

## Policy and Resources Scrutiny Committee

Date: Thursday, 10th October, 2019 @ 18.30  
Place: Committee Room 1 - Civic Suite  
Contact: Fiona Abbott, Principal Democratic Services Officer  
Email: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)

### A G E N D A

\*\*\*\* **Part 1**

- 1 **Apologies for Absence**
- 2 **Declarations of Interest**
- 3 **Questions from Members of the Public**
- 4 **Minutes of the Meeting held on Thursday, 11th July, 2019 (Pages 1 - 14)**

\*\*\*\* **ITEMS CALLED IN / REFERRED DIRECT FROM CABINET - TUESDAY, 17th SEPTEMBER, 2019**

- 5 **Notice of Motion - HRA Lundy Close (Pages 15 - 16)**  
**Minute 323** (Cabinet Book 1, Agenda Item No. 14)  
Called in by Councillors Flewitt and McGlone
- 6 **Housing and Development Pipeline Update (Pages 17 - 26)**  
**Minute 324** (Cabinet Book 1, Agenda Item No. 15 refers)  
Called in by Councillors Cox and Davidson
- 7 **Selective Licensing of the Private Rented Sector (Pages 27 - 40)**  
**Minute 325** (Cabinet Book 1, Agenda Item No. 16)  
Called in by Councillors Cox and Davidson
- 8 **Southend 2050 Outcomes Success Measures Report - Quarter 1 2019/20 (Pages 41 - 58)**  
**Minute 333** (Cabinet Book 3, Agenda Item No. 24 refers)  
Called in to all three Scrutiny Committees by Councillors Cox and Davidson
- 9 **Corporate Budget Performance 2019/20 - Period 4 (Pages 59 - 94)**  
**Minute 334** (Cabinet Book 3, Agenda Item No. 25 refers)  
Called in by Councillors Cox and Davidson
- 10 **Treasury Management - Quarter One 2019/20 (Pages 95 - 110)**  
**Minute 335** (Cabinet Book 3, Agenda Item No. 26 refers)  
Called in by Councillors Cox and Davidson
- 11 **Control Environment Assurance (Pages 111 - 222)**  
**Minute 338** (Cabinet Book 4, Agenda Item No. 29 refers)  
Called in to Policy & Resources Scrutiny Committee only by Councillors Cox and Davidson

**ITEMS CALLED-IN FROM FORWARD PLAN**  
NONE

**PRE-CABINET SCRUTINY ITEMS**  
NONE

**\*\*\*\* OTHER SCRUTINY MATTERS**

- 12 In depth Scrutiny project - How the Council and Councillors communicate with local people and stakeholders (Pages 223 - 224)**

**\*\*\*\* Part 2**

**13 Exclusion of the Public**

To agree that, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the items of business set out below on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**\*\*\*\* ITEM CALLED IN FROM CABINET - TUESDAY, 17th SEPTEMBER, 2019**

- 14 Control Environment Assurance - Confidential Appendix (Pages 225 - 248)**  
**Minute 342** (Cabinet Agenda Item No. 33 refers)  
Called in by Councillors Cox and Davidson

**To The Chair & Members of Policy & Resources Scrutiny Committee:**

Councillor D Garston (Chair),  
Councillors D McGlone (Vice-Chair), B Ayling, D Burzotta, D Cowan, T Cox, P Collins,  
M Davidson, M Dent, S George, S Habermel, H McDonald, D Nelson, I Shead, M Stafford,  
S Wakefield and P Wexham

# Public Document Pack

## SOUTHEND-ON-SEA BOROUGH COUNCIL

### Meeting of Policy and Resources Scrutiny Committee

**Date: Thursday, 11th July, 2019**  
**Place: Committee Room 1 - Civic Suite**

# 4

**Present:** Councillor D Garston (Chair)  
Councillors D McGlone (Vice-Chair), B Ayling, K Buck\*, D Cowan,  
T Cox, P Collins, M Davidson, M Dent, S George, S Habermel,  
H McDonald, D Nelson, I Shead, M Stafford, S Wakefield and  
P Wexham  
\*Substitute in accordance with Council Procedure Rule 31.

**In Attendance:** Councillors I Gilbert, C Mulroney, K Robinson and R Woodley  
(Cabinet Members)  
Councillors L Burton and D Garne  
A Griffin, J K Williams, F Abbott, J Ruffle, J Chesterton, E Cooney,  
S Ford, T Holland, N O'Keeffe, T Breckels and M Sargood

**Start/End Time:** 6.30 p.m. - 9.20 p.m.

#### **180 Apologies for Absence**

Apologies for absence were received from Councillor D Burzotta (substitute Cllr K Buck).

#### **181 Declarations of Interest**

The following interests were declared at the meeting:-

- (a) Councillors Gilbert, Mulroney, Robinson and Woodley (Cabinet Members) – interest in the referred items; attended pursuant to the dispensation agreed at Council on 19th July 2012, under S.33 of the Localism Act 2011;
- (b) Councillor Gilbert – agenda items relating to - Town Centre Scrutiny Report; Southend Town Centre & Seafront Public Spaces Protection Order – non-pecuniary – place of work is within the boundary of the PSPO;
- (c) A Griffin – agenda item relating to Southend Town Centre & Seafront Public Spaces Protection Order – non-pecuniary – lives within the boundary of the PSPO;
- (d) Councillor McDonald – agenda item relating to Southend Town Centre & Seafront Public Spaces Protection Order – non-pecuniary – place of work is within the boundary of the PSPO;
- (e) Councillor Dent - agenda item relating to Southend Town Centre & Seafront Public Spaces Protection Order – non-pecuniary – lives near to the proposed PSPO area;
- (f) Councillor Wakefield - agenda item relating to Southend Town Centre & Seafront Public Spaces Protection Order – non-pecuniary – has business in the proposed PSPO area;
- (g) Councillor Dent – agenda item relating to Capital Outturn – non-pecuniary – lives opposite a property mentioned in report;

- (h) Councillor Davidson – agenda items relating to – Cabinet Working Parties; Housing Update; Risk Register; Debt Management - Non-Executive Director South Essex Homes;
- (i) Councillor Wexham - agenda items relating to – Cabinet Working Parties; Housing Update; Risk Register; Debt Management - Non-Executive Director South Essex Homes;
- (j) Councillor Mulroney - agenda item relating to Capital Outturn – non-pecuniary – member of Leigh Town Council;
- (k) Councillor Ayling – agenda item relating to Recruitment of Special Constables – non-pecuniary – son is a Special Constable.

**182 Questions from Members of the Public**

The responses to the questions submitted by Mr Webb to the Cabinet Member for Community Safety and Customer Contact will be forwarded to him as he was not present at the meeting.

**183 Minutes of the Meeting held on Wednesday, 10th April, 2019**

Resolved:

That the Minutes of the Meeting held on Wednesday, 10<sup>th</sup> April, 2019, be confirmed as a correct record and signed.

**184 Revised Southend 2050 - Five Year Road Map**

The Committee considered Minute 71 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to all three Scrutiny Committees together with a report of the Chief Executive setting out the content of the revised Southend 2050 Five Year Road Map timeline, following the formation of the Joint Administration at Council on 3 June 2019.

Resolved:

That the following recommendation of Cabinet be noted:

“That the revised Southend 2050 Road Map time-line as set out in Appendix 1 to the submitted report be agreed, reflecting the policy objectives of the new Joint Administration.”

Note: This is a Council Function  
Cabinet Member: Cllr Gilbert

**185 Reimagining the Town Centre in the Context of 2050**

The Committee considered Minute 73 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to Scrutiny together with a report of the Deputy Chief Executive (Place). This presented the recommendations of the 2018/19 scrutiny project ‘*Reimagining the Town Centre in the context of 2050*’.

Resolved:

That the following decisions of Cabinet be noted:

“1. That the report and conclusions from the in depth scrutiny project set out at Appendix 1 to the submitted report, be endorsed.

2. That a multi-organisation task and finish group be established in line with the principles set out in paragraphs 3.11-3.14 of the report and that the Director of Regeneration and Business Development be authorised, in consultation with the Cabinet Member for Business, Tourism and Culture, to agree membership of the group.”

Note: This is an Executive Function  
Cabinet Member: Cllr Robinson

## **186 Cabinet Working Parties**

The Committee considered Minute 74 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to Scrutiny together with a report of the Chief Executive, which outlined a revised configuration and composition of Cabinet working parties to help drive the Southend 2050 programme.

A revised Appendix 2, showing the proposed Terms of Reference of the Cabinet Working Parties had been circulated at the Cabinet meeting.

With reference to the revised Appendix 2, some questions were asked about the proposed Terms of Reference of the Environment & Planning Working Party in terms of considering major planning applications with conservation implications (3.1.3 (e) refers). The Cabinet Member for Environment and Planning said that although this wording did replicate the terms of reference of the existing Conservation Working Party, there was merit in the Working party considering such applications whether referred by officers or Development Control Committee.

Resolved:

That the following recommendations of Cabinet be noted:

“1. That the configuration of Cabinet working parties be revised as set out in paragraph 3.10 of the submitted report and the revised Appendix 2.

2. That a vice-chair for each Cabinet Working Party is appointed by the Leader.

3. That the terms of reference for the working parties are reviewed in due course, as appropriate.”

Note: This is a Council Function  
Cabinet Member: Cllr Gilbert

## 187 Housing Update

The Committee considered Minute 76 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to Scrutiny together with a report of the Deputy Chief Executive (People) which provided an update on two key elements of the Housing, Homelessness and Rough Sleeping Strategy, namely housing supply and a proposed Acquisitions Programme for Council Housing.

Resolved:

That the following decisions of Cabinet be noted:

1. That the work to develop a regeneration framework and pipeline of housing and regeneration projects, including the potential to establish a revolving investment fund to deliver the pipeline, with a report coming forward to Cabinet in September 2019, be agreed.
2. That the process for responding to third party approaches is agreed for implementation.
3. To proceed with the Acquisitions Programme for Council Housing as agreed in the Council's Housing, Homelessness & Rough Sleeping Strategy.
4. That a capital budget of £4.3M be created within the Housing Revenue Account (HRA) capital programme for 2019/20 to facilitate the Acquisitions Programme, funded 30% from retained Right to Buy Capital receipts and 70% from HRA Capital Investment Reserve."

Resolved:

That the following recommendation of Cabinet be noted:

5. That the delegated authority to the S151 Officer for property acquisitions and disposals for the sign off of the property acquisitions in Part 3, Schedule 3, Section 4 of the Constitution be amended to increase the value from £250,000 to £500,000."

Note: The decisions in 1-4 above constitute an Executive Function. The decision in 5 above constitutes a Council Function.

Cabinet Member: Cllr Gilbert

## 188 Housing Allocation Policy Review

The Committee considered Minute 78 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to Scrutiny together with a report of the Deputy Chief Executive (People) on the Council's Social Housing Allocations Policy review and proposed policy positions.

In response to questions concerning the changes to the 'local connection' criteria - people living out of borough but working in the town - the Leader said that he would provide statistics on the numbers of people who are on the current register who would be impacted the changes.

Resolved:

That the following decisions of Cabinet be noted:

“1. That a consultation upon the proposed policy changes, be approved.

2. That, following consultation, any minor changes to the draft policy be made under delegated authority by the Deputy Chief Executive (People), and the Director for Housing in consultation with the portfolio holder for housing, but that any major proposed changes be returned to Cabinet for decision.”

Note: This is an Executive Function  
Cabinet Member: Cllr Gilbert

#### **189 Recruitment of Special Constables**

The Committee considered Minute 83 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to Scrutiny together with a report of the Deputy Chief Executive (Place) on the process to be undertaken to recruit 34 Special Constables to provide additional support and visibility across all Wards in Southend.

Resolved:

That the following decisions of Cabinet be noted:

“1. That the process to be undertaken for the recruitment of Special Constables for Southend, be noted.

2. That officers continue to liaise with Essex Police to develop a suitable model of recruitment of Special Constables for Southend.”

Note: This is an Executive Function  
Cabinet Member: Cllr Terry

#### **190 Notice of Motion - Traveller incursions in the Borough - Recommendations from Council 13th June 2019**

The Committee considered Minute 85 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to Scrutiny. This concerned the Notice of Motion on traveller incursions in the Borough, considered at the extraordinary Council meeting held on 13<sup>th</sup> June 2019. The Council resolved to recommend to Cabinet that proposals 1 – 3 of the Motion be adopted, but that proposal 4 in relation to a Borough wide injunction not be pursued (Minute 25 refers).

The Leader stated that although the legal advice was that the evidence base did not provide grounds for seeking a Borough-wide injunction, he would nevertheless ask officers to undertake a high-level review of recent incursions. Any useful information collected would be recorded. While such information would not provide the comprehensive information required as the basis for a Borough-wide injunction, it could form part of the general evidence base – and going forward comprehensive information would be systematically gathered as per Cabinet Resolution 4.

Resolved:

1. That the following decisions of Cabinet be noted:

- “1. That the Council will take a proactive approach and take any additional measures that are required to secure our public open spaces in the Borough by working closely with the business community, councillors and local residents on cost effective, practical and innovative solutions that help prevent illegal encampments whilst maintaining access for residents where possible.
  2. That the Council will continue to adopt a strong stance in order to permanently prevent travellers from illegally occupying public spaces in the future.
  3. That the Council will take measures to improve communication with local residents when unauthorised encampments do occur, to ensure clear and regular communications that Councillors distribute to residents where such issues have arisen in their wards.
  4. That the Council will not pursue an injunction at the present time as the evidence to support such proceedings is insufficient. However, going forward evidence will be systematically gathered in respect of illegal traveller encampments on Council land and the harm caused. Such evidence could then be used to support an application for a borough-wide injunction if such proceedings can be justified.”
2. That in accordance with Council Procedure Rule 39, the matter be referred to full Council.

