

AUDIT COMMITTEE

Date:- Wednesday,
23rd November, 2016

Venue:- Town Hall,
Moorgate Street,
Rotherham. S60 2TH

Time:- 4.00 p.m.

AGENDA

1. To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.
2. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
3. Questions from Members of the Public or the Press
4. Minutes of the previous meeting held on 21st September, 2016 (Pages 1 - 10)
5. Update on the Use and Operation of Surveillance and Acquisition of Communications Data Powers (Pages 11 - 118)
6. Mid-Year Treasury Management and Prudential Indicators Monitoring Report 2016-17 (Pages 119 - 135)
7. Internal Audit Progress Report for the two months ending 31st October, 2016 (Pages 136 - 176)
8. Annual Audit Letter 2015-16 (Pages 177 - 188)

(The Chairman authorised consideration of the following 2 items to enable the matters to be processed.)

9. Implementation of Recommendations resulting from the PwC Review of Internal Audit (Pages 189 - 210)
10. External Audit and Inspection Recommendations (Pages 211 - 234)
11. Items for Referral for Scrutiny

12. Exclusion of the Press and Public
That under Section 100(A) 4 of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12(A) of such Act indicated, as now amended by the Local Government (Access to Information) (Variation) Order 2006 (information relates to finance and business affairs).
13. Strategic Risk Register - Adult Care and Housing (Pages 235 - 250)
14. Strategic Risk Register (Pages 251 - 263)



SHARON KEMP,
Chief Executive.

2016/17 Membership:-
Chair:- Councillor Wyatt
Vice-Chair:- Councillor Walsh
Councillors Allen, Cowles and Ellis
Independent Person:- Mr. Bernard Coleman

AUDIT COMMITTEE
21st September, 2016

Present:- Councillor Wyatt (in the Chair); Councillors Allen, Ellis, Walsh and Bernard Coleman (Independent Person).

Mr. T. Cutler and Mrs. D. Chamberlain (KPMG) were also present.

16. QUESTIONS FROM MEMBERS OF THE PUBLIC OR THE PRESS

There were no members of the public or press present at the meeting.

17. MINUTES OF THE PREVIOUS MEETING HELD ON 20TH JULY, 2016

Consideration was given to the minutes of the meeting held on 20th July, 2016.

Resolved:- That the minutes of the previous meeting be approved as a correct record for signature by the Chairman subject to the following clerical correction:-

Minute No. 7 (External Audit 2015-16 – Progress) “.... Necessary to present an interim audit report” and not internal as stated.

18. STATEMENT OF ACCOUNTS 2015/16

Consideration was given to a report presented by Simon Tompkins, Finance Manager, which advised on matters arising from the external audit of the Council's 2015/16 Statement of Accounts as presented in the External Auditor's ISA260 report and, in acknowledging these findings, requested that the Audit Committee approve both the Letter of Management Representations and the audited Statement of Accounts 2015/16.

In relation to the “value for money” conclusion, KPMG had acknowledged that a considerable amount of progress had been achieved during 2015/16 in line with the Corporate Improvement Plan. However, because further work remained to be done for all the required improvements to be completed and become fully embedded, it had been necessary to issue an adverse opinion in 2015/16 as was the case in 2014/15.

Debra Chamberlain, KPMG, reported that the unaudited Statement of Accounts had now been subject to audit and no audit adjustments had been necessary other than a small number of presentation changes. All of these changes had been incorporated into the final version of the Statement of Accounts and none affected the financial performance or financial position of the Council previously reported in the unaudited Statement of Accounts.

The Auditor's ISA 260 report also confirmed that working papers were of a good standard and that audit queries were dealt with efficiently. In terms of the areas of significant audit risk and areas of audit focus, KPMG had confirmed that no issues had been identified and that reasonable professional judgement had been exercised. Two recommendations had been made in relation to the accounts production and audit process.

Section 4 of the ISA 260 set out the approach, risks, work and conclusion reached by KPMG on whether the Council had satisfactory arrangements in place to secure the economy, efficiency and effectiveness in the use of its resources. The conclusion reached was that the Council had not had proper arrangements in place during 2015/16. However, this was in the context of significant progress having been made in 2015/16 towards delivery of the Corporate Improvement Plan and recognition that the new senior management team were driving through continuing improvement in 2016/17.

Discussion ensued on the report with the following issues raised/highlighted:-

- There had been a lot of investment into frontline services and support services within Children's Services but still felt to be gaps
- A report would be submitted to the Cabinet reviewing the Medium Term Financial Strategy, a significant amount of which would relate to CYPS and what was required for a sustainable position
- It was not known if a qualified Value for Money statement would be achieved for 2016/17. The first self-assessment would be submitted shortly and that would be tested through the document and discussions
- The failure of the restoration of powers to the Council would not necessarily impact upon the view of KPMG: the bigger impact was in relation to the governance arrangements particularly for CYPS

Resolved:- (1) That the Auditor's ISA260 report to those charged with governance attached at Appendix 1 be approved.

(2) That the Statement of Accounts 2015/16 be approved for publication.

(3) That KPMG be issued with the Letter of Management Representations.

19. 2015/16 FINAL ANNUAL GOVERNANCE STATEMENT

Colin Earl, Assistant Director Audit, ICT and Procurement, presented the final Annual Governance Statement 2015/16.

Since the draft Statement had been considered at the meeting on 20th July, 2016 (Minute No. 5 refers), there had only been a few minor updates to reflect developments, the most notable being the completion of the external audit of the accounts and the external auditor's Value for Money conclusion. KPMG would be issuing an unqualified opinion on the Council's accounts. The Council's own overall conclusion on its governance arrangements was that, although there had been much positive progress over the last year, the Council was not demonstrating good governance and meeting its Best Value duty throughout the whole of the year.

Consultation had been carried out with the Commissioners' Office, Cabinet Members and the external auditor in producing the Annual Governance Statement.

In line with the Accounts and Audit Regulations, the final Statement would be signed by the Leader and Chief Executive.

Discussion ensued with the following issues raised/highlighted:-

- Assessments were being carried out with regard to major project development which had not been as robust as would be expected in the past
- There were a number of methodologies for officers to use which had been reviewed to ensure there was a minimum standard adopted
- The newly appointed Assistant Director for Information and Digital Information Services would commence employment on 10th October. He would be reviewing and ensuring a corporate, rather than a departmental, approach to IT projects

Resolved:- (1) That the certification of the final Annual Governance Statement by the Leader of the Council and the Chief Executive, as required by the Accounts and Audit Regulations and related Guidance, be noted.

(2) That the attached final Annual Governance Statement 2015/16, amended for the updated Section 5.3.2., be approved.

20. ANTI-FRAUD AND CORRUPTION POLICY AND STRATEGY

Colin Earl, Assistant Director of Audit, ICT and Procurement, submitted a proposed update to the Council's Anti-Fraud and Corruption Policy and Strategy following an annual review process designed to ensure that the Policy and Strategy were up-to-date with current best practice and to take into account any changes to the Council's organisation structure.

The report also provided a summary of proposals to further strengthen the Council's fraud and corruption arrangements following a refresh of the self-assessment against the CIPFA Code of Practice on managing the risk of fraud and corruption.

The main changes to the documents were:-

- Update on the roles and responsibilities
- Update on the procedure for reporting suspected fraud and corruption including reference to the provisions of the Public Concern at Work resources
- Inclusion of a procedure on the investigation of suspected fraud and corruption
- Updated assessment of the Council's arrangements compared with the CIPFA Code on Managing the Risk of Fraud
- Reflect the assessment needed to ensure the Council meets the expectations of the Fighting Fraud Locally best practice guidance
- Inclusion of requirements relating to the Government's Transparency Code

The updated Anti-Fraud and Corruption Policy was attached at Appendix A and the updated Strategy at Appendix B. Appendix C of the report contained an update to the self-assessment against the CIPFA's Code of Practice on Managing the Risk of Fraud and Corruption and Appendix D was an update to the Council's action plan for Managing the Risk of Fraud. It was important that the arrangements continued to be reviewed and updated where necessary to ensure the risk of fraud continued to be minimised.

It was noted that Veritau Ltd.'s Deputy Head of Internal Audit had examined the report and stated that the Council was picking up the areas they would expect across the Policy and Strategy and using the right approach for the Strategy. Some of the work being undertaken was more advanced than he had seen at some other organisations.

Discussion ensued on the report with the following issues highlighted/clarified:-

- A training session with all middle managers had been held to raise their awareness of fraud risks, how to spot signs, how to ensure appropriate controls in place etc. which was then followed up with actual workshops. This had led to identification of a significant number of fraud risks across all areas
- Amendment to 4.9 "... are reported to him/herself"

Resolved:- (1) That the proposed revisions to the Anti-Fraud and Corruption Policy and Strategy be approved.

(2) That the proposed actions intended to strengthen the Council's Fraud and Corruption arrangements.

21. INTERNAL AUDIT CHARTER AND STRATEGY

Further to Minute No. 19 of the meeting held on 23rd September, 2015, Colin Earl, Assistant Director Audit, ICT and Procurement, presented the revised Charter which had been updated following the recent restructure in Internal Audit and the work Internal Audit had carried out in order to comply with the PSIAS in other areas.

Following the presentation of the PWC review of Internal Audit in February 2016, Veritau Ltd. was commissioned to independently review and provide commentary on reports submitted to the Audit Committee. The draft revised Charter had been reviewed by Veritau Ltd. who had concluded that in their opinion the Internal Audit Charter was compliant with the PSIAS.

The main changes were:-

- Reflected the appointment and responsibilities of the new Head of Internal Audit
- Mission of Internal Audit had now been incorporated in line with changes to the auditing standards introduced in April, 2016
- Addition of the new core principles introduced by the April 2016 changes to the standards
- Requirements for auditor independence from activities they may have previously been involved in
- Limits and purposes of any internal audit work done for external bodies
- Internal Audit's responsibilities relating to risk management
- Extension of Internal Auditor requirements to comply with ethical standards
- Extended reference to Internal Audit's involvement in dealing with suspected cases of fraud and corruption and its liaison with others as appropriate
- New Section 18 explaining how the Charter absorbed the former separate Audit Strategy and Audit Terms of Reference

An issue was raised regarding Internal Audit undertaking work for third parties. Initially the Head of Internal Audit would make a judgement as to how much of the work could be covered by the team. The view now was that the Authority would complete its current contractual arrangements but would not be actively seeking any more work of this type.

Veritau Ltd. had reviewed the Charter and concluded that, in their opinion, it was compliant with the PSIAS.

Resolved:- That the Internal Audit Charter be approved.

22. INTERNAL AUDIT - PWC ACTION PLAN UPDATE

Further to Minute No. 64 of the meeting held on 25th February, Colin Earl, Assistant Director Audit, ICT and Procurement, submitted the second progress report on the implementation of the recommendations made in the PWC review of Internal Audit.

Internal Audit had operated with a high vacancy level during most of 2016 to date. In addition there had been significant change since production of the PWC report including a refresh of procedures, a full service restructure and the subsequent recruitment to the Head of Internal Audit and a vacant senior auditor post.

Appendix 1 contained a full update of progress against the PWC recommendations with the key points being:-

Actions completed/certain to be completed as at July, 2016

- 19 actions, spread across 17 recommendations, 10 of which had been completed, 2 rated green (certain to be achieved) and 7 were amber rated (in progress/on target). There were no red rated actions
- 2015/16 audit plan was successfully delivered (with 95% delivery achieved against the final plan)
- Completed service review and a restructure determined
- Audit structure and budget set up to provide for specialist audit resources to be engaged as required to carry out specified work in the audit plan
- Audit agreement between Rotherham and Doncaster Councils terminated on 30th September, 2016

Key progress since July report

- Recruitment to the new structure
- PDRs completed and a team development plan produced/implementation commenced
- Revised Audit Charter and Strategy
- Streamlined and improved audit review process
- New risk based style of audit report
- Proposed implementation of an electronic audit system

Key actions in progress:-

- Regular review and reporting to Audit Committee of Audit plan
- Embedding of new audit scoping, reporting and performance monitoring and management processes
- Implementation of electronic audit system, streamlining of administration and reduction of non-productive time
- Development of assurance mapping

There remained a significant amount of development and improvement to bring the Service up to full compliance with standards and to where it could better add value to the development of the Council's control arrangements.

Progress against the action plan would be reported to the Audit Committee during 2016/17. Veritau Ltd. had been asked to comment on the progress reports and commented that it was an accurate reflection of the current position.

Discussion ensued with the following points raised/highlighted:-

- Was there a different way of evaluating the process from a stakeholder's perspective?
- A review of inspections should be conducted identifying the client's views of the services provided
- The Team were receiving a high level of referrals by management and whistleblowing which was an indicator of the organisation seeing the Service as a valuable resource

Resolved:- That the progress made in implementing the recommendations included in the PWC review of Internal Audit be noted.

23. INTERNAL AUDIT COMPLIANCE WITH AUDITING STANDARDS UPDATE

Further to Minute No. 9 of 20th July, 2016, Colin Earl, Assistant Director of Audit, ICT and Procurement, submitted an update on progress made against the recommendations in the recent Price Waterhouse Coopers' (PWC) review of Internal Audit.

Internal Audit had continued to implement actions to bring the Service back towards full compliance. An updated assessment of progress in implementing the necessary improvements was shown in the action plan (Appendix 1).

There were 76 actions in total; the current assessment was that there were 29 amber rated actions and 47 green rated actions. There were no red rated actions.

The report set out the key progress made since the previous update submitted to the July, 2016 Audit Committee meeting together with the next steps.

This represented a continually improving position although there remained a significant amount of work to complete the action plan and more importantly embed the requirements into the audit processes and procedures.

A full re-assessment of Internal Audit's compliance with the standards was due to be completed by December, 2016.

Veritau Ltd. had carried out a light touch review of the update and had stated that the action plan reflected the work being done by the Service to ensure compliance with the standards although some of the actions were clearly a work in progress.

It was suggested that for future reports the table setting out the key next steps include actions not completed to enable the Committee to monitor the key actions.

Resolved:- (1) That the progress made on the action plan in place to achieve compliance with Public Sector Internal Audit Standards be noted.

(2) That Veritau Ltd.'s comments on progress be noted.

24. INTERNAL AUDIT PROGRESS REPORT APRIL TO AUGUST 2016

Consideration was given to a report presented by Colin Earl, Assistant Director Audit, ICT and Procurement which provided a summary of Internal Audit work and performance for the period April to August, 2016.

Performance against key indicators was generally positive although delivery of the planned programme of work remained behind schedule (19% against an expected 26%) due mainly to vacancies and other service priorities. Two new members of staff would commence in October including the new Head of Internal Audit and it was anticipated that the additional resources would enable the Service to get on target against the plan by December.

Despite the challenges it faced, Internal Audit was exceeding other key performance targets and feedback on several pieces of work completed demonstrated value added by the Service.

Details of the work undertaken during the period in question were included in Appendix 1 of the report submitted.

Veritau Ltd. had reviewed the report and had confirmed that the content was a reasonable reflection of Internal Audit work done for the first 5 months.

There was a commitment in the Service and Team to complete the Audit work programme and achieving the Performance Indicators alongside the additional demands being placed upon the Service.

Discussion ensued with the following issues raised/highlighted:-

- IT issues relating to historical projects/schemes
- Suggested mid-year review report setting out progress against the issues flagged for improvement in the Annual Governance Statement
- Staffing of the Licensing Enforcement Section

Resolved:- (1) That the Internal Audit work undertaken during the 5 months ending 31st August, 2016, and the key issues that had arisen therefrom be noted.

(2) That the information contained regarding the performance of Internal Audit and the actions being taken by management in respect of the performance be noted.

(3) That the independent assurance provided by Veritau Ltd. on the report be noted.

(4) That the Committee's appreciation of the hard work of the Internal Audit Team be placed on record.

25. EXCLUSION OF THE PRESS AND PUBLIC

Resolved:- That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12(A) of such Act indicated, as now amended by the Local Government (Access to Information) (Variation) Order 2006 (information relates to finance and business affairs).

26. CHILDREN AND YOUNG PEOPLE SERVICES - RISK REGISTER UPDATE

Ian Thomas, Strategic Director, presented the current Strategic Risk Register and risk management activity for Children and Young People's Services.

The current Register had 8 registered risks. A regular scheduled programme of reviewing and updating Service area and Directorate level risk registers had been implemented across CYPS and risks regularly discussed and reviewed at the Directorate Leadership Team. Where necessary risks were escalated to the next strategic level tier for inclusion on the risk register.

Discussion ensued on:-

- Staff resilience
- Use of agency staff
- Supporting the workforce

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- Customer Service Excellence
- Liquid Logic
- Corporate Parenting Panel
- Embedding of risk management
- Budget/overspend
- Moratorium on spend

It was suggested that the Register template should include progress achieved with regard to the new target score. It was noted that the template was currently being reviewed by the Risk Manager.

Resolved:- (1) That the updated Strategic Risk Register be noted.

(2) That the next “deep dives” be Adult Social Care and Health with the respective Cabinet Member and Strategic Director invited to attend the meeting

(3) That the Risk Manager consult with the Audit Committee as a key stakeholder with regard to the revised Risk Register template.

(Councillor Wyatt vacated the Chair mid-way through this item. Councillor Walsh assumed the Chair.)

27. ITEMS FOR REFERRAL FOR SCRUTINY

There were no items for referral.

28. COLIN EARL, ASSISTANT DIRECTOR, AUDIT, ICT AND PROCUREMENT

The Chairman reported that this would be Colin’s last meeting as he was leaving the employment of the Authority.

Resolved:- The Committee thanked Colin for all his good work whilst he had been at the Authority and wished him all the best for the future.

29. DATE OF NEXT MEETING:-

Resolved:- (1) That a further meeting be held on Wednesday, 23rd November, 2016.

(2) That the Cabinet Member and Strategic Director be invited to present the Adult Social Care and Health Risk Register.

Summary Sheet

Council Report

Audit Committee – 23rd November, 2016

Title

Update on the Use and Operation of Surveillance and Acquisition of Communications Data Powers

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Judith Badger, Strategic Director of Resources and Customer Services

Report Author(s)

Neil Concannon, Service Manager (Litigation & Social Care), Legal Services.

Ward(s) Affected

All

Executive Summary

The Council currently has a policy governing the use of covert surveillance and covert human intelligence sources (CHIS) carried out by Council officers under the Regulation of Investigatory Powers Act 2000 (RIPA). The Council has a separate policy also under RIPA governing the acquisition and disclosure of communications data by Council officers. Those policies make provision for the Audit Committee to have oversight of the policies and the Council's use of RIPA powers, to ensure that the powers are being used consistently with the Authority's policies and that the policies remain fit for purpose. This report provides the next planned update and recommends that the committee set the policies in appendix A and B to this report.

Recommendations

That the Audit Committee:

1. Sets the Council's RIPA Policy and Acquisition & Disclosure of Communications Data Policy as shown in appendix A and B respectively to this report.
2. Notes the update on the figures for the use of RIPA and Communications Data authorisations.
3. Notes that the Office of Surveillance Commissioners (OSC) are due to carry out an inspection of the Council's use of powers for directed surveillance/CHIS and the policies and procedures it has in place for that purpose, in January 2017.

4. Notes that further annual corporate training will take place with regard to the use of RIPA and Communications Data powers on the 4th January 2017.
5. Agrees to accept a further update report in 6 months' time.

List of Appendices Included

Appendix A – Recommended RIPA Policy

Appendix B – Recommended Acquisition & Disclosure of Communications Data Policy

Background Papers

1. Current RIPA and Acquisition and Disclosure of Communication Data Policies
2. The Regulation of Investigatory Powers Act 2000 and associated Orders and Codes of Practice made thereunder.
3. The Office of Surveillance Commissioners Procedures and Guidance (July 2016)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Title (Main Report)

Update on the Use and Operation of Surveillance and Acquisition of Communications Data Powers

1. Recommendations

That the Audit Committee:

1. Sets the Council's RIPA Policy and Acquisition & Disclosure of Communications Data Policy as shown in appendix A and B respectively to this report.
2. Notes the update on the figures for the use of RIPA and Communications Data authorisations.
3. Notes that the Office of Surveillance Commissioners (OSC) are due to carry out an inspection of the Council's use of powers for directed surveillance/CHIS and the policies and procedures it has in place for that purpose, in January 2017.
4. Notes that further annual corporate training will take place with regard to the use of RIPA and Communications Data powers on the 4th January 2017.
5. Agrees to accept a further update report in 6 months' time.

2. Background

- 2.1 The Regulation of Investigatory Powers Act 2000 (RIPA) provides a mechanism to make it lawful for public bodies such as local authorities, to use directed (i.e. covert) surveillance and covert human intelligence sources e.g. undercover officers and public informants (CHIS) for the purposes of the detection and prevention of crime. Any use of those powers has to be proportionate and necessary both in use and scope. In addition, any surveillance/CHIS undertaken by a local authority must relate to a serious crime (one punishable by six months' imprisonment or certain offences involving the underage sale of alcohol and tobacco) and receive prior approval from the Magistrates' Court.
- 2.2 RIPA also provides a mechanism for public bodies such as local authorities to acquire communications data where it is proportionate and necessary to do so for the purposes of the detection and prevention of crime. The Council has a separate Acquisition and Disclosure of Communication Data Policy to cover this activity. Typically this activity might include acquiring mobile phone subscriber details and details of itemised calls. As with other RIPA powers, the serious crime test must be passed and prior approval from the Magistrates' Court must be sought, before the data is acquired. All Councils must also make a request for any communication data through a single point of contact at the National Anti-Fraud Network (NAFN), who will independently scrutinise applications and advise the Council's authorising officers.

- 2.3 In September 2015, Commissioner Manzie approved the adoption of new corporate RIPA and Acquisition of Communications Data Policies, which reflected the requirements of the codes of practice issued by the Home Office and a Procedure and Guidance Document on the use of covert surveillance by public authorities, issued by the Office of Surveillance Commissioners. The codes of practice require elected members to consider internal reports on the use of RIPA powers on a regular basis to ensure that they are being used consistently with the Council's policy and that the policies remain fit for purpose. The corporate policies make provision for the Audit Committee to perform those functions by receiving reports on a 6 monthly basis. The codes of practice also require elected members to set the policies every year.

3. Key Issues

- 3.1 The Council is required to notify the OSC of the number of directed surveillance/CHIS authorisations granted in each financial year. There have been no such authorisations this financial year thus far.
- 3.2 The Council is also required to notify the Interception of Communications Commissioner's Office (IOCCO) of the number of authorisations for the acquisition and disclosure of communications data granted each calendar year. There have been no such authorisations this calendar year thus far.
- 3.3 The Council is required by the relevant home office codes of practice to ensure that the Council's policies on the use of powers under RIPA are set each year by elected members. The policies were last set in September 2015. Since that time there has been no amendments to the home office codes of practice. In July 2016, the OSC issued an amended procedures and guidance document relating to covert surveillance/CHIS, but this does not require any amendments to be made to the Council's RIPA policy. Since the RIPA policy was last set in September 2015 there have been some senior personnel changes in the Council that require the RIPA Policy to be amended to reflect an accurate list of the current authorising officers. In addition, given it is always a possibility that there will be personnel changes throughout the year, a new paragraph has been added to the policy to clarify that the Council's RIPA Senior Responsible Officer (the Assistant Director of Legal Services) will maintain an up to date list of the current authorising officers, which can be amended from time to time should there be any relevant personnel changes throughout the year. These minor amendments are set out section 6 (page 35) of the recommended RIPA policy (appendix A).
- 3.4 The recommendation for setting the policies is timely, as the Council has very recently been notified that it will be inspected by the OSC in January 2017, to review the Council's policies and procedures it has to comply with RIPA and the use it makes of the directed surveillance/CHIS powers. Such inspections usually take place on a 3 yearly cycle, with the last inspection having taken place in February 2014. Details of the outcome of the RIPA inspection will be reported to the Audit Committee in the next planned update report.
- 3.5 As a matter of law, any authorising officers have to be at least at the level of Service Manager or above. In addition, the Council's policies require that all officers who could potentially be involved in the use and authorisation of RIPA powers, are appropriately trained. To that end, in December 2015, a successful corporate training course was arranged through a highly regarded trainer in the

field, for 24 officers from various services across the Council. The adequacy of training for staff involved in the use of RIPA powers is a key part of any inspection carried out by the OSC. A further corporate training course will take place on the 4th January 2017, to ensure relevant officers continue to have the necessary skills and knowledge.

4. Other considerations and recommended proposal

- 4.1 The recommendations are to set the Council's RIPA and Acquisition and Disclosure of Communications Data Policies, note the update on the use of RIPA powers since the previous update report in April 2016, note that the Council be inspected by the OSC in January 2017, note that further corporate training is to take place and to receive a further update report in six months' time.

5. Consultation

- 5.1 There are no consultation requirements for the purposes of this report.

6. Timetable and Accountability for Implementing this Decision

- 6.1 Further update reports will be submitted to the Audit Committee on a six monthly basis in line with the Council's policies.

7. Financial and Procurement Implications

- 7.1 The training covered within this report is met from within existing budgets.

8. Legal Implications

- 8.1 Legal Implications are considered in the main body of this report.

9. Human Resources Implications

- 9.1 There are no human resources implications.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 There are no direct implications for children and young people and vulnerable adults.

11. Equalities and Human Rights Implications

- 11.1 Adherence to the Council's policies and the statutory guidance in relation to the use of RIPA and the Acquisition of Communication powers should ensure that the any actions taken are human rights compliant.

12. Implications for Partners and Other Directorates

- 12.1 There are no direct implications for partners or other directorates.

13. Risks and Mitigation

- 13.1 The statutory Codes of Practice issued by the Home Office requires elected members to have oversight of the RIPA powers to ensure that they are being used consistently with policies and that the policies are fit for purpose. A failure to have such member oversight would give rise to greater legal risk and adverse reports following inspections undertaken by the OSC or IOCCO.

14. Accountable Officer(s)

Dermot Pearson, Assistant Director of Legal Services.

Approvals Obtained from:

Chief Finance Manager:

Named Officer: Peter Hudson

Human Resources

Named Officer: John Crutchley

Assistant Director of Legal Services:

Named Officer: Dermot Pearson

Procurement

Named Officer: Helen Chambers.

This report is published on the Council's website or can be found at:-

<http://moderngov.rotherham.gov.uk/ieDocHome.aspx?Categories>

ROTHERHAM BOROUGH COUNCIL
RIPA Policy

NOVEMBER 2016

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Appendix 1 – Non-RIPA Surveillance
Sample Form for Non-RIPA Surveillance

Appendix 2 - Forms

ROTHERHAM BOROUGH COUNCIL

1. COVERT SURVEILLANCE POLICY STATEMENT

Introduction

1. Rotherham Borough Council (“the Council”) is committed to building a fair and safe community for all by ensuring the effectiveness of laws designed to protect individuals, businesses, the environment and public resources.
2. The Council recognises that most organisations and individuals appreciate the importance of these laws and abide by them. The Council will use its best endeavours to help them meet their legal obligations without unnecessary expense and bureaucracy.
3. At the same time the Council has a legal responsibility to ensure that those who seek to flout the law are the subject of firm but fair enforcement action. Before taking such action, the Council may need to undertake covert surveillance of individuals and/or premises to gather evidence of illegal activity.

Procedure

4. All covert surveillance shall be undertaken in accordance with the procedures set out in this document.
5. The Council shall ensure that covert surveillance is only undertaken where it complies fully with all applicable laws in particular the:
 - Human Rights Act 1998
 - Regulation of Investigatory Powers Act 2000 (“RIPA”)
 - Protection of Freedoms Act 2012
 - Data Protection Act 1998
6. The Council shall, in addition, have due regard to all official guidance and codes of practice particularly those issued by the Home Office, the Office of the Surveillance Commissioners (OSC), the Security Camera Commissioner and the Information Commissioner.
7. In particular the following guiding principles shall form the basis of the all covert surveillance activity undertaken by the Council:
 - Covert surveillance shall only be undertaken where it is absolutely necessary to achieve the desired aims.

- Covert surveillance shall only be undertaken where it is proportionate to do so and in a manner that it is proportionate.
- Adequate regard shall be had to the rights and freedoms of those who are not the target of the covert surveillance.
- All authorisations to carry out covert surveillance shall be granted by appropriately trained and designated authorising officers. A list of those authorising officers who have been nominated by their Directorate and have undertaken appropriate training is held by the Senior Responsible Officer (SRO).
- Covert surveillance which is regulated by RIPA shall only be undertaken after obtaining judicial approval.
- The operation of this Policy and Procedure will be overseen by the SRO, whose role is described later in this document.

Training and Review

8. All Council officers undertaking and authorising covert surveillance shall be appropriately trained to ensure that they understand their legal and moral obligations.
9. Quality Assurance checks shall be carried out by the Solicitor with conduct of a specific case and the RIPA Co-ordinator to ensure that officers are complying with this policy when the authorisation forms are forwarded to Legal Services for the Judicial Approval applications. All other forms – Renewals, Review, and Cancellation forms are submitted to the RIPA Co-ordinator who will collate the forms for the Central Record.
10. This policy shall be reviewed at least once a year in the light of the latest legal developments and changes to official guidance and codes of practice.
11. The operation of this policy shall be overseen by the Council's Audit Committee by receiving reports on a 6 monthly basis to ensure that the RIPA powers are being used consistently with this policy.

Conclusion

12. All citizens will reap the benefits of this policy, through effective enforcement of criminal and regulatory legislation and the protection that it provides.
13. Adherence to this policy will minimise intrusion into citizens' lives and will avoid any legal challenge to the Council's covert surveillance activities.
14. An electronic copy of this Policy can be found on the Council's Intranet on the Key Documents section of the Legal Services page.

15. Any questions relating to this policy should be addressed to:

Contact : N. Concannon, Litigation and Social Care Service Manager, Legal Services
Legal Services, ext. 23569

2. GUIDE TO SURVEILLANCE REGULATED BY PART 2 OF RIPA

Part 2 of RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities to ensure that they are compatible with the European Convention of Human Rights (ECHR), particularly Article 8, the right to respect for private and family life. The purpose of this part of the procedure is to help you decide what type of surveillance you are doing and whether it is regulated by Part 2.

The Law

- The Regulation of Investigatory Powers Act 2000
<http://www.legislation.gov.uk/ukpga/2000/23/contents>
- RIPA Explanatory Notes
<http://www.legislation.gov.uk/ukpga/2000/23/notes/contents>
- RIPA Statutory Codes of Practice (Revised December 2014)
<https://www.gov.uk/government/collections/ripa-codes>
 - Covert Surveillance and Property Interference
 - Covert Human Intelligence Sources
- SI 2010 N0.521 - Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010
http://www.legislation.gov.uk/uksi/2010/521/pdfs/uksi_20100521_en.pdf
- SI 2012 No.1500 (The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012)
http://www.legislation.gov.uk/uksi/2012/1500/pdfs/uksi_20121500_en.pdf

The surveillance techniques which local authorities may authorise

Part 2 of RIPA allows local authorities to authorise two out of the three techniques it regulates i.e. the use of directed surveillance and covert human intelligence sources. The first issue for any local authority officer, considering undertaking covert surveillance is; **is it something that can be authorised under RIPA?**

Let us consider the definitions of the different types of surveillance regulated by Part 2 of RIPA:

1. Directed Surveillance
2. Intrusive Surveillance

3. Covert Human Intelligence Source (CHIS)

i. Directed Surveillance: This is defined in S.26(2) of the Act:

“Subject to subsection (6), surveillance is directed for the purposes of this Part if it is covert but not intrusive and is undertaken –

(a) for the purposes of a specific investigation or a specific operation;

(b) 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 the purposes of the investigation or operation); and

(c) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under this Part to be sought for the carrying out of the surveillance.”

Typically local authorities may use Directed Surveillance when investigating benefit fraud, trading standards offences or serious environmental crime or antisocial behaviour. This may involve covertly filming or following an individual or monitoring their activity in other ways.

Before undertaking any covert surveillance activity an investigating officer must ask (and have an affirmative answer to) six questions before the activity can be classed as Directed Surveillance:

- Is the surveillance, actually “surveillance” as defined by the Act?
- Will it be done covertly?
- Is it for a specific investigation or a specific operation?
- Is it likely to result in the obtaining of private information about a person?
- Will it be done, otherwise than an immediate response to events?

Please consult Flowchart 1 when deciding if your surveillance is Directed.

Key Points to Note

1. General observations do not constitute Directed Surveillance. The Covert Surveillance Code (para 2.24) states:

“The general observation duties of many law enforcement officers and other public authorities do not require authorisation under the 2000 Act, whether covert or overt. Such general observation duties frequently form part of the legislative functions of public authorities, as opposed to the pre-planned surveillance of a specific person or group of people.”

2. Surveillance is only Directed if it is covert. S.26(9)(a) states:

“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;”

This requires investigating officers to consider the manner in which the surveillance is going to be undertaken. If it is done openly, without making any attempt to conceal it or a warning letter is served on the target before the surveillance is done, then it will not be covert.

3. The definition of “private information” is very wide. The Covert Surveillance Code states:

“2.4 The 2000 Act states that private information includes any information relating to a person’s private or family life. Private information should be taken generally to include any aspect of a person’s private or personal relationship with others, including family and professional or business relationships.

2.5 Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person’s activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a public authority of that person’s activities for future consideration or analysis.”

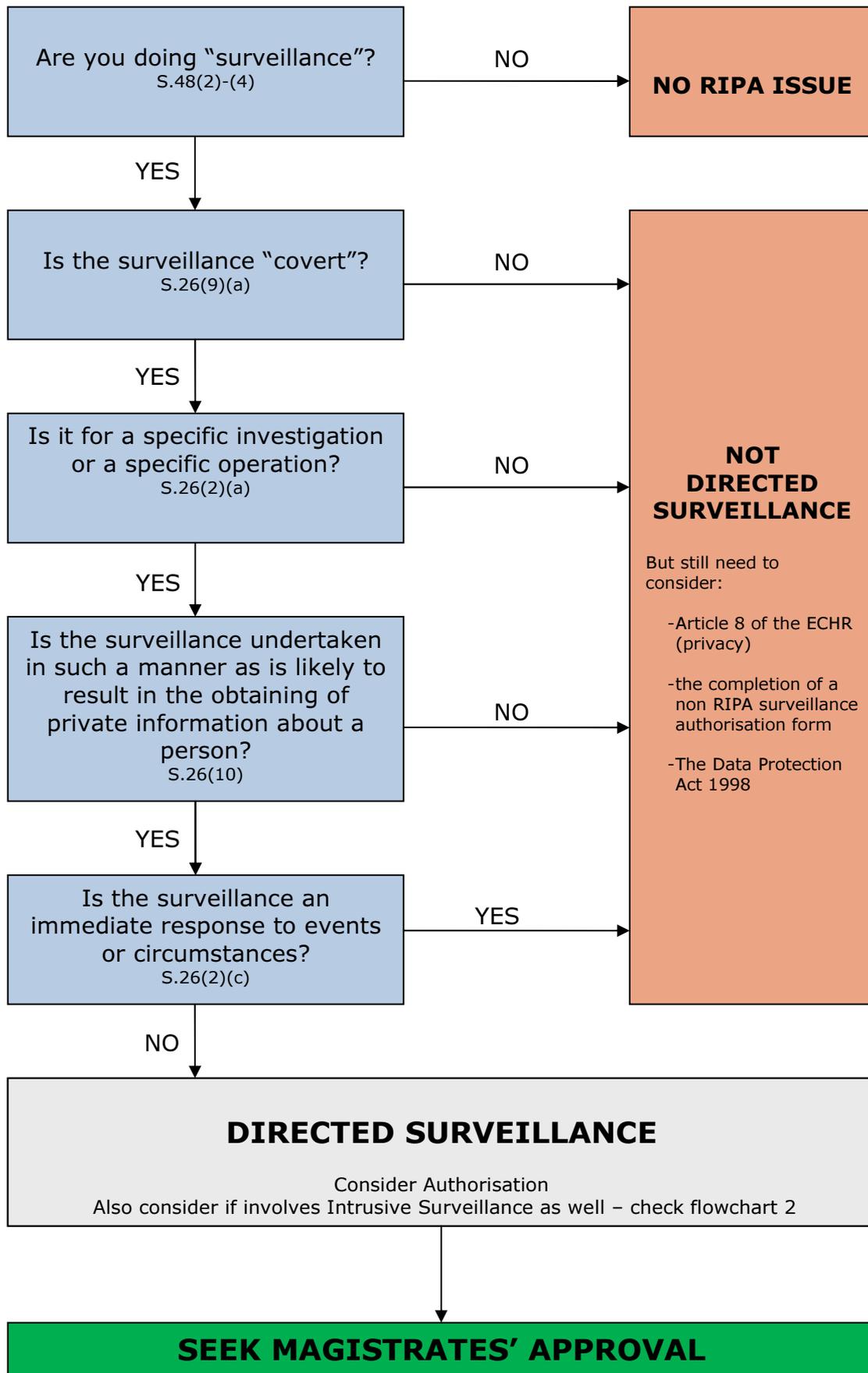
There is a common misconception that if investigating officers are watching someone covertly in a public place or observing activities in an office or business premises then there is no private information likely to be obtained and so there is no Directed Surveillance. The above sections of the code make it extremely unlikely that a public authority will be able to successfully argue that surveillance will never result in private information being obtained.

4. Where covert surveillance needs to be done in an emergency and there is no time (or no Authorising Officer available) to authorise the activity, the surveillance can still be done. It will not constitute Directed Surveillance. The Covert Surveillance Code (para 2.23) states:

“Covert surveillance that is likely to reveal private information about a person but is carried out by way of an immediate response to events such that it is not reasonably practicable to obtain an authorisation under the 2000 Act, would not require a directed surveillance authorisation. The 2000 Act is not intended to prevent law enforcement officers fulfilling their legislative functions. To this end section 26(2)(c) of the 2000 Act provides that surveillance is not directed surveillance when it is carried out by way of an immediate response to events or circumstances the nature of which is such that it is not reasonably practicable for an authorisation to be sought for the carrying out of the surveillance.”

5. If the Council authorises a non-employee (e.g. an enquiry agent) to conduct covert surveillance then that person/company is acting as an agent for the Council. The Authorising Officer must ensure that the person/company is competent and they have provided a written acknowledgment that they are an agent of the Council and will comply with the authorisation.

Flowchart 1 - Are you conducting Directed Surveillance?



ii. Intrusive Surveillance: S.26(3) states:

“Subject to subsections (4) to (6), surveillance is intrusive for the purposes of this Part if, and only if, it is covert surveillance that—

(a) is carried out in relation to anything taking place on any residential premises or in any private vehicle; and

(b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device. “

As the name suggests, this type of surveillance is much more intrusive and so the legislation is framed in a way as to give greater protection to the citizen when it is used. Applications to carry out Intrusive Surveillance can only be made by the senior Authorising Officer of those public authorities listed in or added to S.32(6) of the Act or by a member or official of those public authorities listed in or added to section 41(l). **Local authorities are not listed therein and so cannot authorise such Intrusive Surveillance.**

It is still important to understand the definition of Intrusive Surveillance because sometimes over zealous officers may overstep the mark and end up doing it. The following questions have to be asked:

- Is it Covert Surveillance as defined by the Act?
- Is it being carried out in relation to anything taking place on any residential premises or in any private vehicle?
- Does it involve the presence of an individual on the premises or in the vehicle?
- Is it being carried out by means of a surveillance device on the premises or in the vehicle?

Please consult Flowchart 2 when deciding if your surveillance is Intrusive.

Key Points to Note

1. When doing covert surveillance of premises it can only be Intrusive if it is carried out in relation to anything taking place on residential premises. This is defined in S.48(1):

“residential premises” means (subject to subsection (7)(b)) so much of any premises as is for the time being occupied or used by any person, however temporarily, for residential purposes or otherwise as living accommodation (including hotel or prison accommodation that is so occupied or used);”

Environmental health officers doing covert surveillance of takeaways, restaurants and shops will not be doing Intrusive Surveillance. Care must be taken though where a shop also contains living quarters and covert filming may capture images of people in those quarters. Other examples of residential premises include flats, hotel rooms, caravans and even boats, which are used as living quarters. Care must be taken in such situations to avoid the accusation that unauthorised Intrusive Surveillance was carried out.

2. Not all surveillance of vehicles is Intrusive; the target has to be a private vehicle as defined in S.48(1):

“private vehicle” means (subject to subsection (7)(a)) any vehicle which is used primarily for the private purposes of the person who owns it or of a person otherwise having the right to use it;”

The vehicle can be owned, borrowed, rented or leased. However (by virtue of S.48 (7) (a)) surveillance is not Intrusive where the target vehicle is a taxi or a chauffer driven vehicle such as a public coach service.

3. For the surveillance to be Intrusive rather than just Directed it has got to be undertaken in such a manner as to involve the presence of an individual on the premises or inside the vehicle.

It is extremely unlikely that local authorities would allow their staff to undertake surveillance by getting inside a private vehicle covertly. This could only be conceivably done if the investigating officer hides in the boot of the target vehicle!

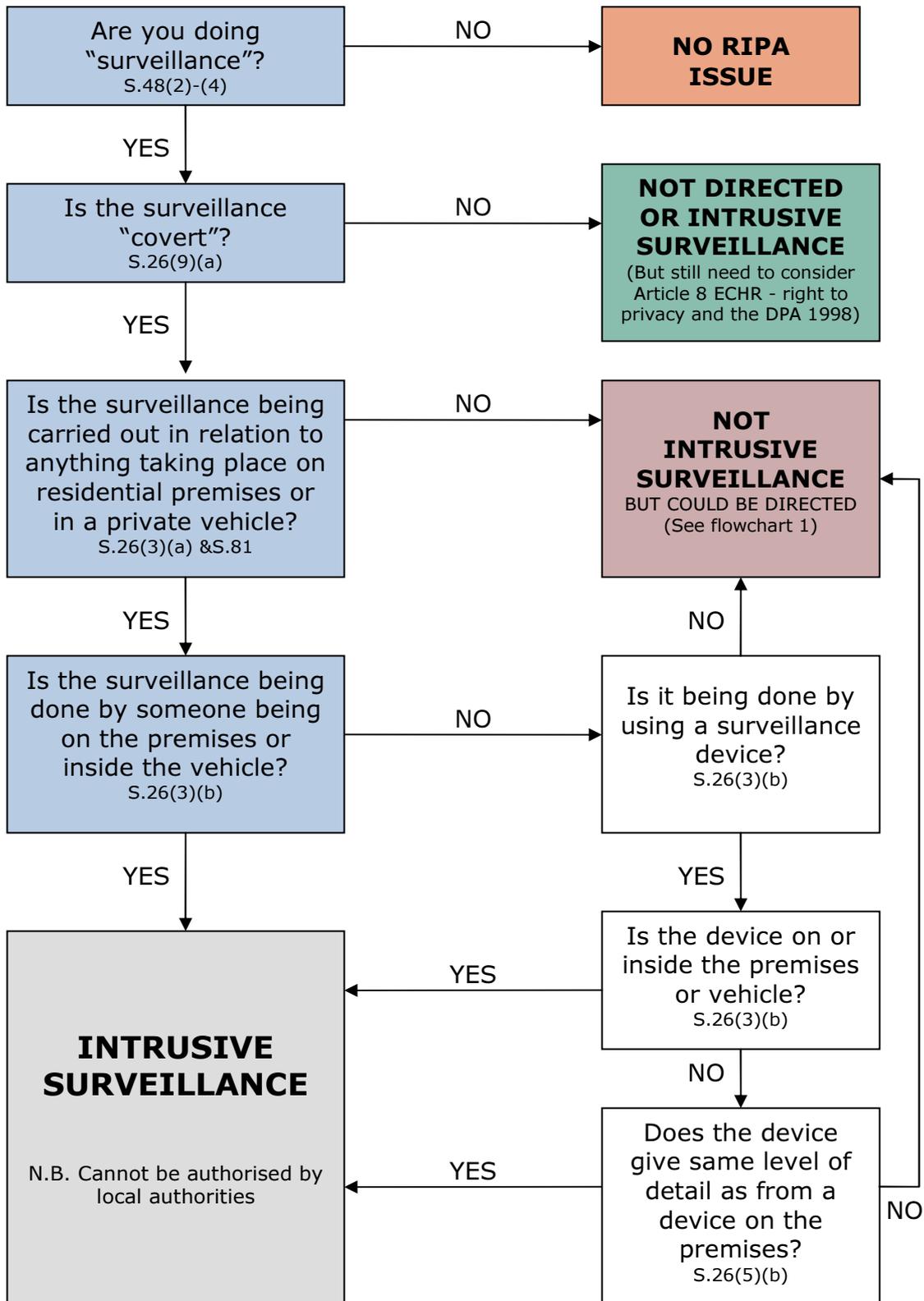
However it may be that an officer is stationed inside residential premises to covertly observe drug dealing or anti social behaviour. Whilst normally this kind of conduct is the realm of the police, care must be taken. For example a keen investigator taking covert pictures from outside a house may decide to jump over the fence and hide in the garden to obtain clearer images.

