillance should cease. If Directed Surveillance authorisation is in force it should be cancelled.

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Cancellations

7.12 Where an Authorised Officer who is satisfied that:

- that it is no longer necessary on the relevant ground of preventing or detecting crime or preventing disorder; and
- the authorisation is no longer proportionate to what is sought to be achieved

he or she must cancel the notice.

7.13 Following approval by the Authorising Officer, the Council's Investigating Officer will need to contact Her Majesty's Courts and Tribunals Service (HMCTS) administration team at the Magistrates' Court to arrange a hearing.

J. Procedure for Judicial Approval

From 01 November 2012, when the Council seeks to authorise the use of Directed surveillance, acquisition of communications data or use of a CHIS under RIPA, it will need to obtain an order approving the grant or renewal of an authorisation or notice from a JP (District Judge or lay Magistrate) before it can take effect.

The hearing will be conducted in private and heard by a single JP who will read and consider the RIPA authorisation and the judicial application. It is only where a JP is satisfied that the statutory tests have been met and that the use of the RIPA technique is necessary and proportionate that an order approving the grant or renewal for the use of the RIPA technique, as described within the application, is issued.

As the hearing at the Magistrates Court is a legal proceeding, the Council officers attending must be formally designated as identified under section 223 of the Local Government Act 1972 and the Council's Standing Orders. It is not the case that only those officers with the skills of legally trained personnel will be required to make the case to the JP.

At the hearing, the Investigating Officer will need to provide the JP with a copy of the original RIPA authorisation and the supporting documents setting out the case and the need to use the RIPA technique. This forms the basis of the application to the JP and should contain all information that is relied upon. It is essential that:

- All of the relevant forms and supporting papers are provided to the JP since these documents form the case;
- Whilst the JP may make notes on the papers during the hearing, the Council must ensure that any information that is fundamental to the case must be submitted on the papers; and
- The Council must ensure that it does not rely on oral evidence that is not reflected or supported within the papers presented at the hearing.

The original RIPA authorisation will record all the relevant information for the RIPA application. Whilst the Council is to provide a brief summary of the circumstances of the case on the judicial application form, this is supplementary and does not replace the need to supply the original RIPA authorisation as well.

The original RIPA authorisation or notice should be shown to the JP but will be retained by the Council so that it is available for inspection by the Commissioners' offices and in the event of any legal challenge or investigations by the Investigatory Powers Tribunal. A copy of the original RIPA authorisation may be taken by the Court.

In addition, the Investigating Officer will provide the JP with a partially completed Judicial application/order. This will be completed by the JP and will form the official record of the JP's decision.

The Investigating Officer will need to obtain judicial approval for all initial RIPA authorisations/applications and renewals and will need to retain a copy of the judicial application/order form after it has been completed and signed by the JP.

There is no requirement for the JP to consider either cancellations or internal reviews.

The Investigating officer to attend the hearing should be the officer who would be able to answer the JP's questions on the policy and practice of conducting covert operations, and provide details of the case itself. It is most likely that the officer will be the case investigator as the officer with the relevant background knowledge of the request and the specific reasons for using a RIPA technique to further the case.

The JP will consider whether he or she is satisfied that at the time the authorisation was granted or renewed or the notice was given or renewed there were reasonable grounds for believing that the authorisation or notice was necessary and proportionate. The JP will also consider whether there continues to be reasonable grounds.

In addition, the JP must be satisfied that the person who granted the authorisation or gave the notice was an appropriate designated person within the Council and the authorisation was made in accordance with any applicable legal restrictions, for example that the crime threshold for directed surveillance has been met.

Following their consideration of the case the JP will complete the order section of the judicial application/order form recording their decision.

The JP may decide to:

1. Approve the Grant or renewal of an authorisation or notice - the grant or renewal of the RIPA authorisation or notice will then take effect and the Council may proceed to use the technique in that particular case.
2. Refuse to approve the grant or renewal of an authorisation or notice - the RIPA authorisation or notice will not take effect and the Council may not use the technique in that case. If an application is refused the Council should consider the reasons for that refusal and consider whether it can reapply.
3. Refuse to approve the grant or renewal and quash the authorisation or notice - A JP may refuse to approve the grant, giving or renewal of an authorisation or notice and decide to quash the original authorisation or notice.