Note: This is an Executive Function  
Cabinet Member: Cllr Terry

#### **191 Year End Performance Report 2018/19**

The Committee considered Minute 86 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to all three Scrutiny Committees together with a report of the Strategic Director (Transformation) that outlined the end of year position of the Council’s corporate performance for 2018/19.

Resolved:

That the following decision of Cabinet be noted:

“That the 2018/19 end of year position and accompanying analysis, be noted.”

Note: This is an Executive Function  
Cabinet Member: Councillor Gilbert

#### **192 Southend 2050 Corporate Performance Framework for 2019/20 Onwards**

The Committee considered Minute 87 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to all three Scrutiny Committees together with a report of the Strategic Director (Transformation) which outlined the new Southend 2050 Corporate Performance Framework for 2019/20 onwards.



Resolved:

That the following decision of Cabinet be noted:

“That the proposed Corporate Performance Framework for 2019/20 onwards, as set out in appendix 1 to the submitted report, be adopted.”

Note: This is an Executive Function  
Cabinet Member: Cllr Gilbert

### **193 Corporate Risk Register**

The Committee considered Minute 88 of Cabinet held on 25<sup>th</sup> June 2019, which had referred direct by Cabinet to all three Scrutiny Committees together with a report of the Strategic Director (Finance and Resources). This set out the 2018/19 Corporate Risk Register year end update together with the proposed approach to refreshing the Corporate Risk Framework.

Resolved:

That the following decisions of Cabinet be noted:

“1. That the 2018/19 Corporate Risk Register and the year end updates, set out in appendix 2 to the submitted report, be noted.  
2. That the proposed approach to refreshing the Corporate Risk Management Framework, be endorsed.”

Note: This is an Executive Function  
Cabinet Member: Cllr Woodley

### **194 Revenue Outturn Report 2018/19**

The Committee considered Minute 89 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to Scrutiny together with a report of the Strategic Director (Finance and Resources) on the revenue outturn for 2018/19 and the implications of the outturn for the opening budgetary position for 2019/20 budget and beyond.

Resolved:

That the following recommendations of Cabinet be noted:

“1. That the in-year surpluses of £1.836M for the General Fund and £1.510M for the HRA for 2018/19, be noted.  
2. That the appropriation of revenue funds to and from earmarked reserves, as set out in paragraph 4.6 (General Fund) and paragraph 5.4 (HRA), of the submitted report, be approved.  
3. That the initial budgetary position for 2019/20 and beyond, indicated by the 2018/19 outturn, be noted.”

Note: This is a Council Function  
Cabinet Member: Cllr Gilbert

## 195 Capital Outturn Report 2018/19

The Committee considered Minute 90 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to all three Scrutiny Committees together with a report of the Strategic Director (Finance and Resources). This concerned the capital investment programme outturn for 2018/19, which sought approval of the relevant budget carry forwards and accelerated delivery requests and in year amendments for the current approved programme.

Resolved:

That the following recommendations of Cabinet be noted:

“1. That the expenditure on the capital programme for 2018/19 totalling £50.899m against a revised budget of £52.648m, a delivery of 96.7%, be noted.

2. That the relevant budget carry forwards and accelerated delivery requests totalling a net £3.059m moving into 2019/20, as set out in Appendices 1 and 2 to the submitted report, be approved.

3. That the virements, reprofiles and amendments and new external funding for schemes, as detailed in Appendices 3, 4 and 5 to the report, be noted.

4. That in respect of the A127 Kent Elms Junction Improvements project:

- (i) That it be noted that the delays to the project have led to an overspend against the scheme budget of £2.446m with £1.075m of this incurred in 2018/19.
- (ii) That a further budget of £1.371m be added to the capital investment programme to deliver the scheme over the following years, 2019/20 £1.331m and 2020/21 £0.040m, to be financed by borrowing.

5. That in respect of the Priory, Delaware and Viking new build project:

- (i) That the updated financial business case position, be noted.
- (ii) That this project be moved from the ‘Schemes subject to viable business cases’ section into the main capital investment programme.
- (iii) That the procurement exercise undertaken which has resulted in an additional budget requirement, be noted.
- (iv) That a further budget of £1.519m is added to the capital investment programme in 2020/21 to be financed by borrowing, to enable the scheme to be delivered.

6. That a budget of £4.3m to be added to the Housing Revenue Account (HRA) capital investment programme in 2019/20 to facilitate the HRA Affordable Housing Acquisitions Programme, funded 30% from retained Right to Buy capital receipts and 70% from the HRA Capital Investment Reserve, be approved.

7. That a budget of £0.250m be added to the capital investment programme, £0.125m in 2019/20 and £0.125m in 2020/21, to undertake a two year programme of street lighting infill, to be financed by borrowing.

8. That the relevant changes to the budget identified since the approved capital investment programme was set at Council on 21 February 2019, as detailed in Appendix 6 to the report, be approved.

9. That it be noted that the above changes will result in an amended Capital Investment Programme of £233.166m for the period 2019/20 to 2023/24, as detailed in Appendix 7 to the report.

10. That the schemes subject to viable business cases for the period 2019/20 to 2021/22 totalling £37m be noted.

11. That the content of the Community Infrastructure Levy (CIL) Annual Financial Report 2018/19 be noted and that the CIL Main Fund receipts from 2018/19 and previous financial years be carried forward until spending plans are reviewed in early 2020/21.

12. That authority be delegated to the Director for Planning and Transport (in consultation with Ward Members and the Executive Councillor for Environment and Planning) to agree how the Ward Neighbourhood Allocations received up until 31st March 2019 (excluding allocation to Leigh Town Council) are to be spent.”

Note: This is a Council Function  
Cabinet Member: Cllr Woodley

#### **196 Council Debt Position to 31 March 2019**

The Committee considered Minute 91 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to Scrutiny together with a report of the Strategic Director (Finance and Resources). This outlined the current position of outstanding debt to the Council, as at 31<sup>st</sup> March 2019; and the debts that have been written off, or are recommended for write off, in the current financial year as at 31<sup>st</sup> March 2019;

The report also sought approval to write off irrecoverable debts that are over £25,000 as set out in Appendix B to the submitted report.

Resolved:

That the following decisions of Cabinet be noted:

“1. That the current outstanding debt position as at 31<sup>st</sup> March 2019 and the position of debts written off to 31<sup>st</sup> March 2019 as set out in Appendices A & B to the report, be noted.

2. That the write offs greater than £25,000, be approved.”

Note: This is an Executive Function  
Cabinet Member: Cllr Gilbert

## 197 Treasury Management Report 2018/19

The Committee considered Minute 92 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to Scrutiny together with a report of the Strategic Director (Finance and Resources). This presented the Annual Treasury Management Report covering the treasury activity for the period from April 2018 to March 2019.

Resolved:

That the following recommendations of Cabinet be noted:

“1. That the Annual Treasury Management Report for 2018/19 and the outturn Prudential Indicators for 2018/19, be approved.

2. That it be noted that the financing of 2018/19 capital expenditure of £50.899m has been funded in accordance with the schedule set out in Table 1 of section 4 in the submitted report.

3. That it be noted that the Capital Financing and Treasury Management were carried out in accordance with statutory requirements, good practice and in compliance with the CIPFA (The Chartered Institute of Public Finance and Accountancy) Prudential Code during 2018/19.

4. That the revised Operational Boundary of £350m and revised Authorised Limit of £360m for 2019/20 as set out in Section 5 of the submitted report, be approved.

5. That the following be noted in respect of the return on investment and borrowing:

- (i) The loan and investment portfolios were actively managed to minimise cost and maximise interest earned, whilst maintaining a low level of risk.
- (ii) £1.588m of interest and income distributions were received during 2018/19. The total investment income (including the movement on the unit price of externally managed funds) was £2.043m, giving a combined return of 2.93%. This is 2.42% over the average 7 day LIBID rate (London Interbank Bid Rate) and 2.26% over the average bank base rate.
- (iii) The level of borrowing from the Public Works Loan Board (PWLb) (excluding debt relating to services transferred from Essex County Council on 1<sup>st</sup> April 1998) increased from £227.8m to £267.8m (Housing Revenue Account (HRA): £77.0m, General Fund (GF): £190.8m) by the end of 2018/19.
- (iv) The level of financing for ‘invest to save’ schemes decreased from £8.74m to £8.73m by the end of 2018/19.”

Note: This is a Council Function  
Cabinet Member: Cllr Woodley

## 198 Council Procedure Rule 46

The Committee considered Minute 93 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to Scrutiny, concerning action taken under Standing Order 46.

Resolved:

That the following decision of Cabinet be noted:

“That the submitted report be noted”.

Note: This is an Executive Function  
Cabinet Member: as appropriate to the item

**199 Southend Town Centre and Seafront Public Spaces Protection Order**

The Committee considered Minute 133 of the special Cabinet held on 8<sup>th</sup> July 2019, which had been referred direct by Cabinet to Scrutiny together with a report of the Strategic Director (Legal and Democratic Services) requesting that consideration be given to whether the Council should proceed with the making of a Public Spaces Protection Order (PSPO) under Section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014, taking into consideration the results of the statutory consultation and further evidence.

A revised Draft Order and an amended plan showing the exact location of the proposed restricted area had been circulated at the Cabinet meeting.

Resolved:

That the following decisions of Cabinet be noted:

“1. That the Council makes a Public Spaces Protection Order (PSPO) over the areas identified in the submitted report and in the form annexed at Appendix 3 (as amended).

2. That the existing Designated Public Place Order (DPPO) from 2002 ceases to be enforced following implementation of the new PSPO.”

Note: This is an Executive Function  
Cabinet Member: Councillor Terry

**200 Reconfiguration of Corporate Management**

The Committee considered Minute 134 of the special Cabinet held on 8<sup>th</sup> July 2019, which had been referred direct by Cabinet to Scrutiny together with a report of the Chief Executive. This set out proposals for a reconfigured corporate management structure.

Resolved:

That the following recommendations of Cabinet be noted:

“1. That the reconfigured corporate management structure to spearhead the cultural transformation and increase capacity to deliver Southend 2050 outcomes, as set out in sections 3.6 – 3.14 of the submitted report, be approved.

2. That the new reporting lines for third tier officers, as set out in the report, be approved.
3. That consultation be undertaken with the officers affected in line with employment law and the Council's HR policies.
4. That the arrangements for individual officers as detailed in the confidential part 2 Appendix 3 to the report, be approved.
5. That external recruitment be arranged for the vacant Executive Director posts.
6. That as part of the Council's commitment to developing its own talent, the vacant Director posts be advertised on an internal basis initially, and only if posts remain unfilled would the Council go to market.
7. That the Chief Executive, in consultation with the Leader, be authorised to make further adjustments to the corporate management structure, following the consultation process."

Note: This is a Council Function  
Cabinet Member: Cllr Gilbert

## **201 In depth Scrutiny Projects and Summary of Work**

The Committee considered a report by the Strategic Director (Legal & Democratic Services) concerning the possible in depth scrutiny project to be undertaken by the Scrutiny Committee in 2019/20. The report also attached some information about the work carried out by the Committee in the 2018/19 Municipal year.

Resolved:

1. The in depth project for 2019/20 will be – "How the Council and Councillors communicate with local people and stakeholders".
2. To note that the following Councillors have been appointed to the Project Team which will manage the in depth project – Councillors M Davidson, S Habermel, C Walker, M Dent, H McDonald, B Ayling, I Shead and P Collins.
3. That the information attached at Appendix 3 to the report, the summary of work of the three Scrutiny Committees during 2018/19, be noted.

Note: This is a Scrutiny Function.

## **202 Statutory Scrutiny Guidance**

The Committee considered a report by the Strategic Director (Legal & Democratic Services) which advised about the publication of the Statutory Scrutiny Guidance on 7<sup>th</sup> May 2019 ('the 2019 Guidance'). The 2019 Guidance was produced following a commitment that Government made in early 2018 following on from the Communities & Local Government Select Committees' inquiry into overview and scrutiny and supersedes guidance published in 2006.

The 2019 Guidance, a copy of which was attached at Appendix 1 to the report, does not require the Council to change any of its scrutiny arrangements but does provide the opportunity to enhance the scrutiny processes. Section 4.5 of the report

set out some areas to be explored further – namely around greater use of local experts, developing an Executive / Scrutiny Protocol and encouraging great use of ‘information bulletin’s / briefings’ to reduce pressure of items on Committee agendas.

Resolved:

That the approach, set out in paragraph 4.5 of the report, be agreed.

Note: This is a Scrutiny Function.

**203 Minutes of the Meeting of Chair's Scrutiny Forum held on, Tuesday, 18th June, 2019**

Resolved:

That the Minutes of the meeting on the Chair’s Scrutiny Forum held on Tuesday, 18th June, 2019 be received and noted.

Note: This is a Scrutiny Function.

**204 Exclusion of the Public**

Resolved:

That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the item of business set out below, on the grounds that it would involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**205 Standing Order 46 - Confidential Sheet**

The Committee considered Minute 95 of Cabinet held on 25<sup>th</sup> June 2019, which had been referred direct by Cabinet to Scrutiny, concerning action taken under Standing Order 46 – Confidential sheet.

Resolved:

That the following decision of Cabinet be noted:

“That the submitted report be noted”.

Note: This is an Executive Function  
Cabinet Member: Cllr Gilbert

**206 Reconfiguration of Corporate Management**

The Committee considered Minute 136 of Cabinet held on 8<sup>th</sup> July 2019, which had been referred direct by Cabinet to Scrutiny together with a confidential appendix to the report of the Chief Executive.

Resolved:

That the following recommendation of Cabinet be noted:

“That the confidential appendix, be endorsed.”