4. Surveillance can still be Intrusive even if the investigating officer is not on or inside the premises or vehicle but is using a surveillance device such a camera, listening device, recorder or even binoculars.

However the words of S.26 (5) should be noted:

For the purposes of this Part surveillance which—
(a) is carried out by means of a surveillance device in relation to anything taking place on any residential premises or in any private vehicle, but
(b) is carried out without that device being present on the premises or in the vehicle,
is not intrusive unless the device is such that it consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle.

Flowchart 2 -Are you doing Intrusive Surveillance?



iii) **A Covert Human intelligence Source(CHIS)** This is defined in S.26(8):

“...a person is a covert human intelligence source if -

*(a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);
(b) he covertly uses such a relationship to obtain information or to provide access to any information to another person; or
(c) he covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.”*

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

- Is the person establishing or maintain a personal or other relationship with a person?
- Is that relationship being used for a covert purpose?
- Is the covert purpose facilitating the doing of anything falling within paragraph (b) or (c) (above)?

Please consult Flowchart 3 when deciding if your surveillance involves a CHIS.

A CHIS is somebody who is concealing or misrepresenting their true identity or purpose in order to covertly gather or provide access to information from the target. Examples of a CHIS include a private investigator pretending to live on a housing estate to gather evidence of drug dealing or an informant who gives information to Trading Standards about illegal business practices in a factory or shop.

Key Points to Note

1. A public volunteer is not a CHIS. The CHIS code (para 2.17) states:

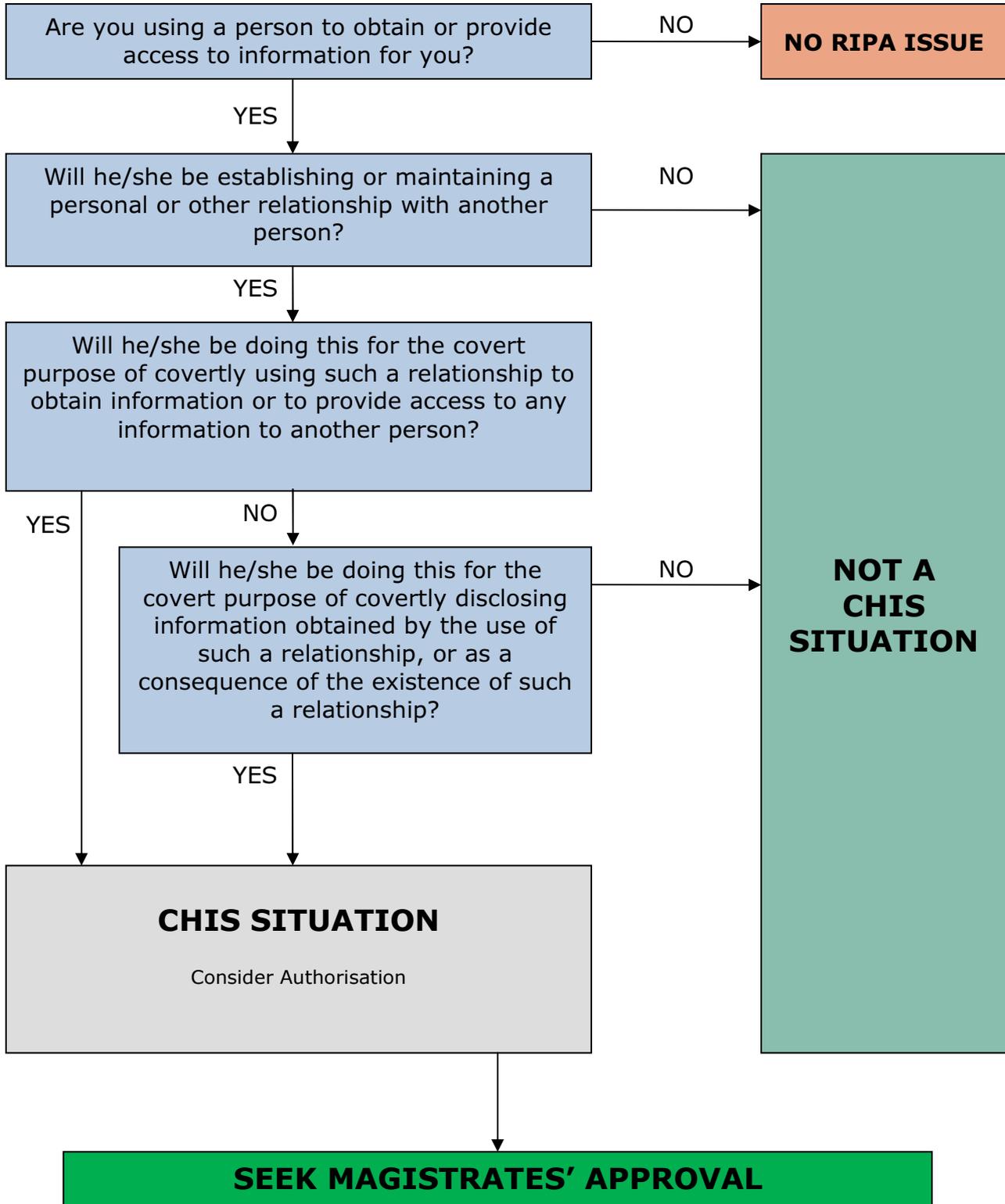
“In many cases involving human sources, a relationship will not have been established or maintained for a covert purpose. Many sources merely volunteer or provide information that is within their personal knowledge, without being induced, asked, or tasked by a public authority. This means that the source is not a CHIS for the purposes of the 2000 Act and no authorisation under the 2000 Act is required.”

Care must be taken to ensure that someone who starts off as a public volunteer does not end up being a CHIS.

2. There must be covert use of a relationship to provide access to information or to covertly disclose information. Merely giving a complainant a diary sheet to note comings and goings will not make that person a CHIS.

3. A test purchaser, though technically a CHIS, may not always require authorisation. Please consult the CHIS Code (para 2.13) and the OSC Procedures and Guidance Document for further guidance.

Flowchart 3 - Are you deploying a CHIS?



Completing the Forms

Once it is decided what type of surveillance is being undertaken, the appropriate form must be completed and sent to the Authorising Officer for approval. Templates of each form together with notes to assist completion and precedent wording are on the Intranet in the same section on the same page as this Policy (Legal Services, Key Documents). It should be noted that as a result of the changes made by the Protection of Freedoms Act 2012, local authorities no longer have the power to make urgent oral authorisations. Therefore, all authorisations, even if urgent, must be made in writing and the relevant judicial approval must be sought.

The Authorising Officer

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that the Authorising Officer for a local authority can be a Director, Head of Service, Service Manager or equivalent. A list of the Council's Authorising Officers is held by the SRO. All authorising officers will be nominated by their Directorates, as being of sufficient rank and having undertaken appropriate RIPA training. Once the SRO is satisfied that this is the case they will be added to the list of Authorising officers, held by the SRO.

Where the surveillance involves the likelihood of obtaining confidential information or the deployment of juveniles or vulnerable people, then the authorisation has to be sought from the Head of Paid Service or, in his/her absence, the acting Head of Paid Service.

Time Limits

The current time limits for an authorisation are 3 months for Directed Surveillance and 12 months for a CHIS (1 month if the CHIS is underage).

A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by a Magistrate.

Applications for renewals should not be made until shortly before the original authorisation period is due to expire but local authorities must take account of factors, which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a Magistrate to consider the application).

3. GUIDANCE FOR AUTHORISING OFFICERS

AUTHORISING DIRECTED SURVEILLANCE: RULES AND CRITERIA

Section 27 of RIPA provides a powerful defence if covert surveillance is challenged:

“(1) Conduct to which this Part applies shall be lawful for all purposes if -

- (a) an authorisation under this Part confers an entitlement to engage in that conduct on the person whose conduct it is; and*
- (b) his conduct is in accordance with the authorisation.”*

To take advantage of this defence, the surveillance needs to be properly authorised. S.28 sets out the criteria for authorising Directed Surveillance, whilst S.29 covers CHIS.

The Authorising Officer

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that the Authorising Officer for a local authority can be a Director, Head of Service, Service Manager or equivalent. As stated above, a list of the Council’s approved Authorising Officers is held by the SRO. A list of the current Authorising Officers is set out in section 6.

Where the surveillance involves the likelihood of obtaining confidential information or the deployment of juveniles or vulnerable people, then the authorisation has to be sought from the Head of Paid Service or, in his/her absence, the acting Head of Paid Service.

Time Limits

The current time limits for an authorisation are 3 months for Directed Surveillance and 12 months for a CHIS (1 month if the CHIS is underage).

A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by a Magistrate.

Applications for renewals should not be made until shortly before the original authorisation period is due to expire but local authorities must take account of factors, which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a Magistrate to consider the application).

Authorising Officer's Consideration (Chapter 3, Covert Surveillance Code)

S.28(2) states:

“A person shall not grant an authorisation for the carrying out of directed surveillance unless he believes -
(a) that the authorisation is necessary on grounds falling within subsection (3); and
(b) that the authorised surveillance is proportionate to what is sought to be achieved by carrying it out.”

Please consult flowchart 4 when deciding whether Directed Surveillance should be authorised.

The first question that the Authorising Officer needs to ask is; Is the surveillance necessary?

The surveillance has to be necessary on one of the grounds set out within in S.28(3). Previously local authorities could authorise Directed Surveillance where it was necessary “

“for the purpose of preventing or detecting crime or of preventing disorder.”
(S.28(3)(b))

The Home Office Review, which reported in January 2011, recommended that where local authorities wish to use Directed Surveillance, this should be confined to cases where the offence under investigation is a serious offence.

This recommendation was put into effect by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2012, SI 2012/1500](#) which was made in June 2012 and came into force on 1st November 2012. This amends the [Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010, SI 2010/521](#) (“the 2010 Order”), which prescribes which officers, within a public authority, have the power to grant authorisations for the carrying out of Directed Surveillance and the grounds, under Section 28(3), upon which authorisations can be granted.

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

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

The second question is; Is the surveillance proportionate to what is sought to be achieved by carrying it out?

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

The OSC often states in its inspection reports that officers have not properly understood this concept or have not demonstrated compliance within the authorisation form. The Covert Surveillance Code (para 3.6) requires four aspects to be addressed in the authorisation form:

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

The third question is; can we avoid or minimise collateral intrusion?

The Authorising Officer will need to carefully consider the likelihood of collateral intrusion occurring. This is the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation. If the risk is significant, measures should be taken, wherever practicable, to avoid or minimise any unnecessary intrusion.

Investigating and Authorising Officers will need to ask themselves:

- What is the impact on third parties? Is it significant?
- If it is, what can be done to avoid or minimise it?
- Have we considered:
 - Changing the timing of the surveillance
 - Reducing the amount of surveillance
 - Changing the method of surveillance
 - The sensitivities of the local community
 - Surveillance operations by other public authorities

Of course at all times the need to obtain the best evidence to investigate the crime will be paramount.

AUTHORISING A CHIS: RULES AND CRITERIA

Section 27 of RIPA provides a powerful defence if covert surveillance is challenged:

*“(1) Conduct to which this Part applies shall be lawful for all purposes if -
(a) an authorisation under this Part confers an entitlement to engage in that conduct on the person whose conduct it is; and
(b) his conduct is in accordance with the authorisation.”*

To take advantage of this defence, the surveillance needs to be properly authorised. S.28 sets out the criteria for authorising Directed Surveillance, whilst S.29 covers CHIS.

The Authorising Officer

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that the Authorising Officer for a local authority can be a Director, Head of Service, Service Manager or equivalent.

Where the surveillance involves the likelihood of obtaining confidential information or the deployment of juveniles or vulnerable people, then the authorisation has to be sought from the Head of Paid Service or, in his/her absence, the acting Head of Paid Service. A list of the Council's Authorising Officers is held by the SRO.

If there is any doubt regarding sufficiency of rank you should contact Legal Services or RIPA Coordinator for advice.

Time Limits

The current time limits for an authorisation are 3 months for Directed Surveillance and 12 months for a CHIS (1 month if the CHIS is underage).

A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by a Magistrate.

Applications for renewals should not be made until shortly before the original authorisation period is due to expire but local authorities must take account of factors, which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a Magistrate to consider the application).

Authorising Officer's Consideration

S.29(2) states:

“A person shall not grant an authorisation for the conduct or the use of a covert human intelligence source unless he believes-
(a) that the authorisation is necessary on grounds falling within subsection (3);
(b) that the authorised conduct or use is proportionate to what is sought to be achieved by that conduct or use; and
(c) that arrangements exist for the source's case that satisfy the requirements of subsection (5) and such other requirements as may be imposed by order made by the Secretary of State. “

Please consult flowchart 5 when deciding whether the deployment of a CHIS should be authorised.

Three matters are important to consider before authorising the deployment of a CHIS:

1. Necessity

The deployment of a CHIS has to be necessary on one of the grounds set out within in S.29(3). Local authorities can only authorise on the one ground; where it is necessary:

“for the purpose of preventing or detecting crime or of preventing disorder.”
(S.29(3)(b))

The matter being investigated must be an identifiable criminal offence or constitute disorder. Unlike Directed Surveillance, the grounds for authorising a CHIS did not change on 1 November 2012.

2. Proportionality

Proportionality means ensuring that the deployment of the CHIS is the least intrusive method to obtain the required information having considered all reasonable alternatives. This requires consideration of not only whether a CHIS is appropriate but also the method to be adopted, the duration and the equipment to be used. The CHIS Code (para 3.5) requires four aspects to be addressed in the authorisation form:

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

3. Security and Welfare Arrangements

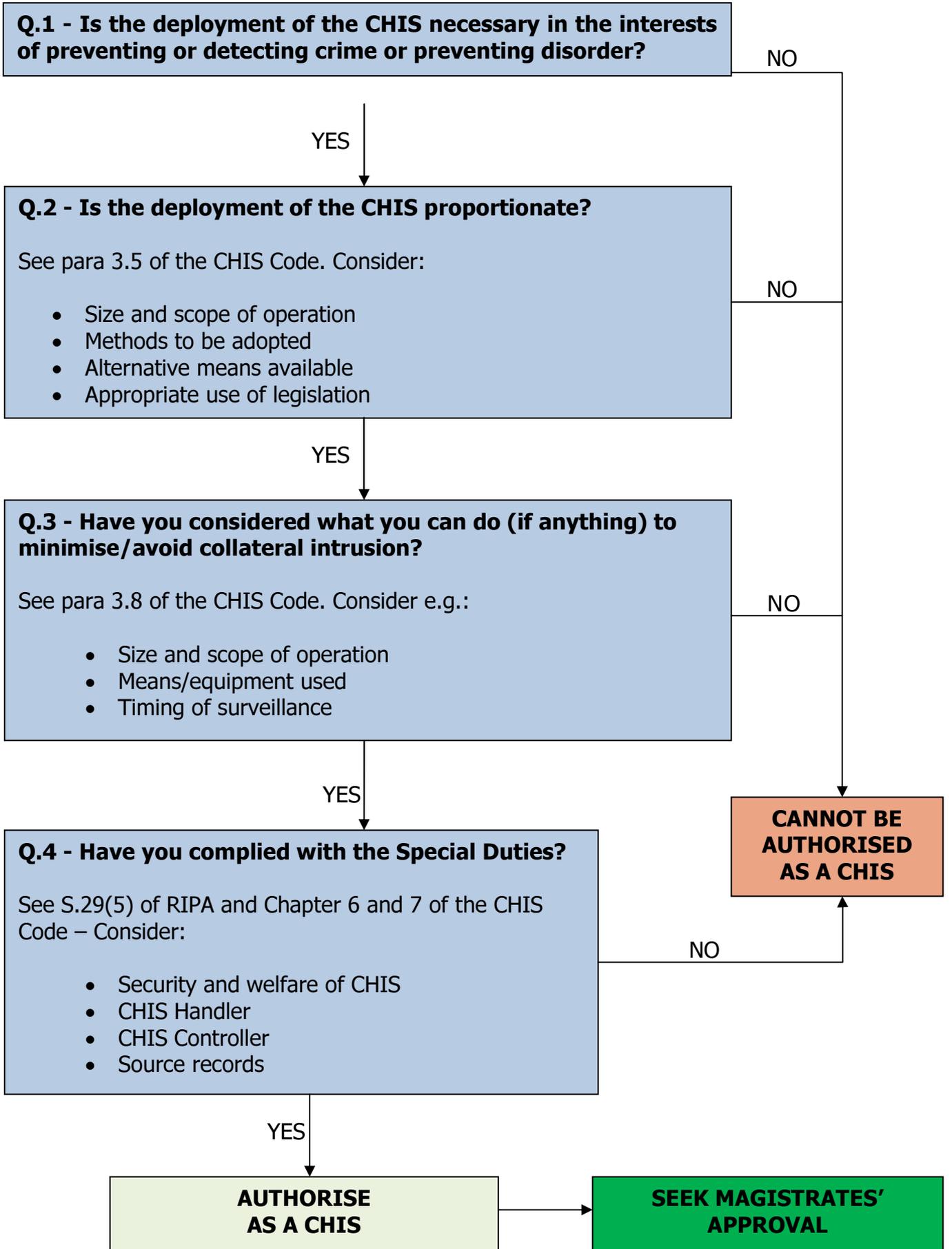
CHISs are often placed in difficult and sometimes dangerous situations e.g. an informant on a housing estate in contact with criminal gangs. Appropriate security and welfare arrangements must also be in place in relation to each CHIS. S.29(5) requires there to be:

- A person who will have day-to-day responsibility for dealing with the CHIS on behalf of that authority, and for his/her security and welfare;
- A person who will have general oversight of the use made of the CHIS. This person must be different to the one above.
- A person who will maintain a record of the use made of the CHIS. This can be any of the above or a separate person.
- Proper and secure records to keep about the use made of the CHIS.

Risk Assessment: An authorisation for the conduct or use of a CHIS may not be granted or renewed in any case where the source is under the age of eighteen at the time of the grant or renewal, unless a risk assessment has been carried out. This must be sufficient to demonstrate that:

- the nature and magnitude of any risk of physical injury to the CHIS arising in the course of, or as a result of, carrying out the conduct described in the authorisation has been identified and evaluated;
- the nature and magnitude of any risk of psychological distress to the CHIS arising in the course of, or as a result of, carrying out the conduct described in the authorisation has been identified and evaluated;
- the person granting or renewing the authorisation has considered the risk assessment and has satisfied himself that any risks identified in it are justified and, if they are, that they have been properly explained to and understood by the CHIS;
- the person granting or renewing the authorisation knows whether the relationship to which the conduct or use would relate is between the CHIS and a relative, guardian or person who has for the time being assumed responsibility for the CHISs welfare, and, if it is, has given particular consideration to whether the authorisation is justified in the light of that fact.

Flowchart 5 - Authorising a CHIS



PROCEDURE FOR COMPLETING THE RIPA FORMS

The standard forms with guidance notes are on the intranet, in the same section as this Policy (Legal Services, Key Documents) Each standard Home Office RIPA form is reproduced with guidance notes in **dark blue 12 point Calibri font**. These forms are the latest versions downloaded from the Home Office RIPA website on 10th March 2015.

The Home Office states that public authorities may use these forms or adapt them, for example to include corporate logos or images or to combine review and renewal, or renewal and cancellation forms. However, if they adapt these forms for their own purposes - to record extra information that is not strictly necessary to ensure and demonstrate compliance with RIPA - that additional local requirement should be indicated as being distinct from the necessary recording of RIPA considerations and decisions. On no account though should the forms be pre completed with standard wording, as each application should be made with the specific circumstances of the investigation in mind.

What to do

1. Decide what types of surveillance you are doing (refer to the guidance in Section 2 of this procedure).
2. Use this guidance and associated precedents to complete the appropriate forms. The following documents will also assist in this task:
 - a) The Covert Surveillance Code of Practice
 - b) The Covert Human Intelligence Sources Code of Practice
 - c) The OSC Procedures and Guidance Document – (available from the RIPA Co-coordinator).
3. Once completed, the forms should be sent to the most appropriate authorising Officer for approval. A list of Authorising Officers is available from the SRO.
4. The Authorising Officer should be reminded to read Section 3 of this procedure before completing his/her sections of the form. All authorization forms should be signed in hard copy by the authorizing officer, as opposed to any system of using an electronic signature.
5. If you are seeking a new authorisation or renewing an existing one, remember that it cannot take effect until a Magistrate has approved it. The procedure for this is set out in Section 4 of this document.
6. The original of each completed form (including cancellation forms) should be sent to the RIPA Co-coordinator who maintains the Council's Central Record of Authorisations, with a copy kept on the operational file.

COMMON MISTAKES IN RIPA FORMS

(Highlighted by the OSC)

Officers should be aware of the following mistakes when they undertake their respective roles in the RIPA process.

Investigating Officers' Mistakes

- Using of out of date Home Office forms
- Not quoting a unique reference number (URN)
- Copying (cutting and pasting) wording from old authorisation forms
- Failing to give a detailed explanation of what the surveillance will involve
- A surfeit of surveillance tactics and equipment being requested and granted but rarely fully used when reviews and cancellations are examined
- Failing to consider and/or explain the proportionality factors
- Poor and over-formulaic consideration of potential collateral intrusion and how this will be managed
- Failing to consider likelihood of obtaining Confidential Information
- Failing to recognise or be alive to the possibility that someone may have met the CHIS criteria
- Failing to authorise a CHIS promptly as soon as they have met the criteria
- Over-generic risk assessments for a CHIS and not updated to enable the Authorising Officer to identify emergent risks
- Failing to send completed forms to the RIPA Coordinator

Please also read paragraph 3.28 of the Covert Surveillance Code which sets out best working practices with regard to all applications for authorisations under RIPA

Authorising Officers' Mistakes

- Too many Authorising Officers within the Authority
- Repetitive narrative and rubber stamping without proper consideration of all the facts set out in the authorisation form

- Not knowing the capability of the surveillance equipment which is being authorised. (For instance, there are differences between video cameras that record continuously and those activated by motion; and between thermal image and infrared capability. These differences may have an important bearing on how a surveillance operation is conducted and the breadth of the authorisation being granted. Therefore, a simple authorisation for 'cameras' is usually insufficient.)
- Failing to demonstrate that less intrusive methods have been considered and why they have been discounted in favour of the tactic selected
- Discussions that take place between the Authorising Officer and those charged with the management of the CHIS under section 29(5) of RIPA are not always captured in an auditable manner for later recall or evidence
- At cancellation, a lack of adequate, meaningful update for the Authorising Officer to assess the activity conducted, any collateral intrusion that has occurred, the value of the surveillance and the resultant product; with, often a similarly paltry input by Authorising Officers as to the outcome and how product must be managed
- Failing, when cancelling authorisations, to give directions for the management and storage of the product of the surveillance
- No robust management and quality assurance procedures including no regular audits

4. SEEKING MAGISTRATES' APPROVAL

4. GUIDE TO SEEKING MAGISTRATES' APPROVAL FOR RIPA SURVEILLANCE

Background

Chapter 2 of Part 2 of the [Protection of Freedoms Act 2012](#) (sections 37 and 38) came into force on [1st November 2012](#). This changes the procedure for the authorisation of local authority surveillance under the Regulation for Investigatory Powers Act 2000 (RIPA).

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

An approval is also required if an authorisation to use such techniques is being renewed. In each case, the role of the JP is to ensure that the correct procedures have been followed and the relevant factors have been taken account of. There is no requirement for the JP to consider either cancellations or internal reviews.

Home Office Guidance

The Home Office has published guidance on the Magistrates' approval process both for local authorities and the Magistrates' Court:

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

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

For a brief summary of the approval process please see flowchart 6 at the end of this section.

The New Magistrates' Approval Process

1. The first stage will be to apply for an internal authorisation in the usual way. Once this has been granted, the local authority will need to contact the local Magistrates' Court to arrange a hearing.
2. The hearing is a 'legal proceeding' and therefore local authority officers need to be formally designated to appear, be sworn in and present evidence or provide information as required by the JP. Authorisation forms will be quality assured by Legal Services. A member of Legal Services will also attend at the Magistrates Court to present the application.

3. The Home Office suggests that the investigating officer will be best suited to making the application for Judicial Approval, although the Authorising Officer may also want to attend to answer any questions.
4. The local authority will provide the JP with a copy of the original RIPA authorisation. This forms the basis of the application to the JP and should contain all information that is relied upon. In addition, the local authority will provide the JP with two copies of a partially completed judicial application/order form (which is included in the Home Office Guidance)(**see the next section for an example with notes to assist completion**).
5. The hearing will be in private and heard by a single JP who will read and consider the RIPA authorisation and the judicial application/order form. He/She may have questions to clarify points or require additional reassurance on particular matters. The forms and supporting papers must by themselves make the case. It is not sufficient for the local authority to provide oral evidence where this is not reflected or supported in the papers provided.
6. The JP will consider whether he or she is satisfied that, at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. He/She will also consider whether there continues to be reasonable grounds. In addition the JP must be satisfied that the Authorising Officer was of an appropriate level within the local authority and that the authorisation was made in accordance with any applicable legal restrictions (e.g. meets the Serious Crime Test for Directed Surveillance)
7. The order section of the above mentioned form will be completed by the JP and will be the official record of his/her decision. The local authority will need to retain a copy of the form after it has been signed by the JP.

Magistrate's Options

The JP may decide to –

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

The grant/renewal of the authorisation will then take effect and the local authority may proceed to use the surveillance technique mentioned therein. A copy of the order must be kept on the central record of authorisations.

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

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

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

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

Appeals

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

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

**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, and 32B

Local authority:.....

Local authority department:.....

Offence under investigation¹.....

.....
Address of premises or identity of
subject:².....
.....

Covert technique requested: (tick one and specify details)

Communications Data

Covert Human Intelligence Source

Directed Surveillance

Summary of details³

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

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

Investigating Officer

Authorising Officer

Officer(s) appearing before JP ⁴.....

Address of applicant department:

.....
Contact telephone number.....

Contact email address (optional)

Local authority reference.....

Number of pages.....

5Order 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.

⁶refuse to approve the grant or renewal of the authorisation/notice.

⁷refuse to approve the grant or renewal and quash the authorisation/notice.

Reasons

.....

.....

Notes

.....

.....

Signed:

Date:

Time:

Full name:

Address of magistrates' court:

Notes to Assist Completion

¹Insert the offence or disorder that you are investigating. If you are seeking authorisation for Directed Surveillance make sure that the criminal offence you are investigating attracts a maximum custodial sentence of six months or more or relates to the underage sale of alcohol or tobacco (as per the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012.

²You may not know the identity of the person in which case you can include a description and/or how they relate to the offence/disorder under investigation.

³This forms the basis of the application to the JP and should contain all information that is relied upon. You may wish to set out in brief:

- What information you are seeking from the surveillance
- What the surveillance will involve e.g. covert cameras, CHIS
- How long the surveillance will last

You do not need to go into a lot of detail as this form should have the original authorisation form attached.

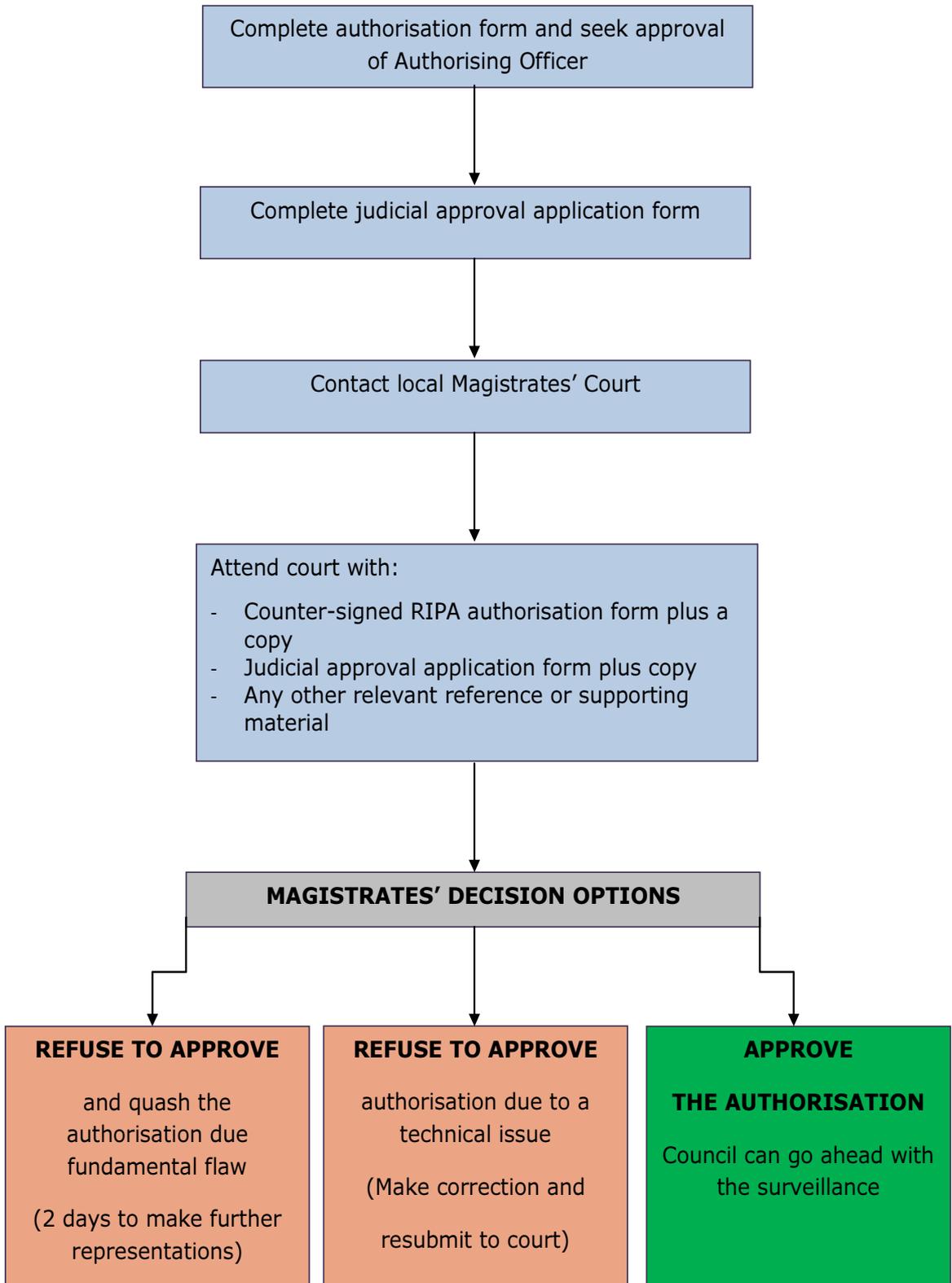
⁴ Any officer employed by the Council can appear before the Magistrate. The Home Office suggests that the Investigating Officer is best placed to do this. Make sure that whoever appears is formally designated to do so under section 223 of the Local Government Act 1972. Legal Services will carry out the initial applications.

⁵The order section of this form will be completed by the Magistrate and will be the official record of the Magistrate's decision. The Council will need to retain a copy of the judicial application/order form after it has been signed by the Magistrate. This may be kept with the original authorisation on the Central Record.

⁶If the Magistrate refuses to approve the authorisation, surveillance cannot be undertaken. This may be due to a technical error which can be corrected. Read the reasons for refusal and seek advice from the Legal Dept. and/or RIPA Coordinator with regards to the next steps.

⁷If the Magistrate decides to quash the authorisation, surveillance cannot be undertaken. You will have two days to make further representations. Read the reasons for refusal and seek advice from the Legal Dept and/or RIPA Coordinator with regards to the next steps.

Flowchart 6 - The Magistrates' Approval Process



6. Governance Arrangements & Quality Assurance

Senior Responsible Officer

Pursuant to the revised Code of Practice the Authority's Senior Responsible Officer is the Assistant Director of Legal Services. The Senior Responsible Officer is responsible for the integrity of the process in place to authorise directed surveillance and engagement with the Commissioners and inspectors when they conduct their inspections. The Senior Responsible Officer is also responsible for ensuring that authorising officers are of an appropriate standard. This is ensured by an appropriate system being adopted in respect of nomination of authorising officers, as described earlier in this document. The current list of Authorising officers is as follows:

Karen Hanson (Assistant Director of Community Safety and Street Scene)
Lewis Coates (Interim Safer Neighbourhoods Manager)
Alan Pogorzelec (Business Regulation Manager)
Robert Cutts (Operational Manager Revenues & Benefits – Housing Benefit Fraud)
David Webster (Head of Internal Audit)

The SRO will maintain an up to date list of Authorising officers which accurately reflects any changes to personnel and Authorising officers between the annual settings of this policy by elected members. The SRO also regularly monitors the quality of the authorisations forms which are completed, in conjunction with the RIPA Coordinator as part of the overall Quality Assurance process.

Members Oversight

Pursuant to the revised Code of Practice paragraph 3.35, elected members of the authority will review the authority's use of the Regulation of Investigatory Powers Act 2000 and set the policy at least once a year.

Further, members will consider reports on the use of RIPA on a regular basis to ensure that it is being used consistently with the Authority's policy and that the policy remains fit for purpose. This is done by means of six monthly reports to the Audit Committee.

Quality Assurance

Quality Assurance will be provided on an ongoing basis by Legal Services who will review and assess all forms as part of the Judicial Approval application process. Feedback will be given directly to relevant officers, with wider feedback given and changes to the Policy made if necessary.

Monitoring and Quality Control

In addition to the Quality Assurance set out above as part of the Judicial Approval application process, the RIPA Co-ordinator will monitor on receipt the authorisation, renewal, review and cancellations forms which are submitted for the Central Register. Any issues arising from these forms will be brought to the attention of the applying and authorising officer.

The RIPA Co-ordinator

The RIPA Co-ordinator for Rotherham is Neil Concannon, Litigation and Social Care Service Manager, Legal Services.

Contact details are:-

Phone : 01709 823569

E-mail : neil.concannon@rotherham.gov.uk

The RIPA Co-ordinator will maintain a register centrally of all authorisations, refusals, reviews, renewals and cancellations. As part of the Judicial Approval application the RIPA Co-ordinator will monitor the authorisation forms submitted. Further the RIPA Co-ordinator will monitor on receipt all renewal, review and cancellation forms which are submitted for the Central Register. Any issues arising out of these forms will be brought immediately to the attention of the applying and authorising officer.

IT IS IMPORTANT that all Services keep the RIPA Co-ordinator updated on all or any changes to authorisation forms.

The RIPA Co-ordinator will keep the records for 5 years to comply with Home Office guidance.

The further responsibilities of the RIPA Coordinator are :

- a) Oversight of the submitted RIPA documentation
- b) Organising a RIPA training programme
- c) Raising RIPA awareness within the Council

Storage of Authorisation Forms

Each Assistant Director whose department conducts surveillance is responsible for organising sufficient systems within their service in respect of the storage of files and associated RIPA forms.

Copies of the forms should be retained on the operational file for the investigation. The RIPA co-ordinator should be sent originals of all authorisations, refusals, reviews, cancellations and renewals of authorisations to satisfy Home Office Code of Practice recommendations.

The following should also be kept by the authorising officer. There is no requirement for this to form part of the central register maintained by the RIPA Co-ordinator (although pursuant to the current arrangements the originals of forms will be kept by the RIPA Co-ordinator):-

- the original forms of application, authorisation and supplementary documentation and notification of approval given by the authorising officer.
- a record of the period over which the surveillance has taken place
- frequency of reviews prescribed by the authorising officer
- a record of the result of each review of an authorisation
- a copy of any renewal of an authorisation, and supporting documentation submitted when it was requested.
- the date and time any instruction was given by the authorising officer.

THE OVERSIGHT OF RIPA

RIPA is overseen by surveillance commissioners. They are tasked to ensure that RIPA is being applied properly. Inspections can be carried out at regular intervals.

Also, any person aggrieved by the way a local authority carries out covert surveillance as defined by RIPA can make a complaint to the Investigatory Powers Tribunal under the Act for redress within a year of the act complained of or any longer period that the tribunal thinks it just and equitable to allow.

This tribunal can quash any authorisation and can order the destruction of information held or obtained in pursuit of it. It can also award damages if it believes that an individual's human rights have been violated by the local authority.

Appendix A1 - Non-RIPA Surveillance

From time to time Rotherham Borough Council may wish to undertake covert surveillance that is not regulated by RIPA. This is fine as RIPA is permissive legislation.

Authorisation under RIPA affords a public authority a defence under Section 27 i.e. the activity is lawful for all purposes. However, failure to obtain an authorisation does not make covert surveillance unlawful. S. 80 states:

“Nothing in any of the provisions of this Act by virtue of which conduct of any description is or may be authorised by any warrant, authorisation or notice, or by virtue of which information may be obtained in any manner, shall be construed -
(a) as making it unlawful to engage in any conduct of that description which is not otherwise unlawful under this Act and would not be unlawful apart from this Act;
(b) as otherwise requiring—
(i) the issue, grant or giving of such a warrant, authorisation or notice, or
(ii) the taking of any step for or towards obtaining the authority of such a warrant, authorisation or notice,
before any such conduct of that description is engaged in; or
(c) as prejudicing any power to obtain information by any means not involving conduct that may be authorised under this Act.”

This point was explained more fully by the Investigatory Powers Tribunal in the case of C v The Police (Case No: IPT/03/32/H 14th November 2006):

“Although RIPA provides a framework for obtaining internal authorisations of directed surveillance (and other forms of surveillance), there is no general prohibition in RIPA against conducting directed surveillance without RIPA authorisation. RIPA does not require prior authorisation to be obtained by a public authority in order to carry out surveillance. Lack of authorisation under RIPA does not necessarily mean that the carrying out of directed surveillance is unlawful.”

The Council may wish to do such “Non-RIPA Surveillance” for the following reasons:

1. Child/Vulnerable Adult Protection

It may be necessary and proportionate to conduct covert surveillance for the purposes of child/vulnerable adult protection. For example, to gather evidence for use in court proceedings to verify the account given by a parent where there is reasonable cause to doubt that account and which raises significant safeguarding concerns in relation to the child in question.

2. Employee Surveillance

Most employee surveillance will not be authorisable under RIPA, if a previous decision by the Investigatory Powers Tribunal is to be followed.

In C v The Police and the Secretary of State for the Home Department (14th November 2006, No: IPT/03/32/H), C, a former police sergeant, retired in 2001 having made a claim

for a back injury he sustained after tripping on a carpet in a police station. He was awarded damages and an enhanced pension due to the injuries.

In 2002, the police instructed a firm of private detectives to observe C to see if he was doing anything that was inconsistent with his claimed injuries. Video footage showed him mowing the lawn. C sued the police claiming they had carried out directed surveillance without an authorisation. The Tribunal first had to decide if it had jurisdiction to hear the claim. The case turned on the interpretation of the first limb of the definition of directed surveillance i.e. was the surveillance “for the purposes of a specific investigation or a specific operation?”

The Tribunal ruled that this was not the type of surveillance that RIPA was meant to regulate. It made the distinction between the ordinary functions and the core functions of a public authority:

“The specific core functions and the regulatory powers which go with them are identifiable as distinct from the ordinary functions of public authorities shared by all authorities, such as the employment of staff and the making of contracts. There is no real reason why the performance of the ordinary functions of a public authority should fall within the RIPA regime, which is concerned with the regulation of certain investigatory powers, not with the regulation of employees or of suppliers and service providers.”

The Tribunal also stated that it would not be right to apply RIPA to such surveillance for a number of reasons:

- 1) RIPA does not cover all public authorities, and there was no sense in police employee surveillance being conducted on a different legal footing than, for example, the Treasury, which does not have the same surveillance rights under RIPA.
- 2) The Tribunal has very restrictive rules about evidence, openness and rights of appeal. The effect of these would lead to unfairness for employees of RIPA authorities when challenging their employers’ surveillance as compared to those who were employed by non RIPA authorities.

This case suggests that, even where employee surveillance is being carried out on one of the grounds in section 28(3), the question has to be; is it for a core function linked to one of the authority’s regulatory functions? In the local authority context this would include, amongst others, trading standards, environmental health and licensing. If it is not being done for one of these purposes it will not be directed surveillance.

Human Rights Compliance

Covert surveillance done without a RIPA authorisation will not have the protection of RIPA (i.e. the defence in section 27). However it will still be able to be undertaken as long as it is done in accordance with the European Convention on Human Rights (ECHR) which is directly enforceable against public authorities pursuant to the Human Rights Act 1998. Article 8 of the ECHR states:

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

There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the rights and freedoms of others.”

To satisfy Article 8, the covert surveillance must be both necessary and proportionate. In deciding whether it is, the same factors need to be considered as when authorising surveillance regulated by RIPA.

The flowchart at the end of this Appendix will also assist.

Data Protection Compliance

When doing covert surveillance of employees not regulated by RIPA, the Data Protection Act 1998 (DPA) will apply as personal information about living individuals will be being processed e.g. their movements, photographs etc.

The Information Commissioner has published a Data Protection Employment Practices Code of Practice (available at www.ico.gov.uk). Part 3 of this code covers all types of employee surveillance from video monitoring and vehicle tracking to email and internet surveillance. It gives guidance on how to do employee surveillance in a way which complies with the DPA. Whilst the code is not law, it can be taken into account by the Information Commissioner and the courts in deciding whether the DPA has been complied with.

The code states that employee monitoring should take place for a clear justified purpose and employees should be aware that it is taking place. With regard to covert surveillance it states that it will be rare for such monitoring to be justified. It should therefore only be used in exceptional circumstances e.g. prevention or detection of crime or serious malpractice.