Out of hours access

In the event that the Investigating Officer needs to seek out of hours access to a JP, the Council must follow its local arrangements with the Court staff. In these circumstances, the Council will need to provide two partially completed judicial application/order forms so that one can be retained by the JP. The Council should provide the court with a copy of the signed judicial application/order form the next working day.

Out of hours procedures are for emergencies only and should not be used because a renewal has not been processed in time. Where renewals are timetabled to fall outside of court hours, for example during a holiday period, it is the local authority's responsibility to ensure that the renewal is completed ahead of the deadline.

Emergency/ Urgent authorisations

In most emergency situations where the police have power to act, then they are able to authorise activity under RIPA without prior JP approval. No RIPA authority is required in immediate response to events or situations where it is not reasonably practicable to obtain it. An example of an emergency is when criminal activity is observed during routine duties and officers conceal themselves to observe what is happening.

Complaints

There is no complaint route for a judicial decision unless it was made in bad faith). Any complaints should be made to the Magistrates' Advisory Committee. In the event that the Council deems it necessary to appeal a JP decision on a point of law, it can only do so by judicial review. The relevant officer must seek legal advice on the merits of such an appeal.

The Independent Powers Tribunal

The Investigatory Powers Tribunal investigates complaints by individuals about a public body's use of RIPA techniques.

If, following a complaint to the Investigatory Powers Tribunal, it finds fault with a RIPA authorisation or notice, it has the power to quash the JP's order which approved the grant or renewal of the authorisation or notice.

The Surveillance Commissioner

The Surveillance Commissioner has an important role in inspecting and monitoring the Council's use of RIPA. It cannot, however, inspect the decision made by the JP as the judiciary is independent.

In the event that the Surveillance Commissioner identifies an error in the authorisation process it will consider the best course of action. This may include asking the Council to cancel the authorisation and, if appropriate, complete a new authorisation taking into account its views and/or concerns which will need to be approved by the JP in the normal way. When an error is

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brought to the attention of the Council, then it should cease conducting the RIPA activity.

Repeating the process and rectifying errors could result in delay and so it is essential that the authorisation process is followed.

K. Working with or through other agencies

1. If an Officer seeks to utilise the CCTV system operated by the Police a Directed Surveillance Authorisation must be obtained in writing before an approach is made to the "Control Room". In exceptional circumstances, an urgent authorisation may be given orally if the time that would elapse before a written authorisation could be granted would be likely to endanger life or jeopardise the investigation. An urgent authorisation will last no more than 72 hours and must be recorded in writing on the standard form as soon as practicable, with a robust explanation as to why the authorisation was urgent.
2. When another agency has been instructed on behalf of the Council to undertake a RIPA technique, officers must continue to ensure that this document is complied with and its Forms are used. In these circumstances, the Council must inform the agency of its requirements under this document, and the agency must be made explicitly aware what action they are authorised to take.
3. When another agency (e.g. Police, HM Revenue and Customs etc):
 - (a) Wishes to use the Council's resources (e.g. CCTV surveillance systems), that agency must use its own internal RIPA procedures. Prior to any agreement to allow the Council's resources to be used for the agency's purposes, Officers should obtain a copy of the agency's RIPA forms for our records (a copy of which must be passed to the Senior Responsible Officer to be placed on the Central Register (and/or relevant extracts from the same documents which are sufficient for the purposes of protecting the Council and the use of its resources by such agencies).
 - (b) Wishes to use the Council's premises for its own RIPA action, Officers should co-operate with such a request unless there are security or 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 from the other agency, if necessary before the Council co-operates in the agent's RIPA operation. In these circumstances, the Council's own RIPA forms should not be used as the Council is only 'assisting' the RIPA activity of the external agency.
4. If the Police or other Agency wishes to use the Council's resources for general surveillance, rather than specific RIPA operations, they must provide the Council with a written request specifying the proposed use, the extent of remit, the duration, who will be undertaking the general surveillance; and the purpose of seeking to use Council resources.
5. The Council must be satisfied with the written request and purpose of using its resources before any of its resources are made available for the proposed use.

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

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L. Records Management

1. The Council must keep a detailed record of all Forms, Authorisations, renewals, cancellations and rejections in individual Departments as well as within its Central Register. Such records will include copies of Judicial Approval of the Council's internal Authorisations. The Central Register will be maintained and monitored by the Head of Financial and Legal Services.