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Note: This is a Council Function  
Cabinet Member: Cllr Gilbert

**Chair:** \_\_\_\_\_



**To Full Council: 18<sup>th</sup> July 2019**

**Notice of Motion**

**5**

**HRA Housing – Lundy Close**

**This Council resolves to:**

"abandon the HRA Housing build intention as being entirely unsuited to the Lundy Close (Off Western Approaches) site and although supporting affordable housing entirely, notes that the Lundy Close residents have presented a coherent and logical case as to why this build should not happen".

**Proposed**      Cllr Flewitt  
**By:**            Cllr McGlone

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# Southend-on-Sea Borough Council

Report of Executive Director (Finance and Resources)  
and Deputy Chief Executive (People)

To

Cabinet

On

17 September 2019

Agenda  
Item No.

6

Report prepared by:

Glyn Halksworth – Interim Director of Housing  
Alan Richards – Head of Corporate Property & Asset  
Management

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## Housing and Development Pipeline Update

**Relevant Scrutiny Committee(s): Policy and Resources Scrutiny Committee**  
**Cabinet Members: Councillor Ian Gilbert and Councillor Ron Woodley**

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### Part 1 (Public Agenda Item)

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#### 1. Purpose of Report

- 1.1 To update members on the work underway looking at the pipeline of housing and development opportunities across the Borough and to present recommendations setting out the proposed way forward.

#### 2. Recommendations

- 2.1 To note the progress of the first phase of housing and development pipeline sites currently in delivery as set out in Section 3.11.
- 2.2 To note progress on the Acquisitions Programme for Council Housing as set out in Section 3.3.
- 2.3 To note the work undertaken to date on the development land pipeline as set out in Section 3.5 and allocate £645,000 from existing capital reserves held within the General Fund and Housing Revenue Account as appropriate, in the first phase to enable the necessary initial site feasibility, due diligence, survey and high level design work to be commissioned to demonstrate viability (or otherwise) and enable a more detailed assessment of the number of units which could be delivered across the sites and, in relation to those suitable for joint venture opportunities, to establish appropriate objectives and bundling of sites. Following detailed feasibility, those sites which are proved to be viable will be presented to Cabinet for agreement on the preferred way forward for development in due course.
- 2.4 To agree that PSP Southend LLP be invited to undertake the next stage of feasibility (to e2) for sites which the pipeline assessment work has indicated

would be suitable for PSP delivery and for the Council to commission valuations for these sites to establish the baseline values. At this stage PSP will work at their risk. Once these sites have been assessed in detail by PSP Southend LLP, recommendations will be made to Cabinet for the sites to be opted in to the LLP for delivery or for alternative approaches to be considered.

- 2.5 To agree for negotiations to progress to update and re-brand PSP Southend LLP as set out in 3.21. In particular so that the board and reporting structure can be aligned with other Council LLPs and companies, reporting in to the Shareholder Board and to delegate the agreement of the detailed arrangements to the Strategic Directors (Finance and Resources and Legal and Democratic Services) in consultation with the Leader of the Council.
- 2.6 To note the proposed amendments to the Ilfracombe Avenue site, specifically that the Library will not be located within the proposed housing development which is proposed to provide a housing-for-rent scheme which will include a planning policy level of affordable housing for rent (capped at Local Housing Allowance levels). Income from the development will be used to finance the capital borrowing required to complete the necessary condition works at the existing Southchurch Library.
- 2.7 To agree the principle that the Council is minded to enter into an income strip lease transaction in relation to the proposed residential development at Roots Hall subject to subject to the completion of the relevant due diligence and to ensuring the long-term financial sustainability for the Council. To note that if a suitable transaction can be agreed, the terms of that transaction will be put to Cabinet for consideration.

### **3. Background**

- 3.1 Cabinet agreed a report on 25 June 2019 and made the following resolutions: (minute 76 refers)
  - **Resolution 1.** That the work to develop a regeneration framework and pipeline of housing and regeneration projects, including the potential to establish a revolving investment fund to deliver the pipeline, with a report coming forward to Cabinet in September 2019, be agreed.
  - **Resolution 2.** That the process for responding to third party approaches is agreed for implementation.
  - **Resolution 3.** To proceed with the Acquisitions Programme for Council Housing as agreed in the Council's Housing, Homelessness & Rough Sleeping Strategy.
  - **Resolution 4.** That a capital budget of £4.3M be created within the Housing Revenue Account (HRA) capital programme for 2019/20 to facilitate the Acquisitions Programme, funded 30% from retained Right to Buy Capital receipts and 70% from HRA Capital Investment Reserve.

3.2 This report updates on the work undertaken subsequently and on the next phases of work which will be required to support the Council's ambitious housing and land development programme.

### Acquisitions Programme Update

3.3 In terms of progress in relation to the Acquisitions Programme and the associated £6.3m budget, officers have agreed the methodology and process for dealing with these acquisitions. Presently 13 properties are under offer and with solicitors and a further 3 have completed at the time of writing.

3.4 The table below sets out the properties currently under offer (not identifiable here as they are all subject to contract), the total acquisition cost and total anticipated spend.

Bedrooms	Type	Purchase price, works and Stamp Duty cost (£000 (rounded nearest £1k))
4	semi-detached	£ 353
3	semi-detached	£ 275
1	flat	£ 142
3	terraced house	£ 252
3	end of terrace house	£ 285
3	semi-detached	£ 267
2	end of terrace house	£ 255
3	semi-detached	£ 258
3	semi-detached	£ 273
3	terraced house	£ 253
3	semi-detached	£ 280
2	bungalow	£ 274
2	flat	£ 196
2	flat	£ 192
3	semi-detached	£ 336
2	semi-detached	£ 250
	<b>Total</b>	<b>£ 4.14m</b>

### Regeneration Framework and Development Pipeline

3.5 In relation to the first recommendation, 31ten Consulting (31ten) have been engaged to bring some independent advice and rigour to the process of analysing individual sites, their development potential and how they can most beneficially fit in to a comprehensive development pipeline within which capital receipts can be recycled to improve the sustainability of the overall programme. This includes sites for housing, wider regeneration and a range of other land uses.

- 3.6 31ten have also been commissioned to support the Council with the delivery of an overarching Regeneration Framework for the Borough to provide a spatial representation of Southend 2050 and set local action on sites with development potential within a regional and sub-regional context.
- 3.7 A single list of sites and opportunities have been identified to form the pipeline, including Council owned and private sites. A series of regular workshops and sessions have been held with a wide cohort of officers from Assets, Strategic Planning, Housing, Development Control, Regeneration and Finance to advance this work. During these sessions the methodology and tools have been devised to enable the site analysis work to be undertaken.
- 3.8 A site appraisal tool has been trialled and refined to record key information and build a knowledge base of individual sites. As well as capturing the development potential of individual sites, the site appraisal process has been designed to determine which development opportunities are best delivered through which development vehicle ranging from Council led delivery either internally, or through its wholly owned company to joint venture partnerships with the private sector. This work has identified an emerging timeline for the development of sites and provided a detailed pipeline programme which is currently being reviewed.
- 3.9 The next stage of the pipeline work is to undertake further due diligence through the commissioning of survey, feasibility, and high-level design work to demonstrate viability of both individual sites, and bundles of sites, in order to enable a more detailed assessment of the number of units which could be delivered across the sites and the appropriate delivery vehicle to be used.
- 3.10 At this stage, the pipeline will also be reviewed against the emerging Regeneration Framework to ensure that development opportunities are aligned to deliver wider outcomes. Once this due diligence work is completed it is intended that those sites which are proved to be viable will be presented to Cabinet for agreement on the preferred way forward for development in due course. It is estimated that this due diligence work requires a budget of £645,000 of funding as referenced in recommendation 2.3.
- 3.11 A number of sites within the Pipeline are currently underway and this section sets out those sites which are approved to proceed and which are now in the delivery phase.

Site	Number of Units	Delivery Vehicle	Progress comment	Estimated completion
Friars, Constable Way	Nursery plus 9 houses	PSP Southend LLP	Nursery completed. Housing due to start on site during September.	Q4 2020
Ilfracombe Avenue Car Park	24 flats	PSP Southend LLP	Subject to agreement of recommendation 2.6 of this report, a detailed proposal is ready to be signed off by the LLP Partnership Board to enable a planning application to be worked up for	Q4 2021

			submission.	
Modern Methods of Construction (MMC) Pilot Project	4-5 Units	Strategic Housing	Employers Agent (EA) & Architect have been appointed. Site investigation has been carried out. Outline planning permission anticipated by end of the year.	2021/22 Q1
HRA Phase 3	25 Units	Strategic Housing	Site investigation has been carried out. EA to be appointed by September 2019.	2021/22 Q3
HRA Phase 4	20-31 Units	Strategic Housing	Site investigation has been carried out. EA to be appointed by September 2019.	21/22 Q4
HRA Phase 5 & 6	Tbc	Strategic Housing	Funding agreed for feasibility work to determine phases 5 & 6	tbc

### PSP Southend LLP Update

- 3.12 On 14 June 2011, Cabinet agreed to establish a Limited Liability Partnership (LLP) which has 50:50 representation and ownership by the Council and BV Strategies Facilitating Ltd. (now PSP Facilitating Ltd) respectively. On 12 December 2011, the LLP was formally incorporated as PSP Southend LLP (“the LLP”).
- 3.13 An Operations Board and a Partnership Board were established and have met periodically since incorporation to review and agree projects for the LLP to progress.
- 3.14 PSP Southend is one of the key delivery vehicles that has been considered through the pipeline work and is a key tool in delivering the Council’s ambitious growth programme. The Operations Board of the vehicle considers pipeline projects and makes recommendations to the Partnership Board which then decides whether to progress to delivery. As the Partnership Board is convinced of the merits of projects, they move through the key stages of the LLP project pipeline. These key stages are:
- Stage 1 (e1) Exploration
  - Stage 2 (e2) Evaluation
  - Stage 3 (e3) Examination
  - Stage 4 (e4) Engage
- 3.15 As part of the 14 June 2011 Cabinet decision, it was agreed that any sites to be progressed through the LLP would be opted in by the Cabinet and thereafter, their progress through to delivery would be managed by the LLP to deliver the optimum commercial return.
- 3.16 To date, the LLP has delivered:

- 32 Units of market housing at the former Hinguar Primary School
  - The 9 units of affordable housing required for Hinguar plus a further 6 units on the site of the former Saxon Lodge. All 15 of these were sold to Moat Housing Association.
  - A new nursery on Constable Way
  - The demolition and site preparation of Friars Community Centre, Library and the Pupil Referral Unit in preparation for development.
  - An updated planning permission has just been issued for the construction of 9 houses for market sale on the site (to cross-finance the nursery) and Tern Developments is mobilising for construction to commence imminently.
- 3.17 The LLP has also reviewed a number of further sites which present good opportunities for development and it continues to offer a good alternative delivery vehicle for the Council.
- 3.18 Since the LLP was established at the end of 2011, PSP has substantially evolved its model as it has developed partnerships with many more Local Authorities. PSP now has 3 offices, much greater resources and new equity funders (Cobalt Square). PSP has also refined the areas which it is particularly effective and whilst it can be used to provide a range of property related solutions, the primary focus is aligning with that of local authorities around the delivery of good quality, low carbon, and energy efficient homes. In this regard, it has also developed its own housing model which can be used across its partnerships.
- 3.19 The PSP housing model enables the Local Authority to loan capital to finance housing development which is designed, built and then managed by PSP companies for an agreed period of time. The Council in return owns the development, receives the rent from the housing (net of management costs) and has the benefit of capital growth. PSP has access to a variety of traditional and modern methods of construction along with a partnership with modular contractors who are proto-typing energy contributing housing.
- 3.20 Alongside the evolution of the PSP model, the Council now has several more companies and is moving to ensure that these operate with consistency of reporting in to the Shareholder Board.
- 3.21 PSP Southend LLP was originally established for a 10 year period. Given that this period has only 2 years to run, it is recommended that:
- The objectives of PSP Southend LLP are reviewed and updated to align with the Council's 2050 roadmap and ambition
  - That the LLP is rebranded for a new 10 year period
  - That the PSP Southend LLP board structure is updated so that both Operations Board and Partnership Board (or their equivalents) are officer boards reporting in to the Shareholder Board
  - That the agreement of the detailed arrangements be delegated to the Strategic Director (Finance) and the Strategic Director (Legal and Democratic Services) in consultation with the Leader of the Council.
- 3.22 In relation to the proposed Ilfracombe Avenue development of c.24 units of housing, the initial intention of accommodating a replacement for Southchurch



Library in the ground floor has been proved to be unviable therefore recommendation 2.6 seeks agreement for the scheme to progress as a housing only site (with a Planning Policy compliant level of affordable housing for rent (capped at Local Housing Allowance levels) and for the revenue generated from the scheme to be used to finance the capital required to deal with the existing condition issues which need to be addressed at Southchurch Library. These are estimated at approximately £200,000. This ensures that the site delivers an appropriate level of affordable housing whilst also enabling the wider community benefit arising from the necessary improvements to Southchurch Library.

- 3.23 Moving forward, there is good potential for the LLP to serve the Council well in the delivery of the small to medium sized sites leaving the Council resources available to focus on the continued direct delivery of smaller sites through the Strategic Housing Team and importantly, to focus resources on the very resource-intensive delivery of major schemes such as the next phases of tower block development and other major sites which have the potential to deliver many hundreds of homes and associated development but which will require significant and sustained resources. As always, the use of the LLP is only recommended where it can be demonstrated that it provides the best option for the Council in relation to a given site.
- 3.24 It is recommended at 2.4 that PSP Southend LLP be invited to undertake the next stage of feasibility (to e2) for sites which the pipeline assessment work has indicated would be suitable for PSP delivery This next stage of feasibility will be progressed and, subject to the outcome of that work, recommendations on the way forward will be presented to Cabinet. It is important to note that this feasibility work is non-committal at this stage and also that in relation to most of these sites, delivery via PSP is only one of a number of possible options.

### **Roots Hall Proposed Development**

- 3.25 Roots Hall Limited has recently presented proposals to all councillors for the latest scheme of development at Roots Hall. This development is principally on land belonging to the football club but it also brings in land owned by the Council at 291-301 Victoria Avenue.
- 3.26 The proposed development comprises approximately 500 new homes including c.170 units of Affordable Housing in line with the Council's planning policy DM7 (The initial proposal is for 60% social rented and 40% affordable rented). (NOTE: The scheme is still being refined and has not yet been submitted for planning.)
- 3.27 Officers are currently undertaking due diligence with property advisers Cushman Wakefield's specialist investment and residential teams to assess a proposal for the Council to enter in to an income strip lease of the development.
- 3.28 The proposal is that the Council takes a leasehold interest in the entire scheme at Roots Hall. Under the lease, Citizen Housing Ltd would be responsible for the facilitation and delivery of the development. The Council would be responsible for all maintenance and management and, for the payment of an index-linked rent to Citizen Housing. The Council would then receive all the rents received from the scheme (net of management costs). At the end of the

lease term the full value of the whole development and all future income would transfer to the Council for £1.

- 3.29 It is clear that the delivery of this scheme would make a significant impact on housing delivery numbers both in terms of affordable, and market housing. Homes England are aware, and are supportive of the proposal in principle subject to the Council taking the lease.
- 3.30 The proposal does however present some risk for the Council and it is these which the Council is working with Cushman Wakefield on to fully understand and mitigate if possible.
- 3.31 Subject to the acceptable mitigation of these risks, completion of all necessary due diligence and the refinement of the overall deal (with independent specialist advice), it is hoped that the Council will be able to reach a position whereby the deal can progress as broadly outlined above. The proposal will also need to be checked and ratified by the Council's external auditors for financial prudence and the scheme will require planning permission.
- 3.32 Once the fine details are settled, given the scale and financial impact risks of this proposed transaction the matter will be brought back to Cabinet for agreement.
- 3.33 The recommendation at this stage at 2.6 is therefore that officers prioritise the due diligence work on this proposal so that, assuming it can be worked in to an acceptable position, that it is ready to be presented to Cabinet for a decision.
- 3.34 Members are asked to note that there is potential for the same arrangement to be employed in relation to some or all of the residential element of the proposed Fossetts Farm development and that assuming the proposal can be made to be acceptable for Roots Hall, the work and the principles established in relation to Roots Hall will be portable to that scheme also.

#### **4. Other Options**

- 4.1 The Council could opt not to use PSP for further developments although in order to continue the delivery of the range of sites, alternative resourcing considerations would be required.
- 4.2 The Council could opt not to pursue negotiations for an income strip lease for the development at Roots Hall.

#### **5. Reasons for Recommendations**

- 5.1 To update Cabinet on progress on the HRA infill sites and acquisition programme.
- 5.2 To allocate funding for the next stages of feasibility work on the pipeline of sites.
- 5.3 The updating and re-branding of PSP Southend LLP will enable it to report in to the Shareholder Board in line with the other Council companies.

- 5.4 Removing the library from the scheme at Ilfracombe Avenue will significantly improve viability and deliverability and enable investment in to the existing library building.
- 5.5 To enable officers to progress negotiations in relation to the Roots Hall development proposals.

## 6. Corporate Implications

### 6.1 Contribution to the Southend 2050 Road Map

The development of the housing and regeneration pipeline, the proposed acquisition of property to be utilised for affordable housing in the borough both work towards the Southend 2050 Safe and Well outcome of **“We are well on our way to ensuring that everyone has a home that meets their needs”**.

The development of a regeneration framework and pipeline are also key contributors to the Opportunity and Prosperity outcomes “We have a fast-evolving, re-imagined and thriving town centre, with an inviting mix of shops, homes, culture and leisure opportunities” and **“Key regeneration schemes, such as Queensway, seafront developments and the Airport Business Park are underway and bringing prosperity and job opportunities to the Borough”**.

Southend’s *Housing, Homelessness & Rough Sleeping Strategy* aims to provide ‘decent high quality, affordable and secure homes for the people of Southend’ and the development and purchase of affordable contributes to this.

### 6.2 Financial Implications

A capital budget of £645,000 is required for the first phase of feasibility of the Pipeline schemes. This is an initial estimate is based size specific costs and will cover the necessary title investigations, valuations, site and environmental investigations, architectural feasibility and high level development appraisal work required to progress these opportunities. The capital budget will be funded from capital reserves held within the General Fund and HRA as appropriate to the scheme under consideration

The report identifies approximately £200,000 of capital works required to improve Southchurch Library and that these will be funded through borrowing with the financing costs covered by the income from the Ilfracombe Road site.

### 6.3 Legal Implications

Initial consultation has been undertaken with the Council’s Legal Team and ongoing work is being undertaken with Essex Legal Services for the Acquisitions Programme.

### 6.4 People Implications

No People Implications regarding the Pipeline or the re-branding of PSP Southend LLP.

There are resourcing implications in the delivery of the pipeline which will need to be addressed as the project develops, some of which will be addressed through the management restructuring proposals currently being implemented.

## **6.5 Property Implications**

The main purpose of the pipeline work is to review, and develop a strategic approach for the Council's forthcoming or latent development opportunities and this will of course generate many strategic and details property implications as the work progresses.

## **6.6 Consultation**

Consultation has taken place with internal colleagues for the pipeline as referenced in 3.5 above. As schemes develop further consultation will be undertaken with the Planning department, local residents and ward members as appropriate.

## **6.7 Equalities and Diversity Implications**

The relevant equality assessments will be undertaken where necessary.

## **6.8 Risk Assessment**

Risk register and issue logs will be used as part of the development of the sites within the Pipeline and are continued to be used for the Acquisitions Programme.

## **6.9 Value for Money**

Value for money assessments will be undertaken by through the pipeline project alongside the relevant Council departments and this will be informed through the feasibility work.

## **6.10 Community Safety Implications**

Potential regeneration and pipeline opportunities will look to meet with Secured by Design standards where possible.

## **6.11 Environmental Impact**

New pipeline schemes will look to improve environmental standards in the build process where possible and also will look to improve landscaping and environmental and economic sustainability where possible.

## **7. Background Papers**

Cabinet Report. *Future Phases of Affordable Housing Development Programme Update*, 17<sup>th</sup> January 2019

Cabinet Report, *Housing Update*, 25<sup>th</sup> June 2019

**Southend-on-Sea Borough Council**

**Report of Deputy Chief Executive People**

**To**

**Cabinet**

**On**

**17th September 2019**

**7**

Report prepared by: Faith Nassuna, Projects & Policy  
Support Officer, Housing & Social Inclusion

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**Introduction of Selective Licensing of the Private Rented Sector**

**Policy and Resources Scrutiny – Cabinet Member: Councillor Ian Gilbert**  
**A Part 1 Public Agenda item**

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**1. Purpose of Report**

- 1.1 To inform Cabinet of the preliminary work underway to introduce Selective Licensing in parts of the borough and to seek agreement for next steps, including resources required to undertake the preparatory research and other work needed ahead of implementation.

**2. Recommendation**

That Cabinet agrees:

- 2.1 A one off resource of £50k in order to undertake in-depth preparatory work ahead of any implementation of Selective Licensing within the borough through a service delivery partner.
- 2.2 That targeted consultation is progressed on the adoption of powers of Selective Licensing within parts of the borough identified as experiencing antisocial behaviour (ASB) problems, crime and deprivation associated with poorly managed Private Rented Sector (PRS) accommodation.
- 2.3 That following the above work, a further report is brought before Cabinet relating to the introduction of Selective Licensing in parts of the Borough.

**3. Background**

- 3.1 There are two types of licensing schemes for the PRS which the Council can adopt, these being the additional licensing scheme for houses in multiple occupation (HMOs) which is already in operation and a Selective Licensing scheme for *any* properties within the private rented sector. Section 80 of the Housing Act 2004 allows local authorities to apply for Selective Licensing of privately rented properties in areas experiencing low housing demand and/or suffering from anti-social behaviour. These powers were further extended in 2015

with the publication of *Selective licensing in the private rented sector: a guide for local authorities*, to cover areas experiencing poor property conditions, large amounts of inward migration, a high levels of deprivation or high levels of crime.

- 3.2 The above regulations require that for an area to be designated as subject to selective licensing, it must contain a high proportion of properties in the private rented sector. Further, at least one of the above conditions must be demonstrated to be satisfied for selective licensing to be introduced. In recognition of this it is a requirement that consultation is carried out with interested groups such as landlords, tenants, letting agents, local businesses and any other interested parties. Local authorities can designate an area for selective licensing for five years, following demonstration of evidence for the requirement, consideration of alternative approaches and having undertaken consultation.
- 3.3 A selective licensing scheme would enable the Council to impose legal requirements in designated areas requiring all landlords to register, apply for a licence for each property they rent out and comply with specific licence conditions. This would give the Council more power to tackle irresponsible landlords and drive up management standards. Poorly managed properties can result in unacceptable levels of antisocial behaviour, which can be damaging to local neighbourhoods if not dealt with appropriately. Within the poorly managed PRS there are also concerns about the standard of housing conditions and unacceptable landlord practice, including abuse of tenants' rights.
- 3.4 Nationally the PRS has doubled in size since 2002<sup>1</sup>. Southend's PRS has also grown and it is believed that 25% of dwelling places within the borough fall within the PRS. Southend has a higher proportion of households classified as overcrowded compared with the East of England<sup>2</sup>.
- 3.5 Selective licensing designation requires agreement from the Secretary of State where the proposal covers either 20% or more of the geography of the local authority area, or 20% or greater of the total private rented stock in the borough. In Southend, according to data drawn from the 2011 Census approximately 3000 properties could be subject to a selective licensing designation before Secretary of State approval would be required.
- 3.6 As of 1st January 2019 there were reportedly 44 selective licensing schemes in operation, including 4 that cover the entirety of the local authority area, and a further 9 that exceed the 20% requirement and thus have been approved by the Secretary of State<sup>3</sup>.
- 3.7 It is noted that the "process of evidence gathering and consultation prior to designation is rigorous and challenging"<sup>4</sup> and that there is a lack of national guidance to support this process, with most local authorities considering the introduction of selective licensing reliant on other local authorities for support. The process of applying for selective licensing designation has been identified as complex and highly bureaucratic, and often takes over a year to complete. Included within the requirements are: the undertaking of research in order to

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<sup>1</sup> *English Housing Survey Headline Report 2017-2018*

<sup>2</sup> BRE Client Report, March 2017

<sup>3</sup> MHCLG, *An Independent Review of the Use and Effectiveness of Selective Licensing*, July 2019

<sup>4</sup> *Ibid.*

establish the scale of the local PRS and evidence of any associated problems that may be grounds for selective licensing; preparation and undertaking of extensive consultation over a period of at least 10 weeks (this can be slightly shorter if it is already known a scheme would not exceed 20% of geography or PPRS), followed by detailed analysis and presentation; and following declaration of designation there is a 12 week statutory period before a scheme can start.

- 3.8 Selective licensing schemes are required to be self-supporting and cannot be used as a means to raise additional income for local authorities. The fees raised are required to cover all costs of operation but it is unclear what upfront costs can be recouped from these fees and again there is no guidance in this area. Establishing the correct fee is imperative to effective delivery as setting it too low can impact the ability to undertake inspections and issue licenses. It is noted that the number of schemes that are genuinely self-supporting are in the minority and that many required subsidising<sup>5</sup>. Research has indicated a range of fees are in operation with an average of around £750 per licence per 5 year period.
- 3.9 Guidance regarding costs of establishing and operating selective licensing schemes is again not available from MHCLG, but in preparing for this report indications from other local authorities and from desk research have suggested that resourcing is a critical consideration. The MHCLG's *Independent Review of the Use and Effectiveness of Selective Licensing* (July 2019) identified that it was not uncommon to require initial research costs of £30k and publicity costs of up to £20k. Additionally there are costs for data and ICT changes and software requirements to be considered, along with the need to resource landlord engagement and training, additional work by other Council teams (for example, legal services, social care, environmental health, community safety).
- 3.10 Following the introduction of selective licensing, it is important that this is robustly enforced and that staffing is sufficient to allow for this. Failure to provide for this is likely to result in slower processing of licenses, reduced inspections and a greater propensity for unscrupulous landlords to continue to operate. Where landlords do not comply with the requirements of the selective licensing designation a range of options are available to the local authority, including the imposition of civil penalties of up to £30k, banning orders which prevent landlords from letting property, or rent repayment orders respect of properties that should be licensed but are not. A breach of a licence condition can render a landlord liable to a fine for each offence. Additional powers such as Interim Management Orders or Final Management Orders are also available to local authorities.
- 3.11 There is somewhat limited evidence of the effectiveness of selective licensing<sup>6</sup> with the result that it is difficult to be conclusive in how well they work. In the MHCLG Select Committee inquiry 2017-18 local authorities and their representative bodies said that selective licensing allowed authorities to better regulate the PRS and were thus effective<sup>7</sup>. This was disputed by landlord bodies consulted as part of that inquiry, but the local authority view was echoed within the *Independent Review of the Use and Effectiveness of Selective Licensing* (MHCLG, July 2019). Additionally recent research from The Chartered Institute of

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<sup>5</sup> *Ibid.*

<sup>6</sup> Rugg, J. & Rhodes, D. *The Evolving Private Rented Sector*, 2018

<sup>7</sup> MHCLG Select Committee, Private rented sector, HC 440, 19 April 2018

Housing (CIH) and the Chartered Institute of Environmental Health (CIEH) also identified selective licensing as effective in tackling property conditions and problems with anti-social behaviour<sup>8</sup>. Further information about the characteristics of effective selective licensing schemes is included within the appendix to this report.

- 3.12 There have suggestions made that selective licensing will lead to displacement of unscrupulous landlords into non-designated areas, with the effect of reducing housing standards in those areas. Further, there has been suggestion that landlords will pass on any licensing costs to their tenants via increased rent. In both cases the recent MHCLG Independent Review failed to find any evidence which supported these claims.

### **Designation and timescales**

- 3.13 In accordance with Section 82 of the Housing Act 2004, any designation made by the Council cannot come into force within three months of the designation date so the timing would need to be worked out accurately to avoid legal challenges. This means that for the scheme to be implemented from May 2020, all the preparatory work would need to be completed by January 2020.
- 3.14 The consultation period would need to be at least 10-12 weeks but it can be as little as 6 weeks if the area covered is under the 20% guideline. Given the timeframe, this process would need to be underway in September. Once the consultation is done, the results would need to be published and made available to the local community.
- 3.15 The Council would need to publish the notice of the designation once confirmed. This must be done within 7 days of the designation being confirmed. All the stakeholders consulted must also be notified within two weeks of the designation being confirmed.
- 3.16 The designation will cease on 30 April 2025 unless it is revoked sooner for any other reasons.

## **4 Other options**

- 4.1 Some of the options to tackling substandard and problematic properties within the borough would include but (not limited to) the following;
- **Do nothing** -The Council could opt not to intervene in the private rented sector, leaving the housing market as the driver for landlords carrying out improvements to their properties.
  - **Do the minimum** – This would mean a limited intervention by the Council and this could be through responding to complaints and taking action by other departments on ad hoc basis using the various powers available to them.

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<sup>8</sup> CIH and CIEH *A licence to rent*, January 2019



- **Informal area action** - A non-statutory Action Range, taking in portion of the Borough where sub-standard properties are concentrated, would be declared. The momentum for lodging change would come from a combination of the Council's movement within the area through a blend of advisory overviews, Council-landlord discourse and, where vital, the threat of follow-up enforcement action.
- **Targeted use of Interim Management Orders (IMOs) and Final Management Orders (FMOs)**. The Housing Act 2004 provided tools like IMOs & FMOs to deal with non-licensable HMOs or Special Interim Management Order for other properties to address anti-social behaviour in selected properties where conditions are sufficient to justify use of the powers.
- **Area based voluntary accreditation** – This would involve a localised accreditation scheme, tailored to the characteristics of the properties and the problems associated with them.
- **Borough wide selective licensing** – The Council could consider introducing licensing for all private rented properties across the borough as some other local authorities have done.
- **Borough wide additional licensing** - Licensing introduced for all HMOs not covered by mandatory licensing (i.e. two or more storeys with three or more households) across the whole Borough.

## 5 Reasons for Recommendations

- 5.1 It is recommended that research continues to gather evidence for the introduction of selective licensing and that detailed consultation is prepared and undertaken as part of this evidence collation. It is further recommended that this research investigates opportunities that may exist to work with other local authorities and / or to outsource the provision of licensing to a Delivery Service Partner as one of the available options to the Council. These recommendations are made on the basis of the potential for selective licensing to augment management of the PRS in Southend where poor landlord practice is contributing to negative impacts, as described above. Further support for the recommendations is included within the appendix, which is a reproduction of the key findings of the MHCLG Independent Review.

## 6 Corporate Implications

### 6.1 Contribution to the Southend 2050 Road Map

Improving the Private Rented Sector would assist a number of Safe and Well themes for Southend 2050 such as ensuring that *everyone has a home that meets their needs*, ensuring people *feel safe and secure at all times* and *improving the quality of life for the most vulnerable in our community*. It would also more broadly support other key themes around Pride & Joy (*Our streets and public spaces are clean and inviting*) and Active and Involved (*Communities coming together to enhance their neighbourhood*).

Southend's *Housing, Homelessness & Rough Sleeping Strategy* aims to provide 'decent high quality, affordable and secure homes for the people of Southend'. An important priority within the strategy is to improve and make best use of the existing housing stock. To help achieve this the strategy is underpinned by a range of actions including advice, financial assistance, enforcement, bringing long term empty homes back into use and delivering demonstrable improvements to private rented homes through the use of licensing schemes.

Prioritising the supply of safe, locally affordable homes is a key priority within the *Housing, Homelessness & Rough Sleeping Strategy*. Improving access to good quality, well managed accommodation in the private rented sector is one of its key strategic priorities.

## **6.2 Financial Implications**

The Council would need to have the relevant resources in place before implementing any designation in order to set up, administer and enforce the scheme. Details of some of the options are included in appendix A.

Consideration must be given to the full financial implications if the scheme is adopted, including the calculation of a cost-neutral fee and any implications of that fee impacting on rents and this will be fully considered in the next report to Cabinet.

Without the necessary start-up cost, the Council's ability to operate and enforce the scheme would be inhibited. This would be exacerbated by lower than expected income from licensing fees.

The one off cost of the research and options analysis of a Selected Licensing scheme is estimated at £50k and this can be met from the Council's Business Transformation Reserve.

## **6.3 Legal Implications**

If the necessary background work is not done before implementation of the scheme, it could result in a Judicial Review. Such areas of challenge may include, inter alia, the following:

- Incorrect basis for the implementation of the scheme
- Ability to administer and enforce the scheme for said period
- The quality of the data that informs the decision to designate

## **6.4. People Implications**

In order to implement the scheme, more staffing would be required in order to conduct research and gather relevant data for consideration of a selective licensing scheme, and coordination of the relevant Council services in order to implement the scheme. A concurrent recruitment strategy will be undertaken between the Housing and Regulatory Services teams to assist in this process and ensure that requisite skilled resources are available should a selective licensing scheme be designated. Initial preparatory work would be supported by

additional officer resource, either from a contracted delivery service partner or via interim staff recruited for this purpose.

During the scheme designation, several officers would be required to both administer the designation, issue licenses, carry out inspections, undertake enforcement activities as well as attending court for prosecutions. This would require coordinated action between several Council departments, such as Private Sector Housing team, Planning, Regulatory services, Community Safety as well as Legal team.

To ensure timely response, proper verification to applications and to undertake technical verification, inspections and any consequent enforcement would all require increased staff members including technical staff to deal with knowledge in the field.

Collaborative working with other teams within the Council would be key to the scheme's success. Teams like Early Help, Adult & Children Social Services, Environmental Health, Private Sector Housing, Housing Solutions and others that engage with the general public would be able to share information which would contribute in identifying housing issues that could be impacting local residents in order for the Council to address them.

#### **6.4 Property Implications**

By making the designation, all privately rented accommodation in the designated areas will require a licence. Owners of rented properties will be required to make an application to the Council or through a Delivery Service Partner for a licence and will need to nominate either the manager or the property owner to be the licence holder.

Section 79(2) details those houses that are covered and this is defined as a whole house that is occupied either under:

- a) A single tenancy or licence,
- b) Under two or more tenancies or licences in respect of different dwellings contained in it.

The overall property conditions in the borough would be improved thereby increasing property demand in the designated areas.

#### **6.5 Consultation**

Consultation must take place in order to demonstrate the evidence for the areas of concern and this would include giving due considering alternative options to selective licensing before designation.

If the Council opts for the option of using a Delivery Service Partner, they can carry out the consultation and provide a report to the Council which would indicate the areas that should be licensed.

#### **6.6 Equalities and Diversity Implications**

An equality analysis would need to be carried out to assess the impact of introducing selective licensing. This would be need to be included in the consultation process.

## **6.7 Risk Assessment**

There is a risk of Judicial Review which means the rationale, data and process followed for implementation must be robust and accurate.

There is an unsubstantiated risk of alienating local landlords who may not be in favour of the scheme which could force them to take their business elsewhere or sell, thereby reducing the supply of much needed accommodation within the borough.

Local rents may increase as the landlords may wish to recoup the cost of a license fee. It is important that licensing schemes that already exist are robustly enforced and if a local housing authority is unable to show compliance this will cast doubt on its ability to ensure compliance with the application scheme.

Some Local authorities were challenged on the decision to introduce selective licensing as it was felt that good landlords were being made to pay for the problems caused by the bad landlords.

## **6.8 Value for Money**

A cost benefit analysis would need would need to be undertaken to determine whether the scheme would work out cost neutral or would need to be supplemented with additional funds from the Council.

## **6.9 Community Safety Implications**

Improvements within private stock conditions are intended in part to reduce antisocial behaviour and other property associated community safety concerns.

## **6.10 Environmental Impact**

Improved energy efficiency standards and enhanced enforcement of environmental health standards within the PRS may have beneficial environmental outcomes for the borough.

## **7. Background Paper**

Selective Licence Scrutiny paper - July 2018

## **8. Appendices**

Appendix 1 – Options for Service Delivery

Appendix 2 - Summary of key findings of *An Independent Review of the Use and Effectiveness of Selective Licensing* (MHCLG, July 2019)



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## **Appendix 1 – Options for Service Delivery**

Below are some of the options to consider on how the service can be delivered;

### **Options and appraisals for this would include;**

#### **1. In-house staff members**

Looking in-house to see what skills are available within the Council's various teams and whether they could be pulled together to prepare and implement the scheme.

- This would save time on going through lengthy recruitment processes by offering secondment opportunities to staff with relevant experience.
- The challenge would be getting enough interest from staff members with the required skills willing to take on extra responsibility and whether the scheme would realistically be delivered on schedule in this way.
- There would also be the issue of their teams being left without enough cover which would mean that their normal duties would be left undone.
- Using the apprenticeship schemes to do some of the administrative tasks of the scheme

#### **2. New staff members**

The Council could opt to recruit new staff members to form a Selective Licensing team. The number of staff would depend on the area designated. This could be a long process and would be hampered by the recruitment challenges within this sector.

- It would be unlikely to have the scheme delivered within the envisaged time frame.
- Recruiting just a couple of admin staff members to deal with the basic admin aspects of the scheme whilst the other aspects are automated through an online application system.
- There would be a challenge in retaining staff for the period of the scheme as some staff may choose to leave before the full term of the scheme.
- The estimated cost of this would vary depending on the area of designation and the number of private sector properties in that area so it hard to estimate.

#### **3. Online application systems**

Licensing could be done through an online application system. Some councils use the Gov.UK application system as it is free but they have also advised that it is not the best system to use.

- One of the drawback for the free application system is that landlords would have to complete an application for each property which would be time consuming for those with several properties to license.
- Some delivery partners have online application systems that would be free to use which would reduce the initial set-up cost needed. And some just take one application with multiple properties included which would be quicker to use.

- Other online providers for application systems would come at a cost and this would vary depending on who the council opts for as a provider.
- Due to the procurement exercise, there could be a delay in getting the right system in place.

#### **4. Delivery Service Support Partners**

Using Delivery Partners to prepare and manage the scheme. The level of their involvement would need to be agreed by the Council.

Some of the benefits of this option would include;

- No cost to the council to be part of the scheme as the scheme is paid for through landlord membership fees.
- Support to the Council from the scheme providers to enhance the outcomes of the licensing scheme whilst providing support to landlords on the scheme.
- 
- The scheme would provide support and development to engaging landlords whilst the Council focuses on enforcement of non-engaging landlords.
- The scheme provider would conduct an agreed number of property inspections for the duration of the designation.
- It should be noted that the council would still need to have a small team within to deal with the direct applications for those landlords who may not wish to join the scheme and to carry out enforcement.
- It should also be noted that this is not an alternative to licensing and does not replace the Council's powers as the licensing and enforcing authority.
- To change landlord's behaviour through development and support for those who sign up to the scheme.
- As the service is free to the Council, there would be no need to go through procurement as the contract can be done as a concession.

#### **5. Consultants**

Consultants could do the data analysis to determine the areas of designation and any other preparatory work needed and then let the team run the scheme.

#### **6. Multi-agency working**

Collaborative working with other departments within the Council for instance Early Help, Social Services, Community Services team, Police and other teams who would be able to identify problems within the PRS and inform the Council to address.

- This would ensure that properties with problems are identified and brought to the Council's attention this way, reducing the need for more field officers to be employed.



## **Appendix 2**

### **Summary of Key Findings of *An Independent Review of the Use and Effectiveness of Selective Licensing* (MHCLG, July 2019)**

#### ***Summary of effectiveness of selective licensing***

The research overall indicates that selective licensing can be an effective policy tool with many schemes achieving demonstrable positive outcomes. However, this study also indicates that when implemented in isolation, the effectiveness of selective licensing is often limited. Schemes appear to be more successful as part of a wider, well planned, coherent initiative with an associated commitment of resources – a finding entirely consistent with the aims of the Housing Act.

#### ***Characteristics of effective schemes***

The research identified a number of characteristics commonly found in effective schemes:

- Careful planning, in particular with respect to anticipated costs and also to mitigate the potential impact of underestimating the number of licensable properties;
- Well thought through and diligent approach to evidence gathering and consultation;
- A realistic approach to area definition with boundaries carefully drawn to focus on areas with demonstrable problems, although it was clear that problems could genuinely be district wide in some authorities;
- Licensing forming part of a wider suite of community-based measures aimed at effecting change consistent with the aims and objectives of selective licensing, with a clear political will to support the scheme;
- Effective engagement with both landlords and tenants, but especially raising, through dialogue and training, landlord awareness of their responsibilities;
- An inspection regime that is robust, consistent and targeted – dealing with contraventions firmly but fairly, where possible dealing with the worst first;
- Regular and open publication of progress against targets and outcomes - this encourages trust and support from stakeholders.

#### ***Factors that can impede the effectiveness of licensing***

- One factor repeatedly raised by local authorities was that they are not permitted to include conditions on the licence relating directly to property conditions, despite that often being the key reasons for designation. The issue is compounded by the requirements for 24 hours notice for formal action under the Housing Health and Safety Rating System (HHSRS).
- One of the primary difficulties for local authorities is identifying the true extent of the private rented sector. Virtually all local authorities reported finding more privately rented properties than anticipated, with consequent pressure on resources causing delays and other difficulties.
- To be effective, any scheme must maintain a focus on identifying unlicensed properties; the research highlighted a high correlation between failure to license and unsatisfactory management and property conditions. An effective

policy for identifying such properties (with intelligence gathering a key factor) should be developed at the planning stage.

- Local authorities consistently highlighted the need for examples of best practice in a range of areas and for formal guidance in respect of evidence requirements, fee setting, enforcement policy, licence conditions, etc.
- The process of making a designation is perceived to be highly complex and unnecessarily bureaucratic, requiring significant time, money and other resources. However, the importance of thorough consultation was stressed by numerous stakeholders.
- Where there is a clear and demonstrable case for re-designation after the initial five-year period, the authority needs to repeat the full process required for designation before expiry of the first five years. This diverts resources from the initial scheme and hampers effectiveness. In cases where Secretary of State approval is required, delays to this process can also cause significant concerns, especially to staff working on fixed contracts.
- Size of the scheme - as schemes get larger, any problems caused by unanticipated circumstances are magnified. Many costs cannot be set directly against the licence fee (e.g. landlord training, tenant support, increased workload for the legal department) and the larger a scheme is, the more problematic resourcing such services can prove. Larger schemes also tend to suffer particular difficulties with recruitment and retention of staff. Any inadequacies in initial fee setting can be severely exposed.
- Inflexible licence fees - most licence fees take no account of the remaining time of the licensing designation, with landlords required to pay the full cost of re-licensing after holding a licence for a short time only. This can result in understandable resentment and increased non-compliance from landlords.
- Genuinely self-supporting (no subsidy) schemes are in the minority and typically have higher licence fees.<sup>3</sup> The largest single cost of operating a scheme is staffing; setting a fee too low can have significant consequences – usually a reduction in the percentage of properties inspected, delays in issuing licences etc.
- The 20% criterion was criticised by some contributors for the disproportionate impact it can have on small local authorities. There is also a perceived lack of clarity about the process of validation itself, along with concerns about potentially significant delays.
- Several respondents reported that completion of the application form was often undesirably onerous, with a typical application form comprising 15-25 pages. The length is dependent on the extent of information required by local authorities in addition to extensive mandatory questions required by legislation. Many considered several of these mandatory questions to be of limited relevance or utility.
- Currently the only legal mechanism available to challenge a designation is an application for judicial review. This is a complex and extremely expensive process and in reality limits the opportunity for external review, whilst the threat of such action in some cases is sufficient to dissuade authorities from introducing licensing even where there is a legitimate need.

# Southend-on-Sea Borough Council

Report of Chief Executive  
to  
Cabinet  
on  
17 September 2019

Report prepared by:  
Nicola Spencer & Louisa Thomas  
Data & Insights Analysts

Agenda  
Item No.

8

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## Southend 2050 Outcomes Success Measures Report - Quarter 1 2019/20

Cabinet Member: Councillor Gilbert

All Scrutiny Committees

A Part 1 Public Agenda Item

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### 1. Purpose of Report

- 1.1 To report on the first quarter of the Southend 2050 Outcomes Success Measures for 2019/20.

### 2. Recommendations

- 2.1 To note the Quarter 1 performance from 1 April – 30 June 2019.

### 3. Background

- 3.1 The Council's Corporate Performance Framework has been reviewed to provide robust and transparent performance management to drive the delivery of the five Strategic Delivery Plans. Cabinet agreed that corporate performance for 2019/20 onwards shall consist of three different functions, to enable the Council to robustly monitor and measure the progression of the desired outcomes against the five themes, which are outlined in the 2050 Road Map. The three functions are:

- a Corporate Performance Dashboard (CMT and Cabinet Members)
- a Southend 2050 Outcomes Success Measures Report
- an Annual Place-Based Report.

### 4. Southend 2050 Outcomes Success Measures Report

- 4.1 The Southend 2050 Outcomes Success Measures Report is a high level summary of the Council's corporate performance and progression over the quarter on the high level strategic priorities. Outcome Delivery Teams provide a strategic narrative once per quarter on the progress made with the delivery of the Southend 2050 outcomes and activity on the Road Map.

The report also contains a snapshot of key place data which will be updated as available throughout the year.

The agreed timetable for reporting is as follows, with additional reporting aligned to the scrutiny cycle in January 2020.

		To be presented to Cabinet:
<b>Quarter 1</b>	April – June 2019	September 2019
<b>Quarter 2</b>	July – September 2019	November 2019
<b>Quarter 3</b>	October – December	February 2020
<b>Quarter 4</b>	January – March 2020	June 2020

- 4.2 The development of outcomes-focused measures is an iterative process, to enable the measures to be reviewed and developed regularly.

## 5. Further Developments

A number of the measures included in the report have catalysed plans to work collaboratively across the organisation to improve their outcome focus. The development work planned to date is as follows:

### 5.1 Temporary Accommodation

A working group is to be formed to better understand and monitor the outcomes of interventions for those the Council is supporting to access housing.

### 5.2 Child development and Children’s Centres

Further collaboration with the Early Years and Health Visitor services will be undertaken, to develop a set of outcome-focused measures regarding the range and success of interventions and services for children aged between two and five, and the use of Children’s Centres.

### 5.3 Protecting and nurturing the coastline

Development work is required looking in to litter collections on our beaches especially during the peak months; the protection of nature reserves and sea defences, and educating children on the nurturing and protection of our coastline.

### 5.4 Fibre broadband and WiFi

The data currently received from the Council’s WiFi and Fibre broadband suppliers will be developed to better monitor whether the intended benefits to residents and visitors, in terms of service availability, are being realised.

### 5.5 Businesses, skills and employment and high street occupancy

This will be a considerable area for collaboration between the Planning, Economic Growth, Revenues, GIS and Insights teams, with an aim to share and / or integrate the data and systems held and used by the teams to provide a meaningful picture of activity and outcomes in the borough to support and evidence the vision of the Council’s Economic Growth Strategy 2017-2022, and to evidence Opportunity and Prosperity outcomes.

## **5.6 Independent living and care homes**

Further work will be done to measure the independency of those living in supported living and care homes across the borough.

## **5.7 Volunteering**

A mapping exercise will be undertaken to ascertain which parts of the Council uses volunteers and to capture the full breadth of volunteering activity, with further plans to broaden the dataset to include demographic data on volunteers, give insight on the barriers and enablers to volunteering, and the inclusion of SAVS data.

## **5.8 Voters**

Development work is planned to map and improve the data and insights available regarding voters' registration rate, turnout, demographic, residential ward, accessibility and other social factors affecting registration.

## **5.9 Transport**

The data currently collected annually via the National Highways and Transport Survey will be developed to increase the frequency of data collection regarding smart signalling, traffic flow optimisation, passenger transfer trends and experience, and the experiences of people who use public transport of all kinds in the borough.

## **5.10 Air Quality and recycling**

At present, data for air quality is available via a live feed but validated on an annual basis to provide an annual mean. Further work is needed to collect data that can indicate the outcomes for residents resulting from the improvement works being undertaken at various major junctions.

## **5.11 Tree planting and removal**

As trees are only planted in the winter months, data is currently reported annually at the end of the planting season. A register of tree removals is maintained on an on-going basis. Further development work will be done with the Parks Management teams to increase the frequency and completeness of data collection on tree planting and removals and to devise meaningful, outcomes-focused measures.

## **6. Reasons for Recommendation**

To drive the delivery of the Southend 2050 ambition through robust and strategic performance management arrangements.

## **7. Corporate Implications**

Contribution to Council's Ambition and corporate priorities:

To strategically monitor the Council's corporate performance and achievements against the 2050 Road Map and Outcomes.

## **8. Financial Implications**

There are no financial implications.

**9. Legal Implications**

There are no legal implications.

**10. People Implications**

People implications are included in the monitoring of performance relating to the Council's resources where these relate to the Council's priorities.

**11. Consultation**

The new performance framework and measures to be included in future performance reporting are included in the Strategic Delivery Plans which were developed through extensive consultation and engagement to articulate the Southend 2050 ambition.

**12. Equalities Impact Assessment**

The priorities and outcomes contained with the 2050 Five Year Road Map are based upon the needs of Southend's communities. This has included feedback from consultation and needs analyses.

**13. Risk Assessment**

The Corporate Risk Management Framework shall be managed alongside the new monitoring for corporate performance. This information shall form part of the new corporate risk register that is managed by the Internal Audit team.

**14. Value for Money**

Value for Money is a key consideration of the Southend 2050 Performance Framework, including the outcome-based investment work, to help assist in identifying Value for Money from services.

**15. Community Safety Implications**

Performance Indicators relating to community safety are included in the Strategic Delivery Plans as well as the Southend 2050 Annual Place-based Report.

**16. Background Papers**

16.1 Monthly Performance Reports (MPRs) from April 2018 to March 2019.

**17. Appendices:**

17.1 Appendix 1: Outcomes Success Measures Report – 1 April–30 June 2019

OUR  
SHARED  
**AMBITION**

**SOUTHEND**  
**2050**  
*it all starts here*

# Southend 2050: Five Themes and 23 Outcomes for 2023

## Pride & Joy

**PJ 01** - There is a tangible sense of pride in the place and local people are actively, and knowledgeably, talking up Southend.

**PJ 02** - The variety and quality of our outstanding cultural and leisure offer has increased and we have become the first choice English coastal destination for visitors.

**PJ 03** - We have invested in protecting and nurturing our coastline, which continues to be our much loved and best used asset.

**PJ 04** - Our streets and public spaces are clean and inviting.

## Safe & Well

**SW 01** - People in all parts of the borough feel safe and secure at all times.

**SW 02** - Southenders are remaining well enough to enjoy fulfilling lives, throughout their lives.

**SW 03** - We are well on our way to ensuring that everyone has a home that meets their needs.

**SW 04** - We are all effective at protecting and improving the quality of life for the most vulnerable in our community.

**SW 05** - We act as a Green City with outstanding examples of energy efficient and carbon neutral buildings, streets, transport and recycling.

## Active & Involved

**AI 01** - Even more Southenders agree that people from different backgrounds are valued and get on well together.

**AI 02** - The benefits of community connection are evident as more people come together to help, support and spend time with each other.

**AI 03** - Public services are routinely designed, and sometimes delivered, with their users to best meet their needs.

**AI 04** - A range of initiatives help communities come together to enhance their neighbourhood and environment.

**AI 05** - More people have active lifestyles and there are significantly fewer people who do not engage in any physical activity.

## Opportunity & Prosperity

**OP 01** - The Local Plan is setting an exciting planning framework for the Borough.

**OP 02** - We have a fast-evolving, re-imagined and thriving town centre, with an inviting mix of shops, homes, culture and leisure opportunities.

**OP 03** - Our children are school and life ready and our workforce is skilled and job ready. Leads

**OP 04** - Key regeneration schemes, such as Queensway, seafront developments and the Airport Business Park are underway and bringing prosperity and job opportunities to the Borough.

**OP 05** - Southend is a place that is renowned for its creative industries, where new businesses thrive and where established employers and others invest for the long term.

## Connected & Smart

**CS 01** - It is easier for residents, visitors and people who work here to get around the borough.

**CS 02** - People have a wide choice of transport options.

**CS 03** - We are leading the way in making public and private travel smart, clean and green.

**CS 04** - Southend is a leading digital city with world class infrastructure.



# Annual Information

Unemployment  
3,200 - 3.4%  
(April 2018 - March 2019)

4,400 4.6%  
(April 2017 - March 2018)

£280,350.00  
Average House Price Southend

£245,817.00  
Average House Price England  
(May 2019)

182,500  
Mid-year Population Estimate  
for Southend  
(Nomis July 2018)

1,035  
New businesses (2017/18)

1,115  
Businesses closed (2017/18)

Teenage conception for under  
18's rate of 24.3 per 1,000  
(number 70)  
(2017)

## Transport

75% of people found it  
easy to get around  
the borough  
(2018/19)

63% of people with a  
disability found it  
easy to get around  
the borough  
(2018/19)

72% of people who do  
not have a car  
found it easy to get  
around the borough  
(2018/19)

88.1%  
of children in good or  
outstanding schools  
(June 2019)

Early Years Foundation Stage  
Profile  
Achieving a Good Level of  
Development  
74.0%

## Trees

Figures do not include whips

In 2016/17 we planted 322  
trees and removed 310

In 2017/18 we planted 279  
trees and removed 373

In 2018/19 we planted 384  
trees and removed 412

56%  
Agree people from different  
backgrounds get on well  
together\*

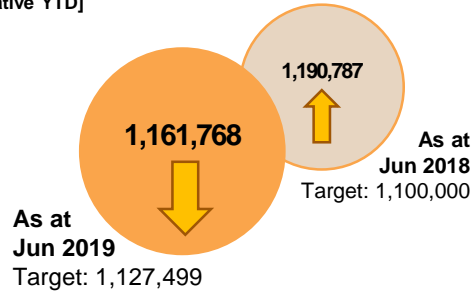
75%  
Satisfied with local area  
as a place to live\*

\*2018 residents' perception survey, sample 1239 Southend residents

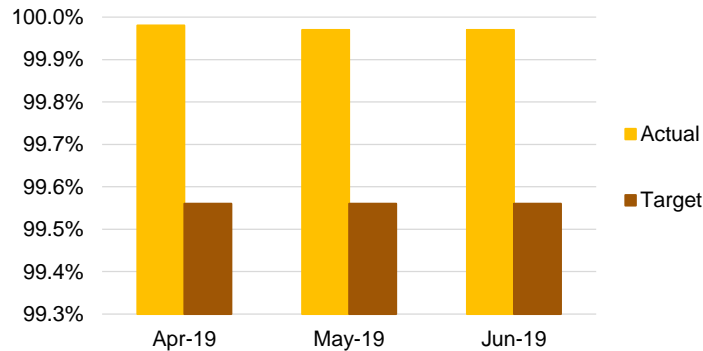


## Participation and attendance at Council owned / affiliated cultural and sporting activities and events and the Pier

[Cumulative YTD]

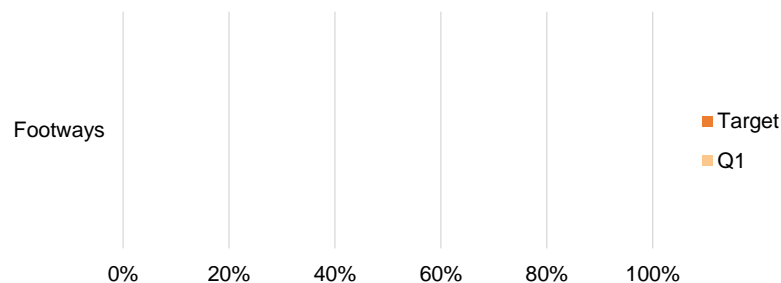


## Waste collections success rate



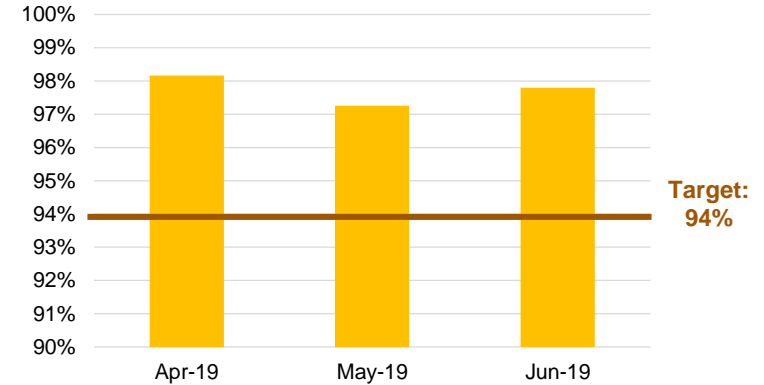
## Safety Inspections completed on time

[Awaiting data]

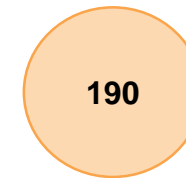


## Acceptable standard of cleanliness: litter

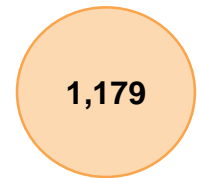
[Cumulative YTD]



## Social Media Campaigns



Number of Instagram photos tagging the Council  
As at June 2019



Skate park – number of votes on name  
As at June 2019

## Key insights:

- Instagram reach: 9,906. Other social media channels: 72,658 = Total: 82,564
- Pier numbers: 38,370 (June admissions) and 6,853 attended in the last weekend of June alone
- Veolia carry out over 1.8m waste collections across the borough every month, equating to a collections success rate of 99.97%
- Litter: 97.79% against the target of 94%



### Quarter 1: Update

The Council and Veolia supported a number of volunteer activities in relation to beach cleaning litter picks, approx. 300 street champions, of which 104 were recruited in this quarter. Additional street washing has taken place in high footfall areas and, as part of a spring clean campaign in the High Street, a visual media campaign “my street is your street” has continued.

49 Various amendments on the Seaway Development were agreed at Cabinet in January 2019. The relevant documentation has been completed with Turnstone and the planning application continues to go through the planning process, which will be heard at the Development Control Committee in the autumn.

Discussions have been had with the fund manager and property agent for the Kursaal to understand the issues and their plans for the property.

Work between the property team and Focal Point Gallery in partnership with South Essex College continued to complete the internal layout and finishes of the spaces to complete to RIBA stage 4, ready to be submitted to full planning consent. The development will see Focal Point Gallery expand its offer and launch digital art production spaces and studios to support the creative community. Facilities will include editing and sound recording suites, green screen and photographic studios and significant creative workspace.

The #PrideAndJoy campaign has been very popular on several social media channels. With the objective to flood the internet with positive images of Southend-on-Sea at its best, and to spread the sense of pride and joy in the borough. Through Instagram alone the number of people who have seen the material and photos is 9,906 people; and other social media channels such as Facebook and Twitter was seen by over 72,000 people. In the short time, this campaign is already starting to flood social media with positive images on the borough, enabling and encouraging people to visually ‘talk-up’ Southend.

The Council also held a competition for naming the new skate park, now named Skatery McSkateface. Various channels of engagement were done through social media, media and PR and new signage in key locations. As a result there was wide spread media coverage from the BBC and local and national newspapers.

### Future milestones

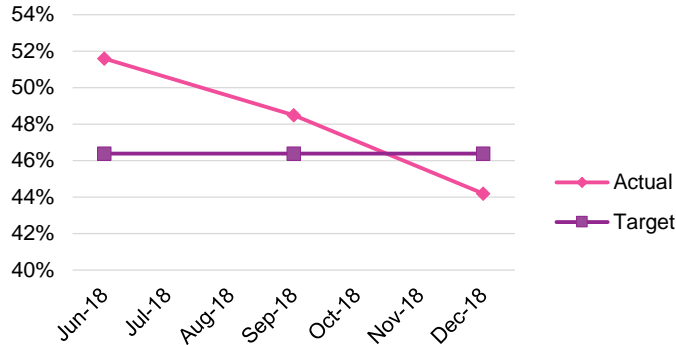
Additional beach litter bins will be placed out to support summer cleaning activities, accompanied by a “my beach is your beach” campaign. Work will also take place to highlight the need to avoid litter and plastics ending up in the marine environment, building a fish sculpture that visitors can fill with litter to publicise the issue. 20 new cigarette bins will be placed out in the High Street and Veolia will continue to deploy additional seasonal resources, including putting out a call for more volunteers.

Dialogue is to continue with an open-door for the discussion of options and initiatives with the Council regarding securing a viable future for the Kursaal.



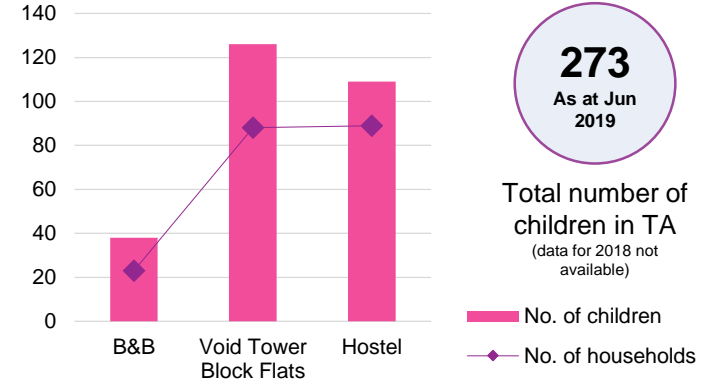
## Percentage of household waste sent for reuse, recycling and composting

[Cumulative YTD]



## Temporary Accommodation

As at June 2019



## Key insights:

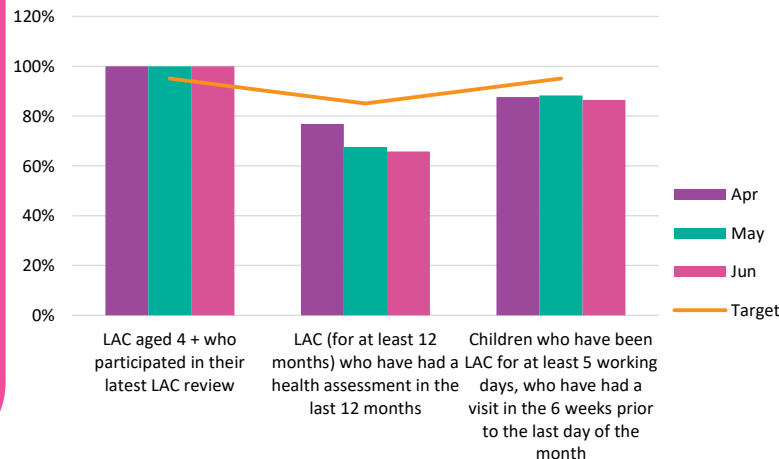
- A total of **406** street begging / vagrancy / rough sleeping engagements and **179** Anti-Social Behaviour (ASB) Incidents were attended to by the Council's Community Safety Unit team
- Q3 2018/19 household waste and recycling was **51.20%** (DEFRA dataset) – this has fallen due to the dry summer last year
- The rate of households per 1000 households in temporary accommodation has increased to **2.51**, up **0.78** compared to a rate of **1.78** in June 2018
- **65.8%** (132/202) successfully completed Looked After Children health assessments. **7%** (15) children refused and **17%** (36) were over the age of 15
- **102** new affordable homes added in 2019/20 to Southend, building the new housing supply
- The LAC child's voice case note is now live on Liquid Logic and a survey of LAC and care leavers was carried out in June 2019, with analysis of results being completed
- **318** LAC under 18 years old as at June 2019

## New Education Health Care plans issued within 20 weeks excluding exception cases (SEND)

**Total plans issued: 47**  
Period: Q1 2019  
Target: 96%

**100%**

## Looked After Children (LAC)



## Mental Health

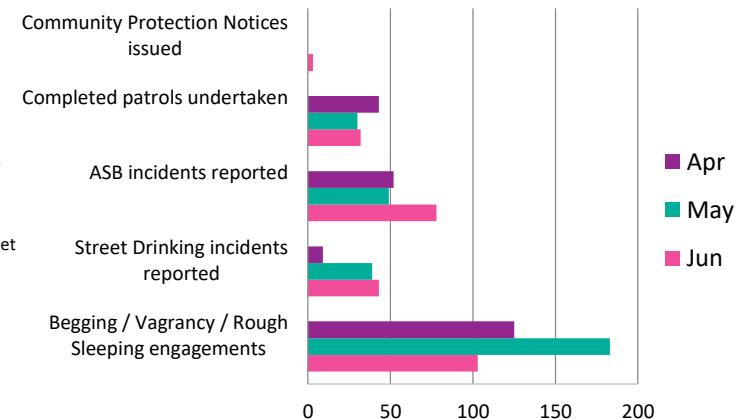
**83.3%**  
May 2018

**71.9%**  
May 2019

Proportion of adults in contact with secondary mental health services who live independently with or without support (EPUT)  
**2019/20 target: 74%**

## The Council's Community Safety Unit activity

This dataset does not include data from the Police or other agencies





## Quarter 1: Update

Plans are underway to introduce a specific community hub in York Road and undertake a feasibility study on introducing an intelligence or operation hub within the CCTV centre. Work to embed social work in the community continues, with seventeen GP practices having increased their level of Social Worker presence this quarter. This equates to coverage of approximately 78% of the patient population.

Specialist LD Hubs pilots have started in the Attic Café and Mencap offices, and Trust Links launched their Mental Health and Wellbeing Hub at Growing Together Westcliff.

The Rough Sleeper Initiative secured a second year of Ministry of Housing, Communities & Local Government grant for 2019/20, which will continue to fund various Rough Sleeper-focused services. Newly acquired Rapid Rehousing Pathway funding will be used to develop the Council's tenancy sustainment offer. Recent bimonthly counts of rough sleepers have shown an increase from the winter months, and active partnership with Community Safety teams and others is allowing the Council to develop a more seasonally responsive approach as a result.

A Housing Allocations policy consultation has been undertaken, with changes to the existing approach being accepted by Council in July 2019. The proposed changes are now subject to further consultation and include a proposal to provide enhanced support for young people, up to the age of 25, to whom the Council has acted as a corporate parent. The Homelessness Reduction Act continues to be implemented, with the Housing team working closely with Children's Services to jointly assess and support Looked After Children to access suitable and appropriate accommodation.

A community paediatric transformation programme has begun, made up of eleven interlinked projects. A Joint Paediatric Clinic in East Central locality is being tested, with feedback having been very positive to date. Approval has been received to implement a new Cow's Milk Protein Allergy pathway from September 2019 onwards (subject to governance processes). Two pilots are in train with the voluntary sector to support Family Action at three Children's Centres. Overall, figures show increased use under the current arrangements.

Funding sources have been identified to undertake retro-fitting works to the Council's buildings. The EU-funded "Cool Towns" project aims to manage overheating in urban areas, with pilot sites having been identified in the High Street and the skate park, tree pits and solar water bench.

Southend's reduction in conception rates has plateaued since 2013 and is not falling in comparison with rates for the East of England region and England that are 16 and 17.8 per 1000 respectively. As national teenage pregnancy statistics have a significant lag time and do not reflect the full teenage age group, a local data dashboard is being explored to see how we can look at the local data differently. A Family Nurse Partnership qualitative review of 38 cases was undertaken to understand the lived experience and journey of the teenage parents to date,

## Future milestones:

Begin a consultation that will include local young people on introducing a Cadet Scheme in Southend.

Two further GP surgeries will be approached to increase their social worker presence in Q2, which (if achieved) will increase the percentage of the patient population that can access community-embedded social work practitioners to 86%.

The next phase of the specialist LD Hubs pilots will be a review of the pilots and development of a strategic approach to community hub development.

The Selective Licensing project has started, with a draft position paper being considered by Cabinet in the autumn. A wider report is now being drafted that will incorporate a broader range of other interventions that could be pursued to improve the private rented sector in the borough.

Six paediatric pathway "Task and Finish" groups to be established to focus on asthma, allergies, constipation / incontinence, Down's Syndrome, Cerebral Palsy and Epilepsy.

The "Climate Resilient Urban Nexus Choices" project, exploring how the links between food, water and energy can be exploited to make urban environments more resilient and sustainable in the face of climate change, is focused on "Urban Living Labs" in six cities around the world in Europe, Taiwan, USA and here in Southend-on-Sea.

A new Young Parents pathway is being explored between ABSS and Public Health for the universal health service provision, with a planned stakeholder event in the autumn and a deep dive scheduled for December 2019 to inform the JSNA.

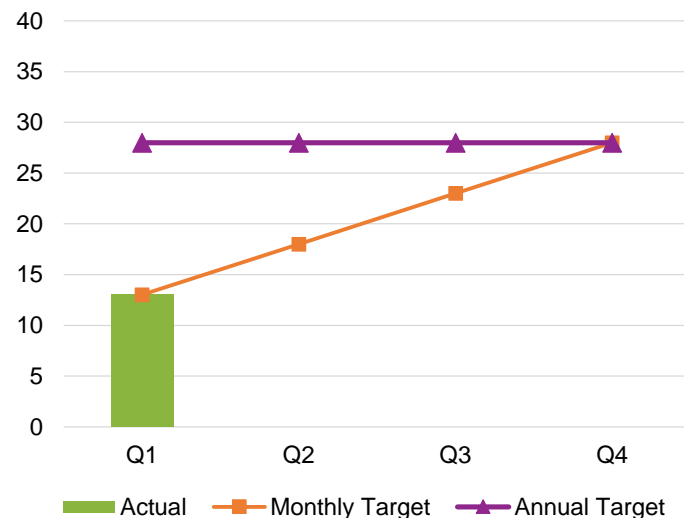


## Organisations signed up to Physical Activity-related pledges of the Public Health Responsibility Deal (PHRD)

Total organisations signed up to PHRD: 16



## Number of schools signed up for the Daily Mile Programme or equivalent



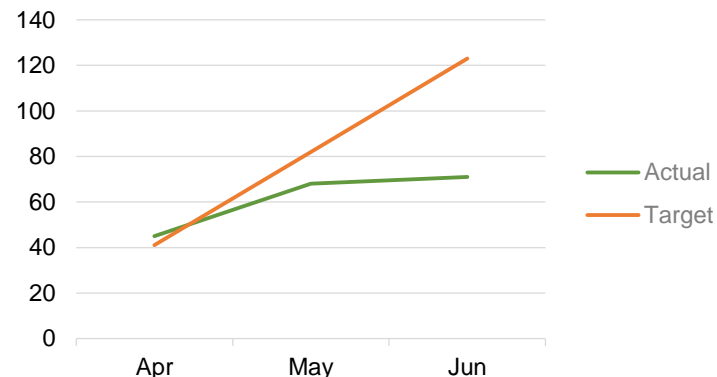
## Falls Prevention activity

~12,520 individuals aged 65+ at risk of falling annually in Southend

**151**

individuals starting 36 week strength and balance programme to date during 2019/20

## Number of individuals completing 12 weeks of the Exercise Referral Programme



## Number of hours of volunteering within Culture, Tourism and Property (inc. Pier and Foreshore events)

[Cumulative YTD]



Jun 2019  
**Actual: 5003**  
Target: 4875

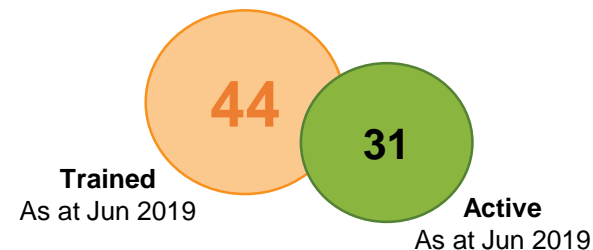


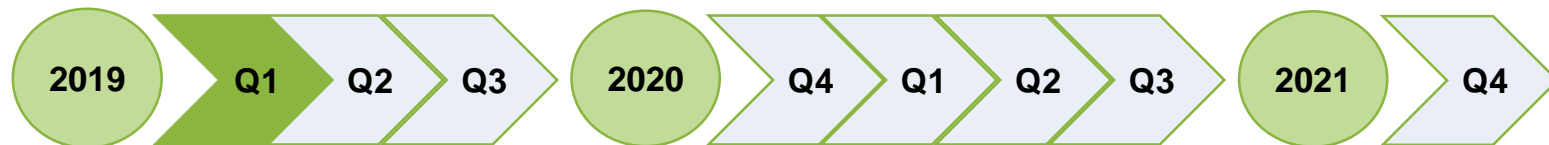
Jun 2018  
**Actual: 4229**  
Target: 4875

### Key insights:

- 5003 volunteering hours (208 days) delivered within Culture. Increase in library, Bookstart and music event volunteers, decrease in Cliff Lift and Focal Point Gallery volunteers.
- Make Southend Sparkle - 96 volunteering hours.
- Average of 260 runners per week participating in Southend Park Runs
- New organisations signing up to the PHRD has reduced as we are now in Year 3 of the programme, meaning that the number of businesses to recruit from in the borough reduces. There is a particular focus on engaging SME businesses for 2019/20
- Not all of the ~12,520 individuals would be appropriate for community based strength and balance programmes but the cohort that could benefit from these programmes is significant. However the Council's programme is running at very close to full capacity with current model / resources.

## A Better Start Parent Champions





## Quarter 1: Update

People were asked to put forward their suggestions for names for the new wheeled sports facility in the town centre. “Skatey McSkateface” was completed in time for the summer holidays and opened to the public on 19th July 2019, with an official launch event taking place on 3rd August 2019. The new facility is already encouraging engagement in the area and has received great comments.

Integrated Design Teams continue to meet to develop Locality approaches and integrated working, for example Regular Multi-disciplinary Team working across each Locality (fortnightly), the development of the ‘hub’ concept and closer collaboration with Children’s Centres across the borough.

May 2019 saw the completion of the Council’s affordable housing development in Rochford Road, which comprised of twelve two-bedroom flats and three three-bedroom houses. The ground floor flats were built to wheelchair user dwelling standards and have been allocated via the nominations panel. The Council is pushing ahead with its affordable development programme, which includes two further phases and a Modern Methods of Construction Pilot. Site investigation works have been undertaken, and procurement of the requisite professionals is underway. Estuary Housing Association will be completing their latest affordable housing scheme, Hammond Court in Sutton Road, in August 2019 which will see the provision of 44 dwellings with 26 of these being affordable rent and 18 shared ownership.

Following a major Southend 2050 stakeholder discussion event in February 2019, a follow up session occurred with the business community at the Southend Business Partnership (SBP) briefing in June 2019, resulting in various connections and pledges for participation. A workshop for the West Central locality design took place in June 2019, which involved residents and stakeholders, and a second workshop is being run in August 2019.

Utilising existing data and insight the Council has created a Southend Joint Strategic Needs Assessment product for Physical Activity. 40 physical activity-related projects were run during 2018/19, engaging almost 3000 individuals, 1146 of whom self-assessed as inactive at the start their engagement with a programme. Further development of the Council’s settings-based approaches to increase physical activity include: engaging 11 businesses in physical activity interventions through the Public Health Responsibility Deal, delivery of Early Years workforce training on physical activity in partnership with Active Essex, supporting schools to improve their physical activity offer through the Healthy Schools programme and encouraging schools to deliver the Daily Mile or equivalent activities on a regular basis.

Work undertaken as part of the West Central Locality to develop an Action Plan to support population health and wellbeing has strong features of bringing people of diverse backgrounds together to be involved and valued who would work together on issues of shared importance. Through workshops the Council has brought together staff interested or already working in areas aligned to the outcome; it commenced to reach out to the voluntary and community sector to include them in this important conversation and action around diversity, being valued and getting on well together.

## Future milestones

The SEE Locality Partnership Group is planning the development of the locality plan, starting with West Central, creation of locality dashboards and the development of SEE Dementia Navigators within a Locality setting.

The Council has proposed to bring together key relevant contacts to explore greater co-ordination to the diverse range of community ‘hubs’ across the borough.

In Q2 further workshops to support population health and wellbeing are planned, with the next one in August 2019, working with health and community sector colleagues on joined-up communications regarding Living Well in South Essex.

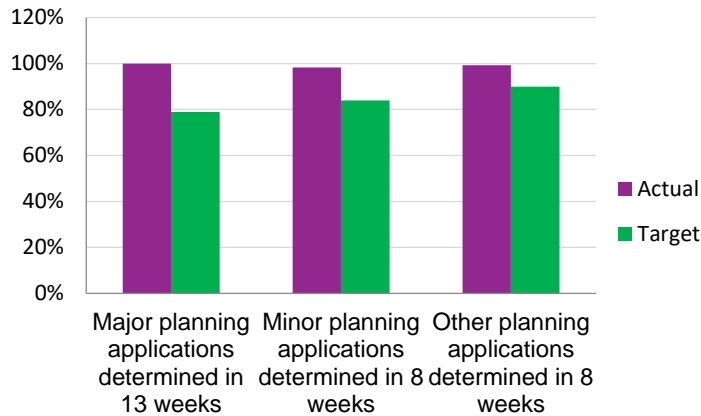
In Q2 further workshops are planned for developing Asset Based Community Development approaches, with targeted workshops to create a shared narrative around strengths and asset-based approaches. Further drop sessions for staff and partners will be held to keep track of internal and external activity, and to enhance collaboration with SAVS and their networks.



## Determination of Planning Applications

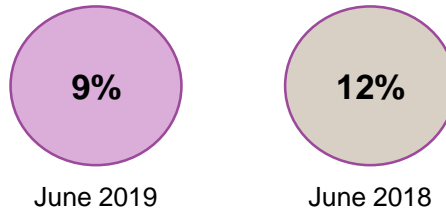
Number of overall planning applications submitted: 558

Success of appeal: 80 against target of 80



## Delivery of the Capital Programme

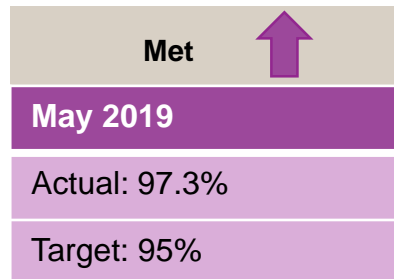
[Cumulative YTD]



## Child Development at Two Years Old

[Completions of the ASQ at 2 years 9 months]

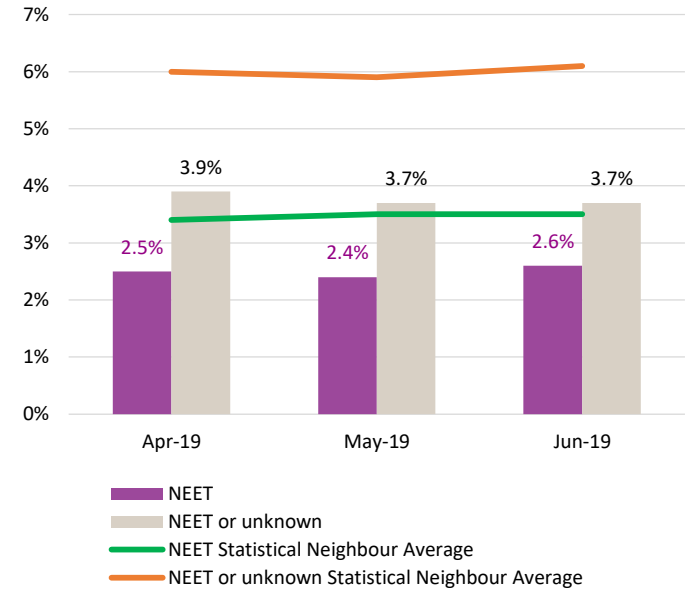
To be developed to include referral outcomes



## Percentage of young people Not in Employment, Education or Training (NEET) or whose situation is not known

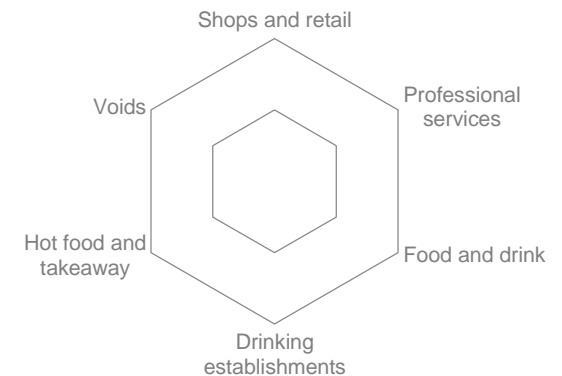
Aim to minimise

Total number of young people in the borough as at Jun 2019: 3953



## High street occupancy (BID area only)

[Data to be available as of Q2 2019/20]



## Key insights:

- In June 2019 **76** new businesses had opened in the borough, and **18** businesses have expanded and/or opened an additional property

- Six** businesses have relocated within the borough where they required a larger premises or location

- 47** properties transferred into the landlords name as they are now empty

- 96** businesses closed in the borough in June 2019, with an additional **37** properties remaining empty with the landlord liable for the business rates. Nine businesses have relocated within the borough and **six** businesses have liquidated

- Housing stock in Southend has seen an increase compared to last year equalling **521** more dwellings (annual info)

- There are 56 post-16 LAC and care leavers, of which 14 are NEET, 36 are in further education and six are in employment.

- 26 LAC and care leavers in Year 11 intended to: go onto apprenticeships or traineeship (2); continue full time education or training (19); or were undecided (5).





## Quarter 1: Update

The Better Queensway contract and partnership agreement was signed in April 2019, thereby confirming Swan Housing Association as the Council's partner and establishing the Porters Place Southend joint venture LLP that will deliver the regeneration project. Cabinet agreed work to develop a regeneration framework and pipeline of housing and regeneration projects as well as an acquisitions programme in June 2019.

With regards to tenants moving into the Airport Business Park, the relevant contracts