One of the other main recommendations of the code is that senior management should normally authorise any covert monitoring of employees. They should satisfy themselves that there are grounds for suspecting criminal activity or equivalent malpractice. They should carry out an impact assessment and consider whether the surveillance is necessary and proportionate to what is sought to be achieved.

The code sets out other rules that local authorities (and others) need to consider when doing covert surveillance of employees:

- Prior to the investigation, clear rules must be set up limiting the disclosure and access to information obtained.
- The number of people involved in a covert monitoring exercise should be limited.
- The surveillance must be strictly targeted at obtaining evidence within a set time frame and it should not continue after the investigation is complete.
- If using audio or video equipment, this should not normally be used in places such as toilets or private offices.
- Information obtained through covert monitoring should only be used for the prevention or detection of criminal activity or serious malpractice.

- Other information collected in the course of monitoring should be disregarded and, where feasible, deleted unless it reveals information that no employer could reasonably be expected to ignore.

Non – RIPA Surveillance Form

In both the above cases it is important to have a proper audit trail through written records. In his annual report (2011/2012) the Chief Surveillance Commissioner (at paragraph 5.22) emphasises this:

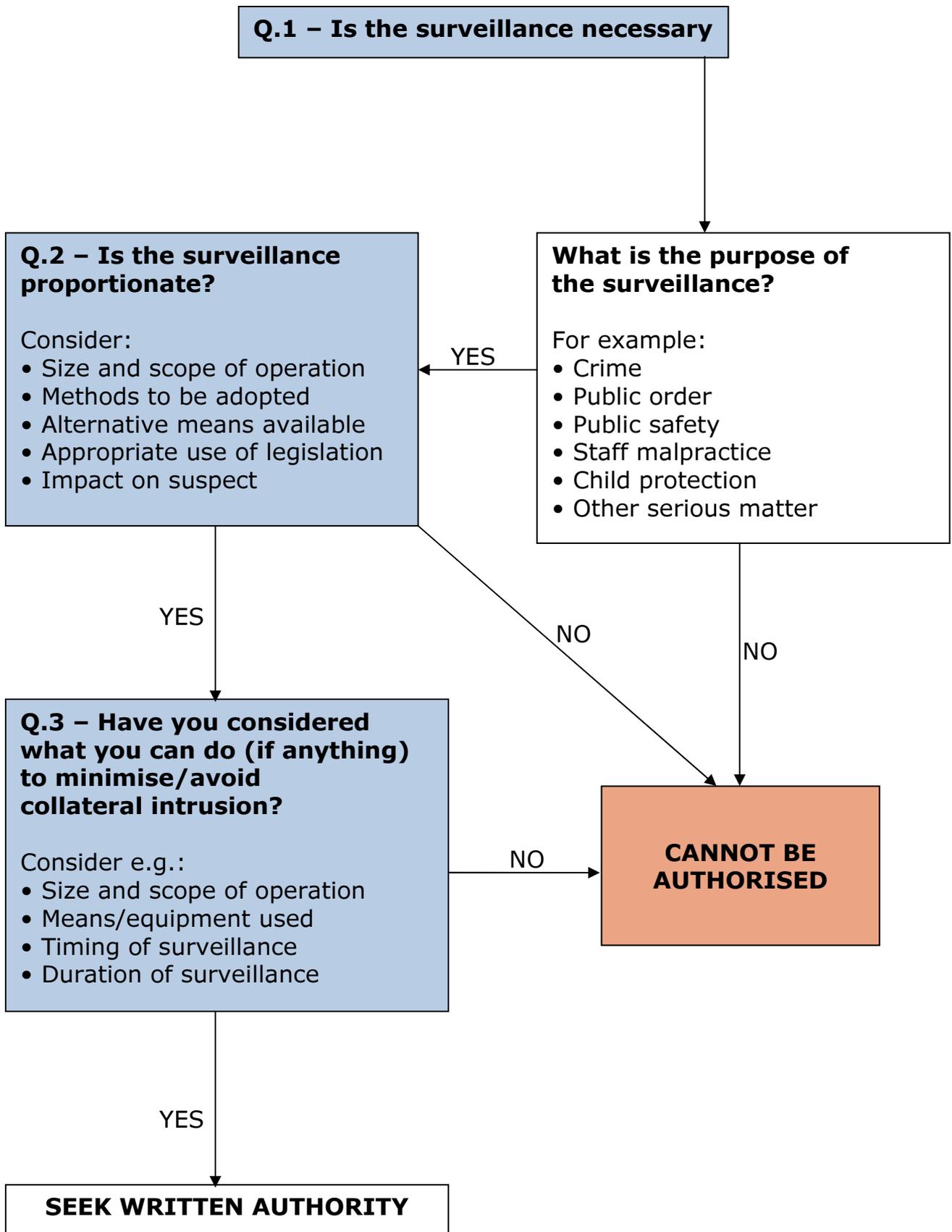
“I occasionally encourage the use of similar authorisation mechanisms for activity which cannot be protected by the Acts (for example where covert techniques are used to identify a missing person when no crime is suspected). In these circumstances statutory definitions are met but none of the grounds specified in RIPA section 28(3) or RIP(S)A section 6(3), yet the human rights of the subject of surveillance must be considered. The authorisation process provides a useful audit of decisions and actions.”

Non-RIPA surveillance will only be carried out if it is authorised by Council officers who are of sufficient seniority i.e. Service Managers (or equivalent) and above, and who have been appropriately trained. The Non-RIPA Authorisation form at the end of this appendix will be used for such authorisation. As an added quality assurance check, the completed Non-RIPA Authorisation form must be provided to, and approved by the RIPA Coordinator, before any such surveillance takes place. This will ensure both consistency of approach and compliance with the relevant law and guidance so that this type of surveillance is only carried out where it is appropriate, necessary and proportionate to do so. The surveillance should cease as soon as the surveillance is no longer necessary and a Non-RIPA Cancellation form should be completed.

If the Council authorises a non-employee (e.g. an enquiry agent) to conduct covert surveillance then that person/company is acting as an agent for the Council. The Authorising Officer must ensure that the person/company is competent and they have provided a written acknowledgment that they are an agent of the Council and will comply with the authorisation

As with Directed Surveillance and CHIS, Non-RIPA authorisation and cancellation forms should be provided to the RIPA Coordinator who will maintain a central record of such authorisations/cancellations.

Flowchart - Authorising Non RIPA Surveillance



Part II of the Regulation of Investigatory Powers Act 2000 Application for Authorisation of Directed Surveillance

Sample Form with Notes to Assist Completion

This form is to be completed by an officer of the local authority seeking authorisation to carry out Directed Surveillance. Before completing it, you must satisfy yourself that you are doing Directed Surveillance as defined by RIPA. Please read chapter 2 of the Covert Surveillance Code of Practice.

Once completed, this form should be forwarded to the Authorising Officer for approval and to complete box 12 onwards. The next step is to seek the approval of a Magistrate. If this is granted, the authorisation will last for three months.

Code of Practice/Code: This is the RIPA Covert Surveillance Code of Practice.

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which are issued by the same department. Some organisations devise a URN which comprises of the year, department initials, applicant initials and investigation number. In some cases the investigating department allocates the URN whilst in others this is done by the RIPA Co ordinator. There are no hard and fast rules.

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			
Investigating Officer (if a person other than the applicant)			

This section is fairly explanatory. Where a third party (e.g. private detective agency or the police) is used to carry out Directed Surveillance on behalf of the authority or to give operational support, details of that party and their involvement should be recorded on this form. See paragraph 3.15 - 3.22 of the Code.

DETAILS OF APPLICATION**1. Give rank or position of authorising officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010; No.521.¹**

Insert the name and position of the Authorising Officer. This is the person who will decide whether or not Directed Surveillance should be authorised and will countersign this form. He/she must hold a rank in accordance with the above Order (i.e. Director, Head of Service, Service Manager or equivalent). Care should be taken to avoid more junior officers authorising surveillance. Each department, which makes regular use of Directed Surveillance, will have officers appointed as such. If in doubt consult the RIPA Co-ordinator.

2. Describe the purpose of the specific operation or investigation.

Explain the crime, which is being investigated. For example;

- “To investigate and gather evidence of a possible benefit fraud by the target.”
- “To investigate instances of illegal dumping of waste at”
- “To investigate criminal damage which has been perpetrated against...”

If possible, include the relevant legislation that may be used to prosecute offenders and/or which gives you the power/duty to investigate the matter.

3. Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, and recorder) that may be used.

Read the above carefully. Note the phrase “in detail.” Therefore a response which merely states “Video camera and recording equipment will be installed at a fixed point” will not be adequate.

Your statement here needs to include what is going to be done, who is going to do it, when they are going to do it, where they are going to do it and how they are going to do it. Other points to address here include:

- How long will the surveillance last?
- Specific details about dates and times i.e. is it 24/7, at specific times of the day or at random times?
- Which premises are to be used and/or targeted?
- Which vehicles are to be used? Are they public or private?
- What type of equipment is to be used? e.g. covert cameras, audio devices
- What is the capability of the equipment to be used? e.g. zoom lense, remote controlled etc.
- Who else will be involved in the operation and what will be their role? e.g. private detectives, police

It may be appropriate to attach plans/maps showing where and how the surveillance will be conducted and indicating where any surveillance equipment will be installed.

Note that, if the Authorising Officer approves this surveillance, the authorisation will only cover you to do what you have stated here (subject to any amendments made by the Authorising Officer in box 12). Consequently you can only rely on section 27 (“the RIPA Shield/Defence”) in so far as you were undertaking the activities set out in this section. Therefore it pays to include lots of detail.

¹ For local authorities: The exact position of the authorising officer should be given. For example, Head of Trading Standards.

4. The identities, where known, of those to be subject of the directed surveillance.

- Name:
- Address:
- DOB:
- Other information as appropriate:

Include as much information as you have. If you do not know the identity of the target then say so. You could include a general description of the target(s) e.g. "visitors and/or residents of ASBO lane (identities unknown) who are alleged to be selling counterfeit goods at the property."

5. Explain the information that it is desired to obtain as a result of the directed surveillance.

Your statement here should be more detailed than in Box 2. You should give details of the precise information sought by doing the surveillance. For example:

- "To ascertain what time the suspect enters and leaves the building."
- "To capture images of the perpetrators of criminal damage at [place/address]."
- "To find out who is delivering the counterfeit goods to the suspect's premises [place/address]."
- "To corroborate the evidence of witnesses who have complained about racially aggravated anti social behaviour."

You may include a number of separate pieces of information it is hoped to be obtained by doing the surveillance e.g. "where the alleged perpetrator is dumping the illegal waste, who he is employing him and when it is being done."

6. Identify on which grounds the directed surveillance is necessary under Section 28(3) of RIPA. Delete those that are inapplicable. Ensure that you know which of these grounds you are entitled to rely on. (SI 2010 No.521)

- ~~In the interests of national security;~~
- For the purpose of preventing or detecting crime
- ~~In the interests of the economic well-being of the United Kingdom;~~
- ~~In the interests of public safety;~~
- ~~for the purpose of protecting public health;~~
- ~~for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department;~~

From 1st November 2012, local authorities can only authorise Directed Surveillance on the one ground: where it is necessary to prevent or detect crime. If you are not investigating a criminal offence (e.g. merely seeking to prevent disorder/anti social behaviour) then you cannot seek authorisation for this Directed Surveillance. Box 7 explains the requirements in more detail.

7. Explain why this directed surveillance is necessary on the grounds you have identified [Code paragraph 3.3]

The OSC Document states that the Authorising Officer must be satisfied that there is a necessity to use covert surveillance in the proposed operation. In order to be satisfied, there must be an identifiable offence to prevent or detect before an authorisation can be granted on the grounds falling within S. 28(3)(b) of RIPA.

From 1st November 2012, pursuant to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012, (SI 2012/1500), local authority Authorising Officers may not authorise Directed Surveillance unless it is for the purpose of preventing or detecting a criminal offence and it meets the condition set out in New Article 7A(3)(a) or (b) of the 2010 Order (SI 2010 no.521). Those conditions are that the criminal offence which is sought to be prevented or detected is punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months imprisonment, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

To address the above, you should explain here:

- The criminal offence you are investigating
- How it satisfies the six month threshold test (or falls within the exceptions) explained above
- How doing the Directed Surveillance will help the prevention or detection of the crime
- Any other evidence you have to link the target with the offender/offence which requires corroboration through surveillance

8. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. [Bear in mind Code paragraphs 3.8 to 3.11.] Describe precautions you will take to minimise collateral intrusion

When doing Directed Surveillance you may be invading the privacy of those who are not your target. RIPA requires you to think about their rights and what you can do to minimise the impact on them of your surveillance. People who may be the subject of collateral intrusion include:

- customers or workers at business premises
- visitors to a property
- friends or relatives of the suspect
- other people living on a housing estate where covert cameras have been set up to capture vandalism

The Code of Practice states:

“3.9 ...Where such collateral intrusion is unavoidable, the activities may still be authorised, provided this intrusion is considered proportionate to what is sought to be achieved. The same proportionality tests apply to the likelihood of collateral intrusion as to intrusion into the privacy of the intended subject of the surveillance.

3.10. All applications should therefore include an assessment of the risk of collateral intrusion and details of any measures taken to limit this, to enable the authorising officer fully to consider the proportionality of the proposed actions.”

When completing this section, three points should be addressed:

Firstly, identify which third parties will be the subjects of collateral intrusion and what that intrusion will be i.e. what information will be captured about them?

Secondly, state why this is unavoidable. This could be because of the nature of the premises (e.g. a restaurant) or because of what the person is doing (e.g. visiting the subject/target premises). In some cases there will always be third parties around who will be captured on film or whose activities will be recorded/observed in some way.

Thirdly, set out what steps you have taken to minimise collateral intrusion, if this is possible. This may include:

- using a still camera rather than a video camera
- switching covert cameras on at specific times rather than leaving them to run all the time
- narrowing the field of vision or the place where the cameras are cited
- reducing the amount of surveillance done at busy times to capture fewer people e.g. when targeting shops or places of worship
- Pixelating the faces of people who are not targets if recordings are to be viewed by a wider audience e.g. a court

If you cannot minimise collateral intrusion you still need to show that you have considered it. In some situations all you may be able to state is that you cannot do anything to minimise collateral intrusion but you will not be making any decisions based upon the information gathered about third parties unless it shows them committing a criminal offence. Furthermore, you will ensure that officers who do the surveillance or view any recordings are mindful of who the real target of the surveillance is.

9. Explain why this directed surveillance is proportionate to what it seeks to achieve. How intrusive might it be on the subject of surveillance or on others? And why is this intrusion outweighed by the need for surveillance in operational terms or can the evidence be obtained by any other means? [Code paragraph 3.4 to 3.7]

The Code of Practice contains detailed guidance on proportionality:

“3.4...This involves balancing the seriousness of the intrusion into the privacy of the target of the operation (or any other person who might be affected) against the need for the activity in investigative and operational terms.”

“ 3.5 The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.”

Paragraph 3.6 requires you demonstrate that you have:

- balanced the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;

- explained how and why the methods to be adopted will cause the least possible intrusion on the target and others;
- considered whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidenced, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

In order to comply with the above you need to address the following questions:

- Can you get information/evidence using less intrusive means/ overt methods?
- What other means have you tried to obtain the same information/evidence?
- What have you done to try and lessen the impact on the target? Factors to address include:
 - Amount of information to be gathered during surveillance
 - The method of surveillance e.g. using still cameras rather than video to capture less information or using one camera rather than two.
 - Impact of the surveillance on the subject
 - Timing of the surveillance

At the same time, the above must be balanced with the need for the activity in operational terms. To demonstrate this balance you should address:

- What you are seeking to achieve
- The seriousness and extent of the offence
- The impact of the offence on the victims (and others), the wider community and the public purse

For more guidance on proportionality see the examples on page 27 of the Code and also paragraph 106 of the OSC Document.

10. Confidential information. [Code paragraphs 4.1 to 4.31]

INDICATE THE LIKELIHOOD OF ACQUIRING ANY CONFIDENTIAL INFORMATION:

This is defined in paragraph 4.1 of the Code as consisting of communications subject to legal privilege, communication between an MP and another person on constituency matters, confidential personal information and confidential journalistic material. So, for example, extra care should be taken where, through the use of surveillance, it would be possible to acquire knowledge of discussions between a minister of religion and an individual relating to the latter's spiritual welfare, or where matters of medical or journalistic confidentiality may be involved. Where such material has been acquired and retained, the matter should be reported to the OSC during the next inspection and the material should be made available to them if requested.

Local authorities are unlikely to come across this kind of information during routine surveillance operations. However you have to be alive to the possibility and include wording here to show you have thought about it. For example, where you will be following someone who may attend a church, mosque or hospital.

Note that in cases where you will be acquiring confidential information as part of a Directed Surveillance operation, the authorisation has to be granted by the Chief Executive or, in his or her absence, the acting Chief Executive.

11. Applicant's Details.			
Name (print)		Tel No:	
Grade/Rank		Date	
Signature			

12. Authorising Officer's Statement. [Spell out the "5 Ws" – Who; What; Where; When; Why and HOW– in this and the following box.]

I hereby authorise directed surveillance defined as follows: *[Why is the surveillance necessary, Who is the surveillance directed against, Where and When will it take place, What surveillance activity/equipment is sanctioned, How is it to be achieved?]*

This section is for the Authorising Officer to complete. Authorising Officers should not normally be responsible for authorising operations in which they are directly involved. See paragraph 5.7 of the Code.

This section should not be pre completed by the Investigating Officer. Sufficient detail must be included here to demonstrate that the Authorising Officer has considered the application objectively. Reference can be made to the boxes completed by the Investigating Officer above but "cut and paste" should be avoided. The five "Ws" stated above must be addressed in detail. This is important so that the Investigating Officers are clear as to what they can and cannot do and the means they can adopt.

The Authorising Officer should also consider what is being authorised is not in conflict with previous or other current authorisations.

The Authorising Officer should not be afraid to reject the application if it lacks clarity or detail. Furthermore, the OSC Document recommends that if an application fails to include an element in the proposed activity which in the opinion of the Authorising Officer should have been included (for example, the return of something to the place from which it is to be taken for some specified activity), or which is subsequently requested orally by the Investigating Officer, it may be included in the authorisation; if so a note should be added explaining why. Conversely, if an Authorising Officer does not authorise all that was requested, a note should be added explaining why.

Unique Reference Number	
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**13. Explain why you believe the directed surveillance is necessary. [Code paragraph 3.3]
Explain why you believe the directed surveillance to be proportionate to what is sought to be achieved by carrying it out. [Code paragraph 3.4 to 3.7]**

The OSC Document (paragraph 105) states that the Authorising Officer should state why he/she believes that the Directed Surveillance is necessary and proportionate. A bare assertion is insufficient.

You may refer to box 7 and 9 when completing this section. Set out what matters in the respective boxes you have given particular weight to when considering necessity and proportionality. You can also add any additional factors you have considered.

To demonstrate that you have given the issues due thought, it is important not to “cut and paste” the Investigating Officer’s wording or to just state “see box 7 and 9”.

14. (Confidential Information Authorisation.) Supply detail demonstrating compliance with Code paragraphs 4.1 to 4.31

Box 10 (above) explains Confidential Information. This box should only to be completed if you are likely to obtain Confidential Information through Directed Surveillance. If in doubt speak to the RIPA Co ordinator.

Date of first review	
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Programme for subsequent reviews of this authorisation: [Code paragraph 3.23]. Only complete this box if review dates after first review are known. If not or inappropriate to set additional review dates then leave blank.

Reviews should be done as frequently as is considered necessary and practicable. The Code draws particular attention to the need to review authorisations frequently where the surveillance involves a high level of intrusion into private life or significant collateral intrusion, or where confidential information is likely to be obtained. During a review, consideration will have to be given to whether the surveillance is still necessary and proportionate. A standard form is available to record the review.

Name (Print)		Grade / Rank	State the position of the Authorising Officer e.g. Director of Environmental Services	
Signature		Date and time		

According to the Code of Practice (paragraph 5.7), Authorising Officers should not normally be responsible for authorising operations in which they are directly involved, although it is recognised that this may sometimes be unavoidable, especially in the case of small organisations, or where it is necessary to act urgently or for security reasons. Where an Authorising Officer authorises such an investigation or operation the Central Record should highlight this and the attention of the OSC should be drawn to it during the next inspection.

Unique Reference Number	
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Expiry date and time [e.g.: authorisation granted on 1 April 2005 - expires on 30 June 2005, 23.59]	All authorisations automatically last for three months. You cannot authorise for shorter periods. Even in the case of time limited surveillance operations you must cancel the authorisation as soon as the surveillance has been completed.
15. Urgent Authorisation [Code paragraphs 5.9]: Authorising officer: explain why you considered the case so urgent that an oral instead of a written authorisation was given.	
Local authorities can no longer use the Urgent(Oral) Authorisation procedure due to the need to have all authorisations approved in writing by a Magistrate. See paragraph 3.30 of the Code of Practice.	
16. If you are only entitled to act in urgent cases: explain why it was not reasonably practicable for the application to be considered by a fully qualified authorising officer	
Not applicable – see box 15	
Name (Print)	Grade/ Rank
Signature	Date and Time
Urgent authorisation Expiry date:	Expiry time:
<i>Remember the 72 hour rule for urgent authorities - check Code of Practice.</i>	e.g. authorisation granted at 5pm on June 1 st expires 4.59pm on 4 th June

WHAT NEXT?

The Directed Surveillance cannot be undertaken until a Magistrate has approved the authorisation. Once the authorisation has been approved a copy of this form (together with the Magistrate's Order) must be sent to the RIPA Co ordinator so that he/she can update the Central Record.

Part II of the Regulation of Investigatory Powers Act 2000 Renewal of a Directed Surveillance Authorisation

Sample Form with Notes to Assist Completion

(Please attach a copy of the original authorisation.)

This form is to be completed by an officer of the local authority when the original authorisation period has expired but Directed Surveillance is still required. An application for renewal should not be made until shortly before the original authorisation period is drawing to an end. Any person who would be entitled to grant a new authorisation can renew an authorisation. However the renewal has to be approved by a Magistrate in the same way the original authorisation was. If this is done, the authorisation will last for a further period of three months.

Code of Practice/Code: This is the revised RIPA Covert Surveillance Code of Practice. Before completing this form please read paragraphs 5.12 -5.16 of the Code.

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which are issued by the same department. Some organisations devise a URN which comprises of the year, department initials, applicant initials and investigation number. In some cases the investigating department allocates the URN whilst in others this is done by the RIPA Co ordinator. There are no hard and fast rules.

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			
Renewal Number	This should be a sequential number reflecting the number of times this particular Directed Surveillance authorisation has been renewed.		

Details of renewal:	
1. Renewal numbers and dates of any previous renewals.	
Renewal Number	Date
2. Detail any significant changes to the information as listed in the original authorisation as it applies at the time of the renewal.	
<p>Has anything changed in the way the surveillance is going to be carried out e.g. different premises targeted, different times when it will be done or equipment used etc.?</p> <p>Has more information come to light reflecting greater need for surveillance e.g. seriousness of the offence, new victims, new witnesses etc.?</p>	
3. Detail the reasons why it is necessary to continue with the directed surveillance.	
<p>Set out how far you have achieved the desired objective. What more information is required?</p> <p>Are you still investigating a criminal offence which meets the criteria set out in the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 i.e. a crime punishable with maximum term of <u>at least 6 months imprisonment</u>, or one which involves the sale of tobacco and alcohol to underage children?</p> <p>You may refer to box 7 of the original authorisation application form and state what has or has not changed. See also the notes for that box for more guidance on necessity.</p>	
4. Detail why the directed surveillance is still proportionate to what it seeks to achieve.	
<p>You may refer to box 9 of the original authorisation application form and state what has or has not changed. See also the notes for that box for more guidance on proportionality.</p> <p>State any further considerations which show that Directed Surveillance is still proportionate. In the light of the surveillance done so far, will you do things differently to ensure proportionality. e.g. reduce the times of surveillance or use different equipment?</p>	
5. Indicate the content and value to the investigation or operation of the information so far obtained by the directed surveillance.	
<p>This box requires you to review the information you have obtained so far by doing Directed Surveillance. It may be useful to refer to any review forms completed in relation to this surveillance.</p>	

Unique Reference Number	
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6. Give details of the results of the regular reviews of the investigation or operation.

This box requires you to look back at the review forms completed during the duration of the original authorisation that you are seeking to renew. You may wish to attach copies of the review forms or quote their unique reference numbers.

7. Applicant's Details

Name (Print)		Tel No	
Grade/Rank		Date	
Signature			

8. Authorising Officer's Comments. This box must be completed.

The Authorising Officer should set out here why he/she believes that the original authorisation should be renewed taking care to explain the necessity (box 3) and proportionality (box 4) considerations. Reference can be made to the original authorisation application form for assistance, as many of the original considerations may still be relevant.

9. Authorising Officer's Statement.

I, [insert name], hereby authorise the renewal of the directed surveillance operation as detailed above. The renewal of this authorisation will last for 3 months unless renewed in writing.
This authorisation will be reviewed frequently to assess the need for the authorisation to continue.

Name (Print)		Grade / Rank	
Signature		Date	
Renewal From:	Time:	Date:	
Date of first review.			
Date of subsequent reviews of this authorisation.			

Do not forget to set review dates. Reviews should be done as frequently as is considered necessary and practicable. The Code draws particular attention to the need to review authorisations frequently where the surveillance involves a high level of intrusion into private life or significant collateral intrusion, or where confidential information is likely to be obtained. During a review, consideration will have to be given to whether the surveillance is still necessary and proportionate. A standard form is available to record the review

WHAT NEXT?

This renewal will not take effect until a Magistrate has approved it.
Once the renewal has been approved a copy of this form (together with the Magistrate's Order) must be sent to the RIPA Co ordinator so that he/she can update the Central Record.

Part II of the Regulation of Investigatory Powers Act 2000 Review of a Directed Surveillance authorisation

Sample Form with Notes to Assist Completion

Regular reviews of all Directed Surveillance authorisations should be undertaken to assess whether they should continue or whether the criteria, upon which the original decision to grant an authorisation was based, have changed sufficiently to require the authorisation to be revoked. Before completing this form please read the Code of Practice (paragraph 3.23 - 3.27). Unlike authorisations and renewals of Directed Surveillance, a review does not have to be approved by a Magistrate.

Reviews should be done as frequently as is considered necessary and practicable. The Code draws particular attention to the need to review authorisations frequently where the surveillance involves a high level of intrusion into private life or involves significant collateral intrusion, or where confidential information is likely to be obtained.

The actual review is the responsibility of the original Authorising Officer and should, as a matter of good practice, be conducted by them or, failing that, by an officer who would be entitled to grant a new authorisation in the same terms. Support staff and Investigating Officers can though do the necessary research, prepare the review process and complete this form up to box 8.

Code of Practice/Code: This is the RIPA Covert Surveillance Code of Practice.

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which are issued by the same department. Some organisations devise a URN which comprises of the year, department initials, applicant initials and investigation number. In some cases the investigating department allocates the URN whilst in others this is done by the RIPA Co ordinator. There are no hard and fast rules.

Public Authority <i>(including address)</i>			
Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Operation Name		Operation Number* <small>*Filing Ref</small>	
Date of authorisation or last renewal		Expiry date of authorisation or last renewal	
		Review Number	

The above is self explanatory. An additional requirement is an Operation Number. This may be specific to police procedures. Local authorities may decide to just use the Unique Reference Number.

Details of review:	
1. Review number and dates of any previous reviews.	
Review Number	Date
	If this review is part of a series of reviews then the date(s) and number(s) of the previous review(s) must be inserted.
2. Summary of the investigation/operation to date, including what private information has been obtained and the value of the information so far obtained.	
<p>Summarise what has been done so far. Set out what information you have obtained so far by doing Directed Surveillance. Private Information is any information about a person's private or family life and will include details of relationships, next of kin, religious activity, visitors to the target property etc.</p> <p>You also need to bring to the attention of the Authorising Officer any proposed or unforeseen changes to the nature or extent of the surveillance operation that may result in the further or greater intrusion into the private life of any person. Any such changes must also be highlighted at the next renewal if the authorisation is to be renewed.</p> <p>Where a Directed Surveillance authorisation provides for the surveillance of unidentified individuals whose identity is later established, the terms of the authorisation should be refined here to include the identity of those individuals. See Paragraph 3.27 of the Code.</p>	
3. Detail the reasons why it is necessary to continue with the directed surveillance.	
<p>Set out how far you have achieved the desired objective. What more information is required?</p> <p>You may refer to box 7 of the original authorisation application form and state what has or has not changed. See also the guidance notes for that box for more information on necessity.</p>	
4. Explain how the proposed activity is still proportionate to what it seeks to achieve.	
<p>You may refer to box 9 of the original authorisation application form and state what has or has not changed. See also the notes for box 9 for more guidance on proportionality.</p> <p>State any further considerations which show that Directed Surveillance is still proportionate. In the light of the surveillance done so far will you do things differently to ensure proportionality e.g. reduce the times of surveillance or use different equipment?</p>	
5. Detail any incidents of collateral intrusion and the likelihood of any further incidents of collateral intrusions occurring.	
<p>For an explanation of collateral intrusion see the notes in box 8 of the original authorisation application form. Consider :</p> <ul style="list-style-type: none"> • Have you recorded information about third parties? If so what? • Can you do things differently to avoid the collateral intrusion? 	

6. Give details of any confidential information acquired or accessed and the likelihood of acquiring confidential information.

For an explanation of confidential information see the notes in box 10 of the original authorisation application form. For the reasons explained therein it is unlikely that you will say anything here other than "No confidential information has been acquired or accessed or is likely to be acquired or accessed."

7. Applicant's Details

Name (Print)		Tel No	
Grade/Rank		Date	
Signature			

8. Review Officer's Comments, including whether or not the directed surveillance should continue.

As the reviewing officer, you should set out here why you believe that the original authorisation should continue; taking care to explain the necessity and proportionality considerations. You may refer to the original authorisation application form for assistance, as many of the original considerations may still be relevant. You should also consider:

- whether any proposed changes to the surveillance are proportionate (bearing in mind any extra intended intrusion into privacy or collateral intrusion)
- whether you need to amend the original authorisation yourself in the light of what you have read above e.g. reduce the timings of the surveillance or length of the operation etc.

You should make a recommendation to the Authorising Officer to cancel, renew or amend the original authorisation as appropriate.

9. Authorising Officer's Statement.

I, [insert name], hereby agree that the directed surveillance investigation/operation as detailed above [should/should not] continue [until its next review/renewal] [it should be cancelled immediately].

As the Authorising Officer, if you decide that the authorisation should be cancelled you should explain your reasons. The cancellation form must now be completed. You should also immediately issue instructions to Investigating Officers to stop any further surveillance.

If you decide that the authorisation should continue, you should explain your reasons and, if need be, set a further review date (below) bearing in mind the length of the surveillance operation and its impact on the target(s) and others.

Name (Print)		Grade / Rank	
Signature		Date	

10. Date of next review

NOTE: Once an authorisation has been reviewed, a copy of this form must be sent to the RIPA Co ordinator so that he/she can update the Central Record. It must be kept for 5 years.

NON-RIPA Authorisation Cancellation Form**Cancellation of an authorisation to conduct covert surveillance not regulated by RIPA**[Sample Form with Notes to Assist Completion](#)

This form is to be completed when cancelling an authorisation for Surveillance not regulated by RIPA. It is not a statutory requirement but is best practice. An authorisation should be cancelled as soon as it is no longer required or no longer meets the criteria upon which it was authorised. The Authorising Officer who granted or last renewed the authorisation must cancel it. Where that officer is no longer available, this duty will fall on the person who has taken over that role or the person who is acting as such.

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			

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Details of cancellation:**1. Explain the reason(s) for the cancellation of the authorisation:**

This section is self explanatory. Reasons could include:

“It is no longer necessary; we have obtained all the information we need.”

“It is no longer proportionate; the intrusion into the suspect’s private life cannot be justified.”

“We do not have the resources to continue.”

“This was a short time limited operation.”

“The three month time limit has expired and we have decided to use other investigation methods.”

2. Explain the value of surveillance in the operation:

State what actual surveillance was carried out under the authorisation.

Explain what was achieved through the surveillance including information acquired as well as any surveillance product e.g. photographs, recordings etc.

How is the surveillance product being stored, destroyed or otherwise handled?

How does the information/surveillance product assist with your investigation/prosecution? You may wish to look back at the original authorisation application form for this surveillance, in particular box 2 and box 5.

3. Authorising officer's statement.

I, [insert name], hereby authorise the cancellation of the directed surveillance investigation/operation as detailed above.

Also include here directions to the Investigating Officers for the management and storage of the product of the surveillance e.g. photographs and other evidence.

Name (Print)		Grade	
Signature		Date	

4. Time and Date of when the authorising officer instructed the surveillance to cease.

Date:		Time:	
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It is important to formally instruct Investigating Officers to immediately cease any surveillance which is still ongoing and record that fact here.

5. Authorisation cancelled	Date:		Time:	
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NOTE: Once an authorisation has been cancelled, a copy of this form must be sent to the RIPA Co ordinator so that he/she can update the Central Record.

CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).	
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Part II of the Regulation of Investigatory Powers Act (RIPA) 2000 Application for authorisation of the conduct or use of a Covert Human Intelligence Source (CHIS)

Sample Form with Notes to Assist Completion

This form is to be completed by an officer of the local authority seeking authorisation for the deployment of a CHIS. Before completing it please read chapter 2 of the CHIS Code of Practice and chapter 6 (to understand the procedures that need to be in place to manage the CHIS). Once completed, this form should be forwarded to the Authorising Officer for approval and to complete box 13 onwards. The next step is to seek the approval of a Magistrate. If this is granted, the authorisation will last for twelve months.

Code of Practice/Code: The Covert Human Intelligence Sources Code of Practice.

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which does the same department issue. Some organisations devise a URN which comprises of the year, department initials, applicant initials and investigation number. In some organisations the RIPA Co ordinator allocates the URN.

Public Authority <i>(including full address)</i>			
Name of Applicant		Service/Department/ Branch	
How will the source be referred to? i.e. what will be his/her pseudonym or reference number	You need to consider whether it is appropriate to use a pseudonym for the CHIS where the operation involves the CHIS being placed in a dangerous situation e.g. a CHIS who is part of a gang engaging in anti social behaviour on a housing estate. In other cases the use of the real name or reference number will suffice.		
The name, rank or position of the person within the relevant investigating authority who will have day to day responsibility for dealing with the source, including the source's security and welfare. (Often referred to as the Handler)	This is a requirement of the Act (S.29(5)(a) and the Code (paragraph 6.7). The Handler will usually be someone below the rank or position of the Authorising Officer. His/her job will include giving tasks to the CHIS e.g. to make a series of test purchases from a shop etc.		
The name, rank or position of another person within the relevant investigating authority who will have general oversight of the use made of the source. (Often referred to as the Controller)	This is the person referred to in Act (section 29(5)(b)) who will be responsible for the management and supervision of the Handler and the general oversight of the use made of the CHIS.		
Who will be responsible for retaining (in secure, strictly controlled conditions, with need-to-know access) the source's true identity, a record of the use made of the source and the particulars required under RIP (Source Records) Regulations 2000 (SI 2000/2725)?	This is the person in your organisation who maintains the Source Records in accordance with the Code (chapter 7) and the stated Regulations.		
Investigation/Operation			
Name (if applicable)			

DETAILS OF APPLICATION

1. Give rank or position of authorising officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010; No.521 ² Where appropriate throughout amend references to the Order relevant to your authority.

Insert the name and position of the Authorising Officer. This is the person who will decide whether or not the deployment of a CHIS should be authorised and will countersign this form. He/she must hold a rank in accordance with the above Order (i.e. Director, Head of Service, Service Manager or equivalent). Each department, which makes regular use of a CHIS, will have officers appointed as such. Care should be taken to avoid more junior officers signing authorisations. If in doubt consult the RIPA Co ordinator.

Please note where the CHIS operation involves the acquisition of confidential information (see box 11) or where the CHIS is a vulnerable individual (as defined in paragraph 4.23 of the Code) or a juvenile source (as defined in paragraph 4.24 of the Code) then this authorisation can only be granted by the Chief Executive or, in his/her absence, the acting Chief Executive.

2. Describe the purpose of the specific operation or investigation.

Explain the crime or disorder, which is being investigated. For example;

- “To investigate acts of vandalism and antisocial behaviour on X Housing Estate”
- “To investigate and gather evidence of the supply of meat unfit for human consumption [brief details]”
- “To investigate the operation of an illegal fly tipping business [brief details]”
- “To investigate the sale of dangerous goods to children in X Market”

If possible, include the relevant legislation that may be used to prosecute offenders and/or which gives you the power/duty to investigate the crime or disorder.

3. Describe in detail the purpose for which the source will be tasked or used.

What are you hoping to achieve by deploying the CHIS? For example:

- “To ascertain the extent of the suspect’s alleged trade in clocked cars and who his suppliers are”
- “To collect evidence of drug dealing and noise nuisance on X Housing Estate”

Some background information about the investigation may be included to give the Authorising Officer an understanding of the context of the CHIS operation.

4. Describe in detail the proposed covert conduct of the source or how the source is to be used.

² For local authorities: The formal position of the authorising officer should be given. For example, Head of Trading Standards.

CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).	
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Your statement here needs to include what activities the CHIS will be tasked with to fulfil the purpose set out in box 3. Points to address here include:

- What the CHIS will do e.g. “to pretend to be a new tenant on X Housing Estate with a view to obtaining information about drug dealing from local residents by forming relationships with them.”
- Where are they going to do it?
- How long will the task last?
- When are they going to do it?
- Which premises are to be used and/or targeted?
- What type of equipment is going to be used e.g. hidden camera or microphone on the CHIS?

Note that if the Authorising Officer approves the deployment of the CHIS then the authorisation will only cover you to deploy the CHIS as stated here (subject to any amendments made by the Authorising Officer in box 13). Consequently you can rely on section 27 (“the RIPA Shield/Defence”) only in so far as the CHIS was undertaking the activities set out in this section. Therefore it pays to be detailed in this section.

If you are using more than one CHIS in an operation, state the URN of that other authorisation here.

5. Identify on which grounds the conduct or the use of the source is necessary under Section 29(3) of RIPA. Delete those that are inapplicable. Ensure that you know which of these grounds you are entitled to rely on. (e.g. SI 2010 N0.521)

- ~~• In the interests of national security;~~
- For the purpose of preventing or detecting crime or of preventing disorder;
- ~~• In the interests of the economic well-being of the United Kingdom;~~
- ~~• In the interests of public safety;~~
- ~~• for the purpose of protecting public health;~~
- ~~• for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department.~~

Local authorities can only authorise the use or conduct of a CHIS for the purpose of preventing or detecting crime or of preventing disorder. Therefore all other grounds should be deleted. If you believe that the deployment of the CHIS does not come under this heading then stop and seek advice from Legal Services and/or the RIPA Co ordinator.

6. Explain why this conduct or use of the source is necessary on the grounds you have identified [Code paragraph 3.2]

The Authorising Officer must be satisfied that there is a necessity to use a CHIS in the proposed operation. You should explain here:

- What crime or disorder you are investigating.
- How the use of the CHIS lead to prevention or detection of that crime or prevention of that disorder
- Any other evidence you have to link the target with the offender/offence which requires corroboration through use of the CHIS

7. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. [Bear in mind Code paragraphs 3.8 to 3.11.] Describe precautions you will take to minimise collateral intrusion and how any will be managed.

When deploying a CHIS you may be invading the privacy of those who are not your target e.g. customers at a shop, friends or relatives of the target. RIPA requires you to think about their rights and what you can do to minimise the impact of your surveillance on them.

The Code of Practice states:

“3.9 ...Where such collateral intrusion is unavoidable, the activities may still be authorised, provided this collateral intrusion is considered proportionate to the aims of the intended intrusion. Any collateral intrusion should be kept to the minimum necessary to achieve the objective of the operation.

3.10. All applications should therefore include an assessment of the risk of any collateral intrusion and details of any measures taken to limit this, to enable the authorising officer fully to consider the proportionality of the proposed use or conduct of a CHIS.”

People who may be the subject of collateral intrusion include:

- customers or workers at business premises
- visitors to a property
- friends or relatives of the suspect or person with whom the CHIS has formed a relationship

Firstly, identify whose privacy may be invaded by the deployment of the CHIS.

Secondly, state why it is unavoidable. This could be because of the nature of the premises (e.g. restaurant) or because of what the person is doing (e.g. visiting the target); there will always be third parties present who will not know that the CHIS is there for a covert purpose or that their activities are being recorded/observed in some way.

Thirdly, set out what steps (if any) you have taken to minimise collateral intrusion and how this will be managed. This may include:

- If the CHIS is to visit public premises (e.g. a restaurant or a retail outlet) he/she will only do so at less busy times to ensure fewer customers' privacy is invaded
- If the CHIS will be using a hidden microphone he/she will only switch it on when the target is present

If you cannot minimise collateral intrusion you still need to show you have considered it. You may wish to add that you cannot do anything to minimise it but you will not be making any decisions based on the information gathered about third parties unless it shows them committing a criminal offence. You must also remind your officers of the purpose and target of the surveillance and the need to keep information about third parties confidential.

8. Are there any particular sensitivities in the local community where the source is to be used? Are similar activities being undertaken by other public authorities that could impact on the deployment of the source? (see Code 3.17 and 3.18)

This section is probably more relevant to the police, given the extent of their use of CHIS and the wide ranging nature of investigations in which they are involved. The Code of Practice states:

“...3.17. Any person granting or applying for an authorisation will also need to be aware of any particular sensitivities in the local community where the CHIS is being used and of similar activities being undertaken by other public authorities which could have an impact on the deployment of the CHIS. Consideration should also be given to any adverse impact on community confidence or safety that may result from the use or conduct of a CHIS or use of information obtained from that CHIS.

3.18. It is therefore recommended that where an authorising officer from a public authority considers that conflicts might arise they should, where possible, consult a senior officer within the police force area in which the CHIS is deployed. All public authorities, where possible, should consider consulting with other relevant public authorities to gauge community impact.”

Are there any sensitivities of the local community that you need to record e.g. using a CHIS who may attend a place of worship? Are you aware of any similar investigations by the police or other local authorities which could have an impact here? Often you will only know this if the police or other local authorities inform you.

9. Provide an assessment of the risk to the source in carrying out the proposed conduct. (see Code 6.14. to 6.16)

You could be putting the CHIS in danger because of the task that you give him/her e.g. tasking a drug user to obtain information about drug dealers. Paragraph 6.14 of the Code of Practice states:

“Any public authority deploying a CHIS should take into account the safety and welfare of that CHIS when carrying out actions in relation to an authorisation or tasking, and the foreseeable consequences to others of that tasking. Before authorising the use or conduct of a CHIS, the authorising officer should ensure that a risk assessment is carried out to determine the risk to the CHIS of any tasking and the likely consequences should the role of the CHIS become known. The ongoing security and welfare of the CHIS, after the cancellation of the authorisation, should also be considered at the outset. Also, consideration should be given to the management of any requirement to disclose information tending to reveal the existence or identity of a CHIS to, or in, Court.”