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Records maintained in the Department

2. The following documents must be retained by the relevant Authorised Officer (or his or her designated Departmental Co-ordinator):

- a copy of the Forms together with any supplementary documentation; and notification of the approval given by the Authorised Officer;
- a record of the period over which the surveillance has taken place;
- the frequency of reviews prescribed by the Authorised Officer;
- a record of the result of each review of the authorisation;
- a copy of any renewal of an authorisation, together with supporting documentation submitted when the renewal was requested;
- the date and time when any instruction was given by the Authorised Officer;
- the Unique Reference Number for the authorisation supplied by the Head of Financial and Legal Services;
- A copy of the Judicial Approval of the Council's use of RIPA powers.

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3. The Head of Financial and Legal Services will issue a Unique Reference Number to Officers, which must be stated on each relevant form.

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Information obtained from Directed Surveillance

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4. Where material is obtained as a result of Directed Surveillance activities, the Council must make a record of the material. Examples are photographs, video film, surveillance log, and officers' notes.

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5. A copy of this record should be given to the Authorised Officer to be filed with the Authorisation Form. The Applicant or Investigating Officer should retain the original on the case file or investigation file.

6. All Officers should ensure that the integrity, security and confidentiality of this material are maintained.

7. Such material should be retained for a period of no more than five years. If the material is no longer required it should, where possible, be destroyed securely on an earlier date. When the material is destroyed, the Council must update the records to state the date of the destruction and the reasons for destruction. The relevant Officer should also sign the record to confirm that the material has been destroyed. A copy of the amended record should then be given to the Authorised Officer.

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Records of Use and Product from a CHIS

8. Records of the use and of the materials **obtained** by a CHIS should be maintained by the Applicant and Authorised Officer. **Examples of material are photographs, video film, surveillance log, and officers' notes.**
9. A copy of this record should be given to the Authorised Officer to be filed with the Authorisation Form. The **Applicant** or Investigating Officer should retain the original on the case file or investigation file.
10. All Officers should ensure that the integrity, security and confidentiality of this material are **maintained**.
11. Such material should be retained for a period of no more than five years. If the material is no longer required it should, where possible, be destroyed securely on an earlier date. When the material is destroyed, the Council must update the records to state the date of the destruction and the reasons for destruction. The relevant Officer should also sign the record to confirm that the material has been destroyed. A copy of the amended record should then be given to the Authorised Officer.

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Central Register maintained by Senior Responsible Officer

12. Authorised Officers must forward originals of each **Authorisation** Form to the Senior Responsible Officer c/o the Council Solicitor for the Central Register, **within 1 week of the authorisation, judicial approval, 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. The Senior Responsible Officer and those authorised by **them** will have access to the Central Register which will be held in the locked strong room within the Council Solicitor's Department.
13. The Council will retain records for a period of at least three years from the ending of the authorisation. The Office of the Surveillance Commissioners can audit/review the Council's policies and procedures, and individual authorisations.

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M. Complaints

1. Copies of the relevant Home Office Guidance and Codes of Practice, can be sought from the Home Office website (www.homeoffice.gov.uk). The Council can also provide a copy upon a request from members of the public via the following methods:

- In writing to The Council Solicitor, Park North, North Street, Horsham, West Sussex, RH12 1RL; or

- By telephone on 01403 215470.

2. Complaints about the Council's actions under RIPA should be submitted in writing to the Council Solicitor at the above address.

3. Information on the Investigatory Powers Tribunal will be provided as part of the response to any RIPA complaint, including the provision of copies of the Tribunal's complaint form and information leaflet. Alternatively, copies can be sought by contacting the Council Solicitor as set out above.

