



# Audit, Governance & Standards

Committee

Tue 28 May

2024

7.00 pm

Oakenshaw Community  
Centre

Castleditch Lane

Redditch

B98 7YB

**REDDITCH** BOROUGH COUNCIL



[www.redditchbc.gov.uk](http://www.redditchbc.gov.uk)

If you have any queries on this Agenda please contact  
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## **GUIDANCE ON FACE-TO-FACE MEETINGS**

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If you have any questions regarding the agenda or attached papers, please do not hesitate to contact the officer named above.

### **GUIDANCE FOR ELECTED MEMBERS ATTENDING MEETINGS IN PERSON**

Meeting attendees are encouraged not to attend a Committee if they have any of the following common symptoms of Covid-19 on the day of the meeting; a high temperature, a new and continuous cough or a loss of smell and / or taste.

### **PUBLIC SPEAKING**

The usual process for public speaking at Committee meetings will continue to be followed subject to some adjustments which allow written statements to be read out on behalf of residents and the virtual participation of residents at meetings of Council and Planning Committee.

### **PUBLIC ATTENDANCE AT MEETINGS**

Members of the public are encouraged not to attend a Committee if they have any of the following common symptoms of Covid-19 on the day of the meeting; a high temperature, a new and continuous cough or a loss of smell and / or taste.

### **Notes:**

**Although this is a public meeting, there are circumstances when Council might have to move into closed session to consider exempt or confidential information. For agenda items that are exempt, the public are excluded.**



# Audit, Governance & Standards

Tuesday, 28th May, 2024

7.00 pm

Oakenshaw Community  
Centre

## Agenda

Membership: To be confirmed

### 1. Apologies and Named Substitutes

### 2. Declarations of Interest

To invite Councillors to declare any Disclosable Pecuniary Interests and/or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.

### 3. Minutes (Pages 5 - 16)

The minutes of the meeting of Audit, Governance and Standards Committee held on 21<sup>st</sup> March 2024 will be considered at this meeting.

### 4. Public Speaking

Members of the public have an opportunity to speak at meetings of the Audit, Governance and Standards Committee. In order to do so members of the public must register by 12 noon on Thursday 23<sup>rd</sup> May 2024. A maximum of 15 minutes will be allocated to public speaking.

### 5. Monitoring Officer's Report - Standards Regime (Pages 17 - 20)

### 6. General Dispensation Report (Pages 21 - 26)

### 7. Annual Update Report on Regulation of Investigatory Powers Act 2000 (RIPA) (Pages 27 - 78)

### 8. Feckenham Parish Council Representative's Report - Standards Regime

To receive a report from the Feckenham Parish Council Representative on any matters of relevance to the Committee.

(Oral report)

# Audit, Governance & Standards

Tuesday, 28th May, 2024

**9. Grant Thornton - External Audit Progress Report and Sector Update** (Pages 79 - 82)

**10. Internal Audit Plan 2024-2025** (Pages 83 - 94)

**11. Financial Savings Monitoring Report** (Pages 95 - 102)

**12. Annual Appointment of Risk Champion**

**13. Committee Work Programme** (Pages 103 - 106)

**14. Exclusion of the Press and Public**

Should it be necessary, in the opinion of the Chief Executive, during the course of the meeting to consider excluding the public from the meeting on the grounds that exempt information is likely to be divulged, it may be necessary to move the following resolution:

“That, under S.100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting for the following matter(s) on the grounds that it/they involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs (to be specified) of Part 1 of Schedule 12 (A) of the said Act”.

These paragraphs are as follows:

Subject to the “public interest” test, information relating to:

- Para 3 – financial or business affairs;

and may need to be considered as ‘exempt’.

**15. Financial Compliance Report including update on Statements of Accounts**  
(Pages 107 - 118)



# **Audit, Governance & Standards Committee**

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Thursday, 21st March, 2024

## **MINUTES**

### **Present:**

Councillor Jane Spilsbury (Vice-Chair in the Chair) and Councillors Salman Akbar, Karen Ashley, Juma Begum, Andrew Fry, Chris Holz, Emma Marshall and Sharon Harvey (Substitute).

### **Also Present:**

Councillor Luke Court – Portfolio Holder for Finance and Enabling  
Jackson Murray - Key Audit Partner, Grant Thornton (on Microsoft Teams)  
Chris Green – Head of Worcestershire Internal Audit Shared Service (on Microsoft Teams)

### **Officers:**

Peter Carpenter, Bernard Ofori-Atta and Nicola Cummings

### **Democratic Services Officers:**

M Sliwinski

## **67. APOLOGIES AND NAMED SUBSTITUTES**

Apologies for absence were received from the Chair, Councillor Woodall, who was substituted at the meeting by Councillor Sharon Harvey.

Apologies were also received from Councillor Lovell.

In the absence of the Chair, the meeting was Chaired by the Vice-Chair of the Committee, Councillor Jane Spilsbury.

## **68. DECLARATIONS OF INTEREST**

There were no declarations of interest.

Chair

# **Audit, Governance & Standards Committee**

---

Thursday, 21st March, 2024

## **69. MINUTES**

The minutes of the meeting held on 25<sup>th</sup> January 2024 were submitted for Members' consideration.

### **RESOLVED that**

**the minutes of the Audit, Governance and Standards Committee held on 25<sup>th</sup> January 2024 be approved as a true and correct record and signed by the Chair.**

## **70. PUBLIC SPEAKING**

There were no registered public speakers on this occasion.

## **71. MONITORING OFFICER'S REPORT - STANDARDS REGIME**

The Principal Solicitor introduced the Monitoring Officer's report. Details were set out of Member Conduct and Complaints since the last meeting of the Committee. It was reported that investigation of one complaint had been concluded as the external investigator had completed his review. The subject of the complaint was not found to be at fault and no breach of the Code had been found. It was reported that two new Member complaints had been submitted since the last meeting of Audit, Governance and Standards Committee.

It was reported that the Constitutional Review Working Party (CRWP) met on 7<sup>th</sup> March 2024. At the meeting, recommendation was made to delegate authority to officers for a 12-month trial period in respect of determining application for licences to use vehicles as hackney carriages or private hire vehicles where the vehicle does not meet the Council's criteria in respect of the age of the vehicle. This recommendation would be considered by full Council in the new municipal year. At the CRWP meeting, proposed amendments to the Council's Constitution were also considered and recommendations to Council were made with respect to areas that included shortening the length of the introduction to the constitution and amending Council Procedure Rules.

In response to a question about the costs of the complaint involving external investigator, it was reported that the cost of the investigation in respect of this complaint amount to around £2,000.

# **Audit, Governance & Standards Committee**

---

Thursday, 21st March, 2024

**RESOLVED that**

**the Monitoring Officer's report be noted.**

**72. FECKENHAM PARISH COUNCIL REPRESENTATIVE'S REPORT  
- STANDARDS REGIME**

There was no update as Feckenham Parish Council Representatives were not present at the meeting. It was reported that an invitation to the Feckenham Parish Council Representatives had been sent on behalf of the Council in advance of this Committee meeting.

**73. GRANT THORNTON - EXTERNAL AUDIT PROGRESS REPORT  
AND SECTOR UPDATE**

The External Auditor from Grant Thornton presented a report on progress in delivering the external audit function for the Council and provided a wider audit sector update.

The External Auditor reported that progress had been made in respect of work on auditing the Council's financial statements. It was reported that in mid-February the auditors received updated workings from the Council on the transfer of balances from Council's old ledger system to the new TechnologyOne ledger. These updated workings were currently being reviewed by auditors; however, it was reported that unreconciled transactions were now reduced to only a minor value. It was stated that the auditors should now be in a position to verify the completeness and accuracy of the transfer of balances within the next couple of weeks.

An update was provided with respect of the 'backstop' date proposed by the Department for Levelling Up, Housing and Communities (DLUHC) which would set a deadline for when all outstanding local government audits up to and including 2022-23 financial year must be finalised. It was highlighted that there remained 700 audit opinions of local authority accounts for various financial years outstanding. In recognition of this situation, consultations by DLUHC and the National Audit Office (NAO) had been undertaken with audit sector stakeholders (including audit firms and local authorities).

At this stage, the Government proposed a backstop date of 30<sup>th</sup> September 2024 for when audits of local authority accounts up to and including 2022-23 financial year must be finalised. It was

# **Audit, Governance & Standards Committee**

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Thursday, 21st March, 2024

stressed that under this proposal if the statement of accounts was not finalised by the September date, then auditors would be required to issue a qualified opinion on that set of accounts. Further backstop dates were also set out under the Government's proposal with 31<sup>st</sup> May 2025 proposed as a backstop date for completion of accounts up to 2023-24 financial year.

It was reported that alongside DLUHC consultation, there was a consultation by the NAO on the Code of Audit Practice which set out potential changes to the work of auditors and how local authority accounts should be audited. Outcomes of either consultation had not yet been published and the implementation of backstop proposal would require a change in legislation.

It was reiterated that at this point, Redditch Borough Council's statements of accounts for financial years 2020-21, 2021-22, and 2022-23 had not been audited. The Council had not yet formally published its draft 2020-21 Accounts. It was noted that in the opinion of the External Auditor if the backstop date of 30<sup>th</sup> September 2024 was introduced, there would not be enough time to audit these outstanding accounts and backstop disclaimer opinions were likely to be issued for the three financial years. It was highlighted that this was a national issue given the number of unaudited accounts across the local government sector in England.

It was reported that the proposed fee variations for external audit work up to end of December 2023 were included in the report and related to the additional work undertaken by External Auditors in respect of 2020-21, 2021-22, and 2022-23 Value for Money and 2020-21 data transfer work. Public Sector Audit Appointments (PSAA) would need to first consider the proposed variation before it was confirmed. The External Auditor clarified that Redditch Borough Council was fully up-to-date in respect of the Value for Money work.

The Deputy Chief Executive and Section 151 Officer was invited to comment and in doing so noted that the Financial Compliance Report at agenda item 10 contained confidential appendices with Council's responses to the DLUHC and NAO audit consultations. The responses were confidential at the moment as the consultations results had not yet been published. It was currently hoped that the Council would have 2021-22 Accounts ready for audit by the end of May 2024 and 2022-23 Accounts by end of July 2024.



# Audit, Governance & Standards Committee

---

Thursday, 21st March, 2024

The Deputy Chief Executive and Section 151 Officer reported that in his response to the consultations he agreed with the backstop proposal in principle but disagreed with the backstop dates proposed as they did not provide enough time for local authority sector to complete outstanding accounts. It was highlighted that as the audit firms were directed to audit of NHS bodies over spring and June, there was only two and a half months left for public bodies' auditors to devote to local authority accounts before the proposed backstop date. It was noted that there was a serious reputational risk for the local authority sector and Redditch Borough Council in case the backstop dates were implemented as currently proposed.

Questions were asked regarding why delays and backlogs in audits were mainly affecting local authorities in England, rather than local authorities in Scotland or Wales, or other public sector bodies such as the NHS. It was responded that among the possible reasons for national differences in audit was that Scotland and Wales had regional audit offices, whereas the English equivalent, the Audit Commission, was abolished in 2012. It was noted that NHS accounts were standardised, for example the NHS Trusts being provided with pro-forma accounts templated by NHS England, making auditing of those accounts easier for the auditors. The NHS shared business service also mostly use the same ledger system which was of additional assistance when auditing those accounts. The complexity of auditing local authorities was usually greater due, for instance, to the authorities owning multiple buildings, having defined benefit pension schemes, investment properties and trading companies – factors which were usually not in scope when auditing NHS bodies.

The Head of Finance and Customer Services commented that the Council was due to submit additional data to the External Auditor in the next few days. It was hoped that following this, the Council's draft statement of accounts could be published on the Council's website in two weeks' time.

Members discussed the report in detail and the following points were raised:

- Backstop dates and the effect on Council's ability to borrow – It was stated that the External Auditor expected that, if the Government's backstop proposal of 30<sup>th</sup> September 2024 was to be implemented, the Council would receive qualified opinions on its 2020-21, 2021-22, and 2022-23 statements of accounts. An additional question was asked with respect on

# Audit, Governance & Standards Committee

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Thursday, 21st March, 2024

how this would affect the Council's ability to borrow. It was responded that most of Council's borrowing was undertaken through Public Works Loans Board (PWLB) lending (public sector borrowing) and thus there would not be a significant effect on the Council's ability to borrow if it continued to rely on that option for its borrowing. It was added that rules might be tightened with regard to PWLB borrowing but the last change involved adding a percentage point interest on authorities who borrowed with a view of investing for profit.

- Streamlining the Council's auditing process – It was stated that monitoring of some items on the Council's balance sheet was possible and preferable on a quarterly basis as it enabled budget managers to take better view of their budgets and looking at creditors and debtors. However, the two biggest items of spending – property and pension valuations – could only be undertaken towards end of financial year. Therefore, it would be difficult to streamline monitoring of these two items.
- In the course of Member discussion of the above issue, a recommendation was proposed in respect of asking the Executive Committee to include appropriate balance sheet monitoring as part of its quarterly budget monitoring report, to enable all stakeholders to be appraised of the Council's overall financial position. This recommendation was seconded and, on being put to the vote, carried.
- Percentage fee increase on the base budget for 2020-21 audit – It was reported that for 2020-21, Public Sector Audit Appointments (PSAA) set a base scale fee for audit of £44,629. The Audit Plan, presented to the Audit, Governance and Standards Committee proposed an additional £2,500 with respect of External Auditor's work on data transfer and an additional £10,000 with respect of Value for Money work for 2020-21. Based on the time spent by auditors working in these areas, the External Auditor proposed that these fees should be increased to £11,170 and £19,028 respectively. This would amount to a total fee for 2020-21 audit work of £71,292. This was a circa 60 per cent increase on the original base fee. It was reiterated that these interim fee variations would need to be considered by PSAA for determination.

# **Audit, Governance & Standards Committee**

---

Thursday, 21st March, 2024

- It was noted that for financial years 2021-22 and 2022-23 there was a possibility of Council receiving a rebate on its audit fee for financial statement auditing as only Value for Money audit had been done for these years to date. Officers commented that the external audit fees at the moment were not competitive and that higher rates would likely contribute to auditors having greater resources to devote to local audits.
- It was noted that fee variations included in the report were for Redditch Council only.

## **RECOMMENDED**

**that the Executive Committee be asked that the Council, as part of its quarterly budget monitoring, include appropriate balance sheet monitoring so that all stakeholders are apprised of the Council's overall financial position.**

## **74. INTERNAL AUDIT PROGRESS REPORT**

The Head of Worcestershire Internal Audit Shared Service presented a report updating the Committee on progress with the work of the service for the Council.

Plan delivery to the end of February 2024 was 50 per cent, with 5 audits complete and 14 in progress. Delivery was currently behind profile, which was due to a number of vacancies in the team. However, the structure of the service had been reviewed and advertisements had been placed for two new senior auditor posts. Additional resource had been obtained for 3 months to endeavour to complete the 2023/24 plan and minimise any impact on the 2024/25 financial year.

During consideration of the report the following were the main points discussed:

- In response to a Member query, the Head of Worcestershire Internal Audit Shared Service advised that the review marked as awaiting final sign-off was in respect of ICT. It was also clarified that a critical review referred to a deep dive into an area of work where changes were being made and advice given. This would usually be followed up with a formal report a year after implementation.
- A Member pointed out that the revised assurance level RAG indicators for 2023-24 had not been applied consistently in

# **Audit, Governance & Standards Committee**

---

Thursday, 21st March, 2024

all reports that the Committee had been receiving. The Head of Internal Audit Shared Service apologised for any inconvenience in the presentation and responded that he intended to revise the internal audit reports from the new municipal year to ensure that the reports were consistent and clearly laid out. Members asked that they be consulted before changes to the format of the Internal Audit Reports were made.

- A question was asked with respect of the Corporate Data Quality and Usage audit area as listed in the report. It was explained that this was a project looking at quality of data produced across the shared service (by both Redditch and Bromsgrove Councils) and to streamline the input of data. It was noted that this was an area of particular importance as Government funds were now being allocated to Councils based on data that they submit rather than through bidding.

## **RESOLVED that**

**The Internal Audit Progress report be noted.**

## **75. RISK MANAGEMENT REPORT**

The Deputy Chief Executive and Section 151 Officer introduced the report which set out Council activity to identify, monitor and mitigate risk. It was noted that this was the sixth cycle of reviewing corporate and departmental risks since the original baselining of risks in April 2022. It was noted that risk was managed centrally through the 4Risk System and the organisational risk level had moved to a moderate assurance level from May 2023.

The Deputy Chief Executive and Section 151 Officer drew the Committee's attention to a new corporate risk which had been included on the Register relating to the wide-ranging requirements of the Environment Act and the implications of the act on the waste collection fleet. It was being currently assessed what would be the implications in case of specific regulations being issued in the area of waste. It was noted that there were now 13 Corporate Risks and Members were advised that mitigating factors were in place for each of the Corporate Risks as detailed in the report.

With regard to the delivery of Towns Fund projects, it was highlighted that significant risk remained in the delivery of the projects before the funding deadline with the risk that some projects might not deliver within the present Government funding timescales.

# **Audit, Governance & Standards Committee**

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Thursday, 21st March, 2024

It was noted that this issue was raised with the Government by multiple Councils at the Towns Fund Conference and again during the “Deep Dive” review of Redditch Towns Fund processes in the summer which also validated Redditch Governance processes with respect to the Towns Fund.

The Committee was informed that the Cost of Living was continuing risk as the effects of this were shown in areas such as fires in properties due to the use of second-hand electrical goods.

It was reported that there were now 47 departmental risks compared to 51 in the previous reporting period. 1 red departmental risk remained – Revenues – Performance Indicator date is not robust - which was linked to the customer interface and the need for Council datasets from various departments to be linked to each other.

A question was raised with respect of the report and the ‘black box’ symbol appearing in the tables setting out departmental risks. It was explained that this symbol denoted where the risk had been removed from the risk register.

During the discussion, it was requested by Members that Officers endeavour to provide clarification as to why departmental risk HOU 2 – “fail to effectively manage housing repairs and maintenance” (related to COR14) should be rated as a green risk. Members asked that Officers consider reassessing this risk and highlighted that concerns were raised in this area, including when social housing repairs in Redditch were considered as an agenda item at the meeting of Overview and Scrutiny Committee which took place on 14<sup>th</sup> March 2024.

## **RESOLVED that**

**the present list of Corporate and Departmental Risks be noted.**

## **76. FINANCIAL COMPLIANCE REPORT INCLUDING UPDATE ON COUNCIL'S STATEMENTS OF ACCOUNTS**

The Deputy Chief Executive and Section 151 Officer introduced the report and updated the Committee on actions taken since the previous meeting, including on the returns provided to the Government.

# **Audit, Governance & Standards Committee**

---

Thursday, 21st March, 2024

Although the 2022-23 revenue outturn report had been completed using estimates, the returns for 2020-21 and 2021-22 could not be completed in this way and had to wait until the accounts had been finalised. Officers were in contact with HMRC regarding this.

It was highlighted that as reported at the previous meeting, the Government was looking to implement statutory deadlines for completion of outstanding statements of accounts and impose a 'backstop' deadline for all accounts up to 2022/23 to be completed by the 30<sup>th</sup> September 2024. There were two consultations released in relation to this by the Department for Levelling Up, Housing and Communities (DLUHC) and the National Audit Office (NAO), which asked the stakeholders for their views on the audit system and the 'backstop' proposal. The Council had responded to both consultations and the responses were provided at Appendix A. It was noted that the responses were confidential at this point as the results of both consultations are yet to be released.

## **RESOLVED that**

**progress on the 2020-21 Audit process be noted.**

### **77. RISK CHAMPION UPDATE**

The Council's Risk Champion, Councillor Marshall, explained that there was a potential risk with respect to elections and new Members who had little or no experience being selected to sit on the Audit, Governance and Standards Committee. Councillor Marshall asked that a training programme for new elected members be embedded within the induction process as this would help mitigate potential risks in this area.

Members took the opportunity to thank Councillor Marshall for the reports and service as a Risk Champion in 2023-24.

## **RESOLVED that**

**the Risk Champion Update be noted.**

### **78. COMMITTEE WORK PROGRAMME**

It was noted that the first meeting of the Committee in the new municipal year was planned for 28<sup>th</sup> May 2024 and items currently scheduled for that meeting were:

# **Audit, Governance & Standards Committee**

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Thursday, 21st March, 2024

- Standards Regime – Monitoring Officer’s Report
- Grant Thornton - External Audit Update Report
- Financial Compliance Report
- Internal Audit Plan 2024-25
- Internal Audit Annual Report and Audit Opinion 2023-24
- Risk Management Report Quarter 4
- Election of Risk Champion.

Members asked for it to be recorded that this was the last Committee meeting to take place in the Town Hall Council Chamber. It was noted that refurbishment of the Town Hall was due to begin soon, which would lead to relocation of the Chamber to another part of the building.

**RESOLVED that**

**the Committee’s Work Programme be noted.**

The Meeting commenced at 7.00 pm  
and closed at 8.29 pm

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**MONITORING OFFICER'S REPORT**

Relevant Portfolio Holder	TBC
Portfolio Holder Consulted	-
Relevant Head of Service	Claire Felton
Report Author Claire Felton	Job Title: Head of Legal, Democratic and Property Services Contact email: <a href="mailto:c.felton@bromsgroveandredditch.gov.uk">c.felton@bromsgroveandredditch.gov.uk</a>
Wards Affected	N/A
Ward Councillor(s) consulted	N/A
Relevant Strategic Purpose(s)	An Effective and Sustainable Council
Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

**1. RECOMMENDATIONS**

**The Audit, Governance and Standards Committee is asked to RESOLVE that:-**

**1) subject to Members' comments, the report be noted.**

**2. BACKGROUND**

2.1 This report sets out the position in relation to key standards regime matters which are of relevance to the Audit, Governance and Standards Committee since the last update provided at the meeting of the Committee in March 2024.

2.2 It has been proposed that a report of this nature be presented to the Committee on a quarterly basis to ensure that Members are kept updated with any relevant standards matters.

2.3 Any further updates arising after publication of this report, including any relevant standards issues raised by Parish Councils, will be reported on orally by Officers at the meeting.

**3. FINANCIAL IMPLICATIONS**

3.1 There are no financial implications arising out of this report.

**4. LEGAL IMPLICATIONS**

- 4.1 Chapter 7 of Part 1 of the Localism Act 2011 ('the Act') places a requirement on authorities to promote and maintain high standards of conduct by Members and co-opted (with voting rights) Members of an authority. The Act also requires the authority to have in place arrangements under which allegations that either a district or parish councillor has breached his or her Code of Conduct can be investigated, together with arrangements under which decisions on such allegations can be made.

**5. STRATEGIC PURPOSES - IMPLICATIONS****Relevant Strategic Purpose**

- 5.1 It is important to ensure that the Council manages standards regime matters in an appropriate manner. The issues detailed in this report help to ensure that there is an effective and sustainable Council.

**Climate Change Implications**

- 5.2 There are no specific climate change implications.

**6. OTHER IMPLICATIONS****Equalities and Diversity Implications**

- 6.1 There are no direct implications arising out of this report. Details of the Council's arrangements for managing standards complaints under the Localism Act 2011 are available on the Council's website and from the Monitoring Officer on request.

**Operational Implications****Member Complaints**

- 6.2 Whilst there have been a number of Member to Member complaints considered by the Monitoring Officer since the last Committee meeting there have been none that have required any further action.

**Audit, Governance & Standards Committee****28<sup>th</sup> May 2024**Member Support Steering Group

- 6.3 The Member Support Steering Group (MSSG) is responsible for reviewing Member training, induction and ICT support. Meetings of the MSSG are to take place throughout the 2024/25 municipal year.
- 6.4 The next meeting of the group is due to take place on Wednesday 24<sup>th</sup> July 2024.

Constitutional Review Working Party

- 6.5 The Constitutional Review Working Party (CRWP) is responsible for reviewing the Council's constitution and makes recommendations to full Council regarding any proposed changes to the content of the constitution.
- 6.6. The CRWP holds regular meetings throughout the year and the next scheduled meeting is due to take place on 1<sup>st</sup> July 2024.

Member Training

- 6.7 A comprehensive programme of Member training had been put in place for elected Members following the local elections in May 2024. The training sessions that have recently taken place or are due to take place in the next few weeks include:
- Code of Conduct Training – Thursday 9<sup>th</sup> May
  - Joint Detailed Planning Training – Monday 13<sup>th</sup> and Thursday 16<sup>th</sup> May (two sessions)
  - RBC Members – Planning Refresher Training – Tuesday 14<sup>th</sup> May
  - Audit, Governance and Standards Committee Training (before Committee meeting) – Tuesday 28<sup>th</sup> May
  - Chairing Skills Training – Thursday 30<sup>th</sup> May
  - Overview and Scrutiny Training (including work prioritisation session) – Monday 3<sup>rd</sup> June
  - Joint Member Licensing Training (Part 1) – Thursday 6<sup>th</sup> June
  - Modern.gov app training – Monday 10<sup>th</sup> June
  - Joint Member Licensing Training (Part 2) – Tuesday 11<sup>th</sup> June
- 6.8 All new Members attended an induction event on 7<sup>th</sup> May which provided an opportunity for Councillors to collect their induction packs,

**Audit, Governance & Standards Committee****28<sup>th</sup> May 2024**

to network with other Members, to start to learn about the Council and to meet with senior officers, including their officer buddies.

**7. RISK MANAGEMENT**

- 7.1 The main risks associated with the details included in this report are:
- Risk of challenge to Council decisions; and
  - Risk of complaints about elected Members.

**8. APPENDICES and BACKGROUND PAPERS**

No appendices.

Background Papers: Chapter 7 of the Localism Act 2011.

REDDITCH BOROUGH COUNCIL

**Audit, Governance and Standards Committee**  
2024

28<sup>th</sup> May

**LOCALISM ACT 2011 – STANDARDS REGIME – DISPENSATIONS**

Relevant Portfolio Holder	To be confirmed
Portfolio Holder Consulted	-
Relevant Head of Service	Claire Felton, Head of Legal, Democratic and Property Services
Report Author Jess Bayley-Hill	Job Title: Principal Democratic Services Officer Contact email: <a href="mailto:jess.bayley-hill@bromsgroveandredditch.gov.uk">jess.bayley-hill@bromsgroveandredditch.gov.uk</a> Contact Tel: (01527) 64252 Ext: 3072
Wards Affected	All
Ward Councillor(s) consulted	N/A
Relevant Strategic Purpose(s)	An effective and sustainable Council
Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

**1. RECOMMENDATIONS**

**The Audit, Governance and Standards Committee is asked to RESOLVE that:-**

- 1) the previously granted general dispensation in relation to allowing Members to address Council and Committees in circumstances where a member of the public may elect to speak be re-granted under section 33 (2) of the Localism Act 2011, to allow Members to participate in and vote at Council and Committee meetings when considering these matters;**
- 2) subject to the caveat set out in paragraph 3.6 of this report in relation to setting the Council's Budget, the Audit, Governance and Standards Committee grants dispensations under Section 33 (2) of the Localism Act 2011 to allow all Members to participate in and vote at Council and Committee meetings when considering the setting of:
 
  - a) the Budget;**
  - b) Council Tax;**
  - c) Members' Allowances; and**
  - d) Council Rents;**
  - e) Non-Domestic Rates – Discretionary Rate Relief Policy and Guidance affecting properties within the Borough;****

- 
- 3) **it be noted that all dispensations granted by the Committee take effect on receipt of a written request from Members for such a dispensation and where Members may have a Disclosable Pecuniary Interest in the matter under consideration, which would otherwise preclude such participation and voting; and**
  - 4) **it be noted that any new or re-granted dispensations will remain valid until the first meeting of the Audit, Governance and Standards Committee following the next Borough Council Elections in 2025.**

## **2. BACKGROUND**

- 2.1 The purpose of this report is to provide members with an opportunity to consider and agree a number of general dispensations for all Councillors.

## **3. OPERATIONAL ISSUES**

- 3.1 Under s31 (4) of the Localism Act 2011 a Member who has a DPI in a matter under consideration is not permitted to participate in the discussion or vote on the matter unless s/he has first obtained a dispensation under s33.
- 3.2 Section 33 (2) includes a number of situations where a dispensation can be considered, but should be granted "only if, after having regard to all relevant circumstances" the Committee considers that one of those situations applies.
- 3.3 The statutory grounds under s33 (2) for the granting of a dispensation are where the authority –
  - “(a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
  - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

**Audit, Governance and Standards Committee  
2024**28<sup>th</sup> May

- 
- (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
- (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's Executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or
- (e) considers that it is otherwise appropriate to grant a dispensation."
- 3.4 The consideration of whether to grant a dispensation under s33 was previously delegated to the former Standards Committee. This function subsequently transferred to the Audit, Governance and Standards Committee. All dispensations granted are valid until the first meeting of the Audit, Governance and Standards Committee following the next applicable Borough Council elections.
- 3.5 Dispensations, all of which require the advance approval of the Committee and a subsequent written request from the Member to the Monitoring Officer, currently fall within four categories:
- General Dispensations
  - Council Tax Arrears
  - Individual Member Dispensations
  - Outside Body Appointment Dispensations
- 3.6 It should be noted that under Section 106 of the Local Government Finance Act 1992 there is a caveat that any Member who is 2 months (or more) in arrears with their Council Tax payments cannot participate in any Council meeting concerning the budget. In the event that any Members are affected by the provisions of section 106, the statutory rule that they be barred from taking part in the budget decisions would prevail.

**Audit, Governance and Standards Committee  
2024**28<sup>th</sup> May

- 
- 3.7 An amended version of the new Local Government Association (LGA) Model Code of Conduct was adopted at the Council meeting held on 23<sup>rd</sup> May 2022. As a result of this adoption, Members are now required to complete an 'Other Registerable Interests' (ORI) form to declare any ORIs.
- 3.8 Usually, the Audit Governance and Standards Committee would be asked to consider granting both general dispensations and individual Member dispensations together at the first meeting of the Committee in the municipal year.
- 3.9 The current general dispensations to Members are due to expire on the date of the first meeting of the Committee in the 2024/25 municipal year. It is therefore important to ensure that the Committee is provided with an opportunity to consider whether to grant these general dispensations at this first meeting.
- 3.10 However, the first meeting of the Committee in the 2024/25 municipal year is taking place much earlier than usual. This does not provide much time to consult with Members, particularly new Members, on any individual Member dispensations that they wish to request for this municipal year.
- 3.11 In this context, Officers will present a further report, focusing on individual Member dispensations, for the Audit, Governance and Standards Committee's consideration at the next meeting of the Committee in July 2024.

**4. FINANCIAL IMPLICATIONS**

- 4.1 There are no specific financial implications.

**5. LEGAL IMPLICATIONS**

- 5.1 Section 33 of the Localism Act 2011 provides that Dispensations can be granted in respect of Disclosable Pecuniary Interests ("DPIs").
- 5.2 Section 33 (1) requires that a Member must make a written request for a dispensation.



**Audit, Governance and Standards Committee  
2024**28<sup>th</sup> May

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5.3 Section 33 (3) provides that a dispensation must specify the period for which it has effect, and that period may not exceed 4 years.

**6. OTHER - IMPLICATIONS****Relevant Strategic Purpose**

6.1 The issues detailed in this report help to ensure that there is an effective and sustainable Council.

**Climate Change Implications**

6.2 There are no specific climate change implications.

**Equalities and Diversity Implications**

6.3 There are no specific equalities and diversity implications.

**7. RISK MANAGEMENT**

7.1 The granting of general dispensations by the Committee will, subject to receipt of a written request from Members for such a dispensation, clarify, for the avoidance of any doubt, Members' ability to participate in and vote at Council and committee meetings on certain matters as part of the Council's decision-making process.

**8. APPENDICES and BACKGROUND PAPERS**

- Section 33 of the Localism Act 2011.
- Section 106 of the Local Government Finance Act 1992.
- Various reports to the former Standards Committee and Audit, Governance and Standards Committee.

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**Audit, Standards and  
Governance Committee****28<sup>th</sup> May 2024****Annual Update Report on RIPA**

Relevant Portfolio Holder		To be confirmed
Portfolio Holder Consulted		-
Relevant Head of Service		Claire Felton
Report Author	Job Title: Head of Legal, Democratic and Property Services Contact email:c.felton@bromsgroveandredditch.gov.uk Contact Tel: 07809665536	
Wards Affected		All
Ward Councillor(s) consulted		N/A
Relevant Strategic Purpose(s)		N/A
Non-Key Decision		

**1. RECOMMENDATIONS**

The Committee is asked to **RESOLVE** that:-

- 1.1 The Council's RIPA Policy (version 8.3) as reviewed and updated be endorsed; and
- 1.2 The update on RIPA activity described in this report be noted.

**2. BACKGROUND**

- 2.1 The Regulation of Investigatory Powers Act 2000 ["RIPA"] gave local authorities powers to conduct covert surveillance under certain circumstances. The Act also regulates the use 'Covert Human Intelligence Sources' ["CHIS"] and obtaining certain Communications Data.
- 2.2 The revised Code of Practice for Covert Surveillance and Property Interference, 2018, at paragraph 4.47, advised that elected members should, at least on an annual basis, review the RIPA policy and the authority's use of the Act. This report is published in compliance with that requirement.
- 2.3 Local Authority powers are at the lower end of the scale and changes in legislation since the Act was originally introduced, have resulted in further restrictions on their use:
  - the use of surveillance restricted to criminal investigations;

**Audit, Standards and  
Governance Committee****28<sup>th</sup> May 2024**

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- the Protection of Freedoms Act 2012 required local authorities to get approval from the Magistrates Court for any proposed surveillance; and
  - the threshold for the level of crime being investigated was raised to include only 'serious crime' (as defined).
- 2.4 The regime is overseen by the Investigatory Powers Commissioner's Office, and includes inspections of organisations by an Inspector appointed by the Commissioner, usually about every three years.
- 2.5 Any organisation which has investigatory powers under RIPA is required to have in place a Policy governing all aspects of the regime, including the need for updating and officer training, regardless of whether the powers are exercised. The Council's Policy is regularly updated to comply with any changes in the legislation, guidance and codes of practice which apply to the regime. Changes are notified to the Council by an external RIPA expert, who also provides training and advice on RIPA issues.
- 2.6 From the outset, the Council's use of RIPA powers was always low. There were a number of reasons for this: A rigid process has to be followed to establish that a proposed surveillance activity is both "necessary" and "proportionate"; a senior officer has to evaluate the proposal against a number of criteria and would then have to be referred to the Magistrates Court to be confirmed. If approved, there would have been major resource implications for any authorised surveillance to have been undertaken.
- 2.7 Since the changes introduced in 2012 as described in 2.3 above, the Council has not exercised its powers under RIPA. The Surveillance Commissioner has noted that in recent years authorities like ours have granted far fewer RIPA authorisations and some have granted none at all.
- 2.8 In light of the low level of RIPA activity, in 2018 rather than carrying out a physical inspection an inspector on behalf of the Surveillance Commissioner conducted a remote light touch review. This was followed in January 2022 by a video and desk-top based inspection.
- 2.9 The January 2022 inspection resulted in recommendations to alter the wording of three aspects of the policy to make it clearer and the necessary alterations were subsequently made to the policy by officers. Overall, the outcome was that the Council was operating a robust policy and the continuation of remote inspections in the future was endorsed.

**Audit, Standards and  
Governance Committee****28<sup>th</sup> May 2024**

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- 2.10 The last occasion a RIPA update report was considered by the Committee was on 30<sup>th</sup> May 2023. Officers can update Members that there have been no significant changes or developments since then. There have been no new authorisations of use of RIPA powers. Officers continue to keep the policy under review but there have been no legislative or other changes to update in the last 12 months.
- 2.11 In order to have the option of using RIPA powers in the future if required, the Council must keep the policy up to date and ensure officers are aware of how to use it and the processes to follow. Officers must also be careful to ensure that they follow the parts of the policy that cover other forms of surveillance that fall outside of the strict RIPA regime, and the guidance in the policy around use of social media.
- 2.12 The Council is a member of the National Anti-Fraud Network [NAFN], which is hosted by Thameside MBC and which provides data and intelligence services under the RIPA regime to public sector organisations in relation to fraud investigations. Over 90% of local authorities are members of NAFN. Membership enables the Council to avail of its expertise, without having to have our own staff for the purpose.

**3. OPERATIONAL ISSUES**

- 3.1 Nothing additional to add to the information above.

**4. FINANCIAL IMPLICATIONS**

- 4.1 None as a direct result of this report.

**5. LEGAL IMPLICATIONS**

- 5.1 The Council demonstrated compliance with its statutory obligations under RIPA to the satisfaction of the Surveillance Commissioner at the last inspection in January 2022, and continues to review and update its policy as required and provide training.
- 5.2 This report to Members complies with the Code of Practice requirement that Members should be updated annually on RIPA activity and endorse the policy, including any changes to it, for the coming year.

**Audit, Standards and  
Governance Committee****28<sup>th</sup> May 2024**

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**6. OTHER - IMPLICATIONS****Relevant Strategic Purpose**

- 6.1 No direct link to the defined strategic purposes; maintaining the ability to use RIPA powers provides the Council with more options to take effective action to protect its citizens from fraud and criminal activity.

**Climate Change Implications**

- 6.2 None

**Equalities and Diversity Implications**

- 6.3 There are no direct implications arising out of this report.

**7. RISK MANAGEMENT**

- 7.1 The Council is required to comply with the statutory provisions and guidance governing the RIPA regime and any recommendation made by the Inspector on behalf of the Commissioner.

Officers need to be aware of the RIPA powers so that there is no risk of surveillance or CHIS activity being undertaken without the correct approvals being in place.

**8. BACKGROUND PAPERS**

Report to Audit, Standards and Governance Committee - Annual Update on RIPA – 30<sup>th</sup> May 2023

The Council's RIPA Policy (version 8.3)

**Audit, Standards and  
Governance Committee****28<sup>th</sup> May 2024****9. REPORT SIGN OFF**

<b>Department</b>	<b>Name and Job Title</b>	<b>Date</b>
Portfolio Holder	To be confirmed	
Lead Director / Head of Service	Claire Felton - Head of Legal, Democratic and Property Services	14 <sup>th</sup> May 2024
Financial Services	Peter Carpenter – Director of Finance and Resources	14th May 2024
Legal Services	Nicola Cummings - Principal Solicitor – Governance	14 <sup>th</sup> May 2024
Policy Team (if equalities implications apply)	Not applicable	
Climate Change Team (if climate change implications apply)	Not applicable	

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**Bromsgrove**  
District Council  
[www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk)



**Bromsgrove District Council**  
**And**  
**Redditch Borough Council**

**Regulation of Investigatory Powers Act 2000**  
**Policy**

**Version 8.3**

## RIPA Policy BDC -RBC V8.3 (002)

**Document Control**

<b>Organisation</b>	Bromsgrove District Council and Redditch Borough Council
<b>Owner</b>	Principal Solicitor
<b>Protective Marking</b>	Unclassified
<b>Review Due</b>	Annual. See Revision History for date of last update. This Policy is also reviewed by Council Members for approval each year in June.

**Revision History**

<b>Revision Date</b>	<b>Revised By</b>	<b>Version</b>	<b>Description of Revision</b>
Jan 2013	Sarah Sellers		Not recorded.
30/8/2013	Clare Flanagan	August 2013	<ul style="list-style-type: none"> <li>• Document history page added.</li> <li>• References to 'urgent oral authority' removed.</li> <li>• Appendix 5 (about accessing Comms data) removed, now unnecessary.</li> </ul>
1/9/2013	Clare Flanagan	August 2013	Update to Appendix 2 to remove all 'grounds for use' except prevention of crime.
28/8/2015	Nicola Brothwell	V4.0	Version numbering introduced. Removal of mention of staff who have left the Council.
19/1/2016	Nicola Brothwell	V5.0	Minor updates to list of Authorising Officers. OSC guidance on use of social media added.

## RIPA Policy BDC -RBC V8.3 (002)

<b>Revision Date</b>	<b>Revised By</b>	<b>Version</b>	<b>Description of Revision</b>
18/5/2016	Nicola Brothwell	V6.0	Chris Phillips has now left the council, so his name is removed from the policy.
10/04/2017	Sarah Sellers	V7.0	Amalgamated polices of both BDC and RBC into one policy.  Updated advice on use of social media and use of non-RIPA surveillance.
11/01/2019	Nicola Brothwell	V7.1	Change authorisation period for juvenile CHIS from 1 to 4 months.  IPCO has taken over from IOCCO and OSC, so all references updated.
4/02/2019	Nicola Brothwell	V7.2	Liz Tompkin removed as an Authorising Officer.
16/6/2020	Nicola Brothwell	V7.3	Addition of section 'Obtaining Communications Data
3/9/2020	Nicola Brothwell	V7.4	'Review Due' field added to Document Control Section.
18/11/2021	Nicola Brothwell	V8.0	New SRO.  Changes in line with IPCO requirements outlined in letter 2020, new Data safeguards section in this Policy.  RIPA forms removed from Policy.  General review re changes required by UK leaving the EU.

## RIPA Policy BDC -RBC V8.3 (002)

Revision Date	Revised By	Version	Description of Revision
1/7/2022	Nicola Brothwell	V8.1	<p>Change of SRO</p> <p>Inclusion in CHIS section of relevant text regarding Public Volunteers, from Covert Human Intelligence Sources Code of Practice 2018.</p> <p>Inclusion in Social Media section of relevant text from Covert Surveillance and Property Code of Practice.</p> <p>Update mention of quarterly RIPA meetings to six-monthly meetings.</p>
18/7/2022	Nicola Brothwell	V8.2	<p>In Data safeguards section, added a timescale for reviews of documentation to comply with the Inspector's recommendation.</p>
14/5/2024	Nicola Brothwell	V8.3	<p>Authorised Officer list updated (removed Kevin Dicks, added Peter Carpenter, and updated Sue Hanley's job title)</p>

## RIPA Policy BDC -RBC V8.3 (002)

**Contents**

Introduction.....	8
What are the origins of RIPA?.....	9
When does RIPA apply and who does it apply to?.....	10
The Human Rights Act 1998 .....	11
Definition of core functions .....	11
Private information .....	12
What happens if RIPA is ignored?.....	12
Surveillance outside of RIPA.....	13
What is surveillance? .....	13
Surveillance.....	13
Covert surveillance .....	13
Directed surveillance .....	14
Immediate response to events .....	14
Recording of telephone conversations .....	14
Intrusive surveillance:.....	14
Commercial premises and vehicles.....	15
Covert Human Intelligence Source (CHIS) .....	15
Conduct and use of a source .....	16
Management of sources .....	16
Tasking.....	17
Management responsibility.....	17
Security and welfare .....	17
Persons who repeatedly provide information .....	18

## RIPA Policy BDC -RBC V8.3 (002)

Public Volunteers.....	18
Record management for CHIS.....	20
RIPA application and authorisation process.....	21
Application, review, renewal and cancellation forms.....	21
Applications.....	24
Duration of applications.....	24
Reviews.....	25
Renewal.....	25
Cancellation.....	26
Who can grant a RIPA authorisation?.....	27
Urgent oral authorisations.....	27
Local sensitivities.....	27
Authorising officers' responsibility.....	27
Necessity and proportionality.....	28
Collateral intrusion.....	29
Unexpected interference with third parties.....	30
Confidential information.....	30
Use of CCTV.....	31
Use of Social Media.....	32
Obtaining Communications Data.....	34
Joint agency surveillance.....	36
Documentation and central record.....	36
Annual report to Investigatory Powers Commissioner's Office.....	38
Storage and retention of material.....	38
Data safeguards.....	39

RIPA Policy BDC -RBC V8.3 (002)

Evidence..... 39

Reviews..... 39

Dissemination of information ..... 40

Copying..... 40

Storage ..... 40

Destruction..... 40

Confidential or privileged information ..... 40

Items subject to legal privilege ..... 41

Covert surveillance of legal consultations ..... 41

Lawyers’ material ..... 41

Handling, retention, and deletion of legally privileged material ..... 42

Training..... 42

Oversight..... 43

    Reporting to members..... 43

Scrutiny and tribunal..... 43

Appendix 1 ..... 45

Appendix 2..... 46

## RIPA Policy BDC -RBC V8.3 (002)

## Introduction

The purpose of this policy is to explain the scope of Regulation of Investigatory Powers Act 2000 and the circumstances where it applies to the Council. It provides guidance on the authorisation procedures to be followed in the event that you need to undertake surveillance, setting it into context so that its importance may be appreciated.

The subject covered by this policy is complicated but of major importance. If, having read this document, you are unclear about any aspect of the process, or you have questions which are not answered explicitly by the content of this document, these should be referred either to one of the Authorising Officers or to the Head of Legal and Democratic Services for assistance.

If, having taken advice, doubt exists as to whether the circumstances require an authorisation for consideration under this legislation, you should submit an application form to be authorised. This will demonstrate to any examining body that Bromsgrove District Council / Redditch Borough Council have taken their responsibilities seriously with regards to the protection of a person's privacy against the need for the activity to take place in operational terms. If you do not secure an authorisation it leaves any evidence gathered open to challenge under section 78 of the Police and Criminal Evidence Act 1984 (PACE,) as amended, as well as challenges for breach of privacy against the Council.

To assist with oversight of the Council's RIPA processes Claire Felton, Head of Legal, Democratic and Property Services, has been appointed as the Senior Responsible Officer who will be responsible for the integrity of the process. However it must be stressed that all staff involved in the process must take their responsibilities seriously. This will assist with the integrity of the Council processes and procedures.

On advice from the OSC (now superseded by the IPCO), and to reflect the operation of shared services across the two organisations, the separate RIPA policies for Bromsgrove District Council (BDC) and Redditch Borough Council (RBC) have been merged into one single policy. References made to "the Council" should be read as references to either BDC or RBC as the context requires.

Claire Felton

Head of Legal, Democratic and Property Services

Bromsgrove District Council and Redditch Borough Council

Updated: July 2022



## What are the origins of RIPA?

The Human Rights Act 1998 brought into UK law many of the provisions of the 1950 European Convention on Human Rights and Fundamental Freedoms. Article 8 requires the Council to have respect for people's private and family lives, their homes, and their correspondence. These subjects can be referred to as "Article 8 rights".

The Human Rights Act makes it unlawful for any local authority to act in a way which is incompatible with the European Convention on Human Rights. However, these are not absolute rights and there is a specific qualification giving the Council the ability to interfere with a person's Article 8 rights to the effect that:-

Such interference is in accordance with the law if:

- is **necessary**
- and is **proportionate**

These three points are clarified further in the next paragraphs.

When we talk of interference being "in accordance with the law", this means that any such interference is undertaken in accordance with the mechanism set down by the Regulation of Investigatory Powers Act (RIPA for short) and the Home Office Covert Surveillance Codes of Practice. The Codes of Practice deals with the use of Covert Surveillance and the use of persons such as informants and Undercover Officers who gather information in a covert capacity (Covert Human Intelligence Source or CHIS for short – refer to Page 15).

However a considerable amount of observations are carried out in an overt capacity by Council employees carrying out their normal functions such as parking enforcement, general patrolling etc. These activities are general and routine and do not involve the systematic surveillance of an individual. RIPA is not designed to prevent these activities or regulate them.

RIPA also applies to the Accessing of Communications Data under Part 1, Chapter 2 of the legislation. The Council has produced separate guidance dealing with the accessing of communications data under the SPOC (Single Point of Contact) provisions.

The Council has numerous statutory duties and powers to investigate the activities of private individuals and organisations within its jurisdiction for the benefit and protection of the greater public. Some of these investigations may require surveillance or the use of a CHIS. These may include

- benefit fraud
- environmental health
- housing

## RIPA Policy BDC -RBC V8.3 (002)

- planning
- criminal investigations by audit such as fraud offences

RIPA aims to provide a framework to control and supervise covert activities such as surveillance and the use of a CHIS in these criminal investigations. It aims to balance the need to protect the privacy of individuals against the need to protect others by the Council carrying out its enforcement functions. There are three separate codes of practice, Covert Surveillance, CHIS and Property Interference and Surveillance.

Any covert activity carried out under this legislation must meet the test of necessity and proportionality as set out in this policy. .

### When does RIPA apply and who does it apply to?

RIPA applies to Public Authorities such as Local Authorities and permits them to conduct Covert Surveillance activities and use Covert Human Intelligence Sources (CHIS) such as informants and undercover officers (see pages 13 and 15) However, on 1 November 2012 two significant changes came into force that affect how local authorities use RIPA.

- **Approval of Local Authority Authorisations under RIPA by a Justice of the Peace:** The amendments in the Protection of Freedoms Act 2012 mean that local authority authorisations under RIPA for the use of Directed Surveillance or use of Covert Human Intelligence sources (CHIS) can only be given effect once an order approving the authorisation has been granted by a Justice of the Peace (JP). **This applies to applications and renewals only, not reviews and cancellations.**
- **Directed surveillance crime threshold:** Amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (“the 2010 Order”) mean that a local authority can now only grant an authorisation under RIPA for the use of **Directed Surveillance** where the local authority is investigating criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933.

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

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

As a local authority Bromsgrove District Council and Redditch Borough Council and its staff have a responsibility to adhere to the RIPA legislation and the Human Rights Act.

## RIPA Policy BDC -RBC V8.3 (002)

In addition to applying to all staff employed by the two Councils who are engaged in activities that involve the protection and detection of crime, the policy will also apply to the following categories of staff:

- Contract or agency staff working at Bromsgrove District Council / Redditch Borough Council undertaking such activity as is covered by the RIPA and associated legislation and guidance.
- From 01 June 2010 all staff who are employed by Bromsgrove District Council as part of the Worcestershire Regulatory Services.
- All staff employed by Redditch Borough Council but whose duties include performing services for Bromsgrove District Council under any secondment arrangements or under section 113 of the Local Government Act 1972.
- All staff employed by Bromsgrove District Council but whose duties include performing services for Redditch Borough Council under any secondment arrangements or under section 113 of the Local Government Act 1972.

### ***The Human Rights Act 1998***

The RIPA Codes of Practice state where there is an interference by a public authority with the right to respect for private and family life guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority, the consequence of not obtaining an authorisation under the 2000 Act may be that the action is unlawful by virtue of section 6 of the Human Rights Act 1998.

Public authorities are therefore strongly recommended to seek an authorisation under RIPA where the surveillance is likely to interfere with a person's Article 8 rights to privacy by obtaining private information about that person, whether or not that person is the subject of the investigation or operation. Obtaining an authorisation will ensure that the action is carried out in accordance with law and subject to stringent safeguards against abuse.

### ***Definition of core functions***

Recent case law has established that a public authority may only use the powers under the 2000 Act when in performance of its core functions. These are defined by section 28(3) of the 2000 Act. It has been held that disciplinary investigations are ordinary functions whereas the investigation of benefit fraud would be a core function. Using the RIPA application and monitoring process when exercising core functions assists with protecting the Council from challenges under section 78 of PACE. However, surveillance in the case of serious disciplinary issue would be outside of RIPA. Any type of surveillance outside of RIPA should still meet the same tests of necessity and proportionality and advice should be sought from Legal Services prior to any such surveillance taking place.

## RIPA Policy BDC -RBC V8.3 (002)

***Private information***

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.

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.

Private life considerations are particularly likely to arise if several records are to be analysed together in order to establish, for example, a pattern of behaviour, or if one or more pieces of information (whether or not available in the public domain) are covertly (or in some cases overtly) obtained for the purpose of making a permanent record about a person or for subsequent data processing to generate further information. In such circumstances, the totality of information gleaned may constitute *private information* even if individual records do not. Where such conduct includes surveillance, a directed surveillance authorisation may be considered appropriate.

If you need to conduct surveillance or use a CHIS as part of investigating a criminal matter which might result in court proceedings or proceedings before some other form of tribunal, you should consider whether private information is likely to be gained as a result of the activities and whether RIPA applies.

***What happens if RIPA is ignored?***

If Investigators undertake covert activity to which this legislation applies without the relevant authority being obtained and the case progresses to criminal proceedings, the defence may challenge the validity of the way in which the evidence was obtained under Section 78 of PACE. Should the evidence then be disallowed by a court, the prosecution case may be lost with a financial cost to the Council.

The person who was the subject of your surveillance may complain to the Ombudsman who may order the Council to pay compensation. The activity may also be challenged through the civil courts under the Human Rights Act 2000 for breach of privacy.

There is also a requirement to report errors to the Investigatory Powers Commissioner's Office or IPCO (formerly the OSC), such as surveillance activity which should have been authorised but which was carried out outside of RIPA. (See section on errors)

A properly obtained and implemented authorisation under RIPA will provide the Council with lawful authority to interfere with the rights of the individual. It is not simply enough that an authorisation for surveillance is obtained. It must be properly obtained, implemented, managed, reviewed and cancelled.

RIPA Policy BDC -RBC V8.3 (002)

## ***Surveillance outside of RIPA***

As explained earlier there may be a necessity for the Council to undertake surveillance which does not meet the criteria to use the RIPA legislation such as in cases of serious disciplinary investigations. The Council still must meet its obligations under the Human Rights Act and therefore any surveillance outside of RIPA must still be necessary and proportionate having taken account of the intrusion issues. The decision making process and the management of such surveillance must be well documented.

There is a requirement for the Councils' Senior Responsible Officer (SRO) to regularly monitor surveillance outside of RIPA. Therefore before any such surveillance takes place, advice must be sought from the Head of Legal Services or the Principal Solicitor.

## **What is surveillance?**

### ***Surveillance***

Surveillance is defined in paragraph 1.9 of the Revised Codes of Practice as:

Surveillance, for the purpose of the 2000 Act, includes monitoring, observing or listening to persons, their movements, conversations or other activities and communications. It may be conducted with or without the assistance of a surveillance device and includes the recording of any information obtained.

### ***Covert surveillance***

Covert Surveillance is defined in paragraph 1.10 of the Revised Codes of Practice as:

Surveillance is covert if, and only if, it is carried out in a manner calculated to ensure that any persons who are subject to the surveillance are unaware that it is or may be taking place.

If activities are open and not hidden from the persons subject to surveillance, such as Officers conducting Council business openly, e.g. a market inspector walking through markets, the RIPA framework does not apply because that is "Overt Surveillance". Equally, if you tell the subject that surveillance may take place, the surveillance is overt.

RIPA does not regulate Overt Surveillance. However, remember the Council's responsibilities to ensure that whatever action is taken is compliant with the Human Rights Act and is a necessary and proportionate response to the issue being dealt with.

RIPA regulates two types of Covert Surveillance which are

- **Directed Surveillance**
- **Intrusive Surveillance**

## RIPA Policy BDC -RBC V8.3 (002)

***Directed surveillance***

Directed Surveillance is defined in paragraph 2.2. of the Revised Codes of Practice as:

Surveillance is directed surveillance if the following are all true:

- it is covert, but not intrusive surveillance;
- it is conducted for the purposes of a specific investigation or operation;
- it 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);
- it is conducted 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 Part II of the 2000 Act to be sought.

Thus, the planned covert surveillance of a specific person, where not intrusive, would constitute directed surveillance if such surveillance is likely to result in the obtaining of private information about that, or any other person.

***Immediate response to events***

There may be occasions when officers come across events unfolding which were not pre-planned which then require them to carry out some form of observation. This will not amount to Directed Surveillance. However it will amount to surveillance outside of RIPA and must still be necessary and proportionate and take account of the intrusion issues. As there is no provision to obtain an urgent oral authorisation it is important that officers do not abuse the process and they must be prepared to explain their decisions in court should it be necessary. Therefore they should document their decisions, what took place and what evidence or information was obtained.

***Recording of telephone conversations***

The recording of telephone conversations connected to criminal investigations (outside of the Councils monitoring at work policy with its own equipment) falls under RIPA which provides that where one party to the communication consents to the interception, it may be authorised in accordance with section 48(4) of the 2000 Act. In such cases, the interception is treated as directed surveillance.

There may be occasions where this is required such as a witness who has text or voicemail evidence on their mobile telephone and we need to examine the phone.

***Intrusive surveillance:***

Intrusive surveillance is defined in section 26(3) of the 2000 Act as covert surveillance that:

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

## RIPA Policy BDC -RBC V8.3 (002)

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

Local authorities are not permitted to carry out Intrusive Surveillance.

Where surveillance is carried out in relation to anything taking place on any residential premises or in any private vehicle by means of a device, without that device being present on the premises, or in the vehicle, it is not intrusive unless the device 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. Thus, an observation post outside premises, which provides a limited view and no sound of what is happening inside the premises, would not be considered as intrusive surveillance.

A risk assessment should be carried out of the capability of equipment being used when filming residential premises and private vehicles to ensure that the activity does not meet the criteria of Intrusive Surveillance.

### ***Commercial premises and vehicles***

Commercial premises and vehicles are therefore excluded from the definition of intrusive surveillance. However they are dealt with under the heading of Property Interference contained within the Police Act 1997.

Bromsgrove District Council/ Redditch Borough Council has no authority in law to carry out Intrusive Surveillance or activity under the Police Act 1997.

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

A CHIS could be an informant or an undercover officer carrying out covert enquiries on behalf of the council. However the provisions of the 2000 Act are not intended to apply in circumstances where members of the public volunteer information to the Council as part of their normal civic duties, or to contact numbers set up to receive information such as the Benefit Fraud Hot Line. Members of the public acting in this way would not generally be regarded as sources unless they repeatedly provide information about particular issues, which is covered later in this section of the policy.

Under section 26(8) of the 2000 Act a person is a source if:

- 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);
- he covertly uses such a relationship to obtain information or to provide access to any information to another person; or
- he covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

## RIPA Policy BDC -RBC V8.3 (002)

By virtue of section 26(9)(b) of the 2000 Act a purpose is covert, in relation to the establishment or maintenance of a personal or other relationship, if and only if, the relationship is conducted in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the purpose.

By virtue of section 26(9)(c) of the 2000 Act a relationship is used covertly, and information obtained as above is disclosed covertly, if and only if it is used or, as the case may be, disclosed in a manner that is calculated to ensure that one of the parties to the relationship is unaware of the use or disclosure in question.

### ***Conduct and use of a source***

The **use of a source** involves inducing, asking or assisting a person to engage in the conduct of a source or to obtain information by means of the conduct of such a source.

The **conduct of a source** is any conduct falling within section 29(4) of the 2000 Act, or which is incidental to anything falling within section 29(4) of the 2000 Act.

The **use of a source** is what the Authority does in connection with the source and the **conduct** is what a source does to fulfill whatever tasks are given to them or which is incidental to it. **The Use and Conduct require separate consideration before authorisation.**

When completing applications for the use of a CHIS you are stating who the CHIS is, what they can do and for which purpose.

When determining whether a CHIS authorisation is required, consideration should be given to the covert relationship between the parties and the purposes mentioned in a, b, and c above.

### ***Management of sources***

Within the provisions there has to be;

- (a) a person who has the day to day responsibility for dealing with the source and for the source's security and welfare (**Handler**)
- (b) at all times there will be another person who will have general oversight of the use made of the source (**Controller**)

At all times there will also be a person who will have responsibility for maintaining a record of the use made of the source.

The **Handler** will have day to day responsibility for:

- dealing with the source on behalf of the authority concerned;
- directing the day to day activities of the source;
- recording the information supplied by the source; and



## RIPA Policy BDC -RBC V8.3 (002)

- monitoring the source's security and welfare;

The Controller will be responsible for the general oversight of the use of the source.

### ***Tasking***

Tasking is the assignment of activity to the source by the Handler or Controller by, asking him to obtain information, to provide access to information or to otherwise act, incidentally, for the benefit of the relevant public authority. Authorisation for the use or conduct of a source is required prior to any tasking where such tasking requires the source to establish or maintain a personal or other relationship for a covert purpose.

In some instances, tasking will not require the source to establish a personal or other relationship for a covert purpose. For example a source may be tasked with finding out purely factual information about the layout of commercial premises. Alternatively, a Council Officer may be involved in the test purchase of items which have been labelled misleadingly or are unfit for consumption. In such cases, it is for the Council to determine where, and in what circumstances, such activity may require authorisation.

**Should a CHIS authority be required, all of the staff involved in the process should make themselves fully aware of the contents of the CHIS codes of Practice.**

### ***Management responsibility***

Bromsgrove District Council/ Redditch Borough Council will ensure that arrangements are in place for the proper oversight and management of sources including appointing a Handler and Controller for each source prior to a CHIS authorisation.

The Handler of the source will usually be of a rank or position below that of the Authorising Officer.

It is envisaged that the use of a CHIS will be infrequent. Should a CHIS application be necessary, the CHIS Codes of Practice should be consulted by those considering the use of such tactics to ensure that the Council can meet its management responsibilities under the Code.

### ***Security and welfare***

The Council has a responsibility for the safety and welfare of the source and for the consequences to others of any tasks given to the source. Before authorising the use or conduct of a source, the Authorising Officer should ensure that a risk assessment is carried out to determine the risk to the source of any tasking and the likely consequences should the role of the source become known. The ongoing security and welfare of the source, after the cancellation of the authorisation, should also be considered at the outset.

## RIPA Policy BDC -RBC V8.3 (002)

***Persons who repeatedly provide information***

It is possible that members of the public repeatedly supply information to Council staff on either one particular subject or investigation or a number of investigations. It is important that Council staff make the necessary enquiries with the person reporting the information to ascertain how the information is being obtained. This will not only assist with evaluating the information but will determine if the person is establishing or maintaining a relationship with a third person to obtain the information, and then provide it to the Council staff. If this is the case, the person is likely to be acting as a CHIS and there is a potential duty of care to the individual which treating them as a duly authorised CHIS would take account of. Therefore Council staff should ensure that they are aware of when a person is potentially a CHIS by reading the below sections. If further advice is required contact the RIPA Coordinating Officer.

***Public Volunteers***

The following extract from the CHIS Code of Practice is included to assist in understanding when public volunteers may become covert human intelligence sources (CHIS).

2.18 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 they have observed or acquired other than through a relationship, 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.<sup>7</sup> Example 1: A member of the public volunteers a piece of information to a member of a public authority regarding something they have witnessed in their neighbourhood. The member of the public would not be regarded as a CHIS. They are not passing information as a result of a relationship which has been established or maintained for a covert purpose. Example 2: A caller to a confidential hotline (such as Crimestoppers, the HMRC Fraud Hotline, the Anti-Terrorist Hotline, or the Security Service public telephone number) reveals that they know of criminal or terrorist activity. Even if the caller is involved in the activities on which they are reporting, the caller would not be considered a CHIS as the information is not being disclosed on the basis of a relationship which was established or maintained for that covert purpose. However, should the caller be asked to maintain their relationship with those involved and to continue to supply information (or it is otherwise envisaged that they will do so), an authorisation for the use or conduct of a CHIS may be appropriate.

***Professional or statutory duty***

2.19 Certain individuals will be required to provide information to public authorities or designated bodies out of professional or statutory duty. For example, employees within organisations regulated by the money laundering provisions of the Proceeds of Crime Act 2002 are required to report suspicious transactions. Similarly, financial officials, accountants or company administrators may have a duty to provide information that they have obtained by virtue of their position to the Serious Fraud Office. <sup>7</sup> See Chapter 3 of this code for further guidance on types of source activity to which authorisations under Part II of the 2000 Act may or may not apply. <sup>13</sup>

2.20 Any such regulatory or professional disclosures should not result in these individuals meeting the definition of a CHIS, as the business or professional relationships from which the information derives will not have been established or maintained for the covert purpose of disclosing such information.

## RIPA Policy BDC -RBC V8.3 (002)

2.21 Furthermore, this reporting is undertaken 'in accordance with the law' and therefore any interference with an individual's privacy (Article 8 rights) will be in accordance with Article 8(2) ECHR.

2.22 This statutory or professional duty, however, would not extend to the situation where a person is asked to provide information which they acquire as a result of an existing professional or business relationship with the subject but that person is under no obligation to pass it on. For example, a travel agent who is asked by the police to find out when a regular client next intends to fly to a particular destination is not under an obligation to pass this information on. In these circumstances, a CHIS authorisation may be appropriate.

#### Tasking not involving relationships

2.23 Tasking a person to obtain information covertly may result in authorisation under Part II of the 2000 Act being appropriate. However, this will not be true in all circumstances. For example, where the tasking given to a person does not require that person to establish or maintain a relationship for the purpose of obtaining, providing access to or disclosing the information sought or where the information is already within the personal knowledge of the individual, that person will not be a CHIS. Example: A member of the public is asked by a member of a public authority to maintain a record of all vehicles arriving and leaving a specific location or to record the details of visitors to a neighbouring house. A relationship has not been established or maintained in order to gather the information and a CHIS authorisation is therefore not available. Other authorisations under the Act, for example, directed surveillance, may need to be considered where there is a possible interference with the Article 8 rights of an individual.

#### Identifying when a human source becomes a CHIS

2.24 Individuals or members of organisations (e.g. travel agents, housing associations and taxi companies) who, because of their work or role have access to personal information, may voluntarily provide information to public authorities on a repeated basis and need to be managed appropriately. Public authorities must keep such human sources under constant review to ensure that they are managed with an appropriate level of sensitivity and confidentiality, and to establish whether, at any given stage, they should be authorised as a CHIS.

2.25 Determining the status of an individual or organisation is a matter of judgement by the public authority. Public authorities should avoid inducing individuals to engage in the conduct of a CHIS either expressly or implicitly without obtaining a CHIS authorisation. Example: Mr Y volunteers information to a member of a public authority about a work colleague out of civic duty. Mr Y is not a CHIS at this stage as he has not established or maintained (or been asked to establish or maintain) a relationship with his colleague for the covert purpose of obtaining and disclosing information. However, Mr Y is subsequently contacted by the public authority and is asked if he would ascertain certain specific information about his colleague. At this point, it is likely that Mr Y's relationship with his colleague is being maintained and used for the covert purpose of providing that information. A CHIS authorisation would therefore be appropriate to authorise interference with the Article 8 right to respect for private or family life of Mr Y's work colleague.

2.26 However, the tasking of a person should not be used as the sole benchmark in seeking a CHIS authorisation. It is the activity of the CHIS in exploiting a relationship for a covert purpose which is ultimately authorised by the 2000 Act, whether or not that CHIS is asked to do so by a public authority. It is possible, therefore, that a person will become engaged in the conduct of a CHIS without a public authority inducing, asking or assisting the person to engage in that conduct. An authorisation should be considered, for example, where a public authority is aware that a third party is independently

## RIPA Policy BDC -RBC V8.3 (002)

maintaining a relationship (i.e. "self-tasking") in order to obtain evidence of criminal activity, and the public authority intends to make use of that material for its own investigative purposes

***Record management for CHIS***

Proper records must be kept of the authorisation and use of a source. The particulars to be contained within the records are;

- a. the identity of the source;
- b. the identity, where known, used by the source;
- c. any relevant investigating authority other than the authority maintaining the records;
- d. the means by which the source is referred to within each relevant investigating authority;
- e. any other significant information connected with the security and welfare of the source;
- f. any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph (d) has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source;
- g. the date when, and the circumstances in which, the source was recruited;
- h. the identities of the persons who, in relation to the source, are discharging or have discharged the functions mentioned in section 29(5)(a) to (c) of the 2000 Act or in any order made by the Secretary of State under section 29(2)(c);
- i. the periods during which those persons have discharged those responsibilities;
- j. the tasks given to the source and the demands made of him in relation to his activities as a source;
- k. all contacts or communications between the source and a person acting on behalf of any relevant investigating authority;
- l. the information obtained by each relevant investigating authority by the conduct or use of the source;
- m. any dissemination by that authority of information obtained in that way; and
- n. in the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.

## RIPA Policy BDC -RBC V8.3 (002)

Please refer to the section headed “Documentation and Central Record” (page 36) for further information regarding the holding of records relating to CHIS sources/ authorisations by the Information Management Team.

## **RIPA application and authorisation process**

On 1 November 2012 two significant changes came into force that affects how local authorities use RIPA.

- **Approval of Local Authority Authorisations under RIPA by a Justice of the Peace:** The amendments in the Protection of Freedoms Act 2012 mean that local authority authorisations under RIPA for the use of Directed Surveillance or use of Covert Human Intelligence sources (CHIS) can only be given effect once an order approving the authorisation has been granted by a Justice of the Peace (JP). **This applies to applications and renewals only, not reviews and cancellations.**
- **Directed surveillance crime threshold:** Amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (“the 2010 Order”) mean that a local authority can now only grant an authorisation under RIPA for the use of Directed Surveillance where the local authority is investigating criminal offences which attract a maximum custodial sentence of six months or more or criminal offences relating to the underage sale of alcohol or tobacco under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933.

**This crime threshold, as mentioned, is only for Directed Surveillance.**

### ***Application, review, renewal and cancellation forms***

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

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

The procedure is as follows:-

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

The applicant will complete the relevant application form ensuring compliance with the statutory provisions shown above. The application form will be submitted to an Authorising Officer for consideration. If authorised, the applicant will also complete the required section of the judicial application/order form. Although this form requires the applicant to provide a brief

## RIPA Policy BDC -RBC V8.3 (002)

summary of the circumstances of the case on the judicial application form, this is supplementary to and does not replace the need to supply the original RIPA authorisation as well.

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

Details of how to contact the local Courts for out of hours applications will be circulated to managers to be passed on to staff when required.

Officers who may present the application at these proceedings will need to be formally designated by the Council under section 223 of the Local Government Act 1972 to appear, be sworn in and present evidence or provide information as required by the JP. The list of officers currently authorised can be found on the RIPA page of Orb. For further authorisations please contact the RIPA Coordinating Officer.

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

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

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

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

The JP may decide to:

- Approve the Grant or renewal of an authorisation
- Refuse to approve the grant or renewal of an authorisation
- Refuse to approve the grant or renewal and quash the authorisation

## RIPA Policy BDC -RBC V8.3 (002)

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

The grant or renewal of the RIPA authorisation will then take effect and the local authority may proceed to use the surveillance requested.

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

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

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

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

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

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

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

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

The original RIPA authorisation form and the copy of the judicial application/order form should be forwarded to the Central Register and a copy retained by the applicant and by the AO. This will enable the AO to check what was authorised and monitor any reviews and cancellation to determine if any errors occurred and if the objectives were met.

There is no complaint route for a judicial decision unless it was made in bad faith. If the applicant has any issues they must contact the Legal Department for advice. A local authority may only appeal a JP decision on a point of law by judicial review. If such a concern arises, the Legal team will review the case and consider what action, if any, action should be taken.

## RIPA Policy BDC -RBC V8.3 (002)

All the relevant forms for authorisation through to cancellation must be in writing using the standard forms which are available from the Intranet site and the Information Management Team, but officers must ensure that the circumstances of each case are accurately recorded on the application form.

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

An application for an authorisation must include an assessment of the risk of any collateral intrusion or interference (see collateral intrusion on page 29). The Authorising Officer will take this into account, particularly when considering the proportionality of the directed surveillance or the use of a CHIS.

### ***Applications***

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

All applications will be submitted to the Authorising Officer via the Line Manager of the appropriate enforcement team, in order that they are aware of the activities being undertaken by the staff. The Line Manager will perform an initial quality check of the application. However they should not be involved in the sanctioning of the authorisation. Completed application forms are to be initialed by Line Managers to show that the quality check has been completed.

Applications whether authorised or refused will be issued with a unique number by the Authorising Officer, taken from the next available number in the Central Record of Authorisations. To obtain this number please contact Information Management Team on 01527 64252 ext. 1661.

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

### ***Duration of applications***

<b>Directed Surveillance</b>	3 Months
Renewal	3 Months
<b>Covert Human Intelligence Source</b>	12 Months



## RIPA Policy BDC -RBC V8.3 (002)

Juvenile Sources	4 Months
Renewal	12 months

**All Authorisations must be cancelled by completing a cancellation form. They must not be left to simply expire (see cancellations page 26).**

### ***Reviews***

The reviews are dealt with internally by submitting the review form to the authorising officer. There is no requirement for a review form to be submitted to a JP.

Regular reviews of authorisations should be undertaken to assess the need for the surveillance to continue. The results of a review should be recorded on the central record of authorisations. Particular attention is drawn to the need to review authorisations frequently where the surveillance provides access to confidential information or involves collateral intrusion.

In each case the Authorising Officer should determine how often a review should take place. This should be as frequently as is considered necessary and practicable and they will record when they are to take place on the application form. This decision will be based on the circumstances of each application. However reviews will be conducted on a monthly or less basis to ensure that the activity is managed. It will be important for the Authorising Officer to be aware of when reviews are required following an authorisation to ensure that the applicants submit the review form on time.

Applicants should submit a review form by the review date set by the Authorising Officer. They should also use a review form for changes in circumstances to the original application so that the need to continue the activity can be reassessed. However if the circumstances or the objectives have changed considerably or the techniques to be used are now different, a new application form should be submitted and will be required to follow the process again and be approved by a JP. If in doubt seek advice. The applicant does not have to wait until the review date if it is being submitted for a change in circumstances.

Managers or Team Leaders of applicants should also make themselves aware of when the reviews are required to ensure that the relevant forms are completed on time.

### ***Renewal***

If at any time before an authorisation would cease to have effect, the Authorising Officer considers it necessary for the authorisation to continue for the purpose for which it was given, he may renew it in writing for a further period of three months.

Should it be necessary to renew a Directed Surveillance or CHIS authorisation, this must be approved by a JP.

## RIPA Policy BDC -RBC V8.3 (002)

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

The applicant should complete all the sections within the renewal form and submit the form to the authorising officer.

Authorising Officers should examine the circumstances with regard to Necessity, Proportionality and the Collateral Intrusions issues before making a decision to renew the activity. A CHIS application should not be renewed unless a thorough review has been carried out covering the use made of the source, the tasks given to them and information obtained. The Authorising Officer must consider the results of the review when deciding whether to renew or not. The review and the consideration must be documented.

If the Authorising officer refuses to renew the application the cancellation process should be completed. If the AO authorises the renewal of the activity the same process is to be followed as mentioned earlier for the initial application.

A renewal takes effect on the day on which the authorisation would have ceased and lasts for a further period of three months.

### ***Cancellation***

The cancellation form is to be submitted by the applicant or another investigator in their absence. The Authorising Officer who granted or last renewed the authorisation must cancel it if they are satisfied that the directed surveillance no longer meets the criteria upon which it was authorised. Where the Authorising Officer is no longer available, this duty will fall on the person who has taken over the role of Authorising Officer or the person who is acting as Authorising Officer.

As soon as the decision is taken that directed surveillance should be discontinued, the applicant or other investigating officer involved in the investigation should inform the Authorising Officer. The Authorising Officer will formally instruct the investigating officer to cease the surveillance, noting the time and date of their decision. This will be required for the cancellation form. The date and time when such an instruction was given should also be recorded in the central record of authorisations (see paragraphs 5.18 in the Codes of Practice). **You must record the amount of time spent on the surveillance.**

The officer submitting the cancellation should complete in detail the relevant sections of the form and include the period of surveillance and what if any images were obtained and any images containing third parties. The Authorising Officer should then take this into account and issue instructions regarding the management and disposal of the images etc.

The cancellation process should also be used to evaluate whether the objectives have been achieved and whether the applicant carried out what they stated was necessary in the application form. This check will form part of the oversight function. Where issues are

## RIPA Policy BDC -RBC V8.3 (002)

identified they will be brought to the attention of the line manager and the Senior Responsible Officer (SRO). This will assist with future audits and oversight.

## **Who can grant a RIPA authorisation?**

Officers who are designated “Authorising Officers” may authorise the use of directed surveillance or the use of a CHIS.

Please refer to Appendix 1 for the list of Authorising Officers, to show name, departmental details, contact number and levels of Authority.

The Chief Executive Officer or in their absence the Deputy Chief Executive will authorise cases where confidential information is likely to be gathered or in the case of a juvenile or vulnerable CHIS.

The Head of Legal and Democratic Services will inform the Information Management Team of any changes to the list of Authorising Officers and will amend the policy accordingly. The intranet will also be updated appropriately.

### ***Urgent oral authorisations***

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

### ***Local sensitivities***

Authorising Officers and Applicants should be aware of particular sensitivities in the local community where the directed surveillance is taking place, or of similar activities being undertaken by other public authorities which could impact on the deployment of surveillance. This should form part of the risk assessment.

It should be noted that although this is a requirement there is no provision made within the application form for this information. Therefore applicants should cover this area where they feel it is most appropriate such as when detailing the investigation or proportionality or within the separate risk assessment form. However it must be brought to the attention of the Authorising Officer when deciding whether to authorise the activity.

## **Authorising officers’ responsibility**

Authorising officers should not be responsible for authorising investigations or operations in which they are directly involved, although it is recognised that this may sometimes be unavoidable such as where it is necessary to act urgently. Where an Authorising Officer authorises such an investigation or operation the Central Record of authorisations (see page 36) should highlight this and it should be brought to the attention of a Commissioner or Inspector should his next inspection.

Authorising Officers must treat each case individually on its merits and satisfy themselves that the authorisation is in accordance with the law, **necessary** for the prevention and detection of

## RIPA Policy BDC -RBC V8.3 (002)

crime, that the crime attracts a custodial sentence of a maximum of 6 months or more, or is an offence relating to the underage sale of alcohol or tobacco under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933.

The Authorising Officer must believe the surveillance is **proportionate** to what it seeks to achieve, taking into account the **collateral intrusion** issues, and that the level of the surveillance is appropriate to achieve the objectives. If any equipment such as covert cameras or video cameras are to be used, the Authorising Officer should know the capability of the equipment before authorising its use. This will have an impact on collateral intrusion, necessity and proportionality. They should not rubber-stamp a request. It is important that they consider all the facts to justify their decision. They may be required to justify their actions in a court of law or some other tribunal.

Authorising Officers are responsible for determining when reviews of the activity are to take place (see Reviews on page 25).

Authorising Officers must also pay particular attention to Health and Safety issues that may be raised by any proposed surveillance activity. Under no circumstances, should the Authorised Officer approve any RIPA form unless, and until s/he is satisfied the health and safety of Council employees/agents are suitably addressed and/or risks minimised, so far as is possible, and proportionate to/with the surveillance being proposed.

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

In the absence of your particular Line Manager or Head of Department the application should be submitted to another Authorising Officer for authorisation (see list of Authorising Officers - Appendix 1).

### ***Necessity and proportionality***

Obtaining a RIPA authorisation will only ensure that there is a justifiable interference with an individual's Article 8 rights if it is necessary and proportionate for these activities to take place.

It must be necessary for the **prevention and detection of crime and that** the crime attracts a custodial sentence of a maximum of 6 months or more, or is an offence relating to the underage sale of alcohol or tobacco under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. It must also be shown the reasons why the requested activity is necessary in the circumstances of that particular case. Can you achieve the same end result without the surveillance?

If similar objectives could be achieved by methods other than covert surveillance, then those methods should be used before resorting to surveillance methods, unless it can be justified why they cannot or should not be used.

## RIPA Policy BDC -RBC V8.3 (002)

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

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

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

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

It is important that the staff involved in the surveillance and the line manager manage the enquiry and operation, and constantly evaluate the need for the activity to continue.

### ***Collateral intrusion***

Collateral intrusion is an integral part of the decision making process and should be assessed and considered very carefully by both applicants and Authorising Officers.

The Revised Codes state Collateral Intrusion is intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation such as neighbours or other members of the subject's family. Where it is proposed to conduct surveillance activity specifically against individuals who are not suspected of direct or culpable involvement in the overall matter being investigated, interference with the privacy or property of such individuals should not be considered as collateral intrusion but rather as intended intrusion. Any such surveillance activity should be carefully considered against the necessity and proportionality criteria.

## RIPA Policy BDC -RBC V8.3 (002)

Intended intrusion could occur if it was necessary to follow a person not committing any offences but by following this person it would lead you to the person who is committing the offences.

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.

Prior to and during any authorised RIPA activity, a risk assessment should take place to identify the likely intrusion into the subject and any collateral intrusion. Officers should take continuing precautions to minimise the intrusion where possible. The collateral intrusion, the reason why it is unavoidable and your precautions to minimise it will have to be detailed on any relevant application forms. This will be considered by the Authorising Officer.

Before authorising surveillance the Authorising Officer should take into account the risk of collateral intrusion detailed on the relevant application forms as it has a direct bearing on the decision regarding proportionality.

The possibility of Collateral Intrusion does not mean that the authorisation should not be granted, but you should weigh up the importance of the activity to be carried out in operational terms on the one hand and the risk of collateral intrusion on the other hand.

***Unexpected interference with third parties***

When you are carrying out covert directed surveillance or using a CHIS, you should inform the Authorising Officer if the investigation unexpectedly interferes with the privacy of individuals who are not the original subjects of the investigation or covered by the authorisation in some other way. It will be appropriate in some circumstances to submit a review form and in other cases the original authorisation may not be sufficient and consideration should be given to whether a separate authorisation is required.

***Confidential information***

Confidential information consists of matters subject to legal privilege, confidential personal information or confidential journalistic material and applications where there is a likelihood of acquiring such information can only be authorised by the Chief Executive or the Executive Director of Services.

No authorisation should be given if there is any likelihood of obtaining legally privileged material without consulting the shared BDC/ RBC Legal Team.

Confidential personal information is information held in confidence relating to the physical or mental health or spiritual counselling concerning an individual (whether living or dead) who can be identified from it. Such information, which can include both oral and written communications, is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure or an obligation of

## RIPA Policy BDC -RBC V8.3 (002)

confidentiality contained in existing legislation. Examples might include consultations between a health professional and a patient, or information from a patient's medical records. Journalistic material is also mentioned in the codes however it is highly unlikely that this will be obtained. The definition should it be required can be obtained from the Codes of Practice at Chapter 4.

The following general principles apply to confidential material acquired under authorisations:

- Those handling material from such operations should be alert to anything which may fall within the definition of confidential material. Where there is doubt as to whether the material is confidential, advice should be sought from the Head of Legal, Equalities and Democratic Services before further dissemination takes place;
- Confidential material should not be retained or copied unless it is necessary for specified purpose;
- Confidential material should be disseminated only where an appropriate officer (having sought advice from the Head of Legal and Democratic Services) is satisfied that it is necessary for a specific purpose;
- The retention or dissemination of such information should be accompanied by a clear warning of its confidential nature. It should be safeguarded by taking reasonable steps to ensure that there is no possibility of it becoming available, or its content being known, to any person whose possession of it might prejudice any criminal or civil proceedings related to the information;
- Confidential material should be destroyed as soon as it is no longer necessary to retain it for a specified purpose.

## Use of CCTV

The use of the CCTV systems operated by the Council does not normally fall under the RIPA regulations. However it does fall under the Data Protection Act 1998 and the Councils CCTV policy. However should there be a requirement for the CCTV cameras to be used for a specific purpose to conduct surveillance it is likely that the activity will fall under Directed Surveillance and therefore require an authorisation.

On the occasions when the CCTV cameras are to be used in a Directed Surveillance situation either by enforcement officers from relevant departments within the Council or outside Law Enforcement Agencies such as the Police, either the CCTV staff are to have a copy of the application form in a redacted format, or a copy of the authorisation page. It is important that the staff check the authority and only carry out what is authorised. A copy of the application or notes is also to be forwarded to the Information Management Team for filing. This will assist the Council to evaluate the authorisations and assist with oversight.

Operators of the Councils CCTV system need to be aware of the RIPA issues associated with using CCTV and that continued, prolonged systematic surveillance of an individual may require an authorisation.

## RIPA Policy BDC -RBC V8.3 (002)

## Use of Social Media

This part of the policy covers the use of social media, including Social Networking Sites (SNS) such as Twitter and Facebook, and selling platforms such as eBay and Gumtree.

Guidance from the OSC (now Investigatory Powers Commissioner's Office, IPCO) on covert surveillance of SNS states that 'Repeat viewing of individual 'open source' sites for the purpose of intelligence gathering and data collation should be considered within the context of the protection that RIPA affords to such activity.'

The fact that digital investigation is routine or easy to conduct does not reduce the need for authorisation. Care must be taken to understand how the social networking site being used works. Authorising Officers must not be tempted to assume that one service provider is the same as another or that the services provided by a single provider are the same.

Whilst it is the responsibility of an individual to set privacy settings to protect unsolicited access to private information from their social media sites and, even though data may be deemed published and no longer under the control of the author, it is unwise to regard it as 'open source' or publicly available. The author has a reasonable expectation of privacy if access controls are applied.

Where privacy settings are available but not applied the data may be considered 'open source' and an authorisation is not usually required. However, repeat viewing of 'open source' sites may constitute directed surveillance on a case by case basis and officers need to be aware of this and seek advice about obtaining an authorisation. For example if someone is being monitored through, for example, their Facebook profile for a period of time and a record of the information is kept for later analysis, this is likely to require a RIPA authorisation for directed surveillance.

If it is necessary and proportionate for the Council to breach covertly access controls, the minimum requirement is an authorisation for directed surveillance.

Officers also need to be aware that if viewing of on-line information progresses to an officer establishing a relationship whether through a friend request or sending an email purporting to be interested in an item to purchase, then a CHIS authorisation will be required. In that scenario the officer themselves would be regarded as acting as a CHIS. Using a third party to contact the subject on behalf of the Council would also require authorisation of the third party as a CHIS.

It is not unlawful for a council officer to set up a false identity, but this should not be done for a covert purpose without significant management consideration and under the control of an authorisation. Using photographs of other persons without their permission to support the false identity infringes other laws.

To further assist in understanding matters pertaining to the use of social media in investigations, the following is included in this policy, from the Covert Surveillance and Property Interference Code of Practice 2018:



## RIPA Policy BDC -RBC V8.3 (002)

3.10 The growth of the internet, and the extent of the information that is now available online, presents new opportunities for public authorities to view or gather information which may assist them in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and engaging with the public they serve. It is important that public authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual's online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered. The following guidance is intended to assist public authorities in identifying when such authorisations may be appropriate.

3.11 The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered, as set out elsewhere in this code. Where a person acting on behalf of a public authority is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (paragraphs 4.10 to 4.16 of the Covert Human Intelligence Sources code of practice provide detail on where a CHIS authorisation may be available for online activity).

3.12 In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where a public authority has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not normally be available.

3.13 As set out in paragraph 3.14 below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.

3.14 Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.

3.15 Whether a public authority interferes with a person's private life includes a consideration of the nature of the public authority's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where a public authority is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online. See also paragraph 3.6. Example 1: A police officer undertakes a simple internet

## RIPA Policy BDC -RBC V8.3 (002)

search on a name, address or telephone number to find out whether a subject of interest has an online presence. This is unlikely to need an authorisation. However, if having found an individual's social media profile or identity, it is decided to monitor it or extract information from it for retention in a record because it is relevant to an investigation or operation, authorisation should then be considered.

Example 2: A customs officer makes an initial examination of an individual's online profile to establish whether they are of relevance to an investigation. This is unlikely to need an authorisation. However, if during that visit it is intended to extract and record information to establish a profile including information such as identity, pattern of life, habits, intentions or associations, it may be advisable to have in place an authorisation even for that single visit. (As set out in the following paragraph, the purpose of the visit may be relevant as to whether an authorisation should be sought.) Example 3: A public authority undertakes general monitoring of the internet in circumstances where it is not part of a specific, ongoing investigation or 20 operation to identify themes, trends, possible indicators of criminality or other factors that may influence operational strategies or deployments. This activity does not require RIPA authorisation. However, when this activity leads to the discovery of previously unknown subjects of interest, once it is decided to monitor those individuals as part of an ongoing operation or investigation, authorisation should be considered.

3.16 In order to determine whether a directed surveillance authorisation should be sought for accessing information on a website as part of a covert investigation or operation, it is necessary to look at the intended purpose and scope of the online activity it is proposed to undertake. Factors that should be considered in establishing whether a directed surveillance authorisation is required include: • Whether the investigation or research is directed towards an individual or organisation; • Whether it is likely to result in obtaining private information about a person or group of people (taking account of the guidance at paragraph 3.6 above); • Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile; • Whether the information obtained will be recorded and retained; • Whether the information is likely to provide an observer with a pattern of lifestyle; • Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life; • Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s); • Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.

3.17 Internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, may still require a directed surveillance authorisation (see paragraph 4.32). Example: Researchers within a public authority using automated monitoring tools to search for common terminology used online for illegal purposes will not normally require a directed surveillance authorisation. Similarly, general analysis of data by public authorities either directly or through a third party for predictive purposes (e.g. identifying crime hotspots or analysing trends) is not usually directed surveillance. In such cases, the focus on individuals or groups is likely to be sufficiently cursory that it would not meet the definition of surveillance. But officers should be aware of the possibility that the broad thematic research may evolve, and that authorisation may be appropriate at the point where it begins to focus on specific individuals or groups. If specific names 21 or other identifiers of an individual or group are applied to the search or analysis, an authorisation should be considered.

## Obtaining Communications Data

The Investigatory Powers Act 2016 governs the lawful obtaining of communications data by public authorities. The term communications data includes the 'who', 'when', 'where', and 'how' of a communication but not the content, that is, what was said or written. A local authority

## RIPA Policy BDC -RBC V8.3 (002)

cannot make an application that requires the processing or disclosure of internet connection records for any purpose.

Communications data is generated, held or obtained in the provision, delivery and maintenance of communications services, that is, postal services or telecommunications services. All communications data held by a telecommunications operator or obtainable from a telecommunication system falls into two categories of entity data and events data.

Examples of entity data include:

- 'subscriber checks' such as "who is the subscriber of phone number 01234 567 890?", "who is the account holder of email account [example@example.co.uk](mailto:example@example.co.uk)?" or "who is entitled to post to web space [www.example.co.uk](http://www.example.co.uk)?"
- subscribers' or account holders' account information, including names and addresses for installation, and billing including payments method(s), details of payments;
- information about apparatus or devices used by, or made available to, the subscriber or account holder, including the manufacturer, model, serial numbers and apparatus codes.

Examples of events data include, but are not limited to:

- information tracing the origin or destination of a communication that is, or has been, in transmission (including incoming call records);
- information identifying the sender or recipient of a communication from data comprised in or attached to the communication;
- itemised timing and duration of service usage (calls and/or connections);
- information about amounts of data downloaded and/or uploaded;

Part 3 of IPA contains provisions relating to authorisations for obtaining communications data. This part of IPA is now in force but the acquisition of communications data was previously covered by RIPA. Under RIPA, local authorities were required to obtain judicial approval in order to acquire communications data. However, the position has now changed and from June 2019, all communication data applications must instead be authorised by the Office for Communications Data Authorisations ("the OCDA").

The Home Office issued 'Communications Data' Code of Practice in November 2018 and chapter 8 covers local authority procedures. A local authority must make a request to obtain communications data via a single point of contact (SPoC) at the National Anti-Fraud Network ("NAFN"). In addition to being considered by a NAFN SPoC, an officer within the local authority of the rank of service manager or above should be aware the application is being made before it is submitted to an authorising officer in the OCDA.

## RIPA Policy BDC -RBC V8.3 (002)

A serious crime threshold applies to the obtaining of some communications data. The Council can only submit an application to obtain events data for the investigation of a criminal offence capable of attracting a sentence of 12 months or more. However, where the Council is looking to obtain entity data this can be done for any criminal investigation where it is necessary and proportionate to do so.

## **Joint agency surveillance**

In cases where one agency is acting on behalf of another, it is usually for the tasking agency to obtain or provide the authorisation. For example, where surveillance is carried out by Council employees on behalf of the Police, authorisation would be sought by the police. If it is a joint operation involving both agencies the lead agency should seek authorisation.

Council staff involved with joint agency surveillance must ensure that all parties taking part are authorised on the authorisation page of the application to carry out the activity. When staff are operating on another organisations authorisation, they should obtain either a copy of the application form (redacted if necessary) or a copy of the authorisation containing the unique number. This will ensure they see what activity they are authorised to carry out. Their line manager should be made aware of the joint surveillance and a copy of the authorisation forwarded to the central register in order that a record can be retained. This will assist with oversight of the covert activities undertaken by Council staff.

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

## **Documentation and central record**

Authorising Officers or Managers of relevant enforcement departments must keep whatever records are necessary to administer and manage the RIPA application process, in compliance with the requirements of the Codes of Practice as reflected in the Safeguarding Policy (see Appendix ). The Council holds a centrally held and retrievable record, also in compliance with the Codes of Practice.

This record will be held by the Information Management team and regularly updated whenever an authorisation is refused, granted, renewed or cancelled.. The record will be made available to the relevant Commissioner or an Inspector from the Office of Surveillance Commissioners, upon request.

All original surveillance Authorisations and copies of judicial applications/order forms (whether authorised or refused), Review, Renewal and Cancellation documents will be forwarded electronically to the Information Management team for security purposes. The Information Management team will be responsible for maintaining the Central Record of Authorisations and will ensure that all records are held securely with no unauthorised access. The only persons who will have access to these documents will be the Information Management team, the Senior Responsible Officer and the RIPA Co-ordinating Officer. The Head of Service of the shared Regulatory Service will have access to a read only copy of the

## RIPA Policy BDC -RBC V8.3 (002)

Central Record of Authorisations. The use, retention and disposal of this information is also governed by the Safeguarding Policy in Appendix

The Information Management team can be contacted on extension 1661 (Nicola Brothwell) or extension 3871 (Julie Smout)

The documents contained in the centrally held register should be retained for at least three years from the ending of the authorisation or for the period stipulated by the Council's document retention policy, whichever is greater. The centrally held register should contain the following information:

- if refused, that the application was not authorised and a brief explanation of the reason why. The refused application should be retained as part of the Central Record of Authorisation.
- if granted, the type of authorisation and the date the authorisation was given and approved by the JP.
- name and rank/grade of the authorising officer.
- the unique reference number (URN) of the investigation or operation.
- the title of the investigation or operation, including a brief description and names of subjects, if known.
- whether the urgency provisions were used, and if so why.
- frequency and the result of each review of the authorisation.
- if the authorisation is renewed, when it was renewed and who authorised the renewal, including the name and rank/grade of the authorising officer and the date approved by the JP.
- whether the investigation or operation is likely to result in obtaining confidential information as defined in this code of practice.
- the date the authorisation was cancelled.
- authorisations by an Authorising Officer in urgent cases where they are directly involved in the investigation or operation (see Authorising Officer Responsibility page 17.) If this has taken place it must be brought to the attention of a Commissioner or Inspector during their next RIPA inspection.
- the date and time when any instruction was given by the Authorising Officer.

As well as the Central Record the Information Management Team will also retain:

each application, review, renewal and cancellation, copy of the judicial application/order form, together with any supplementary documentation of the approval given by the Authorising Officer

- a record of the period over which the surveillance has taken place;

### **For CHIS applications**

## RIPA Policy BDC -RBC V8.3 (002)

In addition, records or copies of the following, as appropriate, should be kept by the relevant authority:

- the original authorisation form, copy of the judicial application/order form, together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- the original renewal of an authorisation, copy of the judicial application/order form, together with the supporting documentation submitted when the renewal was requested;
- the reason why the person renewing an authorisation considered it necessary to do so;
- any risk assessment made in relation to the source;
- the circumstances in which tasks were given to the source;
- the value of the source to the investigating authority;
- a record of the results of any reviews of the authorisation;
- the reasons, if any, for not renewing an authorisation;
- the reasons for cancelling an authorisation.
- the date and time when any instruction was given by the Authorising Officer to cease using a source.

The records kept by public authorities should be maintained in such a way as to preserve the confidentiality of the source and the information provided by that source. There should, at all times, be a designated person within the relevant public authority who will have responsibility for maintaining a record of the use made of the source.

## **Annual report to Investigatory Powers Commissioner's Office**

The Council is required to provide statistics to the IPCO (was the OSC) every year in March for the purposes of the Annual Report. The Information Manager shall be responsible for completing the return and providing the statistics.

## **Storage and retention of material**

In addition to the need to comply with the data safeguards provisions set out below, all material obtained and associated with an application will be subject of the provisions of the Criminal Procedures Investigations Act 1996 (CPIA) Codes of Practice which state that relevant material in an investigation has to be recorded and retained and later disclosed to the prosecuting solicitor in certain circumstances. It is also likely that the material obtained as a result of a RIPA application will be classed as personal data for the purposes of the Data Protection Act. All officers involved within this process should make themselves aware of the

## RIPA Policy BDC -RBC V8.3 (002)

provisions of both the requirements under the Safeguarding Policy and the CPIA and how it impacts on the whole RIPA process.

## **Data safeguards**

Material obtained through surveillance may include private information, legally privileged information, or other confidential material including journalistic material and constituency business of Members of Parliament. The Council must ensure that any information it obtains through surveillance is handled in accordance with the safeguards the Council has put in place, any relevant frameworks (such as data protection), and the Home Office Codes.

Dissemination, copying and retention of material must be limited to the minimum necessary for authorised purposes. Something is necessary for the authorized purposes where the material:

- a) is (or is likely to become) necessary for the surveillance purposes set out in the legislation
- b) is necessary for facilitating the carrying out of the functions of the Council under the surveillance legislation
- c) is necessary for facilitating the carrying out of any functions of the Commissioner or Investigatory Powers Tribunal
- d) is necessary for the purposes of legal proceedings
- e) is necessary for the performance of the functions of any person by or under any enactment.

## ***Evidence***

When information obtained under a surveillance authorisation is used evidentially, the Council should be able to demonstrate how the evidence has been obtained, to the extent required by the relevant rules of evidence and disclosure. Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements

## ***Reviews***

As set in this document and within the Home Office Codes, regular reviews of all authorisations should be undertaken during their lifetime to assess the necessity and proportionality of the conduct. Particular attention should be given to the need to review authorisations frequently where they involve a high level of intrusion into private life or significant collateral intrusion, or particularly sensitive information is likely to be obtained.

***Dissemination of information***

The Council will likely need to share information obtained through surveillance within the Council and between the Council and other public bodies where legally necessary. This must be limited to the minimum necessary. If a summary of the information will be sufficient to meet necessity, no more than that should be disclosed.

When sharing this type of information the Council will ensure that it has appropriate safeguards and agreements in place to ensure compliance.

***Copying***

Information and material obtained through surveillance must only be copied to the extent necessary. Copying includes direct copies as well as summaries and extracts.

***Storage***

All information and material obtained through surveillance and all copies, extracts or summaries must be stored securely to minimise the risk of theft or loss. Only those with appropriate legal authority and security clearance should be able to access the information. The Council will ensure that it has in place:

- a) physical security to protect premises where the information is stored or can be accessed
- b) IT security to minimise risk around unauthorised access to IT systems

***Destruction***

Information obtained through surveillance, and all copies, extracts and summaries which contain such material, should be scheduled for deletion or destruction and securely destroyed as soon as they are no longer needed for the authorised purpose(s). If such information is retained, it should be reviewed at appropriate intervals, and at least every six months, to confirm that the justification for its retention is still valid.

***Confidential or privileged information***

Where the material contains information that is legally privileged, confidential journalistic material or where material identifies a journalist's source, where material contains confidential personal information or communications between a Member of Parliament and another person on constituency business ["confidential constituent information"], authorisations can only be granted by the Head of Paid Service.

The reasons for acquiring information of this type must be clearly documented and the specific necessity and proportionality of doing so must be carefully considered.



## RIPA Policy BDC -RBC V8.3 (002)

Material which has been identified as confidential personal or confidential constituent information should be retained only where it is necessary and proportionate to do so in accordance with the authorised purpose or where otherwise required by law. It should be securely destroyed when its retention is no longer needed for those purposes.

Where confidential personal or constituent information is retained or disseminated to an outside body, reasonable steps should be taken to mark the information as confidential. Where there is any doubt as to the lawfulness of the proposed handling or dissemination of confidential information, advice should be sought from a legal adviser to the Council before any further dissemination of the material takes place.

### ***Items subject to legal privilege***

The acquisition of material subject to legal privilege is particularly sensitive and is therefore subject to additional safeguards which provide for three different circumstances where legally privileged items will or may be obtained. They are:

- a) where privileged material is intentionally sought
- b) where privileged material is likely to be obtained
- c) where the purpose or one of the purposes is to obtain items that, if they were not generated or held with the intention of furthering a criminal purpose, would be subject to privilege

Further details and guidance about each of the above circumstances are set out in the Home Office Codes.

### ***Covert surveillance of legal consultations***

The 2010 Legal Consultations Order provides that surveillance that is carried out in relation to anything taking place on so much of any premises specified in article 3(2) of the Order as is, at any time during the surveillance, used for the purposes of 'legal consultations', shall be treated for the purposes of Part II of RIPA as intrusive surveillance. **As a result, such authorisations are not available to the Council.**

### ***Lawyers' material***

Where a lawyer, acting in this professional capacity, is the subject of surveillance, it is possible that a substantial proportion of any material which will or could be acquired will be subject to legal privilege. In addition to considering the applicability of the 2010 Legal Consultations Order, the Council will need to consider which of the three circumstances that apply when items subject to legal privilege will or may be obtained is relevant, and what processes should therefore be followed.

## RIPA Policy BDC -RBC V8.3 (002)

Any case involving lawyers' material should also be notified to the Commissioner during their next inspection, and any material which has been retained should be made available to the Commissioner on request.

***Handling, retention, and deletion of legally privileged material***

Additional arrangements apply to legally privileged items where the intention is to retain them for a purpose other than their destruction:

- a) A legal adviser to the Council must be consulted and is responsible for determining whether that material is privileged;
- b) Material which has been identified as legally privileged (and is being retained for purposes other than its destruction) should be clearly marked as subject to legal privilege; and
- c) the Investigatory Powers Commissioner must be notified of the retention of the items as soon as reasonably practicable

**Training**

There will be an on-going training programme for Council Officers who will need to be aware of the impact and operating procedures with regards to this legislation. The training officer will be required to retain a list of all those officers who have received training and when the training was delivered.

Authorising Officers must have received formal RIPA training before being allowed to consider applications for surveillance and CHIS.

**Errors**

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

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

## RIPA Policy BDC -RBC V8.3 (002)

**Oversight**

It is important that all staff involved in the RIPA application process take their responsibilities seriously. Careful management and adherence to policy and procedures will assist with maintaining oversight and reducing unnecessary errors. The policy and use of RIPA will be monitored on an on-going basis through the quarterly meetings referred to below.

***Senior Responsible Officer and RIPA Co-ordinating officer***

Overall oversight within the Council will fall within the responsibilities of the Senior Responsible Officer (SRO) for the Council. The Senior Responsible Officer is Claire Felton, Head of Legal, Democratic and Property Services. To assist the SRO with monitoring, ensuring the policy is kept up to date, liaising with the Office of Surveillance Commissioner and organising training for staff, the Principal Solicitor has been identified as the RIPA Co-ordinating Officer. The SRO and the RIPA Co-ordinating Officer will meet on a six-monthly basis to review the RIPA activity that has taken place, consider any changes to legislation or guidance and to review the policy and processes for RIPA and the training programme. This six-month review has been agreed by the Surveillance Commissioner's Inspector as adequate oversight for our council.

***Reporting to members***

Quarterly returns of all surveillance activity undertaken by Council staff including joint surveillance and Directed Surveillance using the CCTV system will be compiled by the Senior Responsible Officer and the RIPA Co-ordinating Officer and reported to the Portfolio Holder for Resources in line with the current advice in the Codes of Practice. As with the above reviews, this will also be six-monthly. It will be the role of the Portfolio Holder to report to the Cabinet any issues of concern arising out of the quarterly returns. Members will also receive an annual report to keep them updated as to the levels of RIPA activity, legislative changes, staff training and any issues regarding the RIPA policy.

**Scrutiny and tribunal**

Scrutiny will be provided by the Investigatory Powers Commissioner's Office or IPCO (formerly provided by the Office of the Surveillance Commissioner). The Commissioner will periodically inspect the records and procedures of the Authority to ensure the appropriate authorisations have been given, reviewed, cancelled, and recorded properly.

It is the duty of any person who uses these powers to comply with any request made by a Commissioner to disclose or provide any information the Office requires for the purpose of enabling them to carry out their functions.

A tribunal has been established to consider and determine complaints made under RIPA if it is the appropriate forum. Persons aggrieved by conduct, e.g. directed surveillance, can make complaints. The forum hears application on a judicial review basis. Claims should be brought within one year unless it is just and equitable to extend that period.

RIPA Policy BDC -RBC V8.3 (002)

Complaints can be addressed to the following address:

Investigatory Powers Tribunal

PO Box 33220

London

SW1 H9ZQ

RIPA Policy BDC -RBC V8.3 (002)

## Appendix 1

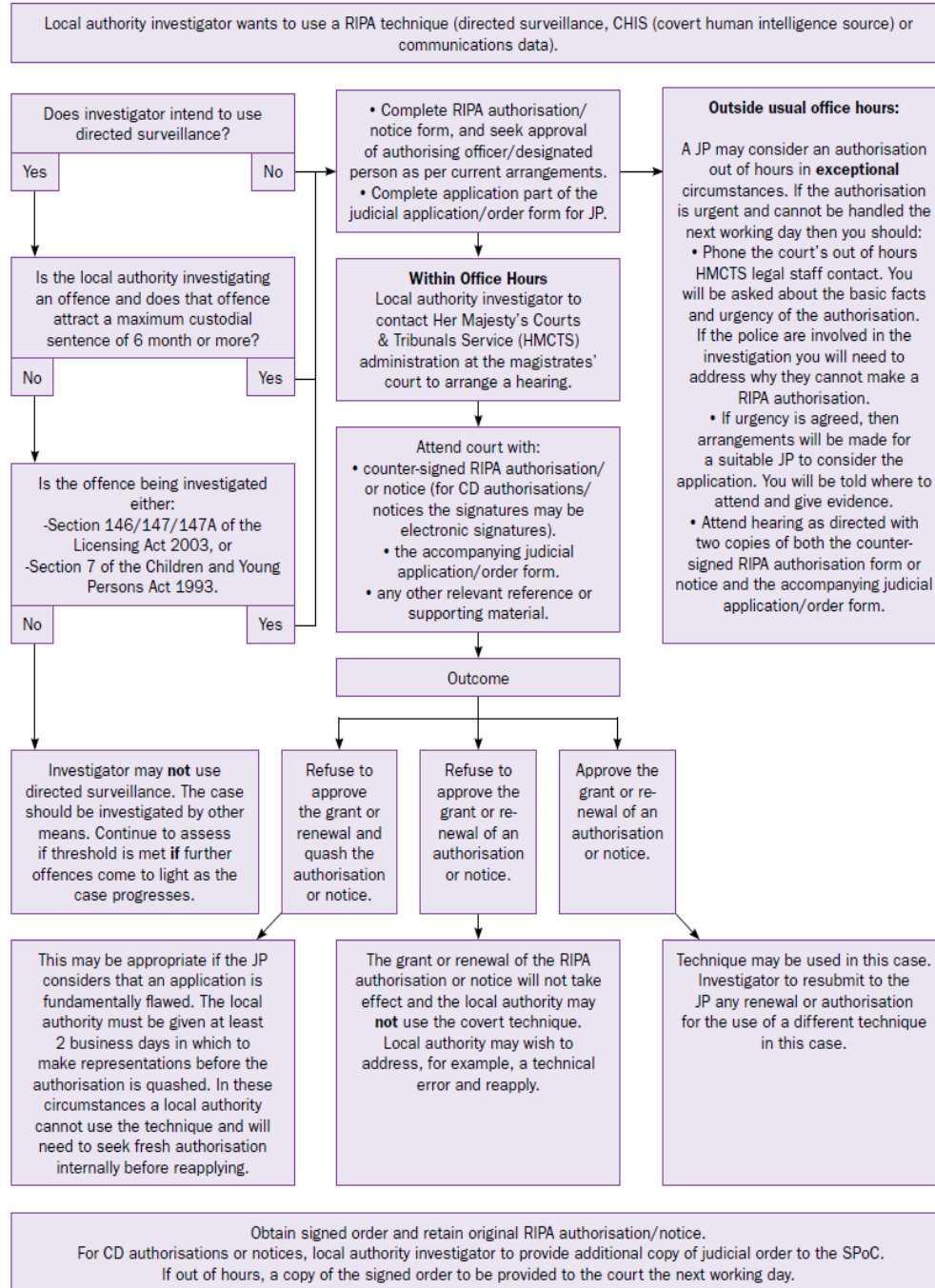
**List of Authorising Officers for Bromsgrove District Council and Redditch Borough Council and authorising levels:**

Name	Department	Contact Number	Level of Surveillance Authority		
			Juvenile or Vulnerable CHIS and/or Confidential Material from CHIS or Directed Surveillance	CHIS	Directed Surveillance
Sue Hanley	Chief Executive	Ext 1483	Yes	Yes	Yes
Deborah Poole	E-Government & Customer Services	Ext 1256	No	Yes	Yes
Simon Wilkes	Head of Regulatory Services	01562 738088	No	No	Yes
Peter Carpenter	Deputy Chief Executive and Director of Resources	01527 64252 ext 3205	Yes	Yes	Yes

RIPA Policy BDC -RBC V8.3 (002)

## Appendix 2

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



# Redditch Borough Council Audit Progress Report

May 2024



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# Progress at May 2024

## Data migration

Officers provided a reconciliation between the old and new systems using a three-stage approach, which identified a total of £64k of transactions unreconciled between the two systems. We understand the approach taken in this reconciliation exercise and are satisfied that it is appropriate and reasonable. As reported in our 2020/21 audit plan, our materiality level was £1.19m and our clearly trivial level was £59.5k. We would therefore not have any material concerns over the data transfer with this level of reported unreconciled transactions.

Our IT audit colleagues sought to reperform the exercise produced by officers, based upon the system transaction listing that we obtained with the support of the system providers, and using the ledger code converter also provided to us by officers which mapped the old and new ledger codes to one another. The aim of this was to ensure that the data used in the reconciliation was complete and accurate and by proving this, we would be in a position to conclude our work.

We raised further queries with officers as whilst almost half of the codes reconciled with no issues identified, the other half reported some variances between our data and that used in the reconciliation provided to us. The Council has reconciled at a lower code combination level than ourselves, that took on board changes that happened on implementation and has shown how those differences map. As per the papers presented to Audit, Governance and Standards Committee this evening, their S151 Officer now has the confidence from this work to formally issue the 2020/21 accounts for Audit. We asked for a sample of codes that had material differences to understand those differences and these have been provided to us to review.





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REDDITCH BOROUGH COUNCILDate: 28<sup>th</sup> May 2024**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE****THE 2024/25 INTERNAL AUDIT PLAN**

Relevant Portfolio Holder	To be confirmed
Portfolio Holder Consulted	Yes
Relevant Head of Service	Peter Carpenter, S151 Officer
Report Author	Job Title: Head of Internal Audit Shared Service Worcestershire Internal Audit Shared Service Contact email: <a href="mailto:chris.green@worcester.gov.uk">chris.green@worcester.gov.uk</a> Contact Tel: 07542 667712
Wards Affected	All Wards
Ward Councillor(s) consulted	No
Relevant Strategic Purpose(s)	Good Governance & Risk Management underpins all the Strategic Purposes.
Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

**1. RECOMMENDATION**

- 1.1 **The Audit, Governance and Standards Committee approves the 2024/25 Internal Audit Plan subject to any agreed amendments.**

**2. BACKGROUND**

- 2.1 The aims and objectives of the Worcestershire Internal Audit Shared Service are to:

- examine, evaluate and report on the adequacy and effectiveness of internal control, governance and risk management across the council and recommend arrangements to address weaknesses as appropriate;
- examine, evaluate and report on arrangements to ensure compliance with legislation and the council's objectives, policies and procedures;
- examine, evaluate and report on procedures to check that the council's assets and interests are adequately protected and effectively managed;

REDDITCH BOROUGH COUNCILDate: 28<sup>th</sup> May 2024**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

- undertake independent investigations into allegations of fraud and irregularity in accordance with council policies and procedures and relevant legislation; and
- advise upon the control and risk implications of new systems or other organisation changes, e.g. transformation.

**2.2 Formulation of the Annual Plan**

WASS operates an Internal Audit Charter which sets out the standards to which it operates for this Council. The Internal Audit Plan for 2024/25, which is included at Appendix 1, is a risk-based plan which considers the adequacy of the Council's risk management, governance, performance management, other assurance processes as well as organisational objectives and priorities. It has been based upon the risk priorities per the Corporate and Service risk registers, as reported to the Audit, Governance and Standards Committee in March 2024. Large spend budget areas have also been considered, along with direct association to the Council Plan 2020-2024. The Internal Audit Plan for 2024/25 has been agreed with the s151 Officer, considered by the Senior Management Team, and is brought before Committee in draft form. It has been formulated with the aim to ensure Redditch Borough Council meet its strategic purposes, delivers its promises and has directly linked the various aspects to identify the 'golden thread' regarding the objectives and risk identification to Service delivery. It is brought before the Audit, Governance and Standards Committee in draft format as the involvement of the Committee is considered an important facet of good corporate governance, contributing to the internal control assurance given in the Council's Annual Governance Statement.

Internal Audit recognises that there are other review functions which may provide other sources of assurance, both internally and externally, (e.g. ICT Public Service Network, Cyber Essentials, assurance testing) over aspects of the Council's operations. Where possible internal audit will seek to place reliance on such work thus increasing the coverage without adding additional costs.

To try to reduce duplication of effort internal audit understands the importance of working with the External Auditors. The audit plan is available to the external auditors for information.

By bringing a plan of work before the Audit, Governance and Standards Committee which had been formulated with the aim to ensure Redditch Borough

REDDITCH BOROUGH COUNCILDate: 28<sup>th</sup> May 2024**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

Council meets its strategic purposes it allows Members to have a positive input into the audit work programme and make suggestions as to where they feel audit resources may be required under direction of the s151 Officer and within the finite resource available. Due to the continuing changing environment that exists in Local Government the plan must be seen as a framework for internal audit work for the forthcoming year. There is a need for improved flexibility in the plan due to a constantly changing risk profile. To ensure flexibility there is the possibility that the plan will be updated during the year to address such challenges and any emerging risks. It is planned that a regular review before Senior Management Team will take place to ensure the audit plan remains risk focussed, and any required changes can be considered. This is in line with the requirements of the Public Sector Internal Audit Standards (PSIAS). Any changes will be submitted to the Audit, Governance and Standards Committee for consideration and approval, in line with its role as Gatekeeper.

**2.3 Resource Allocation**

The Internal Audit Plan has been based upon a resource allocation of 328 chargeable days, an allocation which has been agreed with the council's s151 Officer. The Head of Internal Audit has reassessed the level of management time required and reduced it by 24 days (40%), reallocating this to productive work. A summary of the days as well as the detailed plan provision has been included at Appendix 1. Although all areas have been considered an assessment has been made whether to include in the plan based on the overall risk and governance profile. The Head of Internal Audit Shared Service is confident that, with this resource allocation, he can provide management, external audit and those charged with governance with the assurances and coverage that they require over the system of internal control, annual governance statement and statement of accounts.

Due to the changing internal environment, ongoing transformation and more linked up and shared service working between Bromsgrove District Council and Redditch Borough Council the plan continues to be organised in a smarter way to exploit the efficiencies that this type of working provides. Although the audit areas will have an allocation of audit days the reviews will continue to be more cross cutting than before and will encompass the different service perspectives. All or part of the budgeted days will be used on a flexible basis depending on the risk exposure the result being better corporate coverage and ownership of the audit outcomes.

The Internal Audit Plan for 2024/25 is set out at Appendix 1.

**REDDITCH BOROUGH COUNCIL**Date: 28<sup>th</sup> May 2024**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE****2.4 Monitoring and reporting**

Operational progress against the Internal Audit Plan for 2024/25 will be closely monitored by the Head of Internal Audit and will be reported to the Shared Service's Client Officer Group (which comprises the s151 officers from partner organisations), and, to the Audit, Governance and Standards Committee on a quarterly basis.

**3. Financial Implications**

3.1 There are no direct financial implications arising out of this report.

**4. Legal Implications**

4.1 The Council is required under Regulation 6 of the Accounts and Audit Regulations 2018 to "maintain in accordance with proper practices an adequate and effective system of internal audit of its accounting records and of its system of internal control".

To aid compliance with the regulation, the Institute of Internal Auditors Public Sector Internal Audit Standards (as amended) details that "Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes".

**5. STRATEGIC PURPOSES - IMPLICATIONS****Relevant Strategic Purpose**

5.1 Good governance along with risk management underpin all the Corporate strategic purposes. This report provides an independent assurance over certain aspects of the Council's operations.

**Climate Change Implications**

5.2 The actions proposed do not have a direct impact on climate change implications.

REDDITCH BOROUGH COUNCILDate: 28<sup>th</sup> May 2024**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE****6. OTHER IMPLICATIONS****Equalities and Diversity Implications**

6.1 There are no implications arising out of this report.

**Operational Implications**

6.2 There are no new operational implications arising from this report.

**7. RISK MANAGEMENT**

The main risks associated with the details included in this report are:

- Insufficiently complete the planned programme of audit work within the financial year leading to an inability to produce an annual opinion; and,
- a continuous provision of an internal audit service is not maintained.

**8. APPENDICES and BACKGROUND PAPERS**

Appendix 1 ~ Internal Audit Plan 2024/25

REDDITCH BOROUGH COUNCILDate: 28<sup>th</sup> May 2024**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**APPENDIX 1**SUMMARY OF INTERNAL AUDIT PLAN**

<b>Audit Area</b>	<b>Planned Days</b>
Financial	50
Corporate Risks including Governance	85
Service Delivery and Operational Risks	74
<b>Sub total</b>	<b>209</b>
Plan management, advice and support	42
Completion & finalisation of audits which were in progress as at 1 <sup>st</sup> April 2024	77
<b>Sub total</b>	
<b>Total Audit Days</b>	<b>328</b>



**REDDITCH BOROUGH COUNCIL**

Date: 28<sup>th</sup> May 2024

**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

<b><u>AUDIT AREA</u></b>	<b><u>CORPORATE LINK</u></b>	<b><u>RISK REGISTER REFERENCE</u></b>	<b><u>RESOURCE BUDGET (DAYS)</u></b>	<b><u>COMMENTS</u></b>	<b><u>INDICATIVE REPORTING DATE</u></b>
<b>Financial Audits</b>					
Council Tax	Value for Money	Cost of living crisis Reduced collection rates	10		September 2024
Benefits	Value for Money	Cost of living crisis Failure to resource the service to meet demand Benefits subsidy Failure to meet audit requirements	15		November 2024
NNDR	Value for Money	Cost of living crisis Reduced collection rates	10		September 2024
General Ledger	Value for Money	Failure to provide adequate support to managers to manage their budgets	15		March 2025
<b>Sub Total - Financial</b>			<b>50</b>		

**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

<b><u>AUDIT AREA</u></b>	<b><u>CORPORATE LINK</u></b>	<b><u>RISK REGISTER REFERENCE</u></b>	<b><u>RESOURCE BUDGET (DAYS)</u></b>	<b><u>COMMENTS</u></b>	<b><u>INDICATIVE REPORTING DATE</u></b>
<b>Corporate Risks including Governance</b>					
Risk Management Embedding	Links to achievement of all Council Plan priorities	Underpins effective management of risk throughout the organisation	10		November 2024
Cyber & Data Security including Disaster Recovery	Links to achievement of all Council Plan priorities	Protection from Cyber attack  Failure to identify, maintain and test adequate Disaster Recovery arrangements	12		November 2024
Workforce Planning	Links to achievement of all Council Plan priorities	Adequate workforce planning	10	Consultancy review, examining arrangements for delivery of the 82-point plan and comparison with other local authorities.	January 2025

**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

<b><u>AUDIT AREA</u></b>	<b><u>CORPORATE LINK</u></b>	<b><u>RISK REGISTER REFERENCE</u></b>	<b><u>RESOURCE BUDGET (DAYS)</u></b>	<b><u>COMMENTS</u></b>	<b><u>INDICATIVE REPORTING DATE</u></b>
Insurance	Value for Money	Avoidable damage to fleet  Non compliance with Health & Safety legislation	15	Including review of claims prevention & mgmt, and the strategic approach to minimising the costs of cover.	November 2024
Constitution Compliance – Decision Making	Links to achievement of all Council Plan priorities	Underpins effective management of risk throughout the organisation	12	Assurance that decisions made by Officers are in accordance with the Constitution & Scheme of Delegation.	March 2025
Business Continuity and Emergency Planning	Links to achievement of all Council Plan priorities	Failure to identify, maintain and test adequate management and recovery arrangements	12		March 2025
Fraud Investigations including NFI	Links to achievement of all Council Plan priorities	No direct links	10		N/A
Statements of Internal Control	Links to achievement of all Council Plan priorities	Underpins effective management of risk throughout the organisation	4		N/A
<b>Sub-Total – Corporate Risks including Governance</b>			<b>85</b>		

**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

<b><u>AUDIT AREA</u></b>	<b><u>CORPORATE LINK</u></b>	<b><u>RISK REGISTER REFERENCE</u></b>	<b><u>RESOURCE BUDGET (DAYS)</u></b>	<b><u>COMMENTS</u></b>	<b><u>INDICATIVE REPORTING DATE</u></b>
<b>Service Delivery and Operational Risks</b>					
Statutory Inspections	No direct linkages	Non compliance with health & safety legislation and with Statutory Inspection policy	12		January 2025
Corporate Credit Cards including Petty Cash	Value for Money	No direct links	15		January 2025
Housing Repairs	Value for Money  Reducing void costs  Increasing energy efficiency of the housing stock	Failure to effectively manage housing repairs and maintenance	20	To include assurance that the new scheduling system is operating efficiently and effectively.	September 2024
HR Processes	Links to achievement of all Council Plan priorities	Adequate workforce planning	12		March 2025
Follow up reviews	Links to achievement of all Council Plan priorities	Underpins effective management of risk throughout the organisation	15	Assurance that agreed actions from previous audits have been implemented.	May 2025
<b>Sub-Total – Service Delivery and Operational Risks</b>			<b>74</b>		

**REDDITCH BOROUGH COUNCIL**

Date: 28<sup>th</sup> May 2024

**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

<u>AUDIT AREA</u>	<u>CORPORATE LINK</u>	<u>RISK REGISTER REFERENCE</u>	<u>RESOURCE BUDGET (DAYS)</u>	<u>COMMENTS</u>	<u>INDICATIVE REPORTING DATE</u>
<b>Other Areas of Support</b>					
Advice and Consultancy including Bus Operators' Grant			16		
Audit Management Meetings			8	4 day reduction compared with 2023/24	
Corporate Meetings & Reading			6	13 day reduction compared with 2023/24	
Annual Plans, Reports and Committee Attendance			12	7 day reduction compared with 2023/24	
<b>Sub-Total – Additional Areas of Support</b>			<b>42</b>		
Completion of previously agreed audits which are already in progress	Accounts Receivable & Payable – 13 days Payroll – 10 days Treasury Mgmt – 5 days Procurement & Contract & Project Mgmt – 13 days Anti Fraud & Corruption – 7 days Data Quality & Usage – 10 days Housing Revenue Account & Right to Buy – 19 days		<b>77</b>		July 2024
<b>Total Resource Requirement – 2024/25</b>			<b>328</b>		

Explanatory Note:

As part of the joint and shared service working between Bromsgrove District Council and Redditch Borough Council the audit budgets and areas will feature in both internal audit plans and be consolidated to deliver a single piece of work covering both Councils. Where practically possible the days will be split equally between the plans. Weighting will, however, be applied if it is considered the focus of the work will major on one Council.

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**Audit, Governance and Standards Committee 28<sup>th</sup> May 2024****Financial Savings Monitoring Report**

Relevant Portfolio Holder	To be confirmed
Portfolio Holder Consulted	-
Relevant Head of Service	Debra Goodall
Report Author	Job Title: Head of Finance & Customer Services Contact email: <a href="mailto:debra.goodall@bromsgroveandredditch.gov.uk">debra.goodall@bromsgroveandredditch.gov.uk</a> Contact Tel:
Wards Affected	All
Ward Councillor(s) consulted	No
Relevant Strategic Purpose(s)	All
Key Decision / Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

**1. RECOMMENDATIONS**

**The Audit, Governance and Standards Committee RESOLVE that:**

- 1) The final position on the 2023/24 Departmental Savings Programme be noted, including any potential implications for future years.**

**2. BACKGROUND**

- 2.1 As part of the 2023/24 budget, which was agreed at Council in February 2023, there were a number of savings options approved through the two-tranche process to deliver the balanced budget for the year. Savings from both tranches of the budget process have been combined in Appendix A.
- 2.2 Additionally, an Improvement Recommendation in the Interim Auditors Annual Report on Redditch Borough Council 2021/22 and 2022/23 was that “savings delivery is monitored independently of basic budget monitoring at a corporate level”. As such savings monitoring will be part of the Audit, Governance and Standards Committee on a quarterly basis.
- 2.3 The Quarter 3 2023/24 Finance and Performance Monitoring report was reviewed by Executive in March 2024. The final Outturn Report for 2023/4 will be presented to the first Executive Committee of this financial year on the 9<sup>th</sup> July.
- 2.4 The Quarter 3 position was a £383k overspend position following the application of the 23/4 Utilities Reserve. The £11.1m full year revenue budget included in the table below is the budget that was approved by Council in February 2023.

REDDITCH BOROUGH COUNCIL**Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

	2023/24 Approved Budget	2023/24 Forecast Outturn	2023/24 Forecast Variance from Budget
Business Transformation and Organisational Development	1,767,562	2,077,769	310,207
Community and Housing GF Services	1,576,893	1,706,302	129,408
Corporate Financing	344,035	344,035	0
Corporate Services	(1,558,136)	(1,548,734)	9,402
Environmental Services	2,615,992	2,849,311	233,319
Financial and Customer Services	1,777,749	2,066,533	288,784
Legal, Democratic and Property Services	2,071,581	2,068,217	(3,364)
Planning, Regeneration and Leisure Services	1,282,538	1,120,304	(162,235)
Regulatory Client	451,038	426,905	(24,133)
Rubicon Client	764,746	933,707	168,961
<b>Net Budget</b>	<b>11,094,000</b>	<b>12,044,349</b>	<b>950,349</b>
Utilities Reserve		(567,000)	(567,000)
<b>Overall Total</b>	<b>11,094,000</b>	<b>11,477,349</b>	<b>383,349</b>

2.5 The full year effect of a £950k overspend will be mitigated in part by the application of £557k from the Utilities Reserve as approved at Quarter 1. **This leaves a £383k overspend position.** The ongoing 2023/24 pay increases position has been reflected as a budget pressure in the 2024/25 MTFP process.

2.6 Forecasting for Quarters 2, 3 and the present work being done on the final outturn position have been delivered on TechOne following a series of training sessions in August and September 2023. This is the first time that budget managers had been asked to directly input their forecast financial positions into the system since the implementation of TechOne, and budget managers have been supported by the Finance Team throughout this process.

2.7 This forecast overspend is predominantly due to:

- the implications of the 2023/24 pay award - £1,925 level per pay point plus on costs has been offered by the Employers and was agreed on 1<sup>st</sup> November 2023. This was paid in the December payroll and backdated to 1<sup>st</sup> April 2023.
- temporary and interim staff requirements - whilst there are several vacancies within teams across the Council, some posts are being covered by temporary staff and this has therefore resulted in some cost pressures.
- the impact of homelessness and the cost of temporary accommodation costs. A review of grants available to offset the cost pressures is taking place.
- higher than expected ICT costs in Business Transformation and Organisational Development
- higher than expected share of service cost in from Bromsgrove in Environmental Services

This overspend is offset in part by:

- a forecast underspend against the utilities budget provision due to utilities inflation running at 70%. In the 2023/24 budget we assumed a 100% increase in budget and set up a reserve for the same amount.
- anticipated additional income across various services.



**Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

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- lower than expected costs in various services.
- higher than expected grant income in Community and Housing
- higher than expected fees and charges in Planning and Leisure

2.8 Departmental Savings are shown to be on track for delivery as per the data contained in Appendix A. There were two items highlighted in yellow which require careful monitoring and one in red in the January Savings Monitoring Report:

- Service Reviews (£140k in 23/4)
- Finance Vacancies (£100k in 23/4)
- Capacity Grid old debt recoupmnt (£300k in 23/4)

The position at year end is that the two Amber items still require careful monitoring:

- The Service Review figure as per the text in the table is more than covered by the difference between Establishment Staffing vacancies and Agency staff. However, this savings figure increases significantly in 2024/5 but should still be covered by the difference. A full Council Establishment Review is being undertaken in May 2024 which will confirm the ongoing position and also put in place processes which keep tight control of staffing changes – which account for almost 50% of the Council's controllable budgets.
- The Capacity Grid project, recouping old Council Tax and Business Rates debt is in mid flow. Presently levels for pre 2023/4 are £337k of Council Tax and £32k of Business Rates. We are assessing £3.5m of Council Tax Debt and £468k of Business Rates debt.

The red items will not be delivered. additional resource has been bought in to get the accounts up to date. Following a recruitment drive in Q4, 5 staff have been recruited and they all start early in the 2024/5 financial year. This will reduce costs over the present Agency charges. The plan is that the accounts will be bought up to date by the end of the Summer and as such the team should be at Establishment and the ongoing budget position rectified.

The Grants section has been updated for the Grant amounts included in the 2024/5 MTFP, although it should be noted that the Local Government Settlement was only one year.

The largest savings are on pension costs which link to the 2023 triennial revaluation. These revised figures run for three years. There is a risk for the 2026/7 financial year that these figures will go up when the next triennial revaluation takes place.

### **3. FINANCIAL IMPLICATIONS**

3.1 The savings have significant financial implications if not delivered.

**Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

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- 3.2 The Council presently has an estimated £2.575m in General Fund Reserves to cover one off issues, and £5.242m in Earmarked Reserves for specific purposes as per the MTFP that was approved in February. These are the only recourse, apart from additional reductions in spending/additional income, that the Council has to mitigate the present overspend position.

**4. LEGAL IMPLICATIONS**

- 4.1 There are no direct legal implications arising as a result of this report.

**5. STRATEGIC PURPOSES - IMPLICATIONS****Relevant Strategic Purpose**

- 5.1 The Strategic purposes are included in the Council's Corporate Plan and guides the Council's approach to budget making ensuring we focus on the issues and what are most important for the borough and our communities. Our Financial monitoring and strategies are integrated within all our Strategic Purposes.

**Climate Change Implications**

- 5.2 The green thread runs through the Council Plan. 2023/24 savings options which had implications on climate change would have been addressed at that time.

**6. OTHER IMPLICATIONS****Equalities and Diversity Implications**

- 6.1 There are no direct equalities implications arising as a result of this report. Any implications will have been dealt with as part of the 2023/24 Budget process.

**Operational Implications**

- 6.2 Operational implications will have been dealt with as part of the 2023/24 Budget process.

**7. RISK MANAGEMENT**

- 7.1 Non delivery of savings options, depending on their financial magnitude can have either a small or significant effect on the Council's finances. As such mitigations need to be in place to deal changes to what was agreed by Council in February 2023.

**Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

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**8. APPENDICES and BACKGROUND PAPERS**

Appendix A – Redditch Savings Monitoring 2022/23

**9. REPORT SIGN OFF**

<b>Department</b>	<b>Name and Job Title</b>	<b>Date</b>
Portfolio Holder		
Lead Director / Head of Service	Pete Carpenter	
Financial Services	Debra Goodall	
Legal Services	Claire Felton	
Policy Team (if equalities implications apply)		
Climate Change Officer (if climate change implications apply)		

**REDDITCH BOROUGH COUNCIL**

**Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

**Appendix A – Redditch Savings Monitoring 2023/24**

	2023/24 £000	2024/25 £000	2025/26 £000	RAG Status	Narrative
<b>Phase 1 Savings</b>					
Environmental Services Partnership	0	-25	-50	Green	Future year
				Yellow	Establishment review is now taking place in May 2024. Monitoring position is £2.9m of vacancies covered by £1.6m of Agency staff. This is being evaluated for the savings required as part of the Establishment Review process as savings increase in 24/5 significantly.
Service Reviews	-140	-330	-405	Green	To be reviewed – 2 years away.
Move to All Out Elections	0	0	-170	Green	Future Year by Exec Report 12/9 sets out on Target
Town Hall	0	0	-400	Red	This savings will not be delivered in 2023/4 as additional resource has been bought in to get the accounts up to date. Following a recruitment drive in Q4, 5 staff have been recruited and they all start early in the 2024/5 financial year. This will reduce costs over Agency charges. The plan is that the accounts will be bought up to date by the end of the Summer and as such at that point the team should be at Establishment.
Finance Vacancies	-100	-100	-100	Green	On Track for Delivery
MRP	-100	-100	-100	Green	On track as per actuarial triennial report
Pension Fund	-580	-580	-580	Yellow	Presently levels for pre 2023/4 are £337k of Council Tax and £32k of Business Rates. We are assessing £3.5m of Council Tax Debt and £468k of Business Rates debt.
Engage Capacity Grid (One Off)	-300	-300	0	Green	On Track - all implemented and being monitored
10% Increase in Fees and Charges	-339	-340	-342	Green	
<b>Tranche 1 Total</b>	<b>-1,559</b>	<b>-1,775</b>	<b>-2,147</b>		
<b>Phase 2 Savings</b>					
Conversion of 50% of Utilities to a Reserve	-570	-570	-570	Green	Reserve change done as part of 23/4 budget process

**REDDITCH BOROUGH COUNCIL**

**Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

Correction of Salary £1,925 amount	-200	-200	-200		Based on actual salary amounts
Additional Pensions Savings	-221	-221	-221		On track as per updated actuarial triennial report
<b>Tranche 2 Total</b>	<b>-991</b>	<b>-991</b>	<b>-991</b>		
<b>Total Departmental Savings</b>	<b>-2,550</b>	<b>-2,766</b>	<b>-3,138</b>		
<b>Government Funding</b>					
New Homes Bonus	-19	-28			One Year additional funding in 24/5 LGFS
Services Grant	-86	-14			Confirmed figure for 24/5
Funding Guarantee	-493	-672			Confirmed figure for 24/5 – combine with Funding Guarantee figure
New Grant		-103			This is a new Grant in Feb 2024
C Tax Base Reduction	130	130			Is a baseline adjustment of £130k in 24/5 MTFP
Business Rates/Investment Inc Rebaseline	-466	-250	-250		As per 24/5 MTFP, 25/6 is an estimate
Future Years Settlements - assumption			-450		This is an estimate as settlement was only for 2024/5.
<b>Total Government Funding</b>	<b>-934</b>	<b>-937</b>	<b>-700</b>		

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REDDITCH BOROUGH COUNCIL**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE –  
WORK PROGRAMME 2024-25**

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**28<sup>th</sup> May 2024**

## Standing items:

- Monitoring Officer's Report – Standards Regime
- Feckenham Parish Council Representative's report - Standards Regime (TBC)
- External Audit Update Report
- Internal Audit Plan 2024/25
- Financial Compliance Report including update on Statements of Accounts
- Quarterly Risk Update
- Annual Appointment of Risk Champion
- Committee Work Programme

## Additional Items:

- Annual Update Report on RIPA
- General Dispensations Report
- Financial Savings Monitoring Report
- 

**25<sup>th</sup> July 2024**

## Standing items:

- Feckenham Parish Council Representative's report - Standards Regime
- Risk Management Report / Corporate Risk Register
- External Audit Update Report
- Financial Compliance Report including update on Statements of Accounts
- Risk Champion Update
- Committee Work Programme

## Additional Items:

- Annual Review Letter of Local Government and Social Care Ombudsman
- Internal Audit Annual Report 2023-24

**26<sup>th</sup> September 2024**

## Standing items:

- Monitoring Officer's Report – Standards Regime
- Feckenham Parish Council Representative's report - Standards Regime

**REDDITCH BOROUGH COUNCIL****AUDIT, GOVERNANCE AND STANDARDS COMMITTEE –  
WORK PROGRAMME 2024-25**

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- External Audit Update Report
- Internal Audit Progress Update
- Financial Compliance Report including update on Statements of Accounts
- Annual Appointment of Risk Champion
- Committee Work Programme

## Additional Items:

- Financial Savings Monitoring Report

**28<sup>th</sup> November 2024**

## Standing items:

- Feckenham Parish Council Representative's report - Standards Regime
- Risk Management Report / Corporate Risk Register
- Internal Audit Update Report
- External Audit Update Report
- Financial Compliance Report including update on Statements of Accounts
- Risk Champion Update
- Committee Work Programme

## Additional Items:

**30<sup>th</sup> January 2025**

## Standing items:

- Monitoring Officer's Report – Standards Regime
- Feckenham Parish Council Representative's report - Standards Regime
- External Audit Update Report
- Internal Audit Progress Update
- Financial Compliance Report including update on Statements of Accounts
- Annual Appointment of Risk Champion
- Committee Work Programme

## Additional Items:

- Financial Savings Monitoring Report
- Capital Strategy 2025-26 including Treasury Management Strategy

**8<sup>th</sup> April 2025**

## Standing items:



REDDITCH BOROUGH COUNCIL**AUDIT, GOVERNANCE AND STANDARDS COMMITTEE –  
WORK PROGRAMME 2024-25**

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- Feckenham Parish Council Representative's report - Standards Regime
- Risk Management Report / Corporate Risk Register
- Internal Audit Update Report
- External Audit Update Report
- Financial Compliance Report including update on Statements of Accounts
- Risk Champion Update
- Committee Work Programme

Additional Items:

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**REDDITCH BOROUGH COUNCIL****Audit, Governance and Standards Committee 28<sup>th</sup> May 2024****Financial Compliance Report**

Relevant Portfolio Holder	To be confirmed
Portfolio Holder Consulted	-
Relevant Head of Service	Debra Goodall
Report Author	Job Title: Head of Finance & Customer Services Contact email: <a href="mailto:debra.goodall@bromsgroveandredditch.gov.uk">debra.goodall@bromsgroveandredditch.gov.uk</a> Contact Tel:
Wards Affected	All
Ward Councillor(s) consulted	No
Relevant Strategic Purpose(s)	All
Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	
This appendix to this report contains exempt information as defined by Paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972, as amended	

**1. RECOMMENDATIONS**

The Audit, Governance and Standards Committee **RECOMMEND** that:

- 1) **Progress on the 2020/21 Audit process be noted.**
- 2) **Any areas of concern within this key compliance report are raised with Executive.**

**2. BACKGROUND**

2.1 From a Governance point of view, the financial framework under which the Council works is set out in the Constitution. In addition to this there are legislative reporting requirements which set out what needs to be done and by when. The Accounting Policies report which was tabled at the Audit, Standards and Governance Committee on the 23<sup>rd</sup> March 2023 set out the Financial Governance Framework, and associated references to key documentation, that the Council, its Member and Officers work to. This are (in summary):

- **The Budget and Policy Framework Procedure Rules.** These set out: The framework for Executive Decisions, Decisions outside the budget or policy framework, Urgent Decisions outside of the Budget or Policy Framework, Virement rules, In-year changes to policy framework and, Call-in of decisions outside the budget or policy framework. These rules set out how decisions can be made, by whom and how they can be challenged.
- **Financial Procedure Rules** which are set out in Part 14 of the Constitution. These “operational policies” run to 36 pages and set out how the organisation financially runs its “day to day” business.

**REDDITCH BOROUGH COUNCIL****Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

- **Finance Protocols** which set out requirements and expectations of the Finance Team and Services in terms of financial administration and demarcation of duties.
- 2.2 One of the legislative reporting requirements the Council has not achieved is the delivery of the 2020/21 Statement of Accounts. As such, the Council was issued with a Section 24 Statement. Bromsgrove District Council (BDC) were also issued with a Section 24 Statement for the same non delivery of the 2020/21 accounts which is understandable given that officers support both Councils via a shared service.
- 2.3 As reported in previous Audit, Governance and Standards Committee meetings in January, March, May, July, September, November and January draft 2020/21 accounts will be presented to the Council's External Auditors once they have completed their work on the data take on balances. An update on this work is contained in this report.
- 2.4 The 2023/4 budget was approved at Council on the 27th February 2023. An update on the 2024/5 Medium Term Financial Plan process is contained in this report.

**Legislative Requirements**

- 2.5 The previous section sets out how the Council works, however equally important are the Central Government Legislative Requirements to which we deliver to and are compared to other Councils across the Council. This section lists those key deliverables.
- 2.6 The following are key legislative deliverables, which were circulated by the Government in December 2023 for the period December 2023, through the 2024/5 financial year. Delivery against these requirements will be set out in the final column of the table.

Form	Code	Description	Proposed Dispatch	Deadline	Proposed Publication	Position
Capital Payments & Receipts - Q3	CPR3	Cumulative capital expenditure and receipts for Q1, Q2 and Q3 2023-24	15-Dec-23	19-Jan-24	15-Feb-24	Delivered 26/1/24
Non-Domestic Rates Forecast	NNDR1	Billing authority forecasts of the amount of non-domestic rates to be collected in the 2024-25	15-Dec-23	31-Jan-24	21-Feb-24	Delivered 9/2/24 (Civica issue)
Council Tax & NDR Collection - Q3	QRC3	Quarterly return of how much council tax and non-domestic rates are collected in Q3 2023-24	15-Dec-23	12-Jan-24	14-Feb-24	Delivered 15/2/24 (Civica issue)
Quarterly Borrowing & Lending - Q3	QB3	Local authority borrowing and investments from all local authorities to the end of Q3 2023-24	15-Dec-23	08-Jan-24	15-Feb-24	Delivered 17/1/24
Quarterly Revenue Update - Quarters 3 & 4	QRU3	Quarter 1 to 3 2023-24 data and forecast end year local authority revenue expenditure update.	15-Dec-23	26-Jan-24	07-Mar-24	Delivered 19/2/24

**REDDITCH BOROUGH COUNCIL****Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

Council Tax Requirement/ Parish Council Tax	CTR1/2/3/4	Information on council tax levels set by local authorities in 2024-25 and Council tax levels for 2024-25 set by parishes.	02/02/2024 (tbc)	11-Mar-24	21-Mar-24	Delivered 26/2/24
of which: Parish council tax	-	-	-	11-Mar-24	08-May-24	Delivered 27/2/24
Revenue Account Budget	RA	Local authority revenue expenditure and financing for 2024-25 Budget	16-Feb-24	05-Apr-24	20-Jun-24	Draft delivered 8/4/24
Capital Estimates Return	CER	Capital forecast for 2024-25	23-Feb-24	22-Mar-24	13-Jun-24	Delivered 22/3/24
Non-Domestic Rates Outturn-unaudited	NNDR3	Collects information from all billing authority on the amount of non-domestic rates collected in 2023-24-provisional data	28-Mar-24	30-Apr-24	10-Jul-24	Draft delivered to Pool 14/4
Non-Domestic Rates Outturn-audited	NNDR3	Collects information from all billing authority on the amount of non-domestic rates collected in 2023-24-final data	n/a	30-Sep-24	15-Nov-24	
Quarterly Borrowing & Lending - Q4	QB4	Local authority borrowing and investments from all local authorities to the end of Q4 2023-24	22-Mar-24	05-Apr-24	13-Jun-24	Delivered 5/4/24
Capital payments & receipts Q4 and provisional outturn	CPR4	Cumulative capital expenditure and receipts for Q1, Q2, Q3, and Q4 2023-24. Expanded collection, used as provisional outturn.	22-Mar-24	19-Apr-24	13-Jun-24	Delivered 29/4/24
Council Tax & NDR Collection - Q4	QRC4	Annual data of levels of council tax and non-domestic rates collected by local authorities in 2023-24 and Q4 2023-24	12-Apr-24	03-May-24	19-Jun-24	Needed
Capital Outturn Return	COR	Final capital outturn figures for 2023-24	26-Apr-24	26-Jul-24	10-Oct-24	
Revenue Outturn suite - provisional	RO	Local authority revenue expenditure and financing for 2023-24 Outturn (provisional)	26-Apr-24	28-Jun-24	29-Aug-24	
Revenue Outturn suite - certified	RO	Local authority revenue expenditure and financing for 2023-24 Outturn (final)	n/a	11-Oct-24	12-Dec-24	
Exit payments	-	Local authority exit payments 2023-24	03-May-24	07-Jun-24	18-Jul-24	
Quarterly Borrowing & Lending - Q1	QB1	Local authority borrowing and investments from all local authorities to the end of Q1 2024-25	24-Jun-24	05-Jul-24	08-Aug-24	
Quarterly Revenue Update - Q1	QRU1	Q1 2024-25 data and forecast end year local authority revenue expenditure update	28-Jun-24	02-Aug-24	12-Sep-24	

**REDDITCH BOROUGH COUNCIL****Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

Capital Payments & Receipts - Q1	CPR1	Cumulative capital expenditure and receipts for Q1 2024-25	21-Jun-24	19-Jul-24	08-Aug-24	
Council Tax & NDR Collection - Q1	QRC1	Quarterly return of how much council tax and non-domestic rates are collected in Q1 2024-25	21-Jun-24	05-Jul-24	14-Aug-24	
Local Government Pension Funds	SF3	Collect information on income and expenditure on local government pension schemes for 2023-24	05-Jul-24	13-Sep-24	23-Oct-24	
Council Tax Base/ Supplementary	CTB	Information about the 2024 council tax base for each billing authority.	20-Sep-24	11-Oct-24	06-Nov-24	
Quarterly Borrowing & Lending - Q2	QB2	Local authority borrowing and investments from all local authorities to the end of Q2 2024-25	23-Sep-24	04-Oct-24	14-Nov-24	
Quarterly Revenue Update - Q2	QRU2	Quarter 1 & 2 2024-25 data and forecast end year local authority revenue expenditure update	20-Sep-24	25-Oct-24	05-Dec-24	
Capital Payments & Receipts - Q2	CPR2	Cumulative capital expenditure and receipts for Q1 and Q2 2024-25	20-Sep-24	20-Oct-24	14-Nov-24	
Council Tax & NDR Collection - Q2	QRC2	Quarterly return of how much council tax and non-domestic rates are collected in Q2 2024-25	20-Sep-24	04-Oct-24	20-Nov-24	
Capital Payments & Receipts - Q3	CPR3	Cumulative capital expenditure and receipts for Q1, Q2 and Q3 2024-25	13-Dec-24	17-Jan-25	13-Feb-25	
Non-Domestic Rates Forecast	NNDR1	Billing authority forecasts of the amount of non-domestic rates to be collected in the 2025-26	13-Dec-24	31-Jan-25	19-Feb-25	
Quarterly Revenue Update - Quarters 3 & 4	QRU3	Quarter 1 to 3 2024-25 data and forecast end year local authority revenue expenditure update.	13-Dec-24	24-Jan-25	06-Mar-25	
Quarterly Borrowing & Lending - Q3	QB3	Local authority borrowing and investments from all local authorities to the end of Q3 2024-25	13-Dec-24	06-Jan-25	13-Feb-25	
Council Tax & NDR Collection - Q3	QRC3	Quarterly return of how much council tax and non-domestic rates are collected in Q3 2024-25	13-Dec-24	10-Jan-25	12-Feb-25	
Council Tax Requirement/ Parish Council Tax	CTR1/2/3/4	Information on council tax levels set by local authorities in 2025-26. Council tax levels for 2025-26 set by parishes	Early Feb 2025	12-Mar-25	20-Mar-25	
of which: Parish council tax	-	-	Early Feb 2025	12-Mar-25	07-May-25	

**REDDITCH BOROUGH COUNCIL****Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

Revenue Account Budget	RA	Local authority revenue expenditure and financing for 2025-26 Budget	14-Feb-25	04-Apr-25	19-Jun-25	
Capital Estimates Return	CER	Capital forecast for 2025-26	21-Feb-25	21-Mar-25	12-Jun-25	
Monthly Borrowing & Lending	MB	Monthly sample used to provide an estimate of the level of net borrowing by local authorities to go into the ONS/HMT monthly publication Public Sector Finance Statistics	5 working days before 1st working day of the month	Day 5 of each month	for quarter months only, see QB1, QB2, QB3, QB4 dates	
Local Government Finance Statistics	LGFS33	Annual compilation of finance data collected from local authorities covering out-turn data for 2022-23	N/A	N/A	Spring 2024	

**Pooling of Housing Capital Receipts – 23/4 Delivered**

2.7 In wider sets of deliverables (outside the 2024/5 DLUHC Listing) we have the following returns that have been delivered:

- **Budget**
  - Delivered by 11<sup>th</sup> March in preceding financial year – **2024/5 Budget and MTFP delivered 26<sup>th</sup> Feb 2024**
  - Council Tax Base – Yearly – **2024/25 delivered in 9<sup>th</sup> January 2024**
  - Council Tax Resolution – **Yearly 2024/5 delivered in 26<sup>th</sup> February 2024**
  - Council Tax Billing – Yearly – **Bills distributed in March 2024**
- **Policies**
  - Treasury and Asset Management Strategies
    - **2024/5 Strategy Approved 26<sup>th</sup> Feb 2024**
    - Half Yearly Report **delivered in Q3 Monitoring Report 18 March 24**
    - Draft Outturn Report **delivered in September 23**
  - Council Tax Support Scheme – **24/5 Approved on 9<sup>th</sup> January 2024.**
  - Minimum Revenue Provision – yearly – **Approved as part of the 2024/5 MTFP.**
  - Financial Monitoring – **delivered quarterly to Executive – Q1 in October, Q2 in November 2023. Q3 In March 2024.**
  - Risk Management – **Delivered quarterly to this Committee (Q4 delivered today)**
  - Savings Report – **Delivered quarterly to this Committee (Q4 delivered today)**
  - Financial Controls (still in development)
    - Clearance of suspense accounts – See the chart at the end of this Report for progress.
    - Bank Reconciliation - **linked to above point although a separate stream assessing/clearing 2023/4 and prior year items.**
  - Over £500 spending.
    - **Updated to February 2024.**

The following deliverables, prior to December 2023 are still to be delivered:

REDDITCH BOROUGH COUNCILAudit, Governance and Standards Committee 28<sup>th</sup> May 2024

- **Closure**
  - Draft Accounts for 2020/21, 2021/22 and 2022/23.
  - 2020/21 Audit **see later section.**
- Government Returns
  - VAT – Monthly
    - **Still to be delivered for 20/21 – dependent on closure of accounts, discussions ongoing with HMRC.**
  - Revenue Outturn Reports – July
    - **Still to be delivered for 20/21 and 21/22 – dependent on closure of accounts**
  - Whole of Government Accounts Returns – August
    - **Still to be delivered for 20/21, 21/22 and 22/23 – dependent on closure of accounts**

2.8 The key returns that have still not been delivered are the Revenue and Capital Outturn forms for 2020/21 and 2021/22 and the VAT returns. Although the Government now allow these returns to be completed based on estimates, the level of uncertainty due to the Cash Receipting means these cannot be completed until the External Auditors sign off the Councils take on balances and the Council provides the draft accounts to Audit for each Council.

**Update on the Statement of Accounts**

2.9 The key Closure deliverables for each financial year are set out below:

- **Closure 2020/21**
  - Agreement of Treatment of Take on Balances – There is a report from the External Auditors Grant Thornton on the Opening Balances on today's agenda. Given the difference between eFin to the Opening Balances on TechOne is only £63k, which is just above the Council's trivial materiality level of £60k, **the view of the S151 Officer is that the 2020/21 Accounts can now be published as he has the necessary confidence in the underlying figures.** This has been done on the Website with the associated public access requirements.
  - **The draft 2020/21 Accounts are presented in Appendix A to this committee.**
- **Closure 2021/22**
  - Updated Outturn position – This will be provided as part of the wider Outturn Report that will be presented to Executive on the 9<sup>th</sup> July.
  - Draft 21/22 Accounts are now being prepared and a draft (without any 2020/21 Audit Adjustments) is expected in June. Once ready with will be published on the Council's Website with the appropriate disclaimers.
  - Audit and Sign-Off of the Accounts following Audit of 2020/21 Accounts dependent on the Governments proposed Statutory Closure deadlines.
- **Closure 2022/23**
  - Draft Provisional Outturn Report – Executive Report delivered in October 2023. Updated report will be delivered as part of the wider Outturn Report being presented to Executive on the 9<sup>th</sup> July.



**REDDITCH BOROUGH COUNCIL****Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

- Draft 22/23 Accounts (without any 2020/21 or 2021/22 Audit Adjustments) is expected in August. Once ready with will be published on the Council's Website with the appropriate disclaimers.
- Audit and Sign-Off of the Accounts following Audit of 2020/21 Accounts dependent on the Governments proposed Statutory Closure deadlines.
- **2023/4 Accounts**
  - "Nuts and bolts" closure being completed for the end of May 2024.
  - Accounts must be completed and Audited under the present updated rules by the 31<sup>st</sup> March 2025.
- **Closure Process being undertaken (high level view)**
  - The Council are closing 3 years in parallel and concurrently.
  - DG has updated the 21/2 and future years formats so easier to manipulate and complete.
  - IAS19 Pension Reports have been received and will be addressed on a concurrent basis.
  - Still awaiting valuations. All three years will be provided at the same time and will be combined into a single document.
  - NNDR/Council Tax (Collection Fund) – Journals awaiting actioning.
  - Reconciliations – significant team of 5 now working on these over all open financial years.
  - Bank Reconciliation – Banks have been reconciled although the correcting journals have not been actioned.
  - VAT working plan required in order to move from central assessment in Q2 2024/5.
  - Working in parallel with Rubicon to clear their existing Audit queries due to their Companies Act reporting requirements.
- Value for Money Opinions for 2021/22 and 2022/23. External Auditors delivered their joint Value for Money Opinions in November 2023:
  - S24 Recommendation still in place and extended for 2021/2 and 2022/3 Accounts.
  - 5 of the 6 2020/21 Key Recommendations either delivered or now linked to Improvement Recommendations.
  - 9 of 13 2020/21 Improvement Recommendations either fully or partially delivered.
  - One new Key Recommendation – linked to Workforce Strategy.
  - Ten updated Improvement Recommendations.

2.10 As reported in the July and September reports, DLUHC have stated that they are moving to rectify these backlogs by changing how audits are performed over the medium term. DLUHC are concerned that the most time should be spent on auditing more recent accounts, so scopes of audits will be reduced (still to be confirmed) however Auditors will still be expected to serve S114 and other Statutory Recommendations. The governments' view is that Audits will be given statutory deadlines for completion as follows:

- All accounts up to 2022/23 to be completed by the 30<sup>th</sup> September 2024.
- Year ended 31 March 2024: 31 May 2025.

**REDDITCH BOROUGH COUNCIL****Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

- Year ended 31 March 2025: 31 March 2026.
- Year ended 31 March 2026: 31 January 2027.
- Year ended 31 March 2027: 30 November 2027.
- Year ended 31 March 2028: 30 November 2028.

The Council replied to consultations from DLUHC and the NAO in early March. To date there has been **no update** on the process following the consultation period.

- 2.11 Bishop Fleming, our Auditors for 23/4 onwards, are still waiting for the formal outcomes of the various consultations (NAO, DLUHC and CIPFA) which took place earlier this year and therefore don't know exactly what this will mean for any audits which are likely to have disclaimed audits up to and including 2022/23. Their view is that it is better for them to pause issuing any audit plans for now. When they have the outcomes, they will be in a better position to set out what work they as auditors need to do on disclaimed audits. (They had hoped by this stage (May) they would have this information but clearly this has not been the case.)
- 2.12 The Council is now on the latest version of TechOne although because Redditch and Bromsgrove are still the only Council's on Cash Receipting, when the weekly updates come in they have to do additional checks to ensure the functionality is working as expected. The Council will now update to the latest version of TechOne every summer.

**Update on the Budget and ongoing Monitoring.**

- 2.13 The Council's 2024/25 Budget was approved on the 26<sup>th</sup> February 2024 at Council. Budgets will be loaded onto TechOne in March.
- 2.14 Quarter One 2023/4 financial and performance monitoring went to Executive in October and the Quarter Two Monitoring went to Executive in November. The financial monitoring for Quarter 2 was delivered for the first time directly from the TechOne system with budget managers data input onto it and not into spreadsheets. Quarter Three Monitoring was delivered to Executive in March.
- 2.15 To increase capacity, a number of the finance posts presently covered by Agency have been advertised internally and externally. Interviews for these posts took place on the 25<sup>th</sup> and 26<sup>th</sup> of January and 5 offers have been accepted.

**Compliance Items**

- 2.16 There are a number of areas where compliance will be measured going forwards. Compliance to process and timetable is a key underlying theme of the Draft External Audit Report 2020/21. These items are being measured to improve how we work and change behaviours. This will lead to an improved financial health/knowledge across both Councils. Not all these measures can be put in place instantly but there should be the full suite by

**REDDITCH BOROUGH COUNCIL****Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

the middle of the summer (Debt indicators depend on the clearing of suspense and the updating of the bank reconciliations).

**Training:**

- Closure Training took place in March with 83 attending.
- Mandatory Budget Manager Training (including the use of TechOne) took place in September 2023 – upskilling budget managers with the tools to input their forecasts directly onto TechOne.
- Mandatory Financial Awareness Training for managers took place in August and September.
- Payments Purchase Order Training takes place monthly.

**Treasury Management**

- The Half Yearly 2023/4 Treasury Management Report will be presented to Executive on the 18<sup>th</sup> March.

**Audit VFM Report Requirements (From the draft 2021/2 and 22/3 Reports)**

- More Budget Consultation.
- Wider savings monitoring will be undertaken by this Committee quarterly.
- Capital and its deliverability will be reviewed as part of the Budget Tranche 2.
- Benchmarking is now incorporated into the budget process (using LG Futures data).
- The Internal Audit Service will be externally assessed in early 2024.
- The Council will seek an independent Audit Committee member and ensure the Committee remains apolitical in nature.
- The whistleblowing policy will be updated before the end of the financial year.
- Procurement and contract rules will be updated by the end of the financial year (to reflect changes to legislation happening in April 2024).
- Performance Indicators will be reviewed and updated following Strategic Priority setting sessions.

The Council is still to run sessions to assess its “risk appetite.”

**Errors:**

- Non delivery of GPC Card Data (monthly basis) – still to be started.
- Miscoding on TechOne per month – by Service Area - will begin once the cash receipting suspense has been cleared.

**Procurement:**

- The new ‘No Compliance No Order’ process has been live since April 2023.
- The number of contracts in place is growing regularly. We hope that eventually we get to the place where the number of orders coming to procurement for approval as contracts are not in place are minimal.

**REDDITCH BOROUGH COUNCIL****Audit, Governance and Standards Committee 28<sup>th</sup> May 2024**

- Council in July approved an increase of the Key Decision Level from £50k to £200k. Finance and Performance Monitoring Reports now set out:
  - All contracts requiring renewal over the next year that are over the present £200k threshold and these are placed on the forward plan.
  - All contracts requiring renewal over the next year that are between £50k and £200k for reference.
  - All contracts that are being procured by Bromsgrove over this period that relate to Redditch Services.

**Towns Fund Programme:**

- The Council were one of 5% of those Council's receiving funding as part of the Towns Fund Programme that received a "Deep Dive" review of their Governance processes over August and September.
- The only areas requiring follow up were updating processes for Subsidy Control rules (as with was State Aid previously) and ensuring Board Members Register of Interest declarations were up to date.
- The Council received confirmation from DLUHC on the 11<sup>th</sup> October that after careful review of the evidence by the Assurance and Compliance Team they were pleased to confirm that the Lead Reviewer feels that all the key requirements have now been satisfactorily met.

2.17 Work is ongoing on the clearance of the Cash Receipting suspense accounts. As reported to this committee, the Council are working to have clear the backlog linked to the timetable set out in section 2.9 above. Present progress is set out in the table below. This progress will be updated verbally at the Committee meeting. Note, significant numbers of large items on values over £1,000 are treasury transactions which are undertaken manually.

Row Labels	Number of Items under £1,000	Value	Number of Items over £1,000	Value	Reconciled Items	Reconciled value	Total Items to Resolve	Total Value to Resolve
20/21 items	5,346	-150,197.64	102	-244,999.61	24,954	11,693,050.58	30,402	11,297,853.33
21/22 Items	27,207	214,783.54	261	4,723,679.65	6,814	-46,132,548.83	34,282	-41,194,085.64
22/23 Items	6,520	-82,541.29	550	140,124,905.14	18,693	-43,885,713.17	25,763	96,156,650.68
23/24 Items	10,501	86,782.18	594	-55,864,203.73	6,032	78,325,213.32	17,127	22,547,791.77
Grand Total	49,574	68,826.79	1,507	88,739,381.45	56,493	1.90	107,574	88,808,210.14

**Summary**

2.19 This report sets out the policies (local and national) that underpins the Council finances and the key deliverables. The 20/21 Accounts have now been submitted for Audit and the report sets out the Plan for the delivery of other years accounts. This report is now updated for data as at the end of April and is delivered to each Audit, Governance and Standards Committee at Redditch to update it on progress against targets and also alert them to any issues and risks.

**3. FINANCIAL IMPLICATIONS**

3.1 This paper sets out the financial frameworks within which the Council works.

**REDDITCH BOROUGH COUNCIL****Audit, Governance and Standards Committee 28<sup>th</sup> May 2024****4. LEGAL IMPLICATIONS**

- 4.1 There are no direct legal implications arising as a result of this report, however the frameworks are generally linked to statute or the Council's Constitution.

**5. STRATEGIC PURPOSES - IMPLICATIONS****Relevant Strategic Purpose**

- 5.1 The Strategic purposes are included in the Council's Corporate Plan and guides the Council's approach to budget making ensuring we focus on the issues and what are most important for the Borough and our communities. Our Financial monitoring and strategies are integrated within all our Strategic Purposes.

**Climate Change Implications**

- 5.2 There are no direct climate change implications arising as a result of this report.

**6. OTHER IMPLICATIONS****Equalities and Diversity Implications**

- 6.1 There are no direct equalities implications arising as a result of this report.

**Operational Implications**

- 6.2 Operational implications have been dealt with as part of the 2023/24 MTFP, quarterly monitoring and the Closedown process.

**7. RISK MANAGEMENT**

- 7.1 The financial stability and sustainability of the Council is a core underlying theme of the Council's Risk Management Strategy.

**8. BACKGROUND PAPERS**

Interim Auditors Annual Report on Redditch Borough Council 2021/22 & 2/22/23 – Audit Governance and Standards Committee November 2023, Council December 2023.

Section 24 Report to Audit and Council – November 2022.

Accounting Policies Report – March, June, July, September, November 2023 and January and March 2024 Audit, Governance and Standards Committee.

Finance Recovery Report – June 2023 and October 2023 – Executive Programme Management Office Requirements – July 2023 – Executive Approvals to Spend Report - July 2023 – Executive

**9. Appendices**

Appendix A – Statement of Accounts 2020/21

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