State here what health and safety risks are involved in deploying the CHIS and how you have addressed them e.g. personal security, panic alarm, use of fake identities, presence of other officers in the vicinity etc. Where you are deploying more than one CHIS in an operation you can still use one authorisation form but a separate risk assessment must be carried out in relation to each individual CHIS.

10. Explain why this conduct or use of the source is proportionate to what it seeks to achieve. How intrusive might it be on the subject(s) of surveillance or on others? How is this intrusion outweighed by the need for a source in operational terms, and could the evidence be obtained by any other means? [Code paragraph 3.3 to 3.5]

This requires you to justify the need for using the CHIS and balance that with the impact on the privacy of the subject and others. The Ministry of Justice Guide on Human Rights states:

“When taking decisions that may affect any of the qualified rights, a public authority must interfere with the right as little as possible only going as far as is necessary to achieve the desired aim.”

The Code of Practice explains proportionality as follows:

“3.3...This involves balancing the seriousness of the intrusion into the private or family life of the target of the operation (or any other person who might be affected) against the need for the activity in investigative and operational terms.”

“ 3.4 The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render the use or conduct of a CHIS proportionate. Similarly, an offence may be so minor that any deployment of a CHIS would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.”

Paragraph 3.5 of the Code of Practice requires you to demonstrate that you have:

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

To demonstrate proportionality, the following issues must be addressed here:

- Can you get information using less intrusive means/ overt methods?
- What other means have you tried?
- What have you done to try and lessen the impact on the target? Factors to set out:
 - Amount of information to be gathered
 - Impact on the target
 - Timing of the surveillance

At the same time, the above must be balanced with the need for the deployment of the CHIS in operational terms. To demonstrate this balance you should set out:

- What you are seeking to achieve?
- Seriousness of the offence/disorder
- Impact of the offence/disorder on the victims
- Impact of the offence/disorder on others including the wider community and on the public purse

CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).	
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11. Confidential information. [Code paragraphs 4.18 to 4.22] Indicate the likelihood of acquiring any confidential information.

This is defined in paragraph 4.1 of the Code as consisting of communications subject to legal privilege, communication between an MP and another person on constituency matters, confidential personal information and confidential journalistic material. So, for example, extra care should be taken where, through the use of surveillance, it would be possible to acquire knowledge of discussions between a minister of religion and an individual relating to the latter's spiritual welfare, or where matters of medical or journalistic confidentiality may be involved. Where such material has been acquired and retained, the matter should be reported to the OSC during the next inspection and the material should be made available to them if requested.

Local authorities are unlikely to come across this kind of information during routine CHIS operations. However you have to be alive to the possibility and include adequate wording here to show you have thought about it. For example, where your CHIS may attend a church, mosque or doctor's surgery.

Note that in cases where you will be acquiring confidential information as part of a CHIS operation, the authorisation has to be granted by the Chief Executive or, in his/her absence, the acting Chief Executive.

References for any other linked authorisations:

12. Applicant's Details.

Name (print)		Grade/Rank/Position	
Signature		Tel No	
Date			

13. Authorising Officer's Statement. [Spell out the "5 Ws" – Who; What; Where; When; Why and HOW – in this and the following box]. The authorisation should identify the pseudonym or reference number of the source, not the true identity.

This section is for the Authorising Officer to complete. Please note that where the CHIS operation involves the acquisition of confidential information (see box 11 above) or where the CHIS is a vulnerable individual (as defined in paragraph 4.23 of the Code) or a juvenile source (as defined in paragraph 4.24 of the Code) then this authorisation can only be granted by the Chief Executive or in his/her absence the acting Chief Executive.

This section should not be pre completed by the Investigating Officer. Sufficient detail must be included here to demonstrate that the Authorising Officer has considered the application thoroughly. Reference can be made to box 3 and 4 above but "cut and paste" should be avoided.

The five "Ws" stated above must be addressed in detail. This is important so that the Investigating Officers and the CHIS are clear as to what they can and cannot do and the means they can adopt.

You, as the Authorising Officer, should not be afraid to reject the application if it lacks clarity or detail.

CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).	
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14. Explain why you believe the conduct or use of the source is necessary. [Code paragraph 3.2] Explain why you believe the conduct or use of the source to be proportionate to what is sought to be achieved by their engagement. [Code paragraph 3.3 to 3.5]

You may refer to box 6 to 10 when completing this section. You can also add any additional factors you have considered. However, to demonstrate that you have given the issues due thought, it is important not to cut and paste that wording or to just state “see boxes 6 to 10”.

The CHIS Handler is responsible for bringing to the attention of the CHIS Controller any concerns about the personal circumstances of the CHIS, insofar as they might affect:

- the validity of the risk assessment;
- the conduct of the CHIS;
- the safety and welfare of the CHIS.

Where appropriate, concerns about such matters must be considered by the Authorising Officer, and a decision taken on whether or not to allow the authorisation to continue.

15. (Confidential Information Authorisation.) Supply details demonstrating compliance with Code paragraphs 4.1 to 4.21

This box should only to be completed if you are likely to obtain Confidential Information (see box 11) through use of the CHIS. Note that in such cases the authorisation has to be granted by the Chief Executive or, in his/her absence, the Acting Chief Executive.

16. Date of first review

17. Programme for subsequent reviews of this authorisation: [Code paragraphs 5.15 and 5.16]. Only complete this box if review dates after first review is known. If not, or inappropriate to set additional review dates, and then leave blank.

Regular reviews are stressed by the Code of Practice. Where a CHIS operation is going to last more than one month, the OSC has suggested that there should be a review once a month. Shorter or time limited operations may not require a review.

During a review, consideration will have to be given to whether the use of the CHIS is still necessary and proportionate. A standard form is available to record the review.

CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).	
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18. Authorising Officer's Details			
Name (Print)		Grade/Rank/Position	
Signature		Time and date granted*	
		Time and date authorisation ends	Please note that all CHIS authorisations automatically last for twelve months. You cannot authorise for shorter periods. In the case of time limited CHIS operations you must cancel the authorisation as soon as the operation has been completed.

Authorising Officers should, where possible, be independent of the investigation. The Code states (paragraph 5.8), they should not normally be responsible for authorising their own activities e.g. those in which they themselves are to act as the CHIS or as the handler of the CHIS. However it is recognised that it is not always possible, especially in the case of small organisations, or where it is necessary to act urgently or for security reasons. Where an Authorising Officer authorises his own activity, the Central Record should highlight this and the OSC should be about it during the next inspection.

*** Remember, an authorisation must be granted for a 12 month period, i.e. 1700 hrs 4th June 2006 to 2359 hrs 3 June 2007**

19. Urgent Authorisation [Code paragraph 5.15]: Authorising Officer: explain why you considered the case so urgent that an oral instead of a written authorisation was given			
Local authorities can no longer use the Urgent (oral) Authorisation procedure due to the need to have all authorisations approved in writing by a Magistrate. See paragraph 3.26 of the Code.			
20. If you are entitled to act only in urgent cases: explain why it was not reasonably practicable for the application to be considered by a fully designated Authorising Officer			
This section is only to be completed where an urgent verbal authorisation was given by an Authorising Officer only entitled to act in urgent cases. This will not be appropriate for local authorities (see above).			
21. Authorising Officer of urgent authorisation			
Name (Print)		Grade/Rank/Position	
Signature		Date and Time	
Urgent authorisation expiry date:		Expiry time:	

Remember the 72 hour rule for urgent authorisations – check Code of Practice [Code Paragraph 4.18]. e.g. authorisation granted at 1700 on 1st June 2006 expires 1659 on 4th June 2006

CHIS Unique Reference Number (URN) (to be supplied by the central monitoring officer).	
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WHAT NEXT?

The CHIS cannot be deployed until a Magistrate has approved the authorisation. See section 4 of the Council's RIPA Policy for the procedure for seeking such approval.

Once the authorisation has been approved a copy of this form (together with the Magistrate's Order) must be sent to the RIPA Co ordinator so that he/she can update the Central Record

CHIS Unique Reference Number (URN)	
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Part II of the Regulation of Investigatory Powers Act (RIPA) 2000

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

Sample Form with Notes to Assist Completion

(Please attach the original authorisation.)

This form is to be completed by an officer of the local authority when the period of authorisation for a Covert Human Intelligence Source (CHIS) has expired but the deployment of the CHIS is still required. An application for renewal should not be made until shortly before the original authorisation period is drawing to an end. Any person who would be entitled to grant a new authorisation can renew an authorisation. Before completing this form please read the Code of Practice (paragraphs 3.12 - 3.16 and 5.18 - 5.27). The next step is to seek the approval of a Magistrate. If this is granted, the authorisation will be renewed for a further period of twelve months.

The actual renewal is the responsibility of the original Authorising Officer and should, as a matter of good practice, be conducted by them or, failing that, by an officer who would be entitled to grant a new authorisation in the same terms. Support staff and Investigating Officers can though do the necessary research, prepare the review process and complete this form up to box 9.

Once completed this form should be forwarded to the Authorising Officer for approval and to complete box 10 onwards. If granted, the authorisation will cover a further period of 12 months. Please refer to the CHIS authorisation application form for more guidance on the definitions and principles mentioned below.

Code of Practice/Code: The Covert Human Intelligence Sources Code of Practice.

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which does the same department issue. Some organisations devise a URN, which comprises of the year, department initials, applicant initials and investigation number. In some cases the investigating department allocates the URN whilst in others this is done by the RIPA Co ordinator. There are no hard and fast rules.

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch	
Full Address			
Contact Details			
Pseudonym or reference number of source			
Investigation/Operation Name (if applicable)			
Renewal Number	This should be a sequential number reflecting the number of times this particular CHIS authorisation has been renewed.		

CHIS Unique Reference Number (URN)	
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Details of renewal:	
1. Renewal numbers and dates of any previous renewals.	
Renewal Number	Date
2. Detail any significant changes to the information as listed in the original authorisation as it applies at the time of the renewal.	
<p>Has anything changed in the way the CHIS is going to be used e.g. different premises targeted, different tasks to be given, different times or equipment used etc.?</p> <p>Has more information come to light reflecting greater need for the CHIS e.g. seriousness of the offence, new victims?</p>	
3. Detail why it is necessary to continue with the authorisation, including details of any tasking given to the source.	
<p>Is the investigation/operation continuing?</p> <p>What more information is required to be obtained by the CHIS?</p> <p>What have you achieved thus far?</p> <p>You may refer to box 6 of the original authorisation application form (as well as the guidance notes relating to it) and state what has or has not changed.</p>	
4. Detail why the use or conduct of the source is still proportionate to what it seeks to achieve.	
<p>You may refer to box 10 of the original authorisation application form (as well as the guidance notes which relate to it) and state what has or has not changed.</p> <p>State any further considerations, which show that deployment of the CHIS is still proportionate. In the light of the use you have made of the CHIS thus far, will you do things differently to ensure proportionality e.g. reduce the times of surveillance or use different equipment?</p>	
5. Detail the use made of the source in the period since the grant of authorisation or, as the case may be, latest renewal of the authorisation.	
<p>What use have you made of the CHIS so far? List dates, times and places and the nature of each use. You may attach extracts from the Source Records.</p>	
6. List the tasks given to the source during that period and the information obtained from the conduct or use of the source.	
<p>Similar to above - You may refer to the Source Records.</p>	
7. Detail the results of regular reviews of the use of the source.	
<p>This box requires you to look back at the review forms completed during the duration of the original authorisation that you are seeking to renew. You may wish to attach copies of those forms or include their unique reference numbers.</p>	
8. Give details of the review of the risk assessment on the security and welfare of using the source.	
<p>See box 9 of the original authorisation application form. Do you need to take any additional measures to safeguard the security and welfare of the CHIS?</p>	

CHIS Unique Reference Number (URN)	
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9. Applicant's Details			
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Name (Print)		Tel No	
Grade/Rank		Date	
Signature			

10. Authorising Officer's Comments. <u>This box must be completed.</u>

The Authorising Officer should state here whether or not he/she is satisfied that the CHIS authorisation should be extended and the reasons for his/her decisions.

Any other special requirements for the deployment of the CHIS (e.g. security and welfare considerations) should also be stated here. In particular the Authorising Officer should consider necessity, proportionality, collateral intrusion and the risk assessment and state that he/she is satisfied with all the compliance measures in place. Reference can be made to box 3 and 4 as well as any other matters taken into account.

11. Authorising Officer's Statement. THE AUTHORISATION SHOULD IDENTIFY THE PSEUDONYM OR REFERENCE NUMBER OF THE SOURCE NOT THE TRUE IDENTITY.
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An example:

"I, [insert name], hereby authorise the renewal of the deployment of the CHIS [insert pseudonym or reference] as detailed above. The renewal of this authorisation will last for 12 months unless cancelled. This authorisation will be reviewed frequently to assess the need for it to continue."

Name (Print)		Grade / Rank	
Signature		Date	
Renewal From: Time:		Date: End date/time of the authorisation	

NB. Renewal takes effect at the time/date of the original authorisation would have ceased but for the renewal

Date of first review:	
Date of subsequent reviews of this authorisation:	

WHAT NEXT?

The renewal of the CHIS authorisation does not take effect until a Magistrate has approved the authorisation. See section 4 of the Council's RIPA Policy for the procedure for seeking such approval.

Once the renewal has been approved a copy of this form (together with the Magistrate's Order) must be sent to the RIPA Co ordinator so that he/she can update the Central Record.

CHIS Unique Reference Number (URN)	
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Part II of the Regulation of Investigatory Powers Act (RIPA) 2000 Review of a Covert Human Intelligence Source (CHIS) authorisation

Sample Form with Notes to Assist Completion

Regular reviews of all CHIS authorisations should be undertaken to assess whether they should continue or whether the criteria upon which the original decision to grant an authorisation was based have changed sufficiently to require the authorisation to be revoked. Before completing this form please read the Code of Practice (paragraphs 3.12 - 3.16 and 5.16 - 5.17).

Reviews should be done as frequently as is considered necessary and practicable. The Code draws particular attention to the need to review authorisations frequently where the CHIS operation involves a high level of intrusion into private life or significant collateral intrusion, or where confidential information is likely to be obtained.

The actual review is the responsibility of the original Authorising Officer and should, as a matter of good practice, be conducted by them or, failing that, by an officer who would be entitled to grant a new authorisation in the same terms. Support staff and Investigating Officers can though do the necessary research, prepare the review process and complete this form up to box 8. Please refer to the original CHIS authorisation application form for more guidance on the definitions and principles, which are exactly the same here. A review does not have to be approved by a Magistrate.

Code of Practice/Code: The Covert Human Intelligence Sources Code of Practice.

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which does the same department issue. Some organisations devise a URN which comprises of the year, department initials, applicant initials and investigation number. In some cases the investigating department allocates the URN whilst in others this is done by the RIPA Co ordinator. There are no hard and fast rules.

Public Authority <i>(including full address)</i>			
Applicant		Unit/Branch	
Full Address			
Contact Details			
Pseudonym or reference number of source			
Operation Name		Operation Number* <small>*Filing Ref</small>	
Date of authorisation or last renewal		Expiry date of authorisation or last renewal	
		Review Number	

CHIS Unique Reference Number (URN)	
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Details of review:	
1. Review number and dates of any previous reviews.	
Review Number	Date
	If this review is part of a series of reviews then the date and number(s) of the previous review(s) must be inserted.
2. Summary of the investigation/operation to date, including what information has been obtained and the value of the information so far obtained.	
<p>Summarise what has been done so far. You may wish to attach extracts of the Source Records. Set out what information you have obtained so far by deploying the CHIS.</p> <p>You also need to bring to the attention of the Authorising Officer any proposed or unforeseen changes to the nature or extent of the CHIS operation that may result in the further or greater intrusion into the private life of any person. Any such changes must also be highlighted at the next renewal if the authorisation is to be renewed.</p>	
3. Detail the reasons why it is necessary to continue with using a Covert Human Intelligence Source.	
<p>What more information is required? You may refer to box 6 of the original authorisation application form (as well as the guidance notes relating to it) and state what has or has not changed.</p>	
4. Explain how the proposed activity is still proportionate to what it seeks to achieve.	
<p>You may refer to box 10 of the original authorisation application form (as well as the guidance notes) and state what has or has not changed. State any further considerations, which show that deployment of the CHIS is still proportionate. In the light of the use you have made of the CHIS thus far, will you do things differently to ensure proportionality e.g. reduce the times of surveillance or use different equipment?</p>	
5. Detail any incidents of collateral intrusion and the likelihood of any further incidents of collateral intrusions occurring.	
<p>For an explanation of collateral intrusion see the notes relating to box 7 of the original authorisation application form.</p>	
6. Give details of any confidential information acquired or accessed and the likelihood of acquiring	

CHIS Unique Reference Number (URN)	
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confidential information.

For an explanation of confidential information see the notes relating to box 11 of the original authorisation application form. Consider :

- Have you recorded information about third parties? If so what?
- Can you do things differently to avoid or further minimise the collateral intrusion?

7. Give details of the review of the risk assessment on the security and welfare of using the source.

See box 9 of the original authorisation application form. Do you need to take any additional measures to safeguard the security and welfare of the CHIS?

8. Applicant's Details

Name (Print)		Tel No	
Grade/Rank		Date	
Signature			

9. Review Officer's Comments, including whether or not the use or conduct of the source should continue?

As the reviewing officer, you should set out here why you believe that the original authorisation should continue taking care to explain the necessity and proportionality considerations. You may refer to the original authorisation application form for assistance, as many of the original considerations may still be relevant. You should also consider:

- whether any proposed changes to the CHIS operation are proportionate (bearing in mind any extra intended intrusion into privacy or collateral intrusion)
- whether you need to amend the original authorisation in the light of what you have read above e.g. reduce the timings of the surveillance or length of the operation etc.

You should make a recommendation to the Authorising Officer to cancel, continue with or amend the original authorisation.

10. Authorising Officer's Statement. THE AUTHORISATION SHOULD IDENTIFY THE PSEUDONYM OR REFERENCE NUMBER OF THE SOURCE NOT THE TRUE IDENTITY.

If you decide that the original authorisation should continue, explain your reasons here and, if need be, set a further review date (below) bearing in mind the length of the operation and its impact on the target.

Reference can be made to the original authorisation application form, for assistance, as many of the original considerations will be relevant. Any additional requirements in terms of deploying the CHIS (e.g. security and welfare measures) should also be stated here. If you decide the authorisation should be cancelled you should explain your reasons. The cancellation form must now be completed. You should also immediately issue instructions to Investigating Officers to stop any further use or conduct of the CHIS.

Name (Print)		Grade / Rank	
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CHIS Unique Reference Number (URN)	
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Signature		Date	
Date of next review:			

Regular reviews are stressed by the Code of Practice. Where a CHIS operation is going to last more than one month the OSC has suggested that there should be a review once a month. Shorter or time limited operations may not require a review.

NOTE: Once this form is completed, a copy should be sent to the person maintaining the Central Record so that it can be updated.

Part II of the Regulation of Investigatory Powers Act 2000

Cancellation of a Directed Surveillance authorisation

Sample Form with Notes to Assist Completion

This form is to be completed when cancelling an authorisation for Directed Surveillance. It is a statutory requirement that an authorisation is cancelled as soon as it is no longer required or no longer meets the criteria upon which it was authorised. Even where surveillance was conducted for a short time, the authorisation must be cancelled at the end of the operation. Authorisations cannot be left to just lapse. The Authorising Officer who granted or last renewed the authorisation must cancel it. Where that officer is no longer available, this duty will fall on the person who has taken over that role or the person who is acting as such. Unlike authorisations and renewals of Directed Surveillance, a cancellation does not have to be approved by a Magistrate.

Code of Practice/Code: This is the revised RIPA Covert Surveillance Code of Practice. Before completing this form please read paragraphs 5.17 – 5.18 of the Code.

Unique Reference Number (URN): This is a reference unique to each individual form but which also allows the form to be matched with other forms in the same investigation or which are issued by the same department. Some organisations devise a URN which comprises of the year, department initials, applicant initials and investigation number. In some cases the investigating department allocates the URN whilst in others this is done by the RIPA Co ordinator. There are no hard and fast rules.

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			

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Details of cancellation:**1. Explain the reason(s) for the cancellation of the authorisation:**

This section is self explanatory. Reasons could include:

“It is no longer necessary; we have obtained all the information we need.”

“It is no longer proportionate; the intrusion into the suspect’s private life cannot be justified.”

“We do not have the resources to continue.”

“This was a short time limited operation.”

“The three month time limit has expired and we have decided to use other investigation methods.”

2. Explain the value of surveillance in the operation:

State what actual surveillance was carried out under the authorisation.

Explain what was achieved through the surveillance including information acquired as well as any surveillance product e.g. photographs, recordings etc.

How is the surveillance product being stored, destroyed or otherwise handled? (see paragraphs 9.3 to 9.5 of the Code)

How does the information/surveillance product assist with your investigation/prosecution? You may wish to look back at the original authorisation application form for this surveillance, in particular box 2 and box 5.

3. Authorising officer's statement.

I, [insert name], hereby authorise the cancellation of the directed surveillance investigation/operation as detailed above.

Also include here directions to the Investigating Officers for the management and storage of the product of the surveillance e.g. photographs and other evidence. See paragraph 9.3 to 9.5 of the Code.

Name (Print)		Grade	
Signature		Date	

4. Time and Date of when the authorising officer instructed the surveillance to cease.

Date:		Time:	
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It is important to formally instruct Investigating Officers to immediately cease any surveillance which is still ongoing and record that fact here and in the Central Record.

5. Authorisation cancelled	Date:		Time:	
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NOTE: Once an authorisation has been cancelled, a copy of this form must be sent to the RIPA Co ordinator so that he/she can update the Central Record.

Application for Authorisation to conduct Covert Surveillance not regulated by RIPA

Sample Form with Notes to Assist Completion

This form should be completed by an officer of the local authority seeking authorisation to carry out surveillance which **does not** fall within the definition of Directed Surveillance in section 28 of the Regulation of Investigatory Powers Act 2000 (RIPA). This could include surveillance where the target is doing something which is not criminal offence (or which does not carry a term of imprisonment of six months or more), misusing the work e mail/internet system or breaching a legal agreement (e.g. tenancy agreement).

Before completing this form please consult:

- The briefing notes in appendix 1 of the Council's RIPA Policy.
- The ICO Employment Practices Code: Part 3 (Staff Surveillance)
- Legal Services

Once completed this form should be forwarded to your manager to complete box 11 onwards.

Organisation <i>(including full address)</i>			
Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			
Investigating Officer (if a person other than the applicant)			

DETAILS OF APPLICATION**15. Give rank or position of the authorising officer**

This is the person who will decide whether or not the surveillance should be authorised and will countersign this form. It must be a person who holds the post of Service Manager or above and has been trained in relation to surveillance. If in doubt consult your legal services.

16. Describe the purpose of the specific operation or investigation.

Explain what is being investigated. For example:

- Child protection investigation
- An employee working when on sick leave

If possible, include the relevant legislation that which gives you the power/duty to investigate the matter and to take action.

17. Describe in detail the surveillance operation to be authorised and expected duration, including any premises, vehicles or equipment (e.g. camera, binoculars, and recorder) that may be used.

The key phrase is “in detail.” Therefore a response which merely states “Video camera and recording equipment will be installed at a fixed point” will not be adequate.

Your statement here needs to include what is going to be done, who is going to do it, when they are going to do it, where they are going to do it and how they are going to do it. Other points to address here include:

- How long will the surveillance last?
- Specific details about dates and times i.e. is it 24/7, at specific times of the day or at random times?
- Which premises are to be used and/or targeted?
- Which vehicles are to be used? Are they public or private?
- What type of equipment is to be used? e.g. covert cameras, audio devices
- What is the capability of the equipment to be used? e.g. zoom lense, remote controlled etc.
- Who else will be involved in the operation and what will be their role? e.g. private detectives, police

It may be appropriate to attach plans/maps showing where and how the surveillance will be conducted and indicating where any surveillance equipment will be installed.

18. The identities, where known, of those to be subject of the directed surveillance.

- Name:
- Address:
- DOB:
- Other information as appropriate:

Include as much information as you have. If you do not know the identity of the target(s) then say so. You could include a general description of the target(s).

19. Explain the information that it is desired to obtain as a result of the directed surveillance.

Your statement here should be more detailed than in Box 2. You should give details of the precise information sought by doing the surveillance. For example:

- “To ascertain whether an employee is working for another employer whilst on sick leave.”
- “To ascertain whether if a parent x continues to have direct contact with parent y and to capture video footage of the contact.”
- “To find out what websites the employee has been visiting and what images have been downloaded.”

20. Has any warning/notice been served on the target? If not, explain why this surveillance needs to be covert

The warning could be general one (e.g. signs/policy) or it could be more specific (e.g. letter).

Explain any overt methods you have tried to obtain the evidence/information or why they are not appropriate.

Explain the consequences of the target finding out about this surveillance.

21. Explain why this surveillance is necessary

Include in this box details of:

- Why surveillance is needed to obtain the information/evidence that is sought
- Any other means you have tried (not involving surveillance) to obtain the same information/evidence. If other means of obtaining the same information/evidence are not appropriate/possible, explain why.
- Any other evidence/information you have to link the target with a 3rd party which requires corroboration through surveillance

22. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. Describe precautions you will take to minimise collateral intrusion

When doing surveillance you may be invading the privacy of those who are not your target. You are required to think about their rights and what you can do to minimise the impact on them of your surveillance. People who may be the subject of collateral intrusion include:

- fellow employees
- visitors to a property
- friends or relatives of the suspect

When completing this section, three matters should be addressed:

Firstly, identify which third parties will be the subject of collateral intrusion and what that intrusion will be i.e. what information will be captured about them?

Secondly, state why this is unavoidable. This could be because of the nature of the premises (e.g. a

restaurant) or because of what the person is doing (e.g. visiting the subject/target premises). In some cases there will always be third parties around who will be captured on film or whose activities will be recorded/observed in some way.

Thirdly, set out what steps you have taken to minimise collateral intrusion, if this is possible.

If you cannot minimise collateral intrusion you still need to show you have considered it. In some situations all you may be able to state is that you cannot do anything to minimise collateral intrusion but you will not be making any decisions based upon the information gathered about third parties unless it shows them committing a criminal offence. Furthermore, you will ensure that officers who do the surveillance or view any recordings are mindful of who the real target of the surveillance is.

23. Explain why this surveillance is proportionate to what it seeks to achieve. How intrusive might it be on the subject of surveillance or on others? And why is this intrusion outweighed by the need for surveillance in operational terms or can the evidence be obtained by any other means?

The RIPA Covert Surveillance Code of Practice contains detailed guidance on proportionality:

“3.4...This involves balancing the seriousness of the intrusion into the privacy of the target of the operation (or any other person who might be affected) against the need for the activity in investigative and operational terms.”

“ 3.5 The authorisation will not be proportionate if it is excessive in the overall circumstances of the case. Each action authorised should bring an expected benefit to the investigation or operation and should not be disproportionate or arbitrary. The fact that a suspected offence may be serious will not alone render intrusive actions proportionate. Similarly, an offence may be so minor that any deployment of covert techniques would be disproportionate. No activity should be considered proportionate if the information which is sought could reasonably be obtained by other less intrusive means.”

Here you demonstrate that you have:

- balanced the size and scope of the proposed activity against the gravity and extent of the perceived crime or wrongdoing;
- explained how and why the methods to be adopted will cause the least possible intrusion on the target and others;
- considered whether the activity is appropriate and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result;
- evidenced, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

In order to comply with the above you need to address the following questions:

- Can you get information using less intrusive means/overt methods?
- What other means have you tried to obtain the same information/evidence?
- What have you done to try and lessen the impact on the target? Factors to address include:
 - Amount of information to be gathered during surveillance
 - The way the surveillance is done e.g. using still cameras rather than video to capture less information or using one camera rather than two.
 - Impact of the surveillance on the subject
 - Timing of the surveillance

At the same time, the above must be balanced with the need for the activity in operational terms. To demonstrate this balance you should address:

- What you are seeking to achieve?
- Seriousness and extent of the offence/wrongdoing
- Impact of the offence/wrongdoing on the victims, others (e.g. children) wider community and on the public purse

For more guidance on proportionality see chapter 3 of the RIPA Covert Surveillance Code and the Employment Practices Data Protection Code (Part 3).

24. Applicant's Details.

Name (print)		Tel No:	
Grade/Rank		Date	
Signature			

25. Authorising Officer's Statement. [Spell out the "5 Ws" – Who; What; Where; When; Why and HOW– in this and the following box.]

I hereby authorise directed surveillance defined as follows: *[Why is the surveillance necessary, Who is the surveillance directed against, Where and When will it take place, What surveillance activity/equipment is sanctioned, How is it to be achieved?]*

This section is for the Authorising Officer to complete. Ensure that you are satisfied that any covert monitoring is strictly targeted at obtaining evidence within a set timeframe and that it does not continue after the investigation is complete.

Sufficient detail must be included here to demonstrate that you, as the Authorising Officer, have considered the application objectively. Reference can be made to the boxes completed by the Investigating Officer above but "cut and paste" should be avoided. The five "Ws" stated above must be addressed in detail. This is important so that the Investigating Officers are clear as to what they can and cannot do and the means they can adopt.

You should not be afraid to reject the application if it lacks clarity or detail.

26. Explain why you believe the surveillance is necessary.

Explain why you believe the surveillance to be proportionate to what is sought to be achieved by carrying it out.

You should satisfy yourself that there are grounds for suspecting criminal activity or other serious wrongdoing and that notifying individuals about the monitoring would prejudice its prevention or detection. Set out what matters in the respective boxes you have given particular weight to when considering necessity and proportionality. You can also add any additional factors you have considered.

Unique Reference Number	
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Date of first review	If the surveillance operation is going to last more than a month then you should consider whether it should be reviewed after a period of time. During a review, consideration will have to be given to whether the surveillance is still necessary and proportionate.		
Programme for subsequent reviews of this authorisation: Only complete this box if review dates after the first review are known. If not or inappropriate to set additional review dates then leave blank.			
Name (Print)		Grade / Rank	State the position of the Authorising Officer e.g. Head of Audit
Signature		Date and time	
Authorising Officers should not normally be responsible for authorising operations in which they are directly involved, although it is recognised that this may sometimes be unavoidable, especially in the case of small organisations, or where it is necessary to act urgently or for security reasons.			
Expiry date and time			

NOTE: Once an authorisation has been granted, a copy of this form must be sent to Legal Services.

NON-RIPA Authorisation Cancellation Form**Cancellation of an authorisation to conduct covert surveillance not regulated by RIPA**[Sample Form with Notes to Assist Completion](#)

This form is to be completed when cancelling an authorisation for Surveillance not regulated by RIPA. It is not a statutory requirement but is best practice. An authorisation should be cancelled as soon as it is no longer required or no longer meets the criteria upon which it was authorised. The Authorising Officer who granted or last renewed the authorisation must cancel it. Where that officer is no longer available, this duty will fall on the person who has taken over that role or the person who is acting as such.

Public Authority <i>(including full address)</i>			
Name of Applicant		Unit/Branch /Division	
Full Address			
Contact Details			
Investigation/Operation Name (if applicable)			

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Details of cancellation:**1. Explain the reason(s) for the cancellation of the authorisation:**

This section is self explanatory. Reasons could include:

“It is no longer necessary; we have obtained all the information we need.”

“It is no longer proportionate; the intrusion into the suspect’s private life cannot be justified.”

“We do not have the resources to continue.”

“This was a short time limited operation.”

“The three month time limit has expired and we have decided to use other investigation methods.”

2. Explain the value of surveillance in the operation:

State what actual surveillance was carried out under the authorisation.

Explain what was achieved through the surveillance including information acquired as well as any surveillance product e.g. photographs, recordings etc.

How is the surveillance product being stored, destroyed or otherwise handled?

How does the information/surveillance product assist with your investigation/prosecution? You may wish to look back at the original authorisation application form for this surveillance, in particular box 2 and box 5.

3. Authorising officer's statement.

I, [insert name], hereby authorise the cancellation of the directed surveillance investigation/operation as detailed above.

Also include here directions to the Investigating Officers for the management and storage of the product of the surveillance e.g. photographs and other evidence.

Name (Print)		Grade	
Signature		Date	

4. Time and Date of when the authorising officer instructed the surveillance to cease.

Date:		Time:	
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It is important to formally instruct Investigating Officers to immediately cease any surveillance which is still ongoing and record that fact here.

5. Authorisation cancelled	Date:		Time:	
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NOTE: Once an authorisation has been cancelled, a copy of this form must be sent to the RIPA Co ordinator so that he/she can update the Central Record.

Rotherham Metropolitan Borough Council

Acquisition & Disclosure of Communications Data

Under the Regulation of Investigatory Powers Act 2000 (RIPA)

November 2016

Rotherham Metropolitan Borough Council

Acquisition and Disclosure of Communication Data Policy

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Rotherham Metropolitan Borough Council

Acquisition and Disclosure of Communication Data Policy

Introduction

What is Communications Data?

Communications data includes data such as itemised telephone call records and subscriber details. Communications data is not about giving access to the content of anybody's communications. For example, it is not about the contents of e-mails or interactions with websites. (Communications data includes Internet addresses, but only to the extent that they identify a network or a host computer, as opposed to a web page accessed by interacting with the host website).

Why is Communications Data useful?

Everyone needs to communicate in order to arrange their day to day activities, and criminals are no exception. Their need to communicate during the planning and execution of crime is a weakness which the authorities exploit, often with considerable success. Telephone call records, for example, provides a great deal of information on individuals' contacts and how they organise their life. This can be used in the planning of operations, the gathering of intelligence and, ultimately, it regularly assists in the prosecution of criminals.

Because the analysis of communications data can provide much information about the way in which people live their lives, this has led to concerns that the level of intrusion into an individual's privacy may be too great. The Government believes that there is a balance to be struck between the privacy of the individual and the needs of society as a whole to be protected from crime and other public safety risks.

Why introduce statutory provisions for access to communications data?

The Government introduced the access to communications data provisions in the Regulation of Investigatory Powers Act 2000 (RIPA) because it believed the regime surrounding access to communications data needed changing. In addition, there have been enormous changes in the telecommunications market. For example: the number of companies has grown; mass ownership of mobile phones; the emergence of totally new services; and Internet communications has grown dramatically. Public Authorities need to keep up with the changes in the communications marketplace; changes which criminals have been quick to exploit for their own purposes. Telephone call records, for example, can be of tremendous investigative value, and it is right that in certain circumstances public authorities should be able to access this material. However, it also involves a measure of intrusion into individual privacy and it is essential that access should be carefully controlled in accordance with European Convention on Human Rights (ECHR) proportionality requirements, authorisation only being given where necessary and justified for clearly defined statutory purposes. It is for these reasons that the Government established a statutory framework for access to communications data under RIPA and an associated Code of Practice.

Communications Data - RIPA Chapter II Part I

Chapter II Part I of RIPA provides that conduct other than interception (see s.21(1)) such as the acquisition and disclosure of communications data is lawful if authorised (see s.21(2)). Communications data is the 'who', 'when' and 'where' of a communication, but not the 'what' (i.e. the content of what was said or written). Communications data means any of the following:

- (i) Traffic Data – this is information about a communication and the equipment used in transmitting it (e.g. information about the location of a mobile phone or an Internet Provider address allocation). **Local Authorities are not authorised to obtain access to traffic data.**
- (ii) Service Use Information – this is information about the use a person makes of a postal or telecommunications service (e.g. itemized call records, records of connection to the internet or the timing and duration of usage).
- (iii) Subscriber Information – this is information that communications service providers (CSPs) hold about people to whom they provide a service (e.g. names, addresses and telephone numbers).

For further guidance on the relevant communications please refer to the Code of Practice (paragraphs 2.12-2.35)

Lawful authority

The Act provides two different ways of permitting access to communications data; through an authorisation under section 22(3) and by a notice under section 22(4). An authorisation would allow the relevant public authority to collect or retrieve the data itself from the relevant CSP. A notice is given to a CSP and requires that operator to collect or retrieve the data and provide it to the public authority which served the notice. A designated person decides whether or not a notice or authorisation should be given.

Designated Persons in Local Authorities are Directors, Head of Service, Service Manager or equivalent. See the Regulation of Investigatory Powers (Communications Data) Order 2010, SI 2010 No.480, I Schedule 2, Part 2.

Under section 22(2) of the Act, communications data may be sought if a designated person believes it is necessary for one or more of the following purposes (see s.21(2)):

- in the interests of national security;
- for the purpose of preventing or detecting crime or of preventing disorder;
- in the interests of the economic well being of the UK;
- in the interests of public safety;
- for the purpose of protecting public health;
- for the purpose of assessing or collecting any tax, duty, levy or other imposition, contribution or charge payable to a government department;
- for the purpose, in emergency, of preventing death or injury or any damage to a person's

- physical or mental health, or mitigating the same:
- for any other purpose as specified by the Secretary of State.

However for our purposes, it is important to note that Local Authorities in England and Wales may authorise acquisition and disclosure of communications data only for the purpose of preventing or detecting crime or of preventing disorder.

It is important that all requests which the Council makes for Communications data, are properly made in accordance with this procedure. Failure to follow these procedures will leave the Council vulnerable to Court challenge and may mean that the Communications Data evidence acquired may not be admissible in Court proceedings

Authorisation Procedure

Acquisition of communications data under RIPA involves four roles.

- The Single Point of Contact
- The Applicant
- The Designated Person
- The Senior Responsible Officer

Single Point of Contact

All Local Authorities are now required to make all requests for communications data through a single point of contact (SPoC) at the National Anti-Fraud Network (NAFN). As such applicants within the local authority are required to consult a NAFN SPoC throughout the authorisation process, including before referring the case to a Designated Person for approval. The SPoC at NAFN will scrutinise the applications independently and provide advice to applicants and Designated Persons ensuring the local authority acts in an informed and lawful manner.

NAFN operates an electronic system whereby the Application is completed online by the investigating officer, this completed form is then forwarded electronically to the relevant Designated Person, and if the application is authorised then NAFN will return a copy to the Designated Person, who will liaise with Legal Services in respect making an application for Judicial Approval (see below). NAFN will advise whether an authorisation or notice is the most appropriate approach. If judicial approval is granted the NAFN SPoC will liaise with the appropriate CSP to acquire the relevant communications data. The results of the request will then be channeled through NAFN to the requesting officer.

The NAFN online system can be accessed by logging on to their website at www.NAFN.gov.uk. In order to access the system each applicant and Designated person will require log on details which are issued by NAFN. A user guide is available for operating the NAFN online system.

SPoCs should be in a position to:

- where appropriate, assess whether access to communications data is reasonably practical for the CSP:
- advise applicants and Designated Persons on the practicalities of accessing different types of communications data from CSPs:
- advise applicants and Designated Persons on whether communications data falls under

section 21(4)(a), (b) or (c) of the Act:

- provide safeguards for authentication;
- assess any cost and resource implications to both the public authority and the CSP.

Applications

The application form is subject to inspection by the Interception of Communications Commissioner and both applicant and Designated Person may be required to justify their decisions. Applications to obtain communications data under the Act are made on a standard form. This is on the NAFN online system. This form is retained by the Council and NAFN and should contain the following minimum information:

- the name (or designation) and position of the officer requesting the communications data;
- the operation and person (if known) to which the requested data relates;
- a unique reference number and any operation name to which the application relates;
- a description, in as much detail as possible, of the communications data requested, specifying where relevant, any historic or future date(s) and, where appropriate, time period(s) (there will also be a need to identify whether it is communications data under section 21 (4)(b) or (c) of the Act);
- the reason why obtaining the requested data is considered to be necessary for one or more of the purposes in s.22(2) (the relevant purpose also needs to be identified);
- an explanation of why obtaining the data constitutes conduct proportionate to what it seeks to achieve;
- where appropriate, a consideration of collateral intrusion, the extent to which the privacy of others may be affected and why that intrusion is justified;
- consider and, where appropriate, describe any possible unintended consequences of the application; and
- the timescale within which the communications data is required. Where the timescale within which the material is required is any greater than routine, the reasoning for this to be included.

In addition to the above requirements, the degree of interference with an individual's rights and freedoms may be higher if the communications data being sought relates to a person who is a member of a profession that handles privileged or otherwise confidential information (including medical doctors, lawyers, journalists, Members of Parliament, or ministers of religion). It may also be possible to infer an issue of sensitivity from the fact that someone has regular contact with, for example, a lawyer or journalist. These situations do not preclude an application being made, but special consideration must be given to necessity and proportionality, including drawing attention to any such circumstances that might lead to an unusual degree of intrusion or infringement of rights and freedoms, particularly regarding privacy and, where it might be engaged, freedom of expression. Particular care needs to be taken by Designated Persons when considering such applications, including additional consideration of whether there might be unintended consequences of such applications and whether the public interest is best served by the application (see paragraphs 3.72 to 3.84 of the Code of Practice for further information).

The application form should subsequently record whether access to communications data was approved or denied, by whom and the date. Alternatively, the application form can be marked with a cross-reference to any authorisation granted or notice given (see paragraph 3.6 of the Code of Practice).

All applications relating to accessing communications data and associated documentation (renewals, cancellations etc) should be securely stored in files kept under lock and key when not in use.

Considerations for Designated Person

It is crucial that the Designated Person must be independent from operations and investigations when granting authorisations or giving notices related to those operations. Therefore, a Designated Person in a particular case should not be part of the same Council team who are carrying out the investigation (see paragraph 3.12 of the Code of Practice).

For an action to be necessary in a democratic society the access to communications data must pursue a legitimate aim as listed in s.23(2); and be proportionate to that aim.

Under section 22(5) of the Act, a designated person must also consider the conduct involved in obtaining the communications data to be proportionate. Proportionality is a crucial concept. In both the Act and the Code of Practice reference is made to the conduct being proportionate. This means that even if a particular case which interferes with a Convention right is aimed at pursuing a legitimate aim (as listed above) this will not justify the interference if the means used to achieve the aim are excessive in the circumstances. Any interference with a Convention right should be carefully designed to meet the objective in question and must not be arbitrary or unfair. Even taking all these considerations into account in a particular case, an interference may still not be justified because the impact on the individual or group is too severe.

A designated person needs to have in mind:

- the conduct which he is authorising or requiring in each case. In making a judgment as to proportionality, and also what the scope of the conduct is. For example, where the conduct covers the provision of ongoing communications data;
- where appropriate, where accessing the communications data is likely to result in collateral intrusion, whether the circumstances of the case still justify that access; and
- whether any urgent timescale is justified.

Judicial Approval

From 1st November 2013 it has been necessary to make an application to the Magistrates Court for Judicial Approval, in respect of all applications for Access to Communications Data.

A full procedural guide to making such an application for Judicial Approval is at Appendix 1 (this guide is applicable to applications for Directed Surveillance also). The Applicant and Designated Persons should liaise with Legal Services in respect of making an application for Judicial Approval, as a solicitor from Legal Services will make the application to Court and represent the Council at the hearing of the application.

Content of an Authorisation or Notice

A Designated Person will make a decision whether give an authorisation or to issue a notice based upon the application which is made. The application form is not served upon the CSP. Whether authorisation or a notice is granted, they must both be in writing, or if not, in a manner that

produces a record of it having been granted.

An authorisation must also:

- describe the conduct which is authorised and describe the communications data to be acquired, specifying, where relevant, any historic or future date(s) and, where appropriate, time period(s);
- specify the purpose for which the conduct is authorized, by reference to a statutory purpose under s 22(2) of RIPA;
- specify the office, rank or position held by the Designated Person granting the authorization. The Designated Person should also record their name (or designation) on any authorization they grant; and
- record the date and, when appropriate to do so, the time when the authorization as granted by the Designated Person.

If a notice is served upon a CSP it is in a standard format which must:

- specify the purpose for which the conduct is authorized, by reference to a statutory purpose under s 22(2) of RIPA;
- describe the communications data to be obtained or disclosed under the notice specifying, where relevant, any historic or future date(s) and, where appropriate, time period(s);
- include an explanation that compliance with the notice is a requirement of RIPA;
- specify the office, rank or position held by the Designated Person giving the notice. The name (or designation) of the Designated Person giving the notice should also be recorded;
- include a unique reference number and also identify the public authority;
- specify the manner in which the data should be disclosed. The notice should contain sufficient information including the contact details of the SPoC to enable the CSP to confirm the notice is authentic and lawful;
- record the date and, when appropriate to do so, the time when the notice was given by the Designated Person; and
- where appropriate, provide an indication of any urgency or time within which the CSP is requested to comply with the requirements of the notice.

The Senior Responsible Officer

The Senior Responsible Officer is responsible for;

- the integrity of the process in place to acquire communications data
- compliance with Chapter II of Part of RIPA and the Code of Practice
- oversight of reporting errors to IOCCO (see below)
- engagement with the IOCCO inspectors when they conduct inspections
- where necessary oversee the implementation of post-inspection action plans approved by the Commissioner

Within this Authority the SRO is the Assistant Director of Legal Services.

Duration of an Authorisation or Notice

Authorisations and notices will only be valid for a maximum of one month from when the

authorisation is granted or notice given. A designated person should specify a shorter period if that is satisfied by the request, since this may go to the proportionality requirements. For "future" communications data disclosure may only be required of data obtained by the CSP within this period i.e. up to one month. For "historical" communications data disclosure may only be required of data in the possession of the CSP. A CSP should comply with a notice as soon as is reasonably practicable. Furthermore, they will not be required to supply data unless it is reasonably practicable to do so. (see paragraph 3.48 of the Code of Practice).

Renewal and Cancellation

Any valid authorisation or notice may be renewed for a period of up to one month by the grant of a further authorisation or the giving of a further notice.

A renewed notice takes effect at the point at which the notice it is renewing expires.

A Designated Person shall cancel a notice given under section 22(4) of the Act as soon as it is no longer *necessary*, or the conduct is no longer proportionate to what is sought to be achieved. The duty to cancel a notice falls on the designated person who issued it who should immediately liaise with the NAFN SPoC. The Designated Person must confirm the position in writing for the SPoC or, if not, in a manner that produces a record of the notice having been cancelled by the Designated Person. Where the Designated person who gave the notice to the CSP is no longer available, this duty should fall on a person who has temporarily or permanently taken over the role of the Designated Person.

(See paragraphs 3.45-58 of the Code of Practice).

Disclosure of Data

Notices under section 22(4) of the Act will only require the disclosure of data to:

- the person giving the notice i.e. the designated person; or
- another specified person. In practice, this is likely to be the SPoC.

Communications data, and all copies, extracts and summaries of it. must be handled and stored securely. In addition, the requirements of the Data Protection Act 1998 and its data protection principles should be adhered to (See Chapter 7 of the Code of Practice). In criminal proceedings, the principles under the Criminal Procedure and Investigations Act 1996 will need to be complied with (See paragraph 6.4 of the Code of Practice).

Retention of Data

Applications, and notices for communications data will be retained by NAFN until it has been inspected by the Commissioner. NAFN should also keep a record of the dates on which the notice is started, Judicial Approval is granted and the Notice is cancelled (See paragraph 6.1 of the Code of Practice).

Where any errors have occurred in the giving of notices, a record should be kept, and a report and explanation may have to be sent to the Commissioner. An error can only occur after a Designated Person:

- has granted an authorization and the acquisition of data has been initiated; or
- has given notice and the notice has been served on a CSP in writing, electronically or orally.

Where an error occurs in the grant of an authorisation, the giving of a notice or as a consequence of any authorized conduct, or any conduct undertaken to comply with a notice, but the error is identified without data being acquired or disclosed wrongly, then a record should be kept.

Where an error results in communications data being acquired or disclosed wrongly, a report must be made to the Commissioner.

The practical arrangements for this Error reporting are as follows;

If there are any errors found with the data return (for example the wrong subscriber data) then the requesting officer must inform the Senior Responsible Officer and NAFN.

NAFN then contacts the SRO and reviews what has happened and why the error has occurred. It is the responsibility of the SRO to inform the Interception of Communications Commissioners Office and the appropriate CSP within 5 working days of the error being discovered. Where a reportable error is deemed to be of a serious nature, the Commissioner may investigate the circumstances that led to the error and assess the impact of the interference on the affected individual's rights. The affected individual may make a complaint to the Investigatory Powers Tribunal. Applications must also be retained to allow for the Tribunal to carry out its functions.

(See paragraphs 6.11 to 6.25 of the Code of Practice for more information on the recording and reporting of errors).

Oversight

The Interception of Communications Commissioner oversees the use of powers for interception of communications, acquisition of communications data and the investigation of electronic data. As the authority uses NAFN as its SPOC, NAFN as opposed to the Council will be inspected on a regular basis. It is still important that all of the relevant documents are completed properly by the Council and stored appropriately. The operation of this policy shall be overseen by the Council's Audit Committee by receiving reports on a 6 monthly basis to ensure that the RIPA powers are being used consistently with this policy.

APPENDIX 1

GUIDE TO SEEKING MAGISTRATES' APPROVAL FOR RIPA SURVEILLANCE

Background

Chapter 2 of Part 2 of the [Protection of Freedoms Act 2012](#) (sections 37 and 38) came into force on [1st November 2012](#). This changes the procedure for the authorisation of local authority surveillance under the Regulation for Investigatory Powers Act 2000 (RIPA).

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

An approval is also required if an authorisation to use such techniques is being renewed. In each case, the role of the JP is to ensure that the correct procedures have been followed and the relevant factors have been taken account of. There is no requirement for the JP to consider either cancellations or internal reviews.

Home Office Guidance

The Home Office has published guidance on the Magistrates' approval process both for local authorities and the Magistrates' Court:

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

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

The New Magistrates' Approval Process

1. The first stage will be to apply for an authorisation in the usual way. Once this has been granted, the local authority will need to contact the local Magistrates' Court to arrange a hearing.
2. The hearing is a 'legal proceeding' and therefore local authority officers need to be formally designated to appear, be sworn in and present evidence or provide information as required by the JP. For the initial applications which are made following the requirement for Judicial Approval, Legal Services will attend at the Magistrates Court to present the application. In due course the Council may formally designate certain properly trained investigating officers for this purpose under section 223 of the Local Government Act 1972.

3. The Home Office suggests that the investigating officer will be best suited to making the application for Judicial Approval, although the Authorising Officer may also want to attend to answer any questions.
4. The local authority will provide the JP with a copy of the original RIPA authorisation. This forms the basis of the application to the JP and should contain all information that is relied upon. In addition, the local authority will provide the JP with two copies of a partially completed judicial application/order form (which is included in the Home Office Guidance)
5. The hearing will be in private and heard by a single JP who will read and consider the RIPA authorisation and the judicial application/order form. He/She may have questions to clarify points or require additional reassurance on particular matters. The forms and supporting papers must by themselves make the case. It is not sufficient for the local authority to provide oral evidence where this is not reflected or supported in the papers provided.
6. The JP will consider whether he or she is satisfied that, at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. He/She will also consider whether there continues to be reasonable grounds. In addition the JP must be satisfied that the Authorising Officer was of an appropriate level within the local authority and that the authorisation was made in accordance with any applicable legal restrictions (e.g. meets the Serious Crime Test for Directed Surveillance)
7. The order section of the above mentioned form will be completed by the JP and will be the official record of the his/her decision. The local authority will need to retain a copy of the form after it has been signed by the JP.

Magistrate's Options

The JP may decide to –

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

The grant/renewal of the authorisation will then take effect and the local authority may proceed to use the surveillance technique/acquisition of data technique mentioned therein. The surveillance/acquisition of data has to be commenced within one month of the Magistrates' Court approval.

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

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

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

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

Appeals

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

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

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, and 32B

Local authority:.....

Local authority department:.....

Offence under investigation¹

Address of premises or identity of subject:²

Covert technique requested: (tick one and specify details)

Communications Data

Covert Human Intelligence Source

Directed Surveillance

Summary of details³

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

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

Investigating Officer

Authorising Officer

Officer(s) appearing before JP⁴

Address of applicant department:

Contact telephone number.....

Contact email address (optional)

Local authority reference.....

Number of pages.....

5 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.

⁶refuse to approve the grant or renewal of the authorisation/notice.

⁷refuse to approve the grant or renewal and quash the authorisation/notice.

Reasons

.....

.....

Notes

.....

.....

Signed:

Date:

Time:

Full name:

Address of magistrates' court:

Notes to Assist Completion

¹Insert the offence or disorder that you are investigating. If you are seeking authorisation for Directed Surveillance make sure that the criminal offence you are investigating attracts a maximum custodial sentence of six months or more or relates to the underage sale of alcohol or tobacco (as per the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012.

²You may not know the identity of the person in which case you can include a description and/or how they relate to the offence/disorder under investigation.

³This forms the basis of the application to the JP and should contain all information that is relied upon. You may wish to set out in brief:

- What information you are seeking from the surveillance
- What the surveillance will involve e.g. covert cameras, CHIS
- How long the surveillance will last

You do not need to go into a lot of detail as this form should have the original authorisation form attached.

⁴ Any officer employed by the Council can appear before the Magistrate. The Home Office suggests that the Investigating Officer is best placed to do this. Make sure that whoever appears is formally designated to do so under section 223 of the Local Government Act 1972. Legal Services will carry out the initial applications.

⁵The order section of this form will be completed by the Magistrate and will be the official record of the Magistrate's decision. The Council will need to retain a copy of the judicial application/order form after it has been signed by the Magistrate. This may be kept with the original authorisation on the Central Record.

⁶If the Magistrate refuses to approve the authorisation, surveillance/acquisition of data cannot be undertaken. This may be due to a technical error which can be corrected. Read the reasons for refusal and seek advice from the Legal Dept. and/or RIPA Coordinator with regards to the next steps.

⁷If the Magistrate decides to quash the authorisation, surveillance/acquisition of data cannot be undertaken. You will have two days to make further representations. Read the reasons for refusal and seek advice from the Legal Dept and/or RIPA Coordinator with regards to the next steps.

Summary Sheet

Council Report

Audit Committee

Title

Mid-Year Treasury Management and Prudential Indicators Monitoring Report – 2016/17

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Judith Badger – Strategic Director for Finance & Customer Services

Report Author(s)

Derek Gaffney (Chief Accountant)

Finance & Customer Services Directorate

01709 822005 derek.gaffney@rotherham.gov.uk

Ward(s) Affected

All

Executive Summary

1. Mid-Year Treasury Review

The regulatory framework of treasury management requires that the Council receive a mid-year treasury review, in addition to the forward looking annual treasury strategy and backward looking annual treasury report required previously.

This report meets the first of those requirements. It also incorporates the needs of the Prudential Code to ensure adequate monitoring of the capital expenditure plans and the Council's prudential indicators (PIs).

It is a requirement that changes to the prudential indicators for 2016/17 are approved by Full Council.

The monitoring as set out in the Appendix to the report is structured to highlight the key changes to the Council's capital activity (the PIs) and the actual and proposed treasury management activity (borrowing and investment).

A technical and complex report, the key messages for Members are:

- a. Investments - the primary governing principle remains **security** over return and the criteria for selecting counterparties continues to reflect this.
- b. Borrowing - overall this will remain fairly constant over the period covered by this report and the Council will remain under-borrowed against the borrowing requirement due to the cost of carrying debt. New borrowing will generally only be taken up as debt matures. This is in line with financial planning assumptions.
- c. Governance - strategies and monitoring are undertaken by Audit Committee

Recommendations

The Audit Committee is asked to:

- 1. Note the contents of the report; and**
- 2. Refer the report to Cabinet and Commissioners Decision Making meeting to consider recommending Council approve the changes to the 2016/17 prudential indicators.**

List of Appendices Included

Appendix – Mid-Year Treasury Management and Prudential Indicators Monitoring Report – 2016/17

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

Yes

Exempt from the Press and Public

No

Mid-Year Treasury Management and Prudential Indicators Monitoring Report – 2016/17

1. Recommendations

The Audit Committee is asked to:

- 1. Note the contents of the report; and**
- 2. Refer the report to Cabinet and Commissioners Decision Making meeting to consider recommending Council approve the changes to the 2016/17 prudential indicators.**

2. Background

- 2.1 Mid-Year Treasury Review** – Revisions to the regulatory framework of treasury management during 2009 introduced a requirement that the Council receive a mid-year treasury review, in addition to the forward looking annual treasury strategy and backward looking annual treasury report required previously.
- 2.2** This review as fully set out in the Appendix meets that revised requirement. It also incorporates the needs of the Prudential Code to ensure adequate monitoring of the capital expenditure plans and the Council's prudential indicators (PIs). The Treasury Strategy and PIs were previously reported to Audit Committee and Cabinet and Commissioners Decision Making meeting in February 2016 and approved by Council on 2 March 2016.

3. Key Issues

- 3.1 Mid-Year Treasury Review** – The review as set out in the Appendix keeps Members up to date and informs on performance against the plan.
- 3.2** The key messages for Members are:
 - a.** Investments - the primary governing principle remains **security** over return and the criteria for selecting counterparties continues to reflect this.
 - b.** Borrowing - overall this will remain fairly constant over the period covered by this review and the Council will remain under-borrowed against the borrowing requirement due to the cost of carrying debt. New borrowing will generally only be taken up as debt matures.
 - c.** Governance - strategies and monitoring are undertaken by Audit Committee

4. Options considered and recommended proposal

- 4.1 **Mid-Year Treasury Review** – The review as set out in the Appendix indicates performance is in line with the plan and no proposals to vary the approach for the remainder of the year are proposed.

5. Consultation

- 5.1 The continuing approach to treasury management has been discussed with the Council's External Treasury Management Advisers Capita Asset Services, who have confirmed this is a prudent approach given current market conditions.

6. Timetable and Accountability for Implementing this Decision

- 6.1 Approval of the changes to the Prudential Indicators to be made in line with the Council's constitution.

7. Financial and Procurement Implications

- 7.1 Treasury Management forms an integral part of the Council's overall financial arrangements.
- 7.2 The assumptions supporting the capital financing budget for 2016/17 and for future years covered by the Council's MTFS were reviewed in light of economic and financial conditions and the capital programme.
- 7.3 At this stage the Treasury Management and Investment Strategy is not forecast to have any further revenue consequences other than those identified and planned for in both the Council's 2016/17 Revenue Budget and updated approved MTFS.

8. Legal Implications

- 8.1 It is a requirement that changes to the Council's prudential indicators and approved by Full Council

9. Human Resources Implications

- 9.1 There are no Human Resource implications arising from the report.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 There are no implications arising from the proposals to Children and Young People and Vulnerable Adults.

11. Equalities and Human Rights Implications

11.1 There are no implications arising from this report to Equalities and Human Rights.

12. Implications for Partners and Other Directorates

12.1 There are no implications arising from this report to Partners or other directorates.

13. Risks and Mitigation

13.1 Regular monitoring of treasury activity ensures that risks and uncertainties are addressed at an early stage and hence kept to a minimum.

14. Accountable Officer(s)

Derek Gaffney (Chief Accountant)
Stuart Booth (Assistant Director, Financial Services)

Approvals Obtained from:-

Strategic Director for Finance & Customer Services:- Judith Badger

Mid-Year Prudential Indicators and Treasury Management Monitoring**1. Introduction and Background**

- 1.1 Revisions to the regulatory framework of treasury management during 2009 introduced a requirement that the Council receive a mid-year treasury review, in addition to the forward looking annual treasury strategy and backward looking annual treasury report required previously.
- 1.2 This report meets that revised requirement. It also incorporates the needs of the Prudential Code to ensure adequate monitoring of the capital expenditure plans and the Council's prudential indicators (PIs). The Treasury Strategy and PIs were previously reported to Audit Committee and Commissioners Decision Making meeting in February 2016 and approved by Council on 2 March 2016.
- 1.3 The Council's revised capital expenditure plans (Section 2.2 of this Appendix) and the impact of these revised plans on its financing are set out in Section 2.3. The Council's capital spend plans provide a framework for the subsequent treasury management activity. Section 3 onwards sets out the impact of the revised plans on the Council's treasury management indicators.
- 1.4 The underlying purpose of the report supports the objective in the revised CIPFA Code of Practice on Treasury Management and the Communities & Local Government Investment Guidance. These state that Members receive and adequately scrutinise the treasury management service.
- 1.5 The underlying economic and financial environment remains difficult for the Council, foremost being the improving, but still challenging, concerns over investment counterparty risk. This background encourages the Council to continue maintaining investments short term and with high quality counterparties. The downside of such a policy is that investment returns remain low.
- 1.6 The Strategic Director for Finance & Customer Services can report that the basis of the treasury management strategy, the investment strategy and the PIs are not materially changed from that set out in the approved Treasury Management Strategy (March 2016).

2. Key Prudential Indicators

- 2.1. This part of the report is structured to update:
 - The Council's latest capital expenditure plans;
 - How these plans are being financed;
 - The impact of the changes in the capital expenditure plans on the PIs and the underlying need to borrow; and
 - Compliance with the limits in place for borrowing activity.

2.2 Capital Expenditure (PI)

2.2.1 This table shows the forecast estimates for capital expenditure as reported in the September Financial Monitoring Report presented to the Cabinet and Commissioners' Decision Making meeting held on the 14 November 2016.

Capital Expenditure by Service	2016/17 Original Estimate £m	2016/17 Revised Estimate £m
Children & Young People Services	4.726	8.209
Regeneration & Environment	21.465	15.831
Adult Care & Housing – Non-HRA	5.013	4.664
Finance & Customer Services	4.108	2.783
Total Non-HRA	35.312	31.487
Adult Care & Housing – HRA	32.992	26.909
Total HRA	32.992	26.909
Total	68.304	58.396

2.3 Impact of Capital Expenditure Plans

2.3.1 Changes to the Financing of the Capital Programme

The table below draws together the main strategy elements of the capital expenditure plans (above), highlighting the expected financing arrangements of this capital expenditure.

Capital Expenditure	2016/17 Original Estimate £m	2016/17 Revised Estimate £m
Total spend	68.304	58.396
Financed by:		
Capital receipts	5.746	2.409
Capital grants, capital contributions & other sources of capital funding	44.691	43.550
Borrowing Need	17.867	12.437
Total Financing	68.304	58.396
Unsupported Borrowing	17.867	12.437
Borrowing Need	17.867	12.437

The borrowing element of the table increases the underlying indebtedness of the Council by way of the Capital Financing Requirement (CFR), although this will be reduced in part by revenue charges for the repayment of debt (the Minimum Revenue Provision (MRP)). This direct borrowing need may also be supplemented by maturing debt and other treasury requirements.

2.3.2 The decrease in borrowing need for 2016/17 reflects the re-profiling of capital expenditure & financing and new approvals since the original estimate was approved (£5.430m).

2.3.3 **Changes to the Capital Financing Requirement (PI), External Debt and the Operational Boundary (PI)**

The table below shows the CFR, which is the underlying external need to borrow for a capital purpose. It also shows the expected debt position over the period. This is termed the Operational Boundary which was set at the beginning of the financial year at £628.393m.

2.3.4 **Prudential Indicators – Capital Financing Requirement & External Debt / the Operational Boundary**

In addition to showing the underlying need to borrow, the Council's CFR has since 2009/10, also included other long term liabilities which have been brought on balance sheet, for example, PFI schemes and finance lease assets. No borrowing is actually required against these schemes as a borrowing facility is already included in the contract. The estimate for 2016/17 does not require any revision as there is no change in the borrowing need from such arrangements.

2.3.5 The revised CFR estimate for 2016/17 is £797.150m and this figure represents an increase of £9.903m when compared to the 2015/16 year-end position of £787.247m. The increase is due to:

- The estimated borrowing need for the year (£12.430m) net of the Minimum Revenue Provision charge for the year (£0.347m)
- The repayments of borrowing contained within PFI and similar schemes (£2.187m).

RMBC	2016/17 Original Estimate £m	Current Position £m	2016/17 Revised Estimate £m
Prudential Indicator – Capital Financing Requirement			
CFR – Non Housing	363.529		357.470
CFR – Housing	304.125		304.125
Total CFR excluding PFI, finance leases and similar arrangements	667.654		661.595
Net movement in CFR	17.480		12.090
Cumulative adjustment for PFI, finance leases and similar arrangements	135.434		135.555
Net movement in CFR	-2.154		-2.187
Total CFR including PFI, finance leases and similar arrangements	803.088		797.150
Net movement in overall CFR	15.326		9.903
Prudential Indicator – External Debt / the Operational Boundary			
Borrowing	490.805	460.453	483.132
Other long term liabilities*	137.588	136.646	135.555
Total Debt 31 March	628.393	597.099	618.687

* - Includes on balance sheet PFI schemes, finance leases and similar arrangements, etc.

Former SYCC	2016/17 Original Estimate £m	Current Position £m	2016/17 Revised Estimate £m
Prudential Indicator – External Debt / the Operational Boundary			
Borrowing	86.709	86.709	86.709
Other long term liabilities	0	0	0
Total Debt 31 March	86.709	86.709	86.709

3. Limits to Borrowing Activity

- 3.1 The first key controls over the treasury activity is a PI to ensure that over the medium term, gross and net borrowing will only be for a capital purpose. Gross and net external borrowing should not, except in the short term, exceed the total of CFR in the preceding year plus the estimates of any additional CFR for 2016/17 and next two financial years. This allows some flexibility for limited early borrowing for future years. The Council has approved a policy for borrowing in advance of need which would only be adhered to if this proves prudent to do so.

RMBC	2016/17 Original Estimate £m	Current Position £m	2016/17 Revised Estimate £m
Gross Borrowing	490.805	460.453	483.132
Plus Other Long Term liabilities*	135.434	136.646	135.555
Total Gross Borrowing	626.239	597.099	618.687
CFR*	803.088	792.196	797.150
Total Gross Borrowing	626.239	597.099	618.687
Less Investments	20.000	11.280	20.000
Net Borrowing	606.239	585.819	598.687
CFR*	803.088	792.196	797.150

* - Includes on balance sheet PFI schemes, finance leases and similar arrangements, etc.

- 3.2 The Strategic Director for Finance & Customer Services reports that no difficulties are envisaged for the current or future years in complying with this PI.
- 3.3 A further PI controls the overall level of borrowing. This is the Authorised Limit which represents the limit beyond which borrowing is prohibited, and needs to be set and revised by Members. It reflects the level of borrowing which, while not desired, could be afforded in the short term, but is not sustainable in the longer term. It is the expected maximum borrowing need with some headroom for unexpected movements. This is the statutory limit determined under section 3 (1) of the Local Government Act 2003.

Authorised limit for external debt (RMBC)	2016/17 Original Indicator £m	Current Position £m	2016/17 Revised Indicator £m
Borrowing	698.201	460.453	700.700
Other long term liabilities*	137.588	136.646	137.588
Total	835.789	597.099	838.288

* - Includes on balance sheet PFI schemes, finance leases and similar arrangements, etc.

Authorised limit for external debt (Former SYCC)	2016/17 Original Indicator £m	Current Position £m	2016/17 Revised Indicator £m
Borrowing	86.709	86.709	86.709
Other long term liabilities	0.000	0.000	0.000
Total	86.709	86.709	86.709

4. Treasury Strategy 2016/17 – 2018/19

4.1 Debt Activity during 2016/17

4.1.1 The expected borrowing need is set out below:

RMBC	2016/17 Original Estimate £m	Current Position £m	2016/17 Revised Estimate £m
CFR	808.088	792.196	797.150
Less Other Long Term Liabilities*	135.434	136.646	135.555
Net Adjusted CFR (y/e position)	667.654	655.550	661.595
Borrowed at 30/09/16	463.453	460.453	460.453
Under borrowing at 30/09/16	204.201	195.097	201.142
Borrowed at 30/09/16	463.453		460.453
Estimated to 31/03/17	27.352		22.679
Total Borrowing	490.805		483.132
Under borrowing at 31/03/17	176.849		178.463

* - Includes on balance sheet PFI schemes, finance leases and similar arrangements, etc.

4.1.2 The Council is currently under-borrowed and the delay in borrowing reduces the cost of carrying the borrowed monies when yields on investments are low relative to the borrowing rates. Based on current borrowing rates and investment returns the differential is around 2% and if the Council was fully borrowed the additional cost per year would amount to approximately £3.5m. The delay in borrowing gives rise to interest rate risk, as longer term borrowing rates may rise, but this position is being closely monitored and the overall position carefully managed.

4.1.3 During the six months to 30 September 2016 the Council has borrowed the following amount:

Principal	Type	Term	Interest Rate
£10,000,000	Fixed Rate	5 Years	1.05%

4.1.4 During the six months to 30 September 2016, the Council has repaid the following amounts:

Lender	Principal	Type	Interest Rate
PWLB	£10,000,000	Variable rate	0.69%
PWLB	£5,000,000	Fixed rate	2.18%
PWLB	£1,000,000	Fixed rate (EIP)	3.46%
PWLB	£65,000	Fixed rate (EIP)	3.79%
PWLB	£80,225	Fixed rate (Annuity)	Various

One Equal Instalment of Principal (EIP) loan for £20m is being repaid in equal half yearly instalments of £1m over its 10 year term. A second EIP loan for £1.3m is being repaid in equal half yearly instalments of £65,000 over its 10 year term. There are 5 Annuity loans on which variable amounts of principal are repaid each six months.

4.1.5 During the six months to 30 September 2016, the Council had the “unexpected” opportunity to restructure the following LOBO loans with Siemens Financial Services:

One loan of £10m with an interest rate of 3.22% and maturity date in June 2021 has been fully repaid. This has been refinanced by taking out the equivalent PWLB loan referred to at 4.1.3.

The second Siemens loan of £10m with an interest rate of 3.14% and maturity date in April 2026 has been restructured to £10m with an interest rate of 2.66% and maturity date in September 2031.

Over the next five years the effect of this restructuring will save the Council £1.325m in interest costs and this has been included in current year’s revenue monitoring and longer-term financial plans.

4.1.6 In June 2016 Council was informed by Barclays Bank that it has given up its right to amend the loan rates on the Council’s LOBO loans at any point up to maturity. The interest rates on these loans totalling £62m are therefore now fixed and the risk of rates increasing in future has been removed.

- 4.1.7 As a result of the restructuring referred to at 4.1.5 and the unilateral change made by Barclays the Council's total LOBO loans at risk of future interest rate increases now amounts to £141m compared to the £213m at the start of the financial year and risk exposure to longer term interest rate rises has been diminished significantly.

5. **Investment Strategy 2016/17 – 2018/19**

5.1 **Key Objectives**

The primary objective of the Council's investment strategy is safeguarding the repayment of the principal and interest of its investments on time – the investment return being a secondary objective. The current difficult economic and financial climate has heightened the Council's over-riding risk consideration with regard to "Counterparty Risk". As a result of these underlying market concerns officers continue to implement an operational investment strategy which further tightens the controls already in place in the approved investment strategy.

5.2 **Current Investment Position**

The Council held £11.280m of investments at 30 September 2016 (excluding Icelandic Banks), and the constituent parts of the investment position are:

Sector	Country	Up to 1 year £m	1 - 2 years £m	2 – 3 years £m
Banks	UK	4.500	0	0
DMO	UK	6.780	0	0
Local Authorities	UK	0	0	0
Total		11.280	0	0

One 'call' account with the top rated bank Handelsbanken is operated. This bank meets the Council's highest investment criteria.

This enables the Council to minimise the risk of having to leave unexpected receipts with the Council's current bankers, it allows immediate access to a small amount of funds to cover or part cover any short-term borrowing requirements and based on current rates there is a small benefit of approx. 0.05% over the rate achievable from the Debt Management Office.

5.3 **Risk Benchmarking**

A regulatory development is the consideration and approval of security and liquidity benchmarks. Yield benchmarks are currently widely used to assess investment performance. Discrete security and liquidity benchmarks are requirements to Member reporting and the following reports the current position against the benchmarks.

- 5.3.1 **Security** – The Council monitors its investments against historic levels of default by continually assessing these against the minimum criteria used in the investment strategy. The Council's approach to risk, the choice of

counterparty criteria and length of investment ensures any risk of default is minimal when viewed against these historic default levels.

5.3.2 **Liquidity** – In respect of this area the Council set liquidity facilities/benchmarks to maintain:

- Bank overdraft – on a day-to-day basis the Council works to an agreed overdraft limit of £100,000 with the Council's bankers. Whilst a short-term increase could be negotiated less expensive short-term borrowing is accessed through the financial markets to remain within the agreed overdraft.
- Liquid short-term deposits of at least £3m available within a week's notice.

The Strategic Director for Finance & Customer Services can report that liquidity arrangements were adequate during the year to date.

5.3.3 **Yield** – a local measure for investment yield benchmark is internal returns above the 7 day LIBID rate

The Strategic Director for Finance & Customer Services can report that the return to date averages 0.20%, against a 7 day LIBID to the end of September 2016 of 0.28%. This is reflective of the Council's current approach to risk whereby security has been maximised by using the Debt Management Office and other Local Authorities as the principal investment counterparties.

It is important to recognise that based on the Council's current average cash investments of £14m the difference in return at the benchmark when compared to the return achieved at the current rate would be £11.2k. This increase in return has to be measured against the additional risk of placing cash elsewhere.

6. Revisions to the Investment Strategy

6.1 The counterparty criteria are continually under regular review but in the light of the current market conditions no recommendations are being put to Members to revise the Investment Strategy.

7. Treasury Management Prudential Indicators

7.1 Actual and estimates of the ratio of financing costs to net revenue stream

This indicator identifies the trend in the cost of capital (financing costs net of interest and investment income) against the net revenue stream.

	2016/17 Original Indicator %	2016/17 Revised Indicator %
Non-HRA	6.46	5.93
HRA	16.43	15.98

7.2 The revised non HRA indicator reflects the impact of the restructured debt and borrowing being at rates less than originally anticipated for 2016/17. The HRA indicator has also decreased due to the HRA's internal borrowing, which is calculated using the Council's overall average rate of interest, now being at a lower rate than that which had been assumed in the original indicator.

7.3 **Prudential indicator limits based on debt net of investments**

- **Upper Limits On Fixed Rate Exposure** – This indicator covers a maximum limit on fixed interest rates.
- **Upper Limits On Variable Rate Exposure** – Similar to the previous indicator this identifies a maximum limit for variable interest rates based upon the debt position net of investments.

RMBC	2016/17 Original Indicator	Current Position	2016/17 Revised Indicator
Prudential indicator limits based on debt net of investments			
Limits on fixed interest rates based on net debt	100%	84.70%	100%
Limits on variable interest rates based on net debt	30%	14.93%	30%

7.4 **Maturity Structures Of Borrowing**

These gross limits are set to reduce the Council's exposure to large fixed rate loans (those instruments which carry a fixed interest rate for the duration of the instrument) falling due for refinancing.

The current position shown below reflects the next call dates on those Council's LOBO loans (£132m) that are not callable in 2016/17 and thus are regarded as fixed rate. The actual maturity date for most of these loans is greater than 50 years. This approach gives a better indication of risk and whilst there is a possibility that a loan is called with an increase in interest payable the likelihood of any LOBO loans being called in the current climate is assessed as zero for the next three years.

RMBC	2016/17 Original Indicator		Current Position		2016/17 Revised Indicator	
	Lower	Upper	%	£m	Lower	Upper
Maturity Structure of fixed borrowing						
Under 12 months	0%	35%	0.29%	1.147	0%	35%
12 months to 2 years	0%	35%	5.73%	22.299	0%	35%
2 years to 5 years	0%	40%	18.47%	71.938	0%	40%
5 years to 10 years	0%	40%	25.44%	99.069	0%	40%
10 years to 20 years	0%	45%	8.67%	12.914	0%	45%
20 years to 30 years	0%	50%	14.47%	33.750	0%	50%
30 years to 40 years	0%	50%	14.47%	56.336	0%	50%
40 years to 50 years	0%	55%	13.35%	52.000	0%	55%
50 years and above	0%	60%	10.27%	40.000	0%	60%

The former SYCC account is due to be wound up by the end of 2020/21 and the maturity structure is now largely fixed as the need and indeed opportunities to re-finance within the remaining 5 years will be limited. As a result future limits are currently set in line with the on-going maturity profile.

Former SYCC	2016/17 Original Indicator		Current Position		2016/17 Revised Indicator	
	Lower	Upper	%	£m	Lower	Upper
Maturity Structure of fixed borrowing						
Under 12 months	0%	25%	11.53%	10.000	0%	25%
12 months to 2 years	0%	50%	45.80%	39.709	0%	50%
2 years to 5 years	0%	100%	42.67%	37.000	0%	100%

7.5 Total Principal Funds Invested

These limits are set to reduce the need for the early sale of an investment, and show limits to be placed on investments with final maturities beyond each year-end.

The Council currently has no sums invested for periods exceeding 364 days due to market conditions. To allow for any changes in those conditions the indicator has been left unchanged. This also excludes any Icelandic investments that are due to be recovered after more than 364 days.

RMBC	2016/17 Original Indicator £m	Current Position £m	2016/17 Revised Indicator £m
Maximum principal sums invested > 364 days	10	0	10
Comprising			
Cash deposits	10	0	10

7.6 Treasury Management Advisers

The Council's three year contract for the provision of treasury management and asset finance services expired on 6 October 2016.

In accordance with the Council's Standing Orders, a tendering exercise was carried out for the re-procurement of these services for a further three year period.

An open tender exercise was held from which two submissions were received – one from Capita Asset Services Treasury Solutions and a second from Arlingclose.

These were evaluated on quality and price with Capita Asset Services Treasury Solutions bid ranking slightly higher on both criteria.

Accordingly, a decision has been taken to re-appoint Capita Asset Services Treasury Solutions for a further term of three years with effect from 7 October 2016.

Council Report

Audit Committee Meeting –23 November 2016

Title

Internal Audit Progress Report for the two months ending 31 October 2016.

Is this a Key Decision and has it been included on the Forward Plan?

No.

Strategic Director Approving Submission of the Report

Judith Badger, Strategic Director, Finance and Customer Services.

Report Author(s)

David Webster, Head of Internal Audit

Tel: 01709 823282 Email: david.webster@rotherham.gov.uk

Ward(s) Affected

All wards.

Executive Summary

This report provides a summary of Internal Audit work completed during the period September and October 2016 and the key issues that have arisen from it. It also provides information regarding the performance of the Internal Audit function during the period.

Performance against key indicators is generally positive, although delivery of the planned programme of work remains behind schedule due mainly to vacancies and other service priorities. The Assistant Director Audit, ICT and Procurement and the Chief Internal Auditor both left the Authority during this period. Two new staff commenced in October including the new Head of Internal Audit, however it has been necessary to review and amend the audit plan to ensure it is achievable and sufficient to give the required coverage.

Following the presentation of the PWC review of Internal Audit report to the Audit Committee in February 2016, Veritau Ltd was commissioned to independently review and provide commentary on Internal Audit progress reports presented to the Audit Committee in 2016/17. Veritau Ltd has reviewed the attached report and have stated "*We've reviewed the report and made a number of suggestions on presentation and highlighted areas for review. Overall, the report accurately reflects the work being undertaken by the team*".

Recommendations

The Audit Committee is asked to:

- i) Note the Internal Audit work undertaken since the last Audit Committee, September and October 2016, and the key issues that have arisen from it.**
- ii) Note the information contained regarding the performance of Internal Audit and the actions being taken by management in respect of the performance.**

iii) **Note the independent assurance provided by Veritau Ltd on the report.**

List of Appendices Included

Appendix 1 – Internal Audit Progress Report for the two months ending 31 October 2016.

Background Papers

UK Public Sector Internal Audit Standards and Associated Local Government Application Note.

Accounts and Audit (England) Regulations 2015.

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No.

Council Approval Required

No.

Title: Internal Audit Progress Report for the two months ending 31 October 2016

1. Recommendations

The Audit Committee is asked to:

- i) Note the Internal Audit work undertaken since the last Audit Committee, in the period September and October 2016, and the key issues that have arisen from it.
- ii) Note the information contained regarding the performance of Internal Audit and the actions being taken by management in respect of the performance.
- iii) Note the independent assurance provided by Veritau Ltd on the report.

2. Background

2.1 Internal Audit produced a risk based Annual Audit Plan in accordance with the UK Public Sector Internal Audit Standards. This was received by the Audit Committee at its meeting on 27 April 2016. The Plan is regularly reviewed and monitored during the year so that it provides sufficient coverage of the key risks facing the Council.

2.2 Since the last meeting the plan has been the subject of a half year review. All Strategic Directors have been consulted to bring it up to date and match it to the available resources, whilst ensuring that it provides sufficient coverage to enable the year end Internal Audit opinion to be reached.

2.3 At the end of the financial year, Internal Audit will produce an Annual Internal Audit Report, which will provide our overall opinion on the adequacy of the Council's control environment and compliance with it during the year.

2.4 This is the third progress report and summarises the main activities of the Internal Audit service for the period since the last Audit Committee, in the period September and October 2016.

3. Key Issues

3.1 The third progress report is attached at **Appendix 1** and includes the following information:

- The Audit Planning Process
- Audit work, planned and responsive, undertaken during the period
- Management response to audit reports
- Internal Audit performance indicators.

3.2 Headlines from the report include:

- An Internal Audit Plan for 2016/17 was produced in line with the UK Public Sector Internal Audit Standards.
- The plan has been reviewed and updated at the half year. Although there is an overall reduction in audit days it is still sufficient to give the required coverage. In the context of the changes happening within the service during this year so far, this is not a disturbing position. The changes being made now will increase efficiencies in future years.

- Despite the challenges it faces, Internal Audit is exceeding other key performance targets, and feedback on several pieces of work completed demonstrate value added by the Service. This is demonstrating some positive progress on the improvement journey.
- Management responses and action plans were in place for most recommendations made by Internal Audit during the period. Management demonstrates a conscientious response to audit recommendations and overall ensures recommendations to improve internal controls are implemented. Details of the numbers of recommendations made; agreed; implemented and outstanding are also included in the progress report.

3.3 Internal Audit progress reports are scheduled to be presented to the Audit Committee at each of its meetings during 2016/17. Veritau Ltd has been asked to review and provide independent comment on the progress reports. Veritau Ltd reviewed a draft copy of the progress report and selected supporting information. Veritau concluded: *“We’ve reviewed the report and made a number of suggestions on presentation and highlighted areas for review. Overall, the report accurately reflects the work being undertaken by the team”*.

4. Options considered and recommended proposal

4.1 This report is presented to enable the Audit Committee to fulfil its responsibility for overseeing the work of Internal Audit. It provides a summary of Internal Audit work completed and the key issues arising from it for the two months ending 31 October 2016 and information about the performance of the Internal Audit function during this period.

5. Consultation

5.1 All Internal Audit reports referred to in this report have been discussed and agreed with management in the respective service areas.

6. Timetable and Accountability for Implementing this Decision

6.1 The Audit Committee is asked to receive this report at its November 2016 meeting.

7. Financial and Procurement Implications

7.1 There are no direct financial or procurement implications arising from this report. The budget for the Internal Audit function is contained within the budget for the Finance and Customer Services Directorate.

8. Legal Implications

8.1 The provision of Internal Audit is a statutory requirement for all local authorities that is set out in the Accounts and Audit (England) Regulations 2015. These state:

“each principal authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.”

8.2 Internal Audit also has a role in helping the Council to fulfil its responsibilities under s.151 of the Local Government Act 1972, which are:

“each local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”

9. Human Resources Implications

9.1 There are no direct Human Resources implications arising from this report. However, it should be noted that the Chief Internal Auditor and the Assistant Director Audit, ICT and Procurement both left the Authority on 30th September 2016 and the new Head of Internal Audit (HIA) commenced on 17th October 2016, reporting directly to the Strategic Director Finance and Customer Services. A Senior Auditor has also been appointed and commenced work on 3rd October 2016. The department still has a vacancy, but is currently using a contract auditor. Recruitment has commenced to fill the vacancy.

10. Implications for Children and Young People and Vulnerable Adults

10.1 This document constitutes a report of progress against delivery of the Internal Audit Plan 2016/17. A significant proportion of the Plan is devoted to the examination of risks facing Children and Young People’s Services and Adult Social Care, and that remains the case after the review of the plan.

11. Equalities and Human Rights Implications

11.1 There are no direct Equalities and Human Rights Implications arising from this report.

12. Implications for Partners and Other Directorates

12.1 Internal Audit is an integral part of the Council’s Governance Framework, which is wholly related to the achievement of the Council’s objectives, including those set out in the Corporate Improvement Plan and Children’s Services Improvement Plan.

13. Risks and Mitigation

13.1 The following risks have been identified.

Risk	Likelihood	Impact	Mitigation
Internal Audit may not deliver sufficient audit work to enable an opinion to be provided on the Council’s control environment.	Low	High	Likelihood has been downgraded from medium to low, following the recruitment of a Head of Internal Audit and a senior auditor, and the retention of temporary auditor, along with projections of work that will be completed by 31 March 2017. The plan has been reviewed to ensure it is relevant and will enable the opinion to be reached.
Audit recommendations may not be	Low	High	Internal Audit has an established process for the follow up of agreed audit recommendations. This includes

<p>implemented, leaving the Council exposed to risk.</p>			<p>escalation to the appropriate Assistant Director and Strategic Director in cases of non-compliance. Management response to and implementation of audit recommendations is currently good.</p>
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14. Accountable Officer(s)

David Webster, Head of Internal Audit.

Finance and Customer Services Directorate

Internal Audit Progress Report for the two months ending 31 October 2016

1. Purpose of the Report

- 1.1 To provide a summary of Internal Audit work completed and the key issues arising from it for the period since the last Audit Committee, covering September and October 2016.
- 1.2 To provide information regarding the performance of the Internal Audit function during the period.

2. Introduction

- 2.1 Internal Audit produced a risk based Annual Internal Audit Plan in accordance with the UK Public Sector Internal Audit Standards (PSIAS). This was received by the Audit Committee at its meeting on 27 April 2016. The plan is regularly monitored and reviewed during the year so that it provides sufficient coverage of the key risks facing the Council.
- 2.2 At the end of the financial year, Internal Audit will produce an Annual Internal Audit Report, which will incorporate an overall opinion on the adequacy of the Council's control environment and compliance with it during the year.
- 2.3 This report summarises the main activities of the Internal Audit service for the period since the last Audit Committee, covering September and October 2016. The report is presented to the Audit Committee to enable the Committee to fulfil its responsibility for overseeing the work of Internal Audit.

3. Legislation Surrounding Internal Audit

- 3.1 The provision of Internal Audit is a statutory requirement for all local authorities that for the period under consideration is set out in the Accounts and Audit (England) Regulations 2015. These state:

“each principal authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.”

- 3.2 Internal Audit also has an important role in helping the Council to fulfil its responsibilities under s.151 of the Local Government Act 1972, which are that:

“each local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”.

- 3.3 In order to deliver its functions as determined by statute and professional standards, Internal Audit has unrestricted coverage and access to all

employees, records and assets of the Council. It has the authority to enter any Council premises and receive prompt response, every assistance, all information and explanation from Council employees and Council Members. Additionally, it has unrestricted access to, and the freedom to report to, the Commissioners appointed by the Government, The Chief Executive; Head of Paid Service, the Responsible Financial Officer, the Monitoring Officer and the Audit Committee as per the requirements set out in PSIAS and the Internal Audit Charter.

4. Audit Planning Process

4.1 The 2016/17 Audit Plan was produced in line with the UK Public Sector Internal Audit Standards and examined the whole audit universe, taking into account of the following:

- Analysis of the Council's risk registers
- Examination of revenue and capital budgets
- Cumulative audit knowledge and experience of previous work undertaken
- Review of both Corporate Improvement and Service Plan objectives and priorities
- Discussions with Strategic Directors and Directors
- Knowledge of existing management and control environments
- Professional judgement on the risk of fraud or error.

4.2 The 2016/17 Audit Plan was approved by Audit Committee on 27 April 2016.

5. Factors affecting audit work completion during the period April to August 2016

5.1 The service has faced a very significant transition period involving a restructure and a further reduction in resources available to the team to 7fte for 2016/17 (from 9fte in 2015/16). During the Summer 2016 the Service has operated with only 4ftes with an additional temporary contracted auditor, due to vacancies within the Team. Two of the three vacant posts have now been filled; one being at senior auditor level and the other being the appointment of a new Head of Internal Audit. Both commenced in October 2016. It is hoped to fill the third vacant post in the New Year.

5.2 In addition to a shortfall in resources, various other factors have continued to impact on the delivery of planned audit work, including:

- There has been no let-up in the demand for responsive audit work on potential irregularities or in response to whistleblowing allegations (100 days used from an annual provision of 120 days).
- Work and time required to progress actions in the PWC Review of Internal Audit Action Plan, and the implementation of and the assessment of compliance with the UK Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN) Action Plan (60 days)
- Devotion of resources into ensuring progress on the delivery of recommendations contained in the Anti-Fraud and Corruption Action Plan.
- Devotion of resources to update a number of key documents that have also been presented to the Audit Committee, including the Internal Audit Charter; Strategy, and Anti-Fraud and Corruption Strategy and Policy.

- Carried forward work from the 2015/16 audit plan (85 days)

5.3 The Veritau commentary on the Quarter 1 Progress Report in July included the following paragraph about reporting on the plan.

We would also suggest that aiming for 100% completion of the audit plan by year end is probably unrealistic. Even where the majority of fieldwork can be completed by March, there will inevitably be delays in finalising work. Most services we are aware of tend to set targets of audit plan completion in the range 80 - 90% - the point at which this is measured varies (end of March or end of April). The key is to make it clear that audit work is actually an ongoing process and % completion figures of less than 100% are a reflection of this. Veritau currently works on the basis of a 93% target for completion by the end of April. Actual planning years are April to March and we manage brought forward / carried forward work as part of work scheduling arrangements.

5.4 In the context of the challenges facing the Service and the changes happening during this year so far, the Service has made strong efforts and reasonable progress in keeping in touch with expectations relating to the delivery of planned work.

5.5 The Strategic Director Finance and Customer Services and Head of Internal Audit will continue to closely manage the situation, adjusting resources wherever required to ensure the service delivers the audit plan and achieves the necessary improvements outlined in the PWC report in February 2016.

6. Half year review of the Audit Plan

6.1 The 2016/17 Audit plan has been reviewed and updated. The aims of the review were to ensure that the plan remained relevant to match the available resources to the plan and to ensure that the plan enabled the Head of Internal to give his annual opinion on the adequacy and effectiveness of the control environment. The contents of the plan were discussed and agreed with each Strategic Director. This included examining the scope of the work and noting where assurance had been gained from other sources. Progress against the original plan, the amount of work to be completed and the current staffing structure of the department were also examined. It is important to note that this is an entirely normal process and position to be reached.

6.2 The result of the review is shown in **Appendix A**. This shows the original plan, the decision taken during the review and the impact on the plan for the full year. Where an audit has been removed from the plan or the days reduced the reasoning behind that decision is given. The overall result is a reduction in planned audit days from 1143 to 968. This gives a balanced coverage of all Directorates and is sufficient to enable the year end opinion to be reached.

7 Audit Work Undertaken During the Period

7.1 Internal Audit provides an 'opinion' on the control environment for all systems or services which are subject to audit review. These are taken into consideration when forming our overall opinion on the Council's control environment.

- 7.2 As part of its improvement plans, Internal Audit has introduced a new Executive Summary and reporting format, and a new opinion assessment scale. This provides four levels of assurance for any area under examination, these being “Substantial Assurance”, “Reasonable Assurance” “Partial Assurance” and “No Assurance”. This approach is considered to be more informative than the previous simple “adequate” / “inadequate” opinion that was given. However, because of the overlap in approaches, this report includes opinions provided under both approaches. Audit opinions and a brief comment for all audit work concluded since the last Audit Committee are set out in **Appendix B**.
- 7.3 In addition to the planned audit assurance work, Internal Audit also carries out responsive work and investigations into any allegations of fraud, corruption or other irregularity. Details of significant responsive work carried out since the last Audit Committee are set out in **Appendix C**.
- 7.4 There were no adverse opinions issued during the period.

8. Management Response to Audit Reports

- 8.1 Following the completion of audit work, draft reports are sent to the responsible managers to obtain their agreement to the report and commitment to the implementation of recommendations. This results in the production of agreed action plans, containing details of implementation dates and the officers responsible for delivery.
- 8.2 An Action Plan has been agreed in respect of each final audit report issued. See Appendix A for further details.
- 8.3 Confirmation of implementation of audit recommendations is sought from service managers, in most cases two months after actions have been agreed. Where fundamental weaknesses in internal control arrangements have been identified, more detailed follow work is undertaken.
- 8.4 Internal Audit has now also introduced procedures to report any lack of progress in implementing recommendations to Directorate Leadership Teams, and where relevant, the Strategic Leadership Team and the Audit Committee.
- 8.5 A list of the number of recommendations made and their current status is attached at **Appendix D**. This now includes recommendations made in 2015/16 which are still outstanding. These will continue to be followed up with management.

9. Work for Outside Bodies

- 9.1 During the period Internal Audit provided audit services on a fee earning basis to one academy. Since academies are separate legal entities to the Council, this work does not have any impact on our overall opinion of the Council’s control environment.

10. Internal Audit Performance Indicators

- 10.1 Internal Audit’s performance against a number of indicators is summarised below:

Performance Indicator	2016/17 Target	Apr to Aug 2016	Sept and Oct 2016
Draft reports issued within 15 working days of field work being completed.	95%	96%	100%
Percentage of 3 star (fundamental control weakness) recommendations agreed.	100%	100%	100%
Chargeable Time / Gross Time.	72%	75%	77%
Audits completed within planned time ^{*1}	95%	96%	100%
Cost per Chargeable Day.	£295	£284	£280
Client Satisfaction Survey.	100%	100%	100%

Impact of Internal Audit

10.2 Since the last Audit Committee one client satisfaction surveys has been received, awarding 4 stars (the highest mark) for the work done by Internal Audit. A more robust system of issuing surveys will be implemented to ensure a greater amount of feedback is received.

10.3 Internal Audit continues to support management by carrying out a diverse and significant amount of responsive / investigatory work, including:

- Helping the Council improve and obtain assurance over its safeguarding of information following building decants, including securing no action by the Information Commissioner through the remedial action implemented
- Carrying out an audit identifying improvements ensuring young people receive the assessments and support they need when returning from care, in accordance with pathway planning requirements
- Carrying out a follow-up audit, showing progress made by the Licensing Service and highlighting outstanding priorities
- Highlighting lessons in the way a market unit was allocated, following complaints made by a trader
- Providing assurance that concerns about the Council's handling of a specific nuisance complaint were unfounded
- Providing advice relating to cash holding at Council premises.

10.4 The Service is making reasonable progress in implementing improvement action plans.

¹ A 20% tolerance is currently allowed for any unforeseen variations arising during planned work

11 Future Development

- 11.1 The Council is in the process of procuring integrated internal audit software for the department. When fully implemented the software will integrate all aspects of the internal audit cycle: strategic planning; scheduling; scoping; testing; reporting; recommendation tracking; client satisfaction; time and performance management. It will entail a large amount of work initially but will greatly increase the efficiency of the team in the future. It is hoped to start the introduction of the software in the New Year.

Internal Audit Plan 2016/17

Audit Area	Assurance Objective	Source of Audit	Summary of Proposed Audit Work	Original Audit Days	Half Year Review / Days to complete	Amended total Audit Days
CHILDREN & YOUNG PEOPLE'S SERVICES – Original Total 170 Audit Days. Revised Total 115 Audit Days, 95 to complete.						
Family Care	To ensure that children placed away from birth parents within family / friends settings are properly looked after.	Audit Risk Assessment and CS Risk S01(013) CYPS Improvement Plan	Test the safeguards in place to ensure children are adequately assessed and supported by family and friends placements in accordance with statutory and Rotherham standards. Assess the adequacy of the Council's response to the recent judicial review of this area.	15	Retain 15	15
Sustainable Improvements: Children and Young Peoples Quality Assurance Framework	To ensure that Children and Young People's Services has an effective quality assurance framework in place.	Audit Risk Assessment External Inspection Frameworks & reports CYPS Imp Plan.	To establish progress towards RMBC meeting Ofsted Recommendation 2: <i>"Carry out effective performance management and quality assurance arrangements and ensure that they are well understood"</i> (Ofsted 2. Nov. 14). We will carry out tests to assess the Council's progress in meeting Ofsted Inspection Framework Key Measures (35.7 to 35.8). We will seek to obtain evidence	15	Remove There is already a strong audit trail from external sources. 0	0

Appendix A

Audit Area	Assurance Objective	Source of Audit	Summary of Proposed Audit Work	Original Audit Days	Half Year Review / Days to complete	Amended total Audit Days
			that CYPS Improvement Plan activity in relation to QA and Performance has been achieved, implemented and embedded.			
Children in Care Placements Process	To ensure that the placement process delivers children the care they need and the Council secures value for money.	Audit Risk Assessment External reports CS Risk S01(0043)	We will assess the adequacy of the Council's processes to ensure that Children's needs are met through robust contract compliance activity. We will also check that the commissioning and procurement arrangements are compliant with the Contract Standing Orders.	15	Remove A review has just been completed. No added value from an audit. 0	0
Direct Payments	To ensure that the Council has proper arrangements for the administration of Direct Payments	Audit Risk Assessment	The audit will test compliance with procedures for administering direct payments, including the periodic review of needs and entitlement and arrangements for the prevention and detection of fraud. This audit will run in conjunction with Adult Social Care Direct Payments.	10	Retain 10	10
Children missing	To ensure that children who go missing from home or care are properly catered for.	CYPS Improvement Plan	The audit will check that adequate action has been taken to address the November 2014 Ofsted Inspection finding " <i>children who go missing from home or care do not receive a good enough service</i> ". We will also clarify the progress of CYPS Improvement Plan in	15	Retain – Recent review by Ofsted. IA to follow up this review 5	5

Appendix A

<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
			respect to identifying and responding to children missing from home or care. We will also seek to provide assurance in respect of the Council's planned activity to achieve readiness to undergo the 'deep dive' Ofsted Targeted Inspection: Child Sexual Exploitation and Children Missing from Home, Care or Education. Published 14 January 2016.			
New Children's Social Care System: Liquid Logic	To ensure that Children's Services are supported by an information system that enables them to delivery statutory functions.	Audit Risk Assessment	<p>Weaknesses in the current system were highlighted by the Casey Report and a new system is to be implemented, delivery of this is crucial to the Improvement Plan. An internal audit undertaken in the fourth quarter of 2015/16 highlighted significant risks to the safe implementation of this project.</p> <p>Through proactive involvement in the system development, Internal Audit will highlight to senior management risks and advise on their mitigation. Internal Audit will also attend meetings of the Programme Board that has recently been established following a review of the project's governance arrangements.</p>	15	Completed 0	15

Appendix A

<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
Children's Homes	To ensure that systems are in place to ensure the proper administration of children's homes.	Audit Risk Assessment	We will carry out the two mandatory audits in accordance with grant certification requirements.	5	Retain 5	5
Troubled Families Grant	To ensure that the Council claims grant properly.	Mandatory	We will carry out the two mandatory audits in accordance with grant certification requirements.	5	Completed 0	5
Fostering Allowances	To ensure that payments made to foster carers are correct.	Audit Risk Assessment Area of significant expenditure	We will carry out a review to assess the adequacy of arrangements for paying those providing foster care within the borough. This will include both foster carers engaged directly by the Council and those engaged through agencies.	15	Retain. Report already taken to Cabinet 10	10
Procedures for investigation of safeguarding concerns	To ensure that safeguarding concerns are properly investigated.	Previous audit work relating to Home to School Transport.	The audit will check for compliance with LADO (Local Authority Designated Officer) procedures. We will also consider the adequacy of arrangements for ensuring that safeguarding concerns are passed through to the appropriate team, wherever they arise in the Council or in partner organisations.	10	Retain 10	10

Appendix A

<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
Schools: Financial Administration	To ensure that the finances of maintained schools are being administered properly.	Area of significant expenditure	We will visit four schools/pupil referral units to check that they are managing their delegated budgets in accordance with proper financial administration arrangements. Our work will include checking compliance with Financial Regulations for Schools and the Fair Funding Scheme.	35	Retain Low risk 15	15
Early Years Childcare Provision	To ensure that payments to independent sector childcare providers are made in accordance with conditions attached to the funding.	Audit risk assessment	We will conduct a review to ensure that payments to childcare providers are made in accordance with the conditions attached to the funding.	15	Retain 15	15
Schools Deficit Budget	To ensure that the risks associated with schools operating with, or falling into, deficit budgets are recorded, mitigated and strictly monitored.	Director	We will conduct a review of procedures for agreeing in-year deficit budgets and budgetary controls in place (within the school and CYPS Finance) to control and monitor budgets. In addition, we will examine performance at schools in deficit and report on any risks associated with any schools in deficit and rated as poorly performing.	0	Addition 10	10

ADULT CARE AND HOUSING– Original Total 135 Audit Days. Revised Total 100 Audit Days, 75 to complete.

Appendix A

<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
Housing Repairs and Maintenance Contracts	To ensure that the Council has effective contract management arrangements with respect to its contracts with Mears and Willmott Dixon Partnership.	Area of significant expenditure	The audit will check that there are appropriate contract management processes in place, including verification checks on the cost collection workbook, performance indicators and the process for authorising variations. The audit will also follow up on previously made recommendations in this area.	20	Retain Confirming contract management 10	10
Housing Capital Programme	To ensure that the Council has robust contract management arrangements for the Housing Capital Programme.	High area of spend	The audit will review the adequacy of the Council's contract management arrangements for the Housing capital programme, including procurement arrangements and the process for the checking of accounts during the currency of the contract and at final account stage.	20	Retain High level check only 10	10
Housing IHMS Phase 2	To ensure the successful implementation of the 2 nd phase of the IHMS system.	Business critical system	The audit will assess the Council's preparedness for the implementation of phase 2 of the Integrated Housing Management System. The audit will follow a similar format to that carried out for the Phase 1 implementation.	15	Completed 0	15
Housing Rents System	To ensure the new housing rents system is fit for	New system Audit required to support	A review will be carried out to assess the adequacy of the system of internal control in the	20	Retain Part done last year –	10

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
	purpose and is operating in line with expectations.	KPMG's audit of the Council's Statement of Accounts	new system. The audit will include testing the procedures for generation of the rent roll, arrears recovery, authorisation of write offs. We will also check that reconciliations between Housing Rents and other fundamental financial systems e.g. general ledger, housing benefits are being completed and reviewed on a timely basis.		follow up 10	
Housing Revenue Account Business Plan	Ensure that Housing Revenue Account Business Plan is delivered.	Risk register Potential material impact on Council's financial position.	Ongoing assurance around the risks associated with management of key risks in the Business Plan. Our work will include an assessment of arrangements to mitigate the risks around the impact on housing rents collection performance of welfare reform and social housing size criteria, sensitivity of assumptions around right to buy take up and potential cost overruns on schemes.	10	Retain External report received 5	5
Adult Social Care Direct Payments	To ensure that payments made via the direct payments system are bona fide.	Request from management	Following the service review of Direct Payments, Internal Audit will carry out a programme of checks on sample of Direct Payment accounts. As part of this we will assess the arrangements for the prevention and detection of fraud.	20	Retain 20	20

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
Adult Social Care Supported Living	Ensure that adults receive the care they need.	Significant control weaknesses in 2015/16 audit.	Audit to assess the Council's contract compliance framework, including checks that client care records are up to date and subject to quality review.	10	Retain 10	10
Adult Social Care Social Care Establishments	Ensure that systems are in place to monitor the quality and effective running of residential homes, day centres and other establishments.	Audit risk assessment.	We will carry out a programme of visits to Adult Social Care establishments to check for compliance with financial administration procedures. This will include checks on clients' personal monies.	20	In progress 10	20
<i>PUBLIC HEALTH – Original Total 35 Audit Days. Revised Total 25 Audit Days, 25 to complete.</i>						
Public Health Commissioning Payments Process	To assess the adequacy of the processes in place for making payments to GPs, Pharmacies and other providers for Public Health commissioned services.	Area of high expenditure. Concerns raised by management.	Internal Audit will visit a sample of surgeries and pharmacies to obtain evidence that services claimed for have been carried out as per clinical records. Clarification on the Council's right of access to records will need to be sought prior to commencement of this audit. We will also examine the arrangements for the prevention and detection of fraud.	25	Retain Overall review of framework 15	15
Public Health Commissioning Contract Compliance	To assess the adequacy of Council's arrangements for	Audit risk assessment	Internal Audit will assess the adequacy of arrangements for checking that providers have the appropriate training and	10	Remove Link to review of framework	0

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
Process	ensuring that GP's, pharmacies and other providers carry out their work in accordance with contract		qualifications to carry out their functions and that sufficient insurance cover is in place.		0	
Public Health Grant Spend	To assess how the public health budget has been spent across the borough and verify that it has been spent on Public Health Outcomes	Raised by Director	Internal Audit will discuss the scope of the audit with PH, and also utilise the work of Doncaster Council who have recently conducted an audit in this area and have agreed to share their remit scope and findings.	0	Addition to the plan 10	10
<i>REGENERATION & ENVIRONMENT SERVICES – Original Total 165 Audit Days. Revised Total 165 Audit Days, 92 to complete.</i>						
Business Continuity Arrangements	To ensure that RMBC has effective Business Continuity arrangements in place.	Strategic Risk Register	We will review the progress made by services across the Council in producing business continuity plans and ensure that they are robust and have been properly documented. We will check that there are arrangements in place for periodically updating, reviewing and testing these plans.	15	Retain 15	15
Contract Management	To ensure that the Council has effective management arrangements in	Service Risk Register (projects & partnerships)	The audit will check that there are appropriate contract management processes in place, including verification checks on the cost collection workbook, performance	20	Retain 20	20

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	place for both revenue and capital contracts.	Capital Programme	indicators and the process for authorising variations. The audit will also follow up on previously made recommendations in this area e.g. A57 and Firsby Reservoir. The scope will include both capital contracts e.g. major highways infrastructure projects and revenue contracts e.g. D C Leisure.			
Licensing Administration and Licensing Enforcement	To ensure that the Licensing function is fit for purpose so as to contribute to: <ul style="list-style-type: none"> • the prevention of crime and disorder • public safety • the prevention of public nuisance • the protection of children from harm 	Corporate Improvement Plan Service risk register	We will review compliance with the new Licensing policy and procedures, including a follow up piece of work to check that licences are only issued once all essential checks (e.g. DBS) have been performed. The review will also check that the Council's new procedures around enforcement are being complied with.	30	In progress 1	30
Waste Disposal including operation of BDR facility at Manvers	To ensure that there are proper financial management and governance procedures in place for the new Waste Treatment facility at Manvers.	Service Risk Register	The audit will test compliance with contract conditions in accordance with Project Agreement. The audit will focus on the robustness of the payments process and the accuracy and validity performance data, focusing particularly in those performance measures that have financial or service delivery implications. We will also	15	Completed 0	15

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
			undertake work for the external auditor, as in previous years.			
Heritage Services	To ensure that the Council's Historical Sites are safeguarded from deterioration, neglect and vandalism and are safe to the public.	Service Risk Register	We will compliance test the arrangements for safeguarding historical sites and museum assets. As part of this we will assess the effectiveness of the regime for structural inspections.	10	In progress 6	10
Corporate Landlord Responsibilities	To ensure that the Council's operational and non-operational estate is safe.	Audit risk assessment Corporate manslaughter risk	We will carry out an audit of the systems and processes to ensure compliance with statutory responsibilities for both operational and non-operational land and buildings. The audit will include gas inspections, electrical testing, asbestos, legionella and fire risk assessment.	20	Retain Self-assessment has been completed 10	10
Income Collection	To ensure that the Council has robust arrangements for income collection at its establishments.	Budget Book	Our audit will assess the adequacy of the arrangements for the identification, collection, recording and reconciliation of income at establishments. This work will be carried out on an unannounced spot check basis. Establishments could include country parks, markets, civic theatre, visitors centre, car parks etc.	20	In progress 7	20

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
Hellaby Depot: Fleet contract / Hire of plant and equipment	To ensure that robust arrangements are in place at the Hellaby Depot for management of the fleet contract and the hire of plant and equipment.	Audit Risk Assessment	We will check that the arrangements for the procurement of services in relation to the fleet and the hire of plant, equipment and vehicles are compliant with the competitive procurement requirements of Contract Standing Orders. We will also check that the Council has effective arrangements in place for monitoring the charges made by suppliers on these contracts.	15	In progress 13	15
Schools Catering Service Building Cleaning Service	To ensure that the Schools Catering Service and the Building Cleaning Service maintain financial stability.	Area of significant expenditure and income	We will carry out a review to assess the adequacy of administration arrangements in these traded services, including checking that up to date business plans are in place.	20	Retain – moved from CYPS 20	20
<i>FINANCE AND CUSTOMER SERVICES – Original Total 185 Audit Days. Revised Total 165 Audit Days, 81 to complete.</i>						
Housing Benefits and Council Tax Reduction	To ensure that the Council has proper arrangements for the administration of Housing Benefits and Council Tax Support.	Core s.151 responsibility. Total annual transaction value of c. £90million (housing	We will perform a risk based audit of the Benefits and Council Tax Support system in accordance with CIPFA guidelines. Our checks will include assessing the implementation of the recently introduced risk based verification framework. We will verify the	15	Completed 0	15

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
		benefit) and £21million (council tax support).	operation of key controls, including reconciliation to other financial systems (e.g. general ledger, housing rents) and the production and review of exception reports.			
Creditor Payments / Purchase to Pay	To ensure that the Council has proper arrangements for making payments to suppliers for goods and services	Core s.151 responsibility. Total annual transaction annual value of c. £300million	We will conduct a risk based audit of the Creditors systems in accordance with CIPFA guidelines. We will verify the operation of key controls, including reconciliation to other financial systems and the production and review of exception reports. We will take account of the forthcoming peer review in determining the nature, extent and timing of our audit procedures.	15	Completed 0	15
Creditor Payments / Purchase to Pay	To ensure that the Council has proper arrangements for making payments to suppliers for goods and services	Director	We will conduct a review of the use of call off orders and the use of authorisation codes by procurement staff.	0	Addition 10	10
Procurement	To ensure that the Council has effective arrangements to ensure value for money when buying goods and	Finance & Corporate Risk Register ref FCS13. Annual trade value of c.	The audit will determine whether there are adequate arrangements in place for the renewal of contracts, compliance with EU procurement rules and Council Standing Orders. This will include reviewing cases where	15	In progress 1	15

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
	services.	£224m	exemptions have been obtained. We will determine progress against Annual Procurement Service Plan and will take account the forthcoming peer review in determining the nature, extent and timing of our audit procedures.			
Council Tax	Ensure that the Council has proper arrangements for the collection of Council Tax.	Core s.151 responsibility. Total annual transaction value of c. £97m	Risk based audit of the Council Tax system in accordance with CIPFA guidelines. We will verify the operation of key controls, including reconciliation to other financial systems and the production and review of exception reports.	10	Completed 0	10
Debtors	To ensure that the Council has proper arrangements for the collection of debt.	Core s.151 responsibility. Total annual transaction value of c. £59m	We will conduct a risk based audit of the Debtors system in accordance with CIPFA guidelines. We will verify the operation of key controls, including reconciliation to other financial systems and the production and review of exception reports. Sundry Debtors are currently evaluating two tenders i.e. Civica (current supplier) and ABS (current supplier of general ledger) for the provision of a new system. We will consider this when determining the nature, extent and timing of our work.	10	In progress 8	10

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NNDR	To ensure that the Council has proper arrangements for the collection of national non domestic rates.	Core s.151 responsibility. Total annual transaction value of c. £74m	We will conduct a risk based audit of the NNDR system in accordance with CIPFA guidelines. We will verify the operation of key controls, including reconciliation to other financial systems and the production and review of exception reports.	10	In progress 1	10
Adult Social Care Financial Assessments	To ensure that the Council has proper arrangements for carrying out financial assessments.	Audit risk assessment.	Audit of compliance with the financial assessment process, including detailed checks on a sample of assessments and deferred payment agreements. We will also review the implications on the Council's financial assessment processes arising from implementation of the Care Act 2014.	10	Retain 10	10
Legal Services: Freedom of Information / Data Subject Access Requests	To ensure the Council is dealing with Freedom of Information requests and Data Subject Access requests effectively.	Finance & Corporate Risk Register ref FCS14 Inadequate opinion from previous audit.	Audit of compliance with the statutory requirements for responding to freedom of information and data subject access requests. As part of this we will check that the Council has effective arrangements for the programme management of this function through directorates and for ensuring responses are subject to quality assurance.	10	Retain 10	10

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
Legal Services: Information Governance	To ensure that the Council has effective information governance arrangements.	Penalties for information security breaches can reach £500,000 per breach. Even heavier fines are being proposed in the new EU General Data Protection Regulations	<p>We will conduct an audit to assess the level of compliance by the Council with the national Information Governance Toolkit. This audit will assess:</p> <ul style="list-style-type: none"> • Assignment of key information governance roles, including, including the Senior Information Risk Owner, the Caldicott Guardian, and the Head of Information Governance; • Adequacy of policy and procedural framework for IG governance; • Sufficiency of training to individual staff in IG responsibilities. <p>We will also check compliance with Data Protection Acts. In light of the incidents in 2015/16 we will also review the arrangements for the closure of Council buildings.</p>	20	In progress 11	20
Whistleblowing Procedures	To ensure that the Council listens to whistle-blowers and investigates their concerns properly.	Audit risk assessment	We will conduct a review to provide independent assurance to Commissioners and Audit Committee over the effective application of the Council's whistleblowing arrangements. Internal Audit will also be kept informed of all whistleblowing	10	Retain 10	10

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
			reports so that we can consider the impact they have on our overall opinion concerning the control environment.			
ICT: Active Directory	To ensure Active Directory arrangements are effective.	Audit risk assessment	We will review the management of Active Directory to assess its maintenance, whether it is up to date and its alignment with the organisational structure.	10	Retain 10	(external) 10
ICT: Network Security	Ensure sufficient security arrangements are in place to protect the Council's network and business critical systems	Audit risk assessment Finance & Corporate Risk Register ref FCS15	We will assess the Council's network security arrangements by reviewing the results of external penetration testing and the findings arising from the annual IT Health checks. We will also perform a check of the PSN Code of Connection return prior to submission.	10	Remove External assurance received 0	0
ICT: Asset Management	Ensure that the Council has effective arrangements to manage its ICT assets.	Corporate ICT Manager	We will assess the Council's ICT asset management arrangements against best practice standards. This will include: <ul style="list-style-type: none"> • Procedures for updating IT asset registers for new starters, leavers, transfers or other HR related events • Performance of electronic stocktakes of ICT inventory and manual stocktakes of ICT in storage. • Maintenance of ICT asset inventory 	10	Draft Report 0	10

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
			<ul style="list-style-type: none"> Clarity of policy on asset life cycle for IT equipment Compliance with competitive procurement requirements 			
ICT: Data Security	Ensure that the Council has effective arrangements in place to protect its own data and its service users' data.	Audit risk assessment Risk of fines	We will check that adequate controls are in place and operating correctly for data capture and entry, user access management, equipment security, data storage, data transfer and availability.	10	Retain 10	(external) 10
ICT: Business Continuity	Ensure that the Council's business critical systems can continue to operate through unforeseen circumstances.	Audit risk assessment	We will check that business continuity plans are in place that meet appropriate standards and are communicated effectively. The review will also assess whether systems for recovery have been risk ranked and plans have been tested and updated where necessary.	10	Remove BCP currently being updated. Defer to 2017/18 0	0
Digital Council	To ensure that the Council has effective control of its major systems developments.	Audit risk assessment	We will liaise with Digital Council on any key systems developments during 2016/17. This will include Liquid Logic, Integrated Housing Management System and Arcus.	10	Remove. LL and IHMS in place. Review governance in 2017/18 0	0

ASSISTANT CHIEF EXECUTIVE – Original Total 125 Audit Days. Revised Total 70

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
Audit Days, 44 to complete.						
Corporate Improvement Plan and Children's Services Improvement Plan	To ensure that services are improved and there is a good understanding of improvement priorities across the organisation to ensure that the Government takes no further intervention steps and no services are permanently removed (e.g. Children's).	Strategic Risk register ref S17 (001) Partnerships, People & Performance - Risk Assessment/ Register.	We will work with the Head of Policy, Improvement and Partnerships to determine the most effective use of Internal Audit resources in supporting delivery of the Corporate Improvement Plan and Children's Services Improvement Plan. It is proposed that our focus will be on providing independent assurance to management and Commissioners that key improvement targets are on track for achievement.	20	Remove Assurance received from other sources 0	0
Agency Workers	To ensure that value for money is obtained in the procurement of agency staff.	Budget pressures. Large area of spend during 2015/16.	We will conduct a review to verify that the use of agency staff is supported by a business case and is procured in accordance with the competitive procurement requirements of Contract Standing Orders and the authorisation requirements of the Scheme of Delegation.	15	Retain 15	15
Communications & Marketing	Ensure the Council is able to maintain and preserve required levels of sensitivity when	Comms & Marketing Risk Assessment Register	Determine whether the Council is compliant with the requirements of the Data Protection Act and the Department for Constitutional Affairs' data-sharing guarantee	10	Remove Low priority 0	0

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	dealing with information in relation to Communications and Marketing.		guidance.			
Payroll	To ensure that the Council has proper arrangements for the payment of wages, salaries and expenses to employees.	Core s.151 responsibility. Annual transaction value c. £141m.	We will carry out a risk based audit of the Council's payroll system in accordance with CIPFA guidelines. In accordance with our three year cycle approach, we will perform testing on payroll deductions, variations to pay and data security. We will also carry out testing of key controls that are required by KPMG for their audit of the Council's statutory Financial Statements. This will include checking the reconciliation to other financial systems e.g. general ledger.	20	Completed 0	20
Human Resources Policies	To ensure the Council is compliant with HR Policies and Procedures	Audit risk assessment	Our audit will verify compliance with HR policies and procedures. Internal Audit will determine which HR policies are the subject of this audit through discussion with the Assistant Chief Executive and Human Resources Manager.	20	Remove Management review in 2016/17. Defer audit to 2017/18 0	0
DBS Checks	To ensure that DBS checks are	Audit risk assessment	Our audit will verify compliance with DBS procedures for Council	10	In progress	10

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
	carried out properly where required.		employees, elected members and those areas not under direct Council control e.g. maintained schools using external HR functions.		9	
Risk Management	To ensure that the Council has effective risk management arrangements.	Audit risk assessment	The Council's refreshed risk management framework is currently being embedded with the support of the interim Corporate Risk Manager and the facilitation of 'deep dive' into directorate risk registers through the Audit Committee. Internal Audit will support this work and will consider the effectiveness of risk management arrangements in each Council service or function subject to audit.	10	Retain 10	10
Democratic Services: Elected Members	Ensure that the conduct of elected members meets the highest standards expected in public life (The outcome of elections could have a significant impact on the administration of	Strategic Risk Register ref s13 (011)	Audit to carry out checks on compliance with protocols surrounding elected members, including maintenance of declaration of interests. We will also perform sample checks on elected members' expenses to ensure compliance with policies.	5	Completed 0	5

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
	the authority moving forward)					
Annual Governance Statement / Review of Internal Control Effectiveness	To ensure that the Council has an effective system of internal control and an evidenced AGS.	Audit risk assessment	We will undertake an audit of the effectiveness of the Council's control environment. We will review the body of evidence supporting the assertions in the Council's Annual Governance Statement, including declarations made by Assistant Directors and Strategic Directors.	15	Retain Moved from Finance Checking evidence supporting the AGS 10	10
<i>ANTI FRAUD & CORRUPTION WORK – Original Total 55 Audit Days. Revised Total 55 Audit Days, 42 to complete.</i>						
Fraud NFI Datasets	Mandatory requirement.	N/A	We will provide the information to allow the NFI to carry out their data matching exercises.	10	In progress 0	10
Fraud Annual Report	Corporate requirement.	N/A	We will produce an annual fraud report for the audit committee highlighting Internal Audit's work in respect of fraud prevention and investigation.	5	Outstanding 5	5
Fraud Proactive Anti-Fraud Activity		N/A	We will use the Council's systems to undertake local data matching activity. On the basis of the recently completed fraud risk assessment, our work will focus on: <ul style="list-style-type: none"> • Falsifying right to buy 	20	In progress 17	20

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Audit Area	Assurance Objective	Source of Audit	Summary of Proposed Audit Work	Original Audit Days	Half Year Review / Days to complete	Amended total Audit Days
			information <ul style="list-style-type: none"> • Overpayment of suppliers • Procurement fraud • Social care claims • Sub-letting of Council houses 			
Fraud Advice / Guidance	Ensure that the Council limits as far as possible its exposure to fraud.	N/A	Provision of advice and guidance to managers in the prevention, detection and investigation of fraud. We will utilise the Fraud Risk Register in delivering this advice.	20	Outstanding 20	20
<i>GRANTS – Original Total 18 Audit Days. Revised Total 18 Audit Days, 5 to complete.</i>						
Sport England 1 Sport England 2 Pot Hole Additional Highway Maintenance Disabled Adaptations Bus Operators				18	In progress 5	18
<i>WORK FOR EXTERNAL AGENCIES – Original Total 48 Audit Days. Revised Total 48 Audit Days, 16 to complete.</i>						
Academies	Provision of paid audit service for academies		We will audit 8 academies throughout the year.	48	In progress 16	48
<i>AUDIT PLANNING, FOLLOW UP AND RESPONSIVE – Original Total 207 Audit Days.</i>						

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<i>Audit Area</i>	<i>Assurance Objective</i>	<i>Source of Audit</i>	<i>Summary of Proposed Audit Work</i>	<i>Original Audit Days</i>	<i>Half Year Review / Days to complete</i>	<i>Amended total Audit Days</i>
Revised Total 207 Audit Days, 30 to complete.						
Planning; Control and Reporting	Provide quarterly update reports to Audit Committee.	N/A	We will provide regular update reports to Audit Committee detailing progress against the Internal Audit Plan and bringing any significant issues highlighted from our work, to the Committee's attention.	50	0	50
Follow Up Work	Ensure significant recommendations made during 2015/16 are followed up	N/A	We will follow up on all outstanding 3* fundamental recommendations made following audits carried out during 2015/16.	37	0	37
Responsive	Ensure audit resources and experience, is available to provide a professional level of advice and investigatory experience in the event of any incidents of fraud or corruption.	N/A	Provide audit resources to investigate any instances of fraud and corruption. In addition, provide advice to clients where requested to do so.	120	In progress 30	120
TOTAL DAYS				1143	505	968

Summary of Audit Work Completed since the last meeting

Note:- Internal Audit has introduced a new Executive Summary and reporting structure which now gives four levels of overall assurance for areas under examination. Within each area audited individual risks are assessed as being either “Substantial Assurance”, Reasonable Assurance”, “Partial Assurance” and “No Assurance”, with an overall assurance opinion taking into account the opinions of all the risks assessed. The reports in the table below which indicate an Adequate or Inadequate overall opinion were based on the previous reporting structure.

Audit Area	Assurance Objective	Final Report to man't	Overall Audit Opinion	Summary of Significant Issues
Assistant Chief Executive				
Payroll	To ensure that the Council has proper arrangements for the payment of wages, salaries and expenses to employees.	19 th Sept 2016	Substantial	The audit found a number of areas of good practice including the processing of deductions, reconciliations to the General Ledger and the review of exception reports. Minor recommendations were made to improve the level of control.
CYPS				
New Children's Social Care System: Liquid Logic	Ensure that Children's Services are supported by an information system that enables them to deliver statutory functions	9 th Sept 2016	Adequate	The review took place during the implementation of the system. Confidence was high amongst stakeholders that the system would be delivered successfully and bring major improvements. The review noted that governance and control processes had been strengthened, but identified some areas of concern.
Troubled Families Grant	To ensure that the Council claims grant properly	n/a	n/a	The audit confirmed the accuracy and eligibility of the Council's claim.
Finance and Customer Services				
Housing Benefits and Council Tax Reduction	To ensure that the Council has proper arrangements for the administration of Housing Benefits and Council Tax	20 th Sept 2016	Substantial	The audit found that controls and processes were operating effectively. Areas of good practice included reconciliations, assessments and administration. One minor recommendation was made.

Audit Area	Assurance Objective	Final Report to man't	Overall Audit Opinion	Summary of Significant Issues
	Support.			
Council Tax	Ensure that the Council has proper arrangements for the collection of Council Tax.	4 th October 2016	Substantial	The audit found that the processes in place were operating in an effective manner. There were areas of good practice in the operation of key controls, billing, collection and refunds. Issues were raised over separation of duties, and these have been reviewed by management.
Debtors	To ensure that the Council has proper arrangements for the collection of debt.	1 st April 2016	Adequate Assurance	The audit found no fundamental concerns. Recommendations were made around risk management and the raising of invoices. It was noted that eight recommendations from the previous audit had not been implemented.
Regeneration and Environment Services				
Waste Disposal	To ensure that there are proper financial management and governance procedures in place for the new Waste Treatment facility at Manvers.	7 th Nov 2016	Substantial Assurance	The audit confirmed that the controls in place to manage the BDR waste treatment contract were operating effectively. Eight minor recommendations were made to enhance control.
Grants				
Disabled Facilities – Aids and Adaptions	To audit the grant claim in accordance with grant funding body requirements.	n/a	n/a	The audit found that the conditions attached to the grant had been complied with.

Investigations / Responsive Audit Work

Audit Area	Assurance Objective	Status	Overall Audit Opinion	Summary of Significant Issues
Regeneration & Environment Services				
Whistle-Blowing Allegations	To review the concerns raised by an employee	31 October 2016	N/A	We examined a number of issues raised around working practices; health and safety and HR procedures. Our work has resulted in an agreed action plan with 11 recommendations to address weaknesses in current procedures and to reinforce management requirements to staff at the site. We have complied with the requirements of the Whistle-blowing policy by regularly updating the whistle-blower of the progress of our investigations and they have been appreciative of our work carried out.

Status of Recommendations Made

Appendix D

Audit	Final Report Issued	Total Recommendations							3* Recommendations							
		Made	Agreed	Not Yet Due	No response	Implemented	Deferred / Outstanding	New response due date	3* Recs Made	3* Recs Agreed	3* Recs Not yet due	3* Recs No response	3* Recs Implemented	3* Recs Deferred / Outstanding	3* Recs New Due Date	
Assist Chief Exec																
Whistleblowing Arrangements 1516	09/09/2016	4	4	4						0	n/a			n/a		
Elected Members Conduct 1516	04/05/2016	8	8			8				0	n/a	n/a	n/a	n/a	n/a	
Payroll	19/09/2016	4	4	4						0	n/a			n/a		
Adult Care and and Housing																
Housing Rents 1516	19/09/2016	4	4	3		1				0	n/a			n/a		
Housing: IHMS Phase 2	30/08/2016	9	9			5	4	31/01/2017		4	4		2	2		
Adult Social Care: Social Care Establishments: Lord Hardy Court	06/09/2016	17	17	17						0	0	n/a	n/a	n/a	n/a	n/a
CYPS																
Children Centres Administration 1516	28/04/2016	5	5			4	1	01/01/2017		0	0	n/a	n/a	n/a	n/a	n/a
Children Leaving Care 1516	23/08/2016	21	21		21					9	9		9			
New Children's Social Care System: Liquidlogic	09/09/2016	9	9	9						0	n/a	n/a	n/a	n/a	n/a	
Troubled Families Grant: Sept 16	28/09/2016	n/a	n/a			n/a				n/a	n/a			n/a		
Regeneration and Environment																
Taxi Licensing Admin Follow Up	31/08/2016	2	2			2				1	1			1		
Licensing Enforcement Follow Up	31/12/2016	6	6	6						3	3		3			
Markets - Income Spot Check	22/07/2016	6	6			6				0	0			0		
Finance and Customer Services																
Creditors	06/09/2016	0	n/a			n/a				0	n/a			n/a		
Housing Benefits and Council Tax Reduction	20/09/2016	1	1	1						0	n/a			n/a		
Council Tax	04/10/2016	1	1	1						0	n/a			n/a		
Key Controls 1516	15/08/2016	0	0			n/a				0	0			n/a		
Responsive																
Closed Childrens Homes (Laptops) 1516	15/08/2016	3	3				3			2	2		2			
Station Road Files 1516	06/07/2016	0	0			n/a				n/a	n/a			n/a		
Confidential Waste Disposal 1516	02/07/2016	4	4				4	28/11/2016		2	2				2	28/11/2016
Markets - New Letting (1 Market Square)	20/07/2016	2	2			2				0	0			0		
Silverwood Childrens Home - Missing Cash	22/07/2016	2	2			n/a				0	0			n/a		
Outdoor Covered Market stalls - follow up	03/10/2016	n/a	n/a			n/a				n/a	n/a			n/a		
Last Year																
Finance and Customer Services																
Information Governance: Freedom of Information	19/02/2016	5	5	1		4				0	0					
Adult Care and Housing																
Direct Payments - Key Controls	31/03/2016	1	1		1					0	0			n/a		
CYPS																
Fostering and Adoption Allowances: Adoption Allowances - CYPS08-1415	21/05/2015	8	8			5	3	30/11/2016		0	0			n/a		
Home to School Transport - EDS	19/01/2016	5	5			4	1	01/04/2017		0	0			n/a		
Home to School Transport - CYPS	20/01/2016	6	6		3	3				1	1			1		
Growth Plan	05/04/2016	7	7	2		1	4	31/01/2017		0	0			n/a		
Special Educational Needs and Disabilities	03/12/2015	12	12			11	1	07/11/2016		0	0			0		
Housing Landlord Responsibilities	24/03/2016	10	10			8	2	30/04/2017		3	3			3		
Public Health																
Contract Compliance: GP and Pharmacy	22/10/2015	15	15			14	1	31/01/2017		5	5			5		

Summary Sheet

Council Report Audit Committee

Title

Annual Audit Letter – 2015/16

Is this a Key Decision and has it been included on the Forward Plan?

This is not a key Decision on the basis that no approval is being sought to vary the Council's budget nor has any impact on local communities living.

Strategic Director Approving Submission of the Report

Judith Badger – Strategic Director for Finance & Customer Services

Report Author(s)

Simon Tompkins (Finance Manager)
Finance & Customer Services Directorate
01709 254513 simon.tompkins@rotherham.gov.uk

Ward(s) Affected

All

Executive Summary

KPMG have now concluded their 2015/16 audit and issued their audit certificate on 21 October 2016. The audit certificate and notice of conclusion of audit have been published on the Council's website.

Following the conclusion of the audit, KPMG have issued their Annual Audit Letter (AAL). The purpose of the AAL is to communicate to the Council and key external stakeholders, including members of the public, the key issues arising from auditors' work, which auditors consider should be brought to the attention of the Council. The AAL covers the work carried out by auditors since the previous AAL was issued.

The 2015/16 AAL provides KPMG's conclusions on their audit objectives:

- Value For Money Conclusion
- Audit of Financial Statements
- Any Other Matters the external auditor is required to communicate.

KPMG's AAL is attached as an Appendix to this report.

Recommendation

Audit Committee is asked to consider the Annual Audit Letter 2015/16 presented to the Council by its external auditors, KPMG LLP, and approve its publication on the Council's website.

List of Appendices Included

KPMG's Annual Audit Letter – 2015/16

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Annual Audit Letter – 2015/16

1. Recommendation

Audit Committee is asked to consider the Annual Audit Letter 2015/16 presented to the Council by its external auditors, KPMG LLP, and approve its publication on the Council's website.

2. Background

2.1 The purpose of the Annual Audit Letter (AAL) is to communicate to the Council and key external stakeholders, including members of the public, in a clear and concise manner, the key issues arising from the audit which the external auditor considers should be brought to the attention of the Council.

3. Key Issues

3.1 The Annual Audit Letter 2015/16 attached as Appendix 1 summarises the external audit work carried out in relation to the 2015/16 audit plan and highlights the findings in relation to the following:

- Value For Money Conclusion
- Audit of Financial Statements
- Any Other Matters the external auditor is required to communicate.

3.2 These findings have previously been reported to Audit Committee in more detail during the course of the year including, in particular, the ISA 260 Report presented to Audit Committee on 21 September 2016 immediately prior to the 2015/16 Statement of Accounts being approved.

3.3 The main headlines from the AAL in relation to the accounts and other audit responsibilities are that:

- As last year, the external auditor has issued a **qualified Value For Money (VFM) conclusion**. KPMG have acknowledged that a significant amount of progress has been achieved during 2015/16 in line with the Corporate Improvement Plan. However, because further work remains to be done to deliver the Plan in full and for the improvements to become fully embedded, it has been necessary to issue an adverse opinion for 2015/16
- The Council's financial statements were produced to a good standard with only minor presentational changes being made. **The financial statements were given an unqualified audit opinion on 26 September**. The Narrative Report published alongside the financial statements was consistent with KPMG's understanding
- The Annual Governance Statement approved at September's Audit Committee, is consistent with KPMG's understanding and compliant

with the CIPFA/SOLACE framework on good governance in local government;

- The Council's consolidation pack prepared to support the production of Whole of Government Accounts by HM Treasury was consistent with the audited financial statements; and,
- There are no high priority recommendations or other matters that need to be brought to the attention of Audit Committee

4. Options considered and recommended proposal

4.1 There are no options to be considered as part of this report.

5. Consultation

5.1 The Annual Audit Letter has been shared with Commissioners, the Leader of the Council and the Council's Senior Leadership Team.

6. Timetable and Accountability for Implementing this Decision

6.1 No decision requiring implementation is required as part of this report.

7. Financial and Procurement Implications

7.1 The external audit fee for 2015/16 of £140,828 is in line with the planned audit fee.

7.2 The final fee for the certification of the Council's housing benefit claim and other returns / claims KPMG have been engaged to certify has still to be confirmed as work is still on-going. The expected fees for this work are £21,277

8. Legal Implications

8.1 The Council has complied with all statutory requirements in relation to the issues covered by the AAL. Following consideration of the AAL the Council will publish the AAL on the Council website. There are no further legal implications arising from the report.

9. Human Resources Implications

9.1 There are no Human Resource implications arising from the report.

10. Implications for Children and Young People and Vulnerable Adults

10.1 There are no implications arising from the proposals to Children and Young People and Vulnerable Adults.

11. Equalities and Human Rights Implications

11.1 There are no implications arising from this report to Equalities and Human Rights.

12. Implications for Partners and Other Directorates

12.1 There are no implications arising from this report to Partners or other directorates.

13. Risks and Mitigation

13.1 Good progress is being made in delivering the improvements in corporate governance set out in the Corporate Improvement Plan. KPMG will undertake an early assessment as part of their 2016/17 audit of whether the progress that continues to be made will be sufficient to enable them to consider issuing an unqualified VFM conclusion in 2016/17.

14. Accountable Officer(s)

Judith Badger - Strategic Director of Finance & Customer Services

Approvals Obtained from:-

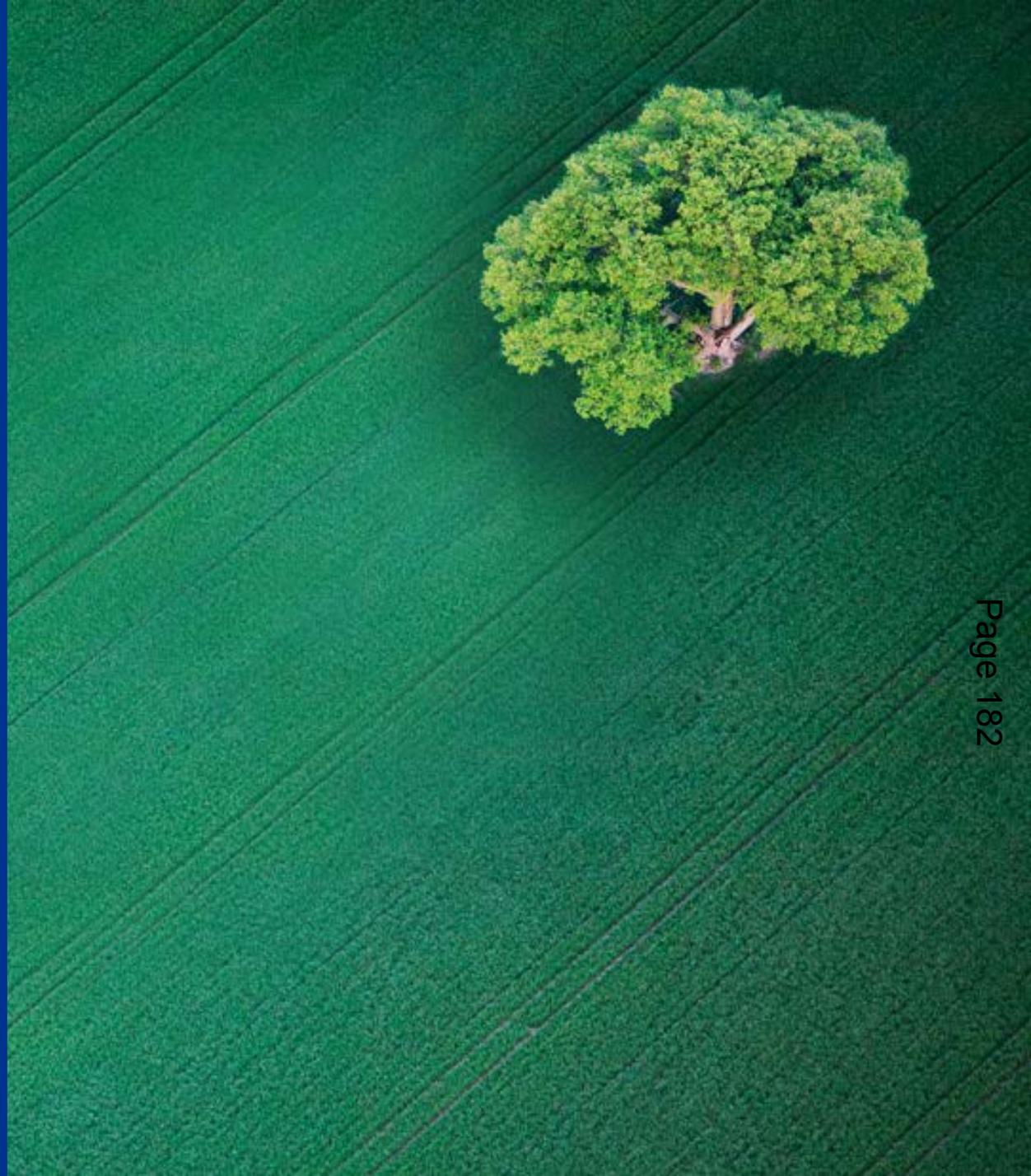
Assistant Director of Financial Services - Stuart Booth



Annual Audit Letter 2015/16

Rotherham Metropolitan Borough Council

31 October 2016



Contents

The contacts at KPMG in connection with this report are:

Tim Cutler

Partner

KPMG LLP (UK)

Tel: 0161 246 4774

tim.cutler@kpmg.co.uk

Debra Chamberlain

Senior Manager

KPMG LLP (UK)

Tel: 0161 246 4189

debra.chamberlain@kpmg.co.uk

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This report is addressed to the Authority and has been prepared for the sole use of the Authority. We take no responsibility to any member of staff acting in their individual capacities, or to third parties. Public Sector Audit Appointments issued a document entitled Statement of Responsibilities of Auditors and Audited Bodies summarising where the responsibilities of auditors begin and end and what is expected from audited bodies. We draw your attention to this document which is available on Public Sector Audit Appointment's website (www.psaa.co.uk).

External auditors do not act as a substitute for the audited body's own responsibility for putting in place proper arrangements to ensure that public business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively.

We are committed to providing you with a high quality service. If you have any concerns or are dissatisfied with any part of KPMG's work, in the first instance you should contact Tim Cutler, the engagement lead to the Authority, who will try to resolve your complaint. If you are dissatisfied with your response please contact the national lead partner for all of KPMG's work under our contract with Public Sector Audit Appointments Limited, Andrew Sayers (andrew.sayers@kpmg.co.uk). After this, if you are still dissatisfied with how your complaint has been handled you can access PSAA's complaints procedure by emailing generalenquiries@psaa.co.uk, by telephoning 020 7072 7445 or by writing to Public Sector Audit Appointments Limited, 3rd Floor, Local Government House, Smith Square, London, SW1P 3HZ.

This Annual Audit Letter summarises the outcome from our audit work at Rotherham Metropolitan Borough Council in relation to the 2015/16 audit year.

Although it is addressed to Members of the Authority, it is also intended to communicate these key messages to key external stakeholders, including members of the public, and will be placed on the Authority's website.

VFM conclusion and risk areas

We issued a qualified conclusion on the Authority's arrangements to secure value for money (VFM conclusion) for 2015/16 on 28 September 2016.

To arrive at our conclusion we looked at the Authority's arrangements to make informed decision making, sustainable resource deployment and working with partners and third parties.

We identified the following VFM risks in 2015/16

- Governance arrangements
- Financing CSE claims
- Reserves and financial position

We worked with officers throughout the year to discuss these VFM risks and our detailed findings were reported in section 4 of the External Audit Report 2015/16 (ISA 260) presented to the Audit Committee on 21 September 2016.

The 'Report of Inspection of Rotherham Metropolitan Borough Council' (the Inspection) was published in February 2015. The Authority developed and published a comprehensive Improvement Plan (A Fresh Start) which was agreed with Government in May 2015 for a two year period and addresses the findings of the Inspection. Since their appointment in late February 2015, during the course of 2015/16, Commissioners provided regular, quarterly updates to Secretaries of State on the improvements being delivered at the Council, including detailed six monthly progress reports in August 2015 and February 2016.

Overall, it is clear that significant progress has been made in relation to the Improvement Plan during 2015/16 and continues to be made. Not least, the Authority now has a substantive strategic leadership team to drive the ongoing implementation of the Improvement Plan, specifically now the Phase Two Action Plan, from May 2016. Given that this team has only taken office from early 2016, the impact of their work will only be felt substantively in 2016/17

Although significant progress has been made, as at February 2016, over half of the areas in the Improvement Plan were yet to be completed and there nevertheless remains a significant programme of improvement work to complete. This, in combination with the fact that the new substantive strategic leadership team were only appointed in the final quarter of the year under audit (2015/16), suggests that the team will require further time to fully implement and embed the improvements to governance.

We therefore concluded that the Authority has not made proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

Financial statements audit

We issued an unqualified opinion on the Authority's financial statements on 26 September 2016. This means that we believe the financial statements give a true and fair view of the financial position of the Authority and of its expenditure and income for the year.

Through our audit, we agreed a small number of minor audit adjustments and presentational changes to the financial statements with Management and these were actioned in the final version of the financial statements. None of these adjustments were material.

There were no significant matters which we were required to report to 'those charged with governance'.

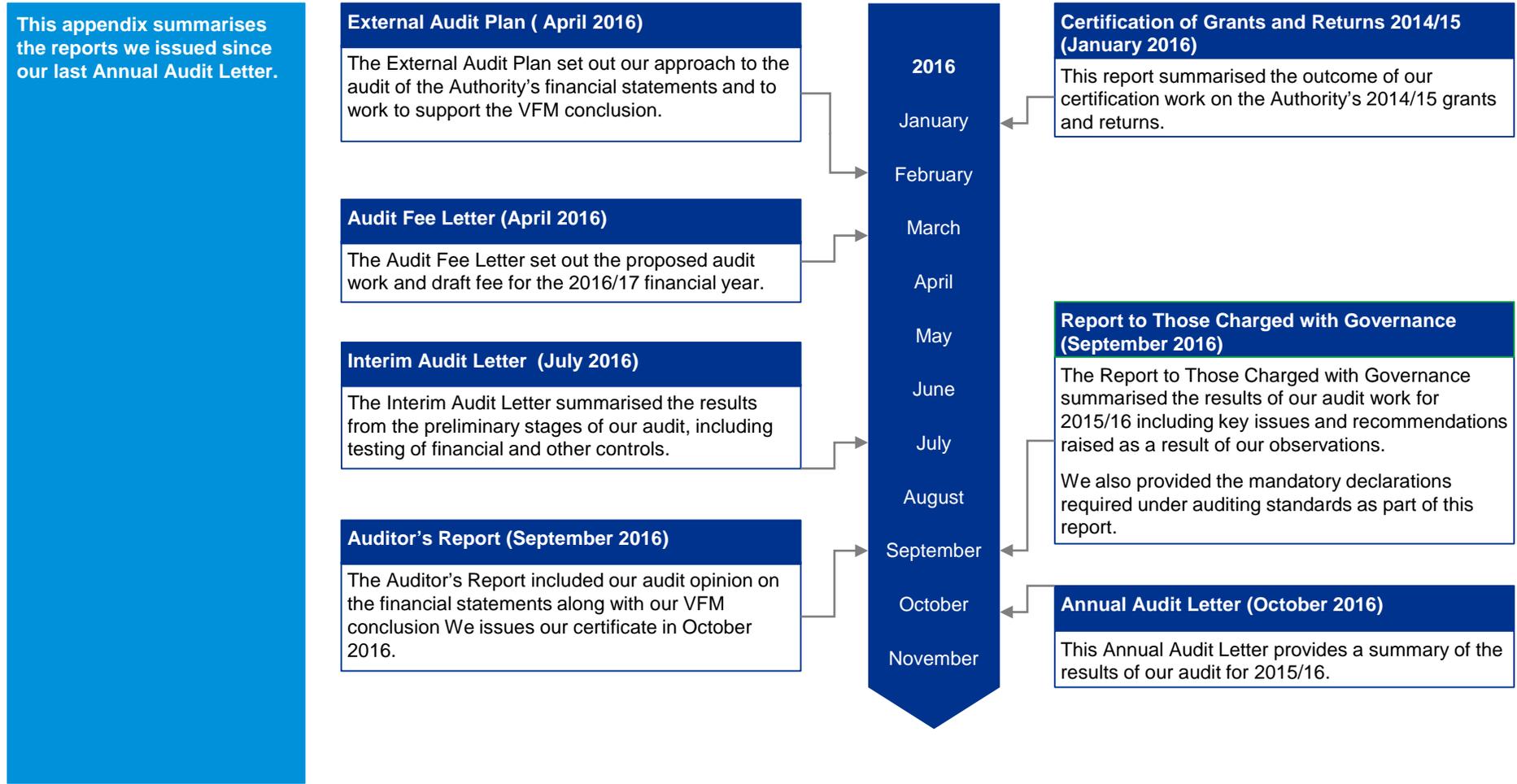
Section one

Headlines (cont)

We have issued our certificate to confirm the completion of our audit responsibilities for the 2015/16 audit year.

Other information accompanying the financial statements	Whilst not explicitly covered by our audit opinion, we review other information that accompanies the financial statements to consider its material consistency with the audited accounts. This year we reviewed the Annual Governance Statement and Narrative Report. We concluded that they were consistent with our understanding and did not identify any issues.
Whole of Government Accounts	We reviewed the consolidation pack which the Authority prepared to support the production of Whole of Government Accounts by HM Treasury. We reported that the Authority's pack was consistent with the audited financial statements.
Certificate	We issued our certificate on 21 October 2016. The certificate confirms that we have concluded the audit for 2015/16 in accordance with the requirements of the Local Audit & Accountability Act 2014 and the Code of Audit Practice.
Audit fee	Our fee for 2015/16 was £140,828, excluding VAT. Further detail is contained in Appendix 2.

Appendix 1: Summary of reports issued



Appendix 2: Audit fees

This appendix provides information on our final fees for the 2015/16 audit.

To ensure transparency about the extent of our fee relationship with the Authority we have summarised below the outturn against the 2015/16 planned audit fee.

External audit

Our final fee for the 2015/16 audit of the Authority was £140,828 which is in line with the planned fee agreed at the start of the audit.

Certification of grants and returns

Under our terms of engagement with Public Sector Audit Appointments we undertake prescribed work in order to certify the Authority's housing benefit grant claim. This certification work is still ongoing. The final fee will be confirmed through our reporting on the outcome of that work in January 2017. The scale fee for this work is £15,497 plus VAT.

Other services

Fees for other grants and claims have not yet been finalised, however we expect this to be in line with the prior year. The final fee for this work in 2014/15 was £5.780 plus VAT.

These grants / returns are outside of the Public Sector Audit Appointment's certification regime.



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The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

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Summary Sheet

Council Report:
Audit Committee

Title:
Implementation of Recommendations resulting from the PwC Review of Internal Audit

Is this a Key Decision and has it been included on the Forward Plan?
No

Strategic Director Approving Submission of the Report:
Judith Badger (*Director of Finance and Customer Services*)

Report Author(s):
David Webster (Head of Internal Audit)

Ward(s) Affected:
None

Executive Summary:

This is the third report to the Audit Committee on progress towards implementing recommendations made in the PricewaterhouseCoopers (PwC) review of Internal Audit, which was reported to the Audit Committee in February 2016. The external review by PwC, completed in December 2015, found the service was not fully meeting the requirements of the Public Sector Internal Audit Standards (PSIAS). Reports presented to the Audit Committee in April 2016, July 2016 and September 2016 explained the arrangements being put in place to move towards achieving compliance during 2016/17. This report provides an update on progress.

Internal Audit has operated with a high vacancy level during most of 2016 to date, since 4 staff left the service between December 2015 and March 2016. In addition, there has been significant change since the PwC report was produced including a refresh of procedures and a full service restructure, and the subsequent recruitment to the Head of Internal Audit and a vacant senior auditor post. Both started in October 2016. One senior auditor post remains vacant and is being covered by a contractor. It is intended to recruit in the New Year.

The proportionately high gap in permanent resources available has not substantially impeded progress in establishing new, better and more efficient audit processes including relating to setting up, managing and reporting audit work. These will become embedded over time as they are applied by the Service. Compliance with the processes will be crucial in achieving conformance with the UK audit standards

and so the importance of this cannot be overstated. There are other key actions still to progress. There is an action plan in place with the aim of achieving conformance with the standards by the end of the year.

The service will remain in transition until the team reaches full establishment. The procurement and implementation of an integrated audit management system will also be a big step in facilitating consistency in the way in which audits are conducted and compliance with auditing standards. Procurement is under way, ICT are currently evaluating the system. And, further efforts are required to raise the profile of the service and ensure it is meeting management's expectations.

Reports on progress during 2016/17 are subject to external review by Veritau Ltd, which has been appointed following a tendering exercise to assist with checking and supporting progress. Veritau Ltd has looked at this report and have stated "*We've reviewed the report in detail and discussed progress against the actions with the service. Taking into account our comments and suggestions, the report is a reasonable reflection of progress being made to implement the proposed actions*".

Recommendation:

The Audit Committee is asked to note the progress made in implementing the recommendations included in the PWC review of Internal Audit.

Background Papers:

None.

Consideration by any other Council Committee, Scrutiny or Advisory Panel:

No

Council Approval Required:

No

Exempt from the Press and Public:

No

Title:

Implementation of Recommendations resulting from the PWC Review of Internal Audit

1. Recommendations

The Audit Committee is asked to:

- 1.1 Note the progress made in implementing the recommendations included in the PWC review of Internal Audit.**
- 1.2 Note progress made on the Action Plan in place to achieve conformance with Public Sector Internal Audit Standards (PSIAS).**
- 1.3 Note Veritau's comments on the report.**

2. Background

- 2.1 Professional Standards for Internal Audit are set out in the UK Public Sector Internal Audit Standards (PSIAS) and these require an independent assessment of internal audit at least every 5 years.
- 2.2 In 2015, the Interim Director of Finance and Corporate Services commissioned a review of Internal Audit to be conducted by PWC, following a competitive tender exercise. The PWC review was a comprehensive assessment. The report following the review was presented to the Audit Committee in February 2016. It recommended a number of actions required to improve the service and ensure full compliance with audit standards. The action plan from the PWC report is attached at **Appendix 1**.
- 2.3 One of the areas the review considered was the extent of Internal Audit's conformance with the PSIAS. Of the ten Standards tested, Internal Audit was assessed as non-compliant in five, partially conforming in two and generally conforming in three.
- 2.4 The Chartered Institute of Internal Auditors (CIIA) gives the following definitions and guidance in its checklist for conformance with the Standards.

Generally Conforms. *The relevant structures, policies, and procedures of the activity, as well as the processes by which they are applied, comply with the requirements of the individual Standard or element of the Code of Ethics in all material respects. For the sections and major categories, this means that there is general conformance to a majority of the individual Standards or elements of the Code of Ethics, and at least partial conformance to the others, within the section/category. There may be significant opportunities for improvement, but these must not represent situations where the activity has not implemented the Standards or the Code of Ethics, has not applied them effectively, or has not achieved their stated objectives. General conformance does not require complete/perfect conformance, the ideal situation, successful practice, etc.*

Partially Conforms. *The activity is making good-faith efforts to comply with the requirements of the individual Standard or element of the Code of*

Ethics, section, or major category, but falls short of achieving some major objectives. These will usually represent significant opportunities for improvement in effectively applying the Standards or Code of Ethics and/or achieving their objectives. Some deficiencies may be beyond the control of the activity and may result in recommendations to senior management or the board of the organisation.

Does Not Conform. *The activity is not aware of, is not making good-faith efforts to comply with, or is failing to achieve many/all of the objectives of the individual Standard or element of the Code of Ethics, section, or major category. These deficiencies will usually have a significant negative impact on the activity's effectiveness and its potential to add value to the organisation. These may also represent significant opportunities for improvement, including actions by senior management or the board.*

Often, the most difficult evaluation is the distinction between general and partial. It is a judgment call keeping in mind the definition of general conformance above. Carefully read the Standard to determine if basic conformance exists. The existence of opportunities for improvement, better alternatives, or other successful practices do not reduce a generally conforms rating.

3. Review of Progress in Implementing the Recommendations from the PWC Review

- 3.1 Internal Audit was already aware of a number of areas it needed to develop prior to the commencement of the PWC review and had begun to make various improvements. PWC acknowledged this in its reporting, but concluded it was too early to confirm new arrangements were effective. The PWC review highlighted other significant areas where progress needed to be made.
- 3.2 Internal Audit has continued to implement improvements identified prior to the PWC review and, since the completion of the review, the actions emanating from it.
- 3.3 Appendix 1 contains a full update of progress against the PWC recommendations. Key points are:
 - There are 19 actions spread across 17 recommendations. 10 actions have been completed, 3 are rated green (certain to be achieved) and 6 are amber rated (in progress / on target). There are no red rated actions (ie off target / requiring action).
 - Progress since the July report to the Audit Committee can be indicated as follows:

Assessment	July 2016	September 2016	November 2016
Green / Completed	8	12	13
Amber / On Target	11	7	6
Red / Off Target	0	0	0
Total	19	19	19

One of the PwC recommendations was that an improvement plan should be developed that brings about the necessary improvements to meet the PSIAS requirements. RMBC Internal Audit reviewed their report and considered there were 76 actions to take to meet full compliance. The initial assessment of compliance from late 2015, and the current assessment is summarised below:

Assessment	Number of Red Rated Actions	Number of Amber Rated Actions	Number of Green Rated Actions
Initial Assessment (2015)	41	32	3
July 2016	nil	36	40
September 2016 / current	nil	29	47

(Note: PwC acknowledged in its report that Internal Audit was already implementing improvements while PwC was carrying out its review)

- Actions completed / certain to be completed as at October were:
 - The 2015/16 audit plan was successfully delivered (with 95% delivery achieved against the final plan).
 - A service review was completed and a restructure determined.
 - The audit structure and budget was set up to provide for specialist audit resources to be engaged as required to carry out specified work in the audit plan.
 - A decision was made to terminate the audit agreement between Rotherham and Doncaster Councils on 30 September 2016.
 - There has been more consultation and engagement with senior management in audit planning and in reviewing progress.
 - Recruitment to the new structure following the service review has progressed mainly successfully. A new Head of Internal Audit has been recruited and one Senior Auditor vacancy has been filled. Both new starters commenced in October. One Senior Auditor post remains vacant but is currently filled by a temporary auditor.

- PDRs have been completed following implementation of the organisation review and a team development plan has been produced.
 - A revised Audit Charter and Strategy has been produced for presentation to the Audit Committee in September 2016.
 - The audit review process has been streamlined and improved.
 - A new risk based style of audit report is now in use.
 - A specification for an electronic audit system has been put out to the market, bids have been received and are currently being evaluated. Implementation of an electronic audit system will bring consistency of audit approach to all jobs undertaken and underpin compliance with auditing standards.
- 3.4 Since the previous progress report to Audit Committee on 21 September 2016, there has been little further progress in implementing actions to bring the service back towards full compliance. The two months since then included the holiday period and also a time when the department was without a manager and Assistant Director. There remains a significant amount of development and improvement to bring the service up to full compliance with standards and to where it can better add value to the development of the Council's control arrangements.
- 3.5 There is a detailed implementation plan in place with the aim of achieving conformance with the standards by the end of the financial year. Actions are in progress to ensure that this will be achieved.
- Key actions in progress are:
 - A plan has been produced to achieve full compliance with auditing standards, is subject to regular review and is being reported frequently to the Audit Committee.
 - Embedding new audit scoping, reporting and performance monitoring and management processes.
 - Team development plan needs to be implemented.
 - Implementation of the electronic audit system, streamlining of administration and reduction of non-productive time.
 - Development of assurance mapping.
 - Development and reporting to Audit Committee on Quality Assurance & Improvement Programme (QAIP), to improve and maintain standards.
 - Fully refreshing the Internal Audit Manual to reflect new, PSIAS compliant, audit policies and procedures.
 - Establishing a programme to review the Council's Governance Arrangements set out in its Code of Governance.
(nb this is not a full list)
- 3.6 Progress against the action plan will be reported to the Audit Committee at each of its meetings during 2016/17. A partner, Veritau Ltd, has been

appointed following a tendering exercise to assist with checking and supporting progress. Veritau Ltd has been asked to comment on the progress reports. Veritau's Manager's comments on this report are:

"We've reviewed the report in detail and discussed progress against the actions with the service. Taking into account our comments and suggestions, the report is a reasonable reflection of progress being made to implement the proposed actions".

- 3.7 The standards require that an annual internal assessment is made of conformance with the standards. This will be completed by the Head of Internal Audit and reported to the Audit Committee in February 2017.
- 3.8 They also require an external assessment every five years by a qualified independent assessor. External assessments can be in the form of a full external assessment, such as carried out by PwC, or a self-assessment with independent external validation. Arrangements must be in place to avoid conflict of interest and impairment of objectivity. The CIIA has accepted that reviews within a peer group meet the requirements for external assessments, provided that the reviews are not reciprocal and are demonstrably independent. So a review could be carried out by Veritau or another South or West Yorkshire Authority.

4. Options considered and recommended proposal

- 4.1 Internal Audit continue to work through the Action Plan to address those areas of PSIAS that have been self-assessed as partially or non-conforming.
- 4.2 The Head of Internal Audit brings the results of the internal self-assessment to the committee in February 2017.
- 4.3 It is recommended that an external assessment be carried out, in the form of an independent external validation of the self-assessment, performed by Veritau or another member of the South and West Yorkshire Audit Group.

5. Consultation

- 5.1 The report is presented to the Audit Committee to enable it to fulfil its responsibility for overseeing the work and standards of internal audit.
- 5.2 The Strategic Director, Finance and Customer Services has been fully briefed on progress.
- 5.3 Veritau has been consulted on the report. Veritau's comments are included above.

6. Timetable and Accountability for Implementing this Decision

- 6.1 Timescales for implementation of recommendations are given in the action plan at Appendix 1. Progress will be monitored on an ongoing basis and reported to the Audit Committee at each of its meetings during 2016/17.

7. Financial and Procurement Implications

- 7.1 Internal Audit is required to achieve £25,000 savings in 2016/17 and this is being achieved through a reduction in the size of core establishment as a result of vacancies and voluntary severance / retirement. The resources required to deliver the Council's audit requirements from 2016/17 will be contained within the 2016/17 budget, and will include a combination of in-house and specialist (external) resources, in line with the mixed model approach approved by Commissioners and Members.
- 7.2 Any financial implications specifically arising from the implementation of recommendations made in this report will be dealt with as appropriate.

8. Legal Implications

- 8.1 The provision of Internal Audit is a statutory requirement for all local authorities that is set out in the Accounts and Audit (England) Regulations 2015. These state:

“each principal authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.”

- 8.2 Internal Audit also has a role in helping the Council to fulfil its responsibilities under s.151 of the Local Government Act 1972, which are:

“each local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”.

9. Human Resources Implications

- 9.1 Any HR implications emanating from the implementation of the recommendations will be addressed in full consultation with Human Resources. This could involve matters relating to staff development, skills and capabilities.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 There are no direct implications for Children and Young People and Vulnerable Adults arising from this report.

11. Equalities and Human Rights Implications

- 11.1 There are no direct Equalities or Human Rights implications arising from this report.

12. Implications for Partners and Other Directorates

- 12.1 Internal Audit is an integral part of the Council's Governance Framework, which is wholly related to the achievement of the Council's objectives, including those set out in the Corporate Plan, the Corporate Improvement Plan and Children's Services Improvement Plan.

12.2 Senior management, Members and other stakeholders will be consulted in relation to the future expectations for the internal audit service, as part of the implementation of recommendations made in the PWC report. The aim will be to ensure major issues and risks for services are reflected in the audit planning processes, including where relevant, partnership working.

13. Risks and Mitigation

13.1 The failure to maintain an effective audit function means the Council fails to comply with the Accounts and Audit Regulations, as well as failing to secure the benefits of an effective and modern internal audit that helps the Council manage its risks and adds value to control arrangements in place at the Council. More comprehensive performance management arrangements will provide better control this risk.

13.2 The following risks have been identified: -

- (i) Limitations in resources to implement the changes planned
- (ii) Failure to meet implementation timescales due to unforeseen 'responsive' or other unplanned work.

13.2 Close and regular monitoring of the implementation of recommendations included in the action plan, including regular presentation of progress to the Audit Committee, will ensure any risks of failing to achieve improvements will be monitored and addressed.

14. Accountable Officer(s):

David Webster (Head of Internal Audit).

REVIEW OF INTERNAL AUDIT – DETAILED ACTION PLAN

Note: RAG Status:**Green – Completed or certain to be completed****Amber – On track / expected to be achieved / no significant issues****Red – Off target / significant action required**

Ref	Recommendation	Priority Rating	Proposed Action	Responsible Officer	Target Date	Progress	Current Status (RAG)
1	Leadership and accountability The Council should consider the existing leadership arrangements for IA. It would seem appropriate to have one individual acting as Head of Internal Audit and Chief Audit Executive whilst also fulfilling the role of Chief Internal Auditor. This individual should be given the appropriate grade and seniority to fulfil the role and to engage with senior stakeholders across the Council. In the Local Government Application Note (2.18) it says “CIPFA and the IIA expect that the CAE should not report administratively to or be managed at a lower organisational level than the corporate management team....”	High	Restructure proposals will be brought forward for consultation. They are likely to include the creation of a post of Head of Internal Audit, to report directly to the Strategic Director of Finance and Customer Services	Assistant Director Audit, ICT & Procurement	29 February 2016	Completed – Restructure proposals and implementation completed. The structure includes a new Head of Internal Audit post, reporting directly to the Strategic Director of Finance and Customer Services. The new HIA joined RMBC on 17 th October 2016.	Completed

2	<p>Structure of IA in the short to medium term</p> <p>The Council should consider its audit requirements in the short to medium term. The exact requirements will need to be agreed and will be dependent upon the Council's decisions on leadership of the function but we believe an arrangement with a third party who could provide leadership (or management support) and additional resource (including specialists) in the short term would be the most beneficial to the Council. We have been advised that consideration is already being given to this issue.</p> <p>The Council should consider the current contractor arrangements to determine if value for money is being obtained. This should form part of the wider review of the delivery model and the organisation structure of IA.</p> <p>If a full in-house function is retained, the IA function should be restructured in order to be more efficient. These changes should be alongside a review of</p>	High	<p>A new operating approach, involving a mixed delivery model, has been approved by commissioners and Members. The restructure proposals referred to at Rec 1 will implement the proposals and address the issues raised in this recommendation.</p> <p>The mixed delivery model will include a core in-house resource supplemented by specialists as required.</p>	Director of Finance and Customer Services	29 February 2016	<p>Completed –</p> <p>The restructure proposals incorporate resources to buy in specialist audit expertise as required.</p> <p>ICT audit resource requirements have been identified and an agreement with Leicester City Council's audit team extended for 2016/17.</p>	Completed
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	capabilities and role definitions for each grade in order to provide a framework for staff to aspire to.						
3	<p>Shared arrangement with Doncaster Council</p> <p>The Council should consider the merits of retaining this partnership arrangement. Other than the income received for the shared HIA, the Council does not appear to be benefitting in any way from this shared arrangement and the value of continuing it should be reviewed.</p>	Medium	<p>Doncaster Council will be consulted on the outcomes of this review and implications and options for the immediate and medium terms.</p>	Director of Finance and Customer Services	31 March 2016	Completed – It was agreed between the two councils that the arrangement would terminate on 30 September 2016.	Completed
4	<p>PSIAS and improvement plan</p> <p>An improvement plan should be developed by the CAE/CIA based on the recommendations made in this report and the improvements required to fully meet the PSIAS requirements. This should include allocations of responsibility and timescales and should be tracked to evidence improvement.</p>	High	<p>A detailed plan identifying actions required to achieve compliance from 2016/17 will be produced.</p> <p>The plan will be implemented and a further</p>	David Webster, Head of Internal Audit	29 February 2016 31 Dec 2016	Completed – An action plan has been produced. Separate updates are provided on a regular basis to the Audit Committee.	<p>Part 1 Completed</p> <p>Part 2 March 2017</p>

			external review of compliance completed during 2016/17.				
5	Implementing change – new working practices Changes to working practices should be supported by an implementation plan and the provision of support and training if required. Staff should be able to see opportunities for personal development in the introduction of new practices – opportunities to increase coaching and supervisory skills and increase empowerment should be emphasised so that staff buy into the proposed changes.	High	Requirements relating to new approaches and methods will be drafted within the detailed improvement plan referred to in Rec 4. This will include training and development requirements relating to new approaches and methods, and a programme for delivering the support to staff.	David Webster, Head of Internal Audit	29 February 2016	A team development plan has been produced but not yet implemented.	Implementation of team development plan by February 2017.
6	Engaging with stakeholders The new relationship management approach should be fully implemented although it should be reviewed to focus more on the departments' risks	High	Regular quarterly meetings will be held with directorate management	David Webster, Head of Internal Audit	Quarterly	Planning meetings were held with Directorate Management Teams in the	Green

	<p>rather than the IA view and perspective. Staff should be encouraged to develop greater relationships outside of IA and to develop broader networks within the Council.</p>		<p>team to review risks.</p>			<p>lead up to the production of the 2016/17 audit plan and the during September and October 2016.</p>	
	<p>Greater clarity in the audit plan around how the audit reviews link back to the Council's risks and objectives would help to demonstrate to stakeholders how internal audit is focusing its work on key risk areas.</p>		<p>The audit plan will be directly linked to the corporate, directorate and service plans.</p>		<p>27 April 2016 31 March 2017</p>	<p>Corporate Plan issued. Links will be finalised to the corporate plan and risks for the 2017/18 plan.</p>	<p>Green</p>
	<p>The Internal Audit function should undertake to raise its profile within the organisation through greater interaction at the management team and senior officer level using existing internal mechanisms.</p>		<p>Internal Audit progress reports will be presented to the Strategic Leadership Team (SLT) prior to submission to the Audit Committee. Reports receiving 'inadequate' audit opinions will also be</p>		<p>Quarterly from March 2016</p>	<p>Reports continue to be shared with SLT. All Directors were consulted during the update of the audit plan.</p>	<p>Green</p>

			reported to SLT.				
7	<p>Support and development for IA staff</p> <p>All staff should be encouraged to agree a development plan designed to enhance their skills and expertise. This can include both technical development and softer skills.</p>	High	Completion of better PDRs linked to the improvement and audit plans.	Assistant Director Audit, ICT & Procurement	27 April 2016 31 July 2016	Completed – PDRs have been completed and individual and team development plans produced.	Completed
8	<p>Strategy and vision for internal audit</p> <p>The Council should review the current IA strategy and vision for its Internal Audit Service and ensure it is understood and articulated to both the IA team and the wider Council. An implementation plan for the strategy should be developed which includes clear targets for people, systems and processes.</p> <p>The plan should clearly articulate how the Council will:</p> <ul style="list-style-type: none"> • Match the resource needs (in terms of capacity and skill mix) of the audit plan and the Council: and • Develop its team to meet the current (and future) needs of the 	High	<p>The Internal Audit Charter and Strategy will be updated to reflect the Council's expectations indicated in the PWC report and the aspirations of the Auditing Standards.</p> <p>The 2016/17 Audit Plan will be produced to better meet these expectations.</p>	Assistant Director Audit, ICT & Procurement	27 April 2016 31 July 2016	Completed – Charter and Strategy presented to Audit Committee for approval in September 2016	Completed

	<p>Council; (see Issue 7) The delivery of this plan should be monitored.</p>		<p>The proposals set out in the Charter, strategy and 2016/17 plan will be submitted to the Strategic Leadership Team and Audit Committee for agreement.</p> <p>The 2016/17 plan will indicate how it will be resourced using the approved mixed model approach.</p>				
9	<p>Assurance map – identifying gaps in assurance An assurance map should be developed identifying key risks not being addressed through IA work and detailing any other sources of assurance. This should be presented to the Audit Committee as part of the annual</p>	Medium	<p>The planning process will explicitly set out other forms of assurance the Council can rely on to confirm risks are managed</p>	David Webster, Head of Internal Audit	27 April 2016	<p>The Audit Plan provides an initial evaluation of assurances available in addressing the Council's key risks.</p>	<p>Amber – initial assessment made, but further development is required.</p> <p>Further assessment by</p>

	planning process.		effectively.			This will be developed during the year, to further inform the audit assessment and to support the year end annual opinion to be given by the Chief Audit Executive.	31 Mar 2017
10	<p>Risk management within the Council</p> <p>Consideration should be given to the role of IA in improving the Council's risk management arrangements. This should be in the form of support and facilitation building on the audit teams expertise in risk and control, whilst acknowledging that overall responsibility lies with management. We have been advised that steps are being taken by the Council to review and improve its risk management arrangements.</p>	Medium	<p>The Council wishes to keep separate the responsibilities for audit and risk. It has appointed a risk manager from 1st January 2016 to drive forward improvements in risk management. The risk manager will liaise with Internal Audit as appropriate.</p>	N/a	N/a	N/a	<p>n/a</p> <p>Amber – commenced and evidence to be gathered throughout</p>

			However, Internal Audit will assess the management of risks when undertaking its audit work and promote effective risk management by making rec'ns for improvement as appropriate.			evidence of risk management. Findings will be collated as audit work is completed and will be reported to the Corporate Risk Manager and summarised in progress reports presented to SLT and the Audit Committee, as appropriate.	2016/17
11	Delivery of the 2015/16 internal audit plan An exercise is needed to reprioritise the audit plan and to ensure that the planned reviews in the highest risk areas are undertaken. Additional resource should be used if necessary.	High	Agreed – Plan revisions to be presented to the Audit Committee on 10th February 2016. Additional resources secured to ensure adequate audit coverage is achieved for	Assistant Director Audit, ICT & Procurement	27 April 2016	Completed – The 2015/16 audit plan was successfully delivered	Completed

			2015/16.				
12	Improving audit reports Audit reports should be reviewed to focus on the recipient. The emphasis should be on what the overall opinion is and what action does the recipient need to take. Care should be taken to clearly show any limitations on scope as it is rare that an audit review covers all risks associated with a system or process. The audit team should look for opportunities to add value by sharing insight and experiences from other parts of the Council or from elsewhere.	Medium	The format of audit reports will be reviewed and any changes introduced from 2016/17	Assistant Director Audit, ICT & Procurement	27 April 2016	Completed – a new risk based style report is now in use which more clearly reflect the risks being assessed and the value / assurance being provided by the audit work, which should be of more relevance / significance to the recipients. Views on the new format will be tested and the format refined further, as required during 2016/17.	Completed
13	Annual reporting The CAE/CIA should review the annual reporting process in line with PSIAS. The report should be concise and the overall	Medium	The 2015/16 annual report will be reviewed to comply fully with the UK	Assistant Director Audit, ICT & Procurement	27 April 2016	The Internal Audit opinion on the Council's Control Environment	Completed

	opinion should be clear and supported by clear information based on work completed and reported. The style of report should be reviewed in order to better present the findings of IA.		Auditing Standards and to clearly summarise the work of internal audit and its results			was clear with regard to the basis of the conclusion reached. Veritau has identified further information to be added to the annual reports.	
14	Level of non-productive time Non-productive time for internal audit should be reduced. Currently a disproportionate amount of time is spent on this within the team. More value could be obtained by the CAE/CIA determining new processes and informing the team of the rationale behind any changes.	Medium	Current non-productive time will be reviewed, arrangements revised where relevant and clear targets set from 2016/17.	David Webster, Head of Internal Audit	27 April 2016	New targets for minimising non-productive time, equating to a 15% reduction on 2015/16, have been issued and are being achieved. Some one-off non-productive time will be accumulated though, due to transition to new arrangements (eg training, new recording system).	Completed

						Progress on achieving the target will be monitored and reported throughout the year.	
15	Performance information IA should review the process for management information including time recording and job analysis. This will facilitate greater control over audit productivity as well as providing a basis for performance monitoring. The CAE/CIA should look to agree a series of performance indicators with the S151 Officer and regularly report on these indicators to demonstrate performance of the IA function.	Medium	Arrangements for time recording and monitoring of progress on audit work will be assessed and revisions made as appropriate.	David Webster, Head of Internal Audit	27 April 2016	Revisions have been made to streamline the current, manual, arrangements. Review of their efficiency and effectiveness will be carried out during the course of 2016/17. Further efficiencies should be capable of being achieved through the implementation of an electronic audit system (rec 17).	Amber
16	Assignment review process	Medium	Clear targets	Assistant	29	Completed - a	Completed

	<p>The review process for individual reports should be revisited and improved. Steps should be taken to reduce the time between audit fieldwork and report issue. Version control should be introduced and audit management should be held to account for excessive delays in reporting on audit findings.</p>		<p>will be set and monitored for the reviewing and reporting processes, to ensure work is issued in a timely manner following completion of fieldwork.</p>	<p>Director Audit, ICT & Procurement</p>	<p>February 2016</p>	<p>more timely and effective review process is now in place</p>	
17	<p>Technology The CIA/CAE should consider the benefits of introducing an automated audit system to increase consistency and improve the quality assurance process.</p> <p>They should also consider what immediate skills are required to deliver the current IA plan.</p>	<p>Medium</p>	<p>Options for developing the use of automation will be considered.</p> <p>Skills requirements are referred to in the responses to recommendations 2 and 8</p>	<p>David Webster, Head of Internal Audit</p>	<p>30 June 2016 31 March 2017</p>	<p>A specification for an electronic audit system has been put out to the market, bids have been received and are currently being evaluated. Implementation will take time and the benefits may not be apparent until the next financial year.</p>	<p>Amber</p>

Summary Sheet

Council Report:

Audit Committee – 23rd November 2016

Title:

External Audit and Inspection Recommendations

Is this a Key Decision and has it been included in the Forward Plan?

No

Approving Submission of the Report:

Shokat Lal, Assistant Chief Executive

Report Author(s):

Tracy Blakemore - Quality and Projects Officer, CYPS
Sue Wilson – Head of Service, Performance & Planning, CYPS

Ward(s) Affected:

All

Executive Summary:

In line with the audit committee prospectus “A fresh start”, the purpose of this report is to provide details of recent and current external audits and inspections, including the details of arrangements that are in place regarding the accountability and governance for implementing recommendations arising from these. The report will also summarise the progress against recommendations from across all key external audits and inspections.

Recommendations:

That the Audit Committee notes the governance arrangements that are currently in place for monitoring and managing the recommendations from external audits and inspections.

That the Audit Committee continues to receive regular reports in relation to external audit and inspections and progress made in implementing recommendations.

List of Appendices Included:

Appendix A – Summary of Recommendations from “Active” Inspection and Audit
Action Plans

Appendix B – Ofsted Rotherham Improvement Letter

Background Papers

CYPS Improvement Plan

Fresh Start Improvement Plan and Phase Two Action Plan

Ofsted Report published November 2014

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Council Approval Required

No

Exempt from the Press and Public

No

Title – External Audit and Inspection Recommendations

1. Recommendations

- 1.1 That the Audit Committee notes the governance arrangements that are currently in place for monitoring and managing the recommendations from external audits and inspections.
- 1.2 That the Audit Committee continues to receive regular reports in relation to external audit and inspections and progress in implementing recommendations.

2. Background

- 2.1 In line with the audit committee prospectus “A fresh start”, the purpose of this report is to provide details of recent and current external audits and inspections, including the details of arrangements that are in place regarding the accountability and governance for implementing recommendations arising from external audits and inspections. The report will also summarise the progress against recommendations from across all key external audits and inspections. The report covers the 2 key improvement plans – Fresh Start and the Children and Young People’s Plan plus recommendations from inspections from across the rest of the Council.

3. Key Issues

3.1 Fresh Start Improvement Plan

- 3.1.1 The “Fresh Start” Improvement Plan is Rotherham Council’s strategic, organisation-wide response to the corporate, organisation-wide aspects of the external Corporate Governance Inspection (CGI), published February 2015 and the Jay and Ofsted reports published in 2014. Section 5 of the ‘Fresh Start’ Improvement Plan outlines the association between it, and its sister document the Children and Young People’s Improvement Plan, developed in response to the recommendations from the Ofsted inspection of children’s services.
- 3.1.2 The RMBC Council meeting on 22nd May 2015 approved the Fresh Start Improvement Plan, with full cross-party support, prior to the Plan’s formal submission to the Secretaries of State for Communities and Local Government (DCLG) and Education (DfE) on 26th May 2015. The version of the Plan as submitted to Government is publicly available via the Council website and while the Plan is not intended as a public-facing document, a short, executive summary version was prepared to support wider knowledge and understanding on the Plan’s main aims amongst council’s staff, elected members, partners and the public.

3.1.3 The Plan contains a suite of actions and milestones set out in a series of tables (sections 6.7 and 6.8). These were informed by the Government appointed Commissioner's assessment of the Council's key improvement requirements in order to achieve a "fresh start"). It took into account discussions with leading elected members, senior managers and a staff corporate working group. It also drew upon elements of initial work carried out by a corporate improvement board that the Council had established with the Local Government Association (LGA) following the publication of the Professor Jay report in August 2014.

3.1.4 The Plan is divided into two phases:

3.1.4.1 An initial "transition" phase, to May 2016, which focused on ensuring the Council had in place the basic building blocks of an effective council, namely:

- Inspirational political leadership
- Robust governance, decision-making and performance management
- A culture of excellence and outstanding implementation
- Strong, high impact partnerships

During the course of this initial phase the decision-making responsibility for a number of services was returned to the Council from Commissioners in February 2016.

3.1.4.2 The second phase of the plan, from May 2016, now focuses on embedding strong leadership and a new culture and follows on from the appointment of key, permanent senior staff and the 'all out elections' in May 2016. A "Phase Two" action plan was agreed by Commissioners at the end of the first phase in May 2016, and was subsequently endorsed at a public Cabinet and Commissioners Decision Making Meeting on 11th July 2016¹.

3.1.5 In terms of the implementation of the Plan and its governance arrangements, this continues to be overseen by the "Joint Board" of Commissioners and leading Elected Members (Labour and Opposition Groups), with links to the Strategic Leadership Team (SLT) and Assistant Directors.

¹ See <http://moderngov.rotherham.gov.uk/documents/s106354/Appendix%20-%20Improvement%20Plan%20Phase%202.pdf>

- 3.1.6 The Joint Board has met on a regular basis since July 2015, to assess progress being made against the improvement actions within the Plan. The first formal review of the Council's improvement progress to Government, submitted on 26th August 2015², featured an initial summary progress report based on the Joint Board's governance and performance management arrangements. The Commissioners' 12 month³ (February 2016) and 18 month (August 2016) progress reports to Government have since included further performance summaries, headline achievements to date, and ongoing risks.
- 3.1.7 The most recent August 2016 (18 month) progress report included the full "Phase Two" action plan and a final performance report on Phase One. This confirmed that 82% of the identified actions (108) in Phase One had been substantively completed; with 18% of the actions (24) identified as areas of focus to be carried forward into Phase Two. The 24 actions carried forward into Phase 2 Plan were a mix of actions that had long-term timescales and/or where the Joint Board had agreed a deferral into the second phase - either because of a reassessment of their implementation timescales (e.g. due to interdependencies with other work-streams); or where delivery had been delayed). These carried-forward actions were integrated within the Phase Two action plan's 20 strategic improvement objectives, underpinned by 99 identified key milestones to assess progress. These 20 objectives and supporting key milestones now form the basis of the Joint Board's consideration through to May 2016.
- 3.1.8 The Commissioners' next progress report to Government will be submitted in November 2016 and is expected to provide an assessment of progress being made with the Phase Two action plan; and to also consider specifically where there may be further service areas at the Council where Commissioners wish to recommend to Secretaries of State that decision-making powers should be restored (i.e. further to those already returned in February 2016).

3.2 Adult Care and Housing

3.2.1 The Care Quality Commission (CQC) continue to undertake their programmed inspections of Rotherham MBC Adult Social Care registered providers. Below are the updates since the last report (April 2016):

3.2.1.1 Treefields Close (Learning Disability Respite Service) was awarded an overall rating of Good following an unannounced inspection on 14th & 15th July 2015 and in relation to "Is the service caring", was awarded outstanding. The outstanding recommendation regarding the manager's registration has been completed and confirmed by the CQC in July 2016.

3.2.1.2 Quarry Hill Road (Learning Disability Respite Service). This service was inspected by the CQC on the 11th and 20th August 2015 and was awarded an overall rating of Good, with one area "Is the service caring" rated as outstanding. No action or enforcement requirements were identified by the

² Available on the Council's website at www.rotherham.gov.uk/download/downloads/id/2645/commissioners_six_month_progress_review_-_august_2015.pdf

³ See www.rotherham.gov.uk/homepage/351/commissioners_progress_reviews for copies of all Commissioner progress reports to Government

CQC. The service is now jointly managed with Treefields Close by the same manager and the formal sign off of approval of these arrangements was confirmed in July 2016 when the current manger's registration was finalised.

3.2.1.3 Netherfield Court closed in September 2016 with Lord Hardy Court and Davies Court taking on the role of providing residential intermediate care. Netherfield's last CQC inspection in October 2015 resulted in it being awarded an overall rating of good. One action was recorded with respect to the way consent was obtained and recorded and immediate action was taken to ensure client files recorded this. Staff from Netherfield have been redeployed to Davies Court and Lord Hardy Court and the managers at these two services are aware of the actions taken by Netherfield with respect to the CQC requirements and have adopted them in their own services.

3.2.1.4 Park Hill (Learning Disability Residential care provider). This service was inspected by the CQC on the 10th and 13th November 2015 and was awarded an overall rating of Good. The CQC made no action or enforcement action requirements of the service. The service is currently managed by the same person who manages Treefields and Quarry Hill and an application has been made with CQC to add the Park Hill location to her registration.

3.2.1.5 Home Enabling was inspected 7th July 2016 and was rated as good overall. No actions were recommended.

3.2.1.6 Davies Court (Elderly Residential provider). This service was inspected 24th August 2016 and was awarded an overall rating of good although improvements were identified in the recording of its response to service users who have a Deprivation of Liberty Safeguarding (DoLS) in place. The service has undertaken an audit of files to ensure the correct documentation is in place.

3.2.2 Adult Social Care (ASC) has a good compliance record with standards subject to inspection. Governance arrangements remain under on-going review and the ASC Directorates development programme is now subject to the enhanced governance arrangements applied within the Transformation Board which is chaired by Sharon Kemp, RMBC Chief Executive and has member representation from partner agencies and an independent consultant.

3.2.3 Housing Service have had no inspections or recommendations since the last report (April 2016).

3.3 Children and Young People's Improvement Plan

3.3.1 CYPS Improvement Plan

3.3.1.1 The CYPS Improvement Plan was reviewed in May 2016, following an intense period of change and improvement within Children's Services.

3.3.1.2 The revised Improvement Plan provided a refocus on the priority actions to ensure they mapped against the Ofsted judgements, recommendations, findings and it provided the opportunity to ensure that realistic RAG ratings were noted for each action. In addition, an additional process was added which provided a panel of partners undertaking evidence challenge which formally "signs off" a sample of completed actions.

3.3.1.3 The 26 recommendations from the OFSTED inspection will remain in place and "open" in the refreshed plan until the secretary of state from the Department for Education has made a decision for Rotherham to come out of intervention and is satisfied that all the requirements have been met.

3.3.1.4 The focus of the improvement plan is to put in place a sustainable approach enabling CYPS to meet aspirational objectives and provide a continuous improvement cycle to enable movement to become a child centred borough with outstanding services.

3.3.1.5 The refreshed plan was presented to the Improvement Board in May 2016 and has been the focus of intense discussion at the last four board meetings.

3.3.1.5 A key element to the format of the Improvement Board meetings has been the introduction of "focus on" agenda items which are specific reports/presentations on one theme, the lead officers present to the Board and the challenge is then provided by partners at the Board.

3.3.2 CYPS Improvement Plan Governance

3.3.2.1 The governance of the CYPS Plan is through Children's Improvement Board which continues to meet monthly. It is now chaired by DCS Practice Improvement Partner, Debbie Barnes and attended by the new Commissioner Patricia Bradwell. Lincolnshire County Council were appointed as Practice Improvement Partners in May following the departure of the former Children's Commissioner, Malcolm Newsam. The Improvement Board is attended by the Director and Assistant Directors of Children's Services, Chair of Rotherham Safeguarding Children's Board (RSCB) and key partners including health, police and schools.

3.3.2.2 The Children's Improvement Board continues to oversee progress through monitoring, challenging and supporting the actions of the Children and Young People's Improvement Plan. The Board considers the areas of greatest risk first, and lays the foundations for effective and sustained improvement. This includes challenging whether sufficient progress is being made, i.e. the right amount of progress in the right direction at the right pace.

3.3.2.3 A Performance Board was also established in May 2016 which has sharpened even further the senior stakeholder oversight of children's services performance. Membership of this Board is the Chief Executive, The Lead Member for Children's Services, the Director of Children's Services and the

Independent Chair of the Safeguarding Board in addition to Assistant Directors and Heads of Service from across the Service. This has enabled the line of sight of key issues within Children's Services to be at the most senior within the Council.

3.3.3 Ofsted Improvement and Monitoring Visits

3.3.3.1 Since August 2015 there has been 5 visits from Ofsted as part of their improvement offer and these have looked at the MASH, Duty & Assessment, Child in Need, Child Protection, Leadership, Management & Governance, CSE and missing children and Early Help. These have been supplemented by two regional Sector Led Peer Reviews which looked at Leadership Management & Governance in June 2016 and Looked After Children and Care Leavers in October 2016.

3.3.3.2 As part of Ofsted publishing the framework for re-inspections of those Local Authorities who are found to be Inadequate in the Single Inspection Framework Ofsted announced the new approach of Monitoring Visits. These are along the lines of the improvement visits but are more formal and are subject to a published letter unlike the informal feedback received as part of the Improvement Visits. The first Monitoring Visit in Rotherham took place on the 20th and 21st October and was around Looked After Children. A draft letter has now been received for a factual accuracy check which summarises the visit and the findings (as per below).

3.3.3.3 Although the previous Ofsted improvement visits did not generate a formal published report a consolidated letter was received in June from the Lead Inspector which summarised the findings (Appendix B).

3.3.3.4 As part of Ofsted's approach to re-inspecting inadequate children's services, their proposal is to re-inspect around two years following the publication of the action plan, this for Rotherham was published in February 2015. It is likely that there will be four formal monitoring visits before such a re-inspection takes place which is likely to be in the Autumn of 2017.

3.4 Rotherham Residential Children's Units

3.4.1 Rotherham Council, as a developing 'Child Centred Borough', has a strong resounding ambition to move away from the legacy of poorly performing services to a position of strength and confidence, which is reflected in the intention of the Children and Young People's Services Directorate to become rated 'outstanding' by 2018. In pursuit of this ambition Rotherham Council has reviewed the care offered across the whole of its residential care services for children and young people.

3.4.2 Rotherham Council's 'Looked After Children and Care Leavers Placement Sufficiency Strategy 2015-2018' identified that too many of Rotherham's children in care live in residential care and that more children need to be placed in a family based setting. To this end, it is the aspiration of the Council to reduce the numbers of children placed in residential care.

3.4.3 On the 6th June 2016, a report was presented to the Cabinet and Commissioner Decision Making Meeting where the Commissioner for Social Care approved a targeted consultation with affected stakeholders regarding the proposed closure of Cherry Tree House and Silverwood Children's Residential Care Homes

3.4.4. Silverwood is a children's residential care home that provides long-term care for male and female young people with emotional and behavioural difficulties. Silverwood is currently vacant after the last resident moved out in May 2016. Silverwood has an adjacent building (formerly referred to as the Annex) and, at the time of the Cabinet and Commissioner Decision Making Meeting on 6th June 2016, this was retained pending a review of the needs and circumstances of its two residents, who have now moved on in accordance with their changing needs.

3.4.5 Cherry Tree House is a children's residential care home that provides long-term care for male and female young people with disabilities. Cherry Tree House is currently vacant following the departure of the last resident in August 2016.

3.4.6 No new residents were admitted to either residential home pending the outcome of the Cabinet and Commissioner Decision Making Meeting decision following the conclusion of the consultation process.

3.4.7 Further to the decision made to consult, Rotherham Council has ensured that affected stakeholders have been fully engaged during the consultation period. This commenced on Thursday 9th June 2016 and concluded at 12 noon on Friday 29th July 2016.

3.4.8 The report submitted to Commissioner Bradwell outlined the robust approach to the consultation and the subsequent outcomes and options based on feedback from a range of key affected stakeholders. This report recommended the following:

3.4.8.1 Consider the outcome of the targeted consultation with affected stakeholders.

3.4.8.2 Approve, in accordance with the options appraisal and giving due regard to the feedback elicited from the consultation, the planned closure of both children's homes by the end of December 2016.

3.4.8.3 The Commissioner accepted these recommendations on the 13th September 2016 and the decision was made to close both Silverwood and Cherry Tree House Children's Home.

3.4.8.4 The staff at both Cherry Tree House and Silverwood are still subject to a 30 day consultation in accordance with RMBC policies and procedures which endeavours to support staff into alternative employment. Following this process the staff concerned were subject to a 90 day notice period.

3.4.9 Liberty House Short Breaks Children's Home is for young people with disabilities; The Home has 9 beds however staffing capacity dictates the number of young people able to access an overnight short break. The number of nights a child accesses the home within the month is varied and subject to their assessed needs.

3.4.10 Liberty House was judged as 'Good' on the 27/01/2016; at the Interim Inspection undertaken on the 17/03/2016 the Home received a judgement of sustained effectiveness. Liberty House received a full inspection on the 2nd and 3rd November 2016 within the current inspection cycle, an aspirational improvement plan has been in place which is expected to take the home from Good to Outstanding, at the time of writing this report has not yet been published.

3.5 Regeneration and Environment Services

3.5.1 Feedback from the LGA peer health checks programme (undertaken in 2015) is being used positively throughout the service to improve performance and quality and deliver service improvement. Within Planning for example, recommendations from the health check have been used to develop a Planning Board approved Improvement Plan which is now being robustly monitored to ensure compliance and deliver business outcomes. All governance arrangements remain under on-going review.

3.5.2 Structures in Waste Management are also being reviewed following feedback and processes used to deliver the service are being reviewed and amended, for example; a meetings structure has been implemented to improve communication throughout the teams.

3.5.3 No further external inspections or audits have been undertaken since the last

3.6 Finance and Corporate Services

3.6.1 Each year the External Auditor issues a range of reports relating to the work to be undertaken and these are presented to Audit Committee:

3.6.1.1 External Audit Plan which outlines the audit approach and identifies areas of audit focus and planned procedures.

3.6.1.2 Interim Audit Report (if required), which details control and process issues and identifies improvements required prior to the issue of the draft financial statements and the year-end audit.

3.6.1.3 Report to those charged with Governance (ISA260 report) which:

- Details the resolution of key audit issues.
- Communicates adjusted and unadjusted audit differences
- Highlights recommendations identified during the audit
- Comments on the Council's arrangements for securing economy, efficiency and effectiveness in the use of resources (Value for Money)

3.6.1.4 Annual Audit Letter which summarises the outcomes and key issues arising from the audit work specifically in relation to:

- Audit of accounts
- Value for Money Conclusion
- Any other matters the external auditor is required to communicate

3.6.2 Any recommendations made by the External Auditor in relation to issues identified and the management responses to those recommendations are highlighted in the reports presented to Audit Committee. In carrying out the audit work each year the External Auditor examines progress in addressing previous recommendations made and comments on progress within future reports.

3.6.3 Three low priority recommendations were raised within the Report to those charged with Governance (ISA260 report) in relation to the 2014/15 financial year. These were discussed and agreed with the Auditor and measures were put in place to address the issues raised. The recommendations were addressed by Financial Services and signed off by KPMG and reported in their final year-end report. In reporting on the 2015/16 financial year the Auditor confirmed within the ISA260 that “the Authority has implemented all of the recommendations in our ISA260 Report 2014/15”

3.6.4 One medium and one low priority recommendations were raised within the ISA260 Report in relation to the 2015/16 financial year. These have been discussed with the Auditor and measures have been put in place to address the issues raised. Again the Auditor will formally follow up the recommendations next year and report within the ISA260 Report in relation to the 2016/17 financial year.

3.6.5 Each local authority’s external auditor is required to certify that the annual claim for reimbursement by the Government of Housing Benefit (a means tested benefit administered by local authorities on behalf of the Department for Work and Pensions (DWP)) is fairly stated and to report any errors/adjustments to the DWP in a covering letter that accompanies the claim.

3.6.6 Whilst the DWP have no formal inspection process it does reserve the right to carry out an inspection if circumstances warrant it, i.e. if a Local Authority’s performance causes concern.

3.6.7 KPMG, who carries out the audit on behalf of DWP, checks the financial validity of the housing benefit subsidy claim and, depending upon their findings, can:

3.6.7.1 Where, no errors are found during their audit, certify the claim as fairly stated (i.e. provide an unqualified opinion on the Council’s return).

3.6.7.2 Where minor errors are found, agree adjustments to the claim with the Council and make no reference to errors in their opinion to the DWP (without qualification).

3.6.7.3 For more significant errors, either in process or figures, the external auditor is likely to qualify the opinion on the Council’s return and explain the reasons for doing so to the DWP, who will then determine what action, if any, needs to be taken on any points raised by the auditor.

3.6.8 The audit of the Council's 2014/15 was completed on the 10th November 2015. As in previous audits, the Council received only very minor qualifications resulting in amendments being made to the final claim in accordance with the DWP arrangements.

3.6.9 The audit of the Council's 2015/16 claim is underway at present and the outcome will be included in the next monitoring report.

4. Options considered and recommended proposal

4.1 Audit Committee consider the detail of the report including Appendix A which provides a high level summary of the current position of inspection recommendations.

5. Consultation

5.1 Not applicable to this report.

6. Timetable and Accountability for Implementing this Decision

6.1 The timescales for each inspection recommendation differs and is included in Appendix A.

7. Financial and Procurement Implications

7.1 There are no financial implications.

8. Legal Implications

8.1 There are no legal implications.

9. Human Resources Implications

9.1 There are no Human Resources implications.

10. Implications for Children and Young People and Vulnerable Adults

10.1 The recommendations in relation to inspections in both Children and Young People's Services and Adult Social Care have direct implications on the quality of services provided to children, young people and vulnerable adults. Completing the recommendations will improve outcomes for these groups.

11. Equalities and Human Rights Implications

11.1 Equality Assessments are undertaken in relation to any new policies or strategies that are developed as a result of the work being undertaken to improve services.

12. Implications for Partners and Other Directorates

12.1 Partnership approaches are key to improving services, particularly in relation to Children and Young People's Services, the Improvements need to be of a multi-agency nature and owned cross the partnership. The CYPS Improvement Board is made up of senior officers from partner organisations.

13. Risks and Mitigation

13.1 There is a risk that actions are reported as completed without substance, it is important that arrangements are in place as part of the respective quality assurance regimes and monitored through performance management, evidencing not just completion of actions, but the associated outcomes. As governance arrangements are strengthened, these risks become mitigated.

14. Accountable Officer(s)

- Anne Marie Lubanski, Strategic Director of Adult Care and Housing
- Damien Wilson, Strategic Director Regeneration and Environment Services
- Ian Thomas, Strategic, Director Children and Young People's Services
- Judith Badger, Strategic Director Finance and Customer Services

Approvals Obtained from:-

- Shokat Lal, Assistant Chief Executive

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APPENDIX A

Summary of Recommendations from “Active” Inspection and Audit Action Plans

Inspection / Review (date)	External Assessor	Number of recommendations	Implemented at last report	Implemented since last report	Still outstanding	Overall Completion Date for Recommendations	STATUS
Corporate							
Corporate “Fresh Start” Improvement Plan	DCLG and DfE	132 actions set out in original “Phase One” plan (from May 2015) Revised into 20 objectives in the “Phase Two” action plan (from May 2016)	46 (as at end of Jan 2016 – Phase One)	108 (82%) of 132 Phase One actions complete – May 2016 Phase Two action plan activity commended from May 2016 – 20 revised objectives	20 Phase Two objectives - remain ongoing through to May 2017	1 st phase to May 2016 2 nd phase from May 2016 to May 2017	Ongoing – formal 6 monthly Commissioner progress reports submitted to Secretaries of State ¹ – most recent August 2016 Next report due to Government from Commissioners November 2016 Joint Board of the four Commissioners and Elected Members (Leader, Deputy Leader, Leader of Opposition and Lead Cabinet Member) have met in July and September to review Phase Two progress. Next meeting is on 7 th November 2016.

¹ See www.rotherham.gov.uk/downloads/200796/commissioners for copies of all Commissioner reports and documents

Inspection / Review (date)	External Assessor	Number of recommendations	Implemented at last report	Implemented since last report	Still outstanding	Overall Completion Date for Recommendations	STATUS
Adult Care and Housing							
Adult Social Care – Inspection of Netherfield Court Intermediate Care provider	CQC	1	0	1	0	Sept 2016	Complete This service has now closed
Adult Social Care – Inspection of Treefields Close Learning Disability Respite Service	CQC	1	0	1	0	April 2016	Complete Registration of Manager confirmed in July 2016
Children and Young Peoples Services							
Inspection of services for children in need of help and protection, children looked after and care leavers and Review of the effectiveness of the Local Safeguarding Children Board	OFSTED	26	0	0	26	May 2016	Ongoing
Finance and Corporate Services							
External Auditor's Report on the Accounts 2015/2016	KPMG	2	0	1	1	Mar 2017	On-going
External Auditor's Report on the Accounts 2014/15	KPMG	3	3	0	0	Mar 2017	Complete
Regeneration and Environment Services							
NIL	n/a	0	0	0	0	n/a	n/a

13 June 2016

Mr Ian Thomas
Strategic Director of Children's Services
Rotherham Metropolitan Borough Council
Floor 4, Riverside House
Main Street
Rotherham
South Yorkshire
S60 1AE

Dear Mr Thomas

**Outcome of improvement work undertaken in Rotherham, August 2015-
April 2016.**

This letter contains the findings of the recent improvement monitoring visits undertaken in Rotherham Children's Services between August 2015 and April 2016. Her Majesty's Inspectors (HMI) have undertaken five visits over an eight month period. Each visit has involved two HMI on-site for two days. I am grateful to you and your staff for your help and the time given during the visits.

Inspectors have reviewed the progress of the improvement action plan in five areas:

- Contact and referral (MASH) August 2015
- Duty and assessment and area child protection teams October 2015 and March 2016
- Leadership and management March 2016
- Early help April 2016.

During each visit inspectors sampled practice in relation to child sexual exploitation and reviewed performance management and quality assurance arrangements. At your request inspectors did not review arrangements for children looked after or care leavers. You have been open and honest with inspectors sharing your self-assessment that these services continue to be inadequate. You have shared your action plans to improve both services and have given an undertaking to seek external peer review of these services in August 2016. While we accept this undertaking it is our intention under Ofsted's new monitoring arrangements to prioritise a review of these services beginning September 2016.

During visits inspectors have considered a range of evidence, including: electronic case records; supervision files and notes, observation of social work practice, performance information, policies and strategic planning documents and meetings with key partner agencies. Inspectors also spoke to a range of staff including managers, social workers, other practitioners, agency partners and administrative staff.

You have been transparent and honest with regard to your improvement progress and where your challenges remain. The October 2015 visit identified priority action needed to be taken in respect of your duty and assessment team. You accepted these findings and took immediate action to review practice and management arrangements in these teams and invited HMI to revisit the teams in March 2016. From the evidence gathered, the improvement visits have identified where progress has been made and where areas for development continue, which are detailed below.

Key Findings

MASH August 2015

Inspectors found contact and referral arrangements were satisfactory. Management oversight and quality assurance arrangements were much improved. Rationale for decision making was clear leading to improved action planning. Child protection enquiries in cases seen were timely and formally recorded. The out of hour's arrangements had improved with effective links with day time services. The multi-agency team EVOLVE had been established in July 2015 to work specifically with Child Sexual Exploitation (CSE) cases. Recruiting to permanent posts was however a challenge for you. A Strategic head of CSE was appointed leading to greater oversight and grip of cases held in locality teams and was beginning to strengthen links between strategic and operational practice and partner agencies. Weekly risk management meetings were in evidence to review those children and young people at risk of or suffering harm through CSE. There was evidence of CSE tools being used to screen referrals and identify risk. Specific training for staff had been rolled out about the impact of CSE and risk management and staff valued this training.

Inspectors found workloads had reduced to manageable levels and staff were much clearer about their respective roles and responsibility. There was improving evidence of multi-agency partnership working in assessments and planning but this was not consistently embedded. Managers were benefiting from weekly performance information and monthly auditing by all senior managers and this was beginning to promote a collaborative learning culture.

Areas for development

The accommodation of the MASH was not fit for purpose and did not promote integrated working. You knew this and were in the process of making changes. Education partners were not represented in the MASH and Health had been slow to

get on board. High numbers of agency staff meant the workforce was not permanent or stable. The electronic recording system did not support the effective analysis and sharing of information in the MASH and indeed other parts of the service. Again you were aware of this and work was in progress to develop a new electronic case management system. High numbers of domestic abuse notifications were being sent to social care without screening or being risk assessed by police and this was adversely impacting on capacity at the front door. Thresholds for access to children's social care were not sufficiently understood, owned or implemented across the service and partnership. We found better identification of children in need of early intervention was needed.

Despite strategy meetings being recorded and chaired by a manager overall inspectors found a lack of evidence of actions, contingency planning and required timescales which was a key finding in the SIF. This had not improved sufficiently in the intervening period. Similarly, outcomes of Section 47 enquiries/investigations overall were poorly recorded and it was difficult to see how children were any safer after the strategy has been held. While there had been an improved focus on CSE assessment at the front door, there needed to be a strengthened and more focused response to children looked after. Tracking systems to monitor children and young people missing and at risk of CSE had been developed but were not embedded. Inspectors found improvements in partnership working between Children's Social Care (CSC) and South Yorkshire Police. However, there needed to be a continued effort to further strengthen partnership working, make more effective use of intelligence to identify links, patterns, locations (hot spots) and emerging threats (within and across borders/boundaries).

Duty and Assessment Improvement visit October 2015

Inspectors raised concern with regard to the quality of assessment, planning, management oversight and decision making when cases were transferred from MASH to duty and assessment teams. The evidence gathered found practice improved when cases transferred from duty and assessment teams to Area Child Protection Teams (ACPS). Across the duty and assessment teams there was a lack of understanding of thresholds both for step down to early help and for escalation to Initial Child Protection Conference (ICPC).

In the vast majority of cases seen the quality of assessment was poor. Risk was not sufficiently explored or understood and there was a lack of use of chronologies and assessment tools to assist social workers understand the child's history and the impact of their experiences. Assessments were narrowly focused and did not consider the needs of all children within the household. There was a lack of evidence of multi-agency partner's contribution to assessments and plans or social workers triangulating parental self-report with other professionals. Direct work with children was mostly absent and the child's voice was not sufficiently considered in assessments and plans which concerned them. Children's plans were unfocused and it was difficult to see what was expected of parents and professionals in order to

improve the child's circumstances. There was a lack of management oversight and a lack of clear rationale for decision making. There was a lack of interim safety planning between transition points for children. The case loads of Child Protection chairs were too high, reducing their capacity to monitor in between reviews.

In stark contrast when cases transferred into Area Child Protection Teams (ACPS) practice was significantly improved. Teams were more stable and caseloads had significantly reduced enabling social workers to undertake direct work and more qualitative assessments. Supervision was regular, management rationale was in evidence on most records and social workers were receiving support and challenge from managers. Social workers told inspectors they felt safe. Newly qualified social workers social workers were well supported. Team managers were using performance information to positive effect and this was evidenced in improving team performance and the overall experience for children, young people and their families. Improvements could be seen in responses to children at risk of and suffering CSE. Assessments seen were robust, risk was well understood, and there was evidence risks were reducing for some children. Multi-agency partnerships were strong, strategies were robust and well-coordinated actions followed with wrap around services for children and young people. Staff were clear about their roles and responsibilities.

Duty and Assessment March 2016

Inspectors returned in March 2016 to re-visit the duty and assessment teams. There continued to be appropriate and robust screening of contacts and referrals in the MASH. Newly introduced early help panels were beginning to support step down. You had begun work with the Local Safeguarding Children Board (LSCB) to explore the issue of the understanding of and the application of thresholds across the partnership.

All cases looked at by inspectors had an assessment with evidence the child had been seen. This was a significant improvement. Assessments had been completed in a timely way for the child. Improvement could be seen in assessment quality in some but not all cases looked at by inspectors. Analysis of risks had slightly improved and there was evidence that strengths and the family's history were being considered. In some cases the child's experience was being captured well and the impact on the child could be understood. Almost all cases seen had a plan with evidence of review. Recording of strategy meetings had improved slightly and strategy meetings were compliant with statutory guidance which was a significant improvement.

Areas for development

While there was increased evidence children were being seen there was limited indication of the purpose or outcome of the visit. Recording was descriptive, did not link to concern or risk, and there was limited evidence of how visits linked to the child's plan. There was limited evidence of actions to be undertaken for next the visit

or what was required of parents. Where a father was involved, even if estranged or living in the same household they were not being consulted. The individual needs of siblings within assessments were also not being considered. While you were beginning to develop chronologies these were not being used to identify significant events in children's lives and inform analysis of risk and research was not being used to assist the analysis of risk. There was no evidence of contingency planning. When cases stepped down to early help or closed, assessments were not robust enough. There was very little evidence in any files seen of consultation with adult services. Management grip was only evident at the allocation of cases.

Leadership and Management March 2016

Considerably strengthened and robust relationships were fully established between the DCS, lead member and Chief Executive with the promise of this being added to by the new independent chair of the Rotherham Safeguarding Children Board (RSCB). It was particularly positive that the governance arrangements through Commissioners have not inhibited the functionality of these relationships. Careful consideration has been given to provide support for the current shadow executive arrangements. At the time of the visit there remained some key appointments that had either only just been made or were very recent. However, the thread of high level of motivation, clear direction of travel and determined challenge was evident. Specific operational and tactical arrangements between the council and South Yorkshire police have shown evidence of improved cooperation and collaboration. This is noted in the examination and investigation of possible individual and organised exploitation of children. The specialist joint arrangements for this are fully functional, with recent evidence of impact. The effectiveness of the Evolve team however is yet to be evaluated in detail.

The impact of many of the strategic developments is yet to be seen with the strategic and governance arrangements at the early stages of being reviewed. Efforts are clear to achieve a more 'open-architecture' of governance where challenge is seen as support. The stabilisation and functional effectiveness of the workforce has begun to be established. Turnover continues but not at a damaging level and almost all of those spoken with express positive morale and confidence in the direction of travel of children's social care services. While it is recognised there is much yet to be achieved it is clear that many of the foundations toward a stable, able workforce are in place, albeit recently achieved.

First line management casework oversight and direction was much improved. Managers recorded clear and risk-focused direction. Management rationale for decision making was clearly recorded in cases seen. It was clear that there is managerial ownership and efforts to drive improved performance in social care. There was evidence of shared ownership and responsibility amongst managers seen. Managers welcome the current "no hiding place" style of management with support being as robust as challenge. Independent Reviewing Offices (IRO) arrangements however have not been well supported by the four changes in manager of the

service in a short space of time. They remain clear that they are still seeing too much delay in implementing plans, with limited progress in the focus, of plans, quality of assessments and appropriate preparation of children in care. They feel they are beginning to be listened to but are yet to confidently find their professional 'voice' on behalf of children in care.

Areas for development

The voice of the child was not consistently evidenced on an individual casework basis or sufficiently influential at all levels in children's services. You are working hard to secure a competent and stable workforce and demonstrate active and purposeful planning. This is yet to impact sufficiently on the 'front of house' practitioner base with just three permanent SW appointments in the last round of recruitment. You continue to have difficulty meeting your sufficiency duty and it is clear that it is likely to take a further 12-18 months before substantial improvement is achieved. You are at the early stages of developing and delivering effective early help and edge of care services. This is not yet having a clear impact on reducing crises and demand for statutory interventions.

Sound quality assurance and performance management frameworks are now in place and there is clear capacity and commitment from both children's services and partners to drive these forward. You are now ready to move from the compliance phase of your improvement plan to focus on the quality of practice. The current suite of audit tools and framework are an emerging strength, with further links being pursued with the RSCB quality functions. This is however yet to evidence practice improvement. Your electronic case record system has had some interim updates, is unlikely to support this work until the implementation of liquid logic from September 2016. Lines of internal communication across the local authority and within children's services have improved considerably, but are yet to ensure a full 360 degree communication, including the valued practitioner forum, to ensure effective engagement with, and of, staff at all levels.

There has been an understandable and considerable focus on child sexual exploitation safeguarding practice. It was evident at the time of the visit that the separate specialist teams were exhibiting significant tensions and pressures. There were specific issues regarding staff relationships within the Evolve team that required your further consideration.

Early help April 2016

The pace of improvement in relation to development of the early help programme over the past six months has been positive and rapid. This is integral to the successful development of the children and young people's transformation programme 2015-2021. The vision and priorities of the council are clearly set out in the new early help and engagement service plan. These are appropriately aligned with wider strategic planning to increase preventative and early help services

through a variety of established, recent and planned services. The early help strategy is currently in draft form with a planned implementation in July 2016.

Refreshed governance arrangements are in evidence. There is a clear commitment from senior managers and elected members to improve the quality of services and to improve outcomes for children and young people through a robust focus on early intervention and prevention. The commissioner made early help a top service priority. A member led early help review board and early help sub group of the children and young people's strategic partnership is in place to oversee the development. The council and its partners we have seen share an ambition regarding the increased offer of early help to prevent the escalation of family difficulties through integrated and locality working. There is strategic buy in from all major stakeholders and this has the potential to provide valuable services and resources which are aligned to the views and needs of local communities.

Partnerships with the Police and Youth Engagement Service are particularly strong and well aligned with the troubled families' programme which you call "Families for Change". Significant work has been undertaken to improve operational buy in from partners and this has improved significantly with schools and learning communities. There is still some way to go to secure full engagement and some operational challenges remain to engage health visiting, school nurses and CAMHS. More work needs to be done to increase and improve education and health partners confidence not only in the early help offer but in their capacity to deliver early help assessments and support.

Threshold descriptors are clear and align with early help pathways to services which outline a virtual pathway to and signpost professionals, practitioners and families to early help services. However, thresholds for access to children's social care are still not sufficiently understood by partners and cases referred to early help are not always being coordinated effectively. The interface between early help and the front door needs to be clearer. There are additional issues around the analysis of risk and decision making. The newly established early help triage team is starting to impact on the timely coordination of services through to nine early help multi-disciplinary locality teams integrating disciplines. Positively the early help triage team ends the previous 30 different routes to early help through one front door. It is too early to see the impact on whether this is effective in diverting some children and young people with a lower threshold of need from statutory services, however the early indications are encouraging.

There is evidence of robust management oversight of the team and decisions, appropriate and educative advice and challenge back to referrers, including the MASH and locality teams. New and quality assurance and performance monitoring arrangements in place for early help live from 1 April 2016. Routine Department for Education performance reporting systems are in place enhanced with bespoke success measures which intend to capture for example; contact timeliness, track step up and step down timeliness and allocation, assessment timeliness and outcomes,

deep dive audits and more. These new arrangements bring all of these systems into one electronic data base.

Areas for development

The integration of the early help workforce into locality teams is a positive and necessary change. Not all staff are however sufficiently trained, confident or competent to undertake early help assessment (EHA). There needs to be an impetus to develop staff training, skills, knowledge and confidence. Some staff have articulated to inspectors that they feel overwhelmed, under skilled and not being clear about what they are doing and why. Some Manager's lack of knowledge and skill in this area of work is impacting on their ability to understand the complexity and challenges and quality assure the work to a satisfactory level. Managers are not giving clear direction at the allocation of cases, not setting timescales for completion, they are not evidencing review and challenge of decisions and they are not evidencing that remedial actions from previous supervisions are actioned.

The current early help assessment form is not fit for purpose. It does not have a section for the worker to analyse their findings, to record the child's wishes and feelings or the views of parents or carers. It does not have a section for management oversight and next steps or to record the completion date. Early help assessment quality overall was poor in the cases seen. Children are not always seen as part of an early help assessment and it is difficult to see what direct work if any is undertaken as workers do not always record these interventions. As a result plans are insufficiently focused on areas of risk and need. The intended outcomes are not always clear and few have realistic or even set timescales of when change/ progress is required. Team around the child meetings are taking place but in those seen are not all robustly monitoring or driving children's plans.

Child sexual exploitation April 2016

Inspectors have found continued improvement in practice. There is evidence of significant learning arising from the review of high profile cases in Rotherham. What started as reactive approaches to children suffering CSE has developed into proactive, sensitive and robust investigative practice between police and social care.

Considerable efforts are made to identify children and young people at risk of CSE and when identified receive bespoke wrap around multi-agency risk assessment and responses. Assessments seen in the Evolve team during the visit in March 2016 were thorough and timely. Risk and need were clearly identified. Care plans were robust, addressed risk and were regularly monitored, reviewed and updated by managers. Where young people were perpetrators, a unique approach by police in particular, influenced by CSC, seeks where appropriate and proportionate to risk not to criminalise but educate, support and monitor through whole family and multi-agency systems approaches. Where charges are brought and where convictions occur, young people are supported, reassessed and monitored up to sentencing and beyond

which is good practice and child centred. Where victims are suspected or identified, in some cases months and months of proactive and tenacious work is resulting in victims developing trusting relationships with police and social workers. The impact is in many cases young people making disclosures and identifying other victims.

Future arrangements

As you will be aware, as set out in the letter from Eleanor Schooling, National Director, Social Care, dated 26 May, we are introducing new monitoring arrangements for inadequate local authorities. The letter sets out the activities and general timescales.

As we have already been engaged with Rotherham, with your agreement, we will move to a monitoring arrangement. I and the regional Senior HMI, Bob Morton, would be happy to meet with you to discuss. I am currently on another inspection but will contact you shortly to take forward.

Yours sincerely

Tracey Metcalfe

Her Majesty's Inspector

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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