4. This Corporate Policy and Procedures Document is available on the Council's website at www.horsham.gov.uk.

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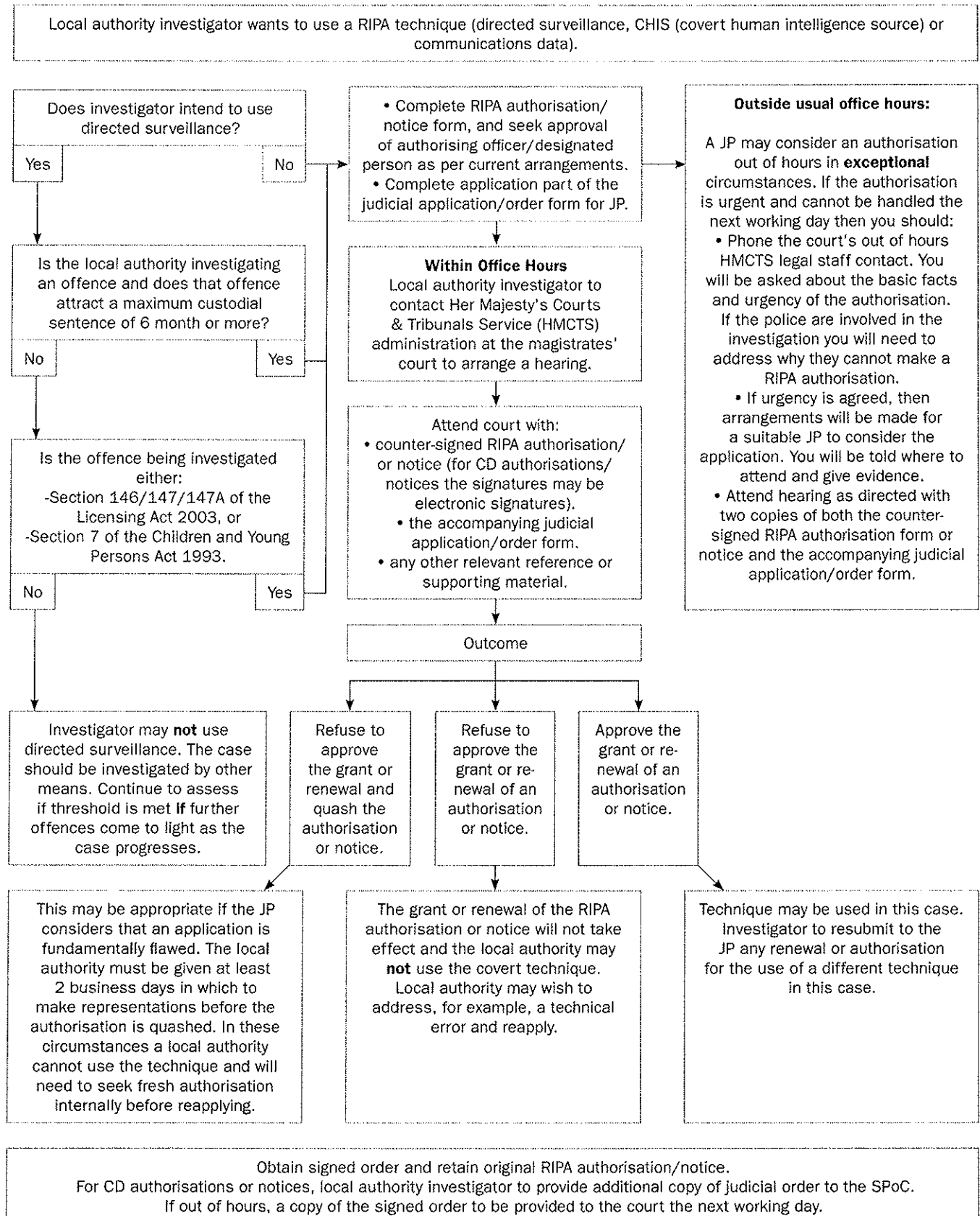
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LOCAL AUTHORITY PROCEDURE: APPLICATION TO A JUSTICE OF THE PEACE SEEKING AN ORDER TO APPROVE THE GRANT OF A RIPA AUTHORISATION OR NOTICE



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:

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Covert technique requested: (tick one and specify details)

Communications Data

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Covert Human Intelligence Source

☐

Directed Surveillance

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Summary of details

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

Investigating Officer:.....

Authorising Officer/Designated Person:

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

Address of applicant department:.....

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Contact telephone number:.....

Contact email address (optional):

Local authority reference:

Number of pages:.....

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

Magistrates' court:

Having considered the application, I (tick one):

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

Notes

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Reasons

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Signed:

Date:

Time:

Full name:

Address of magistrates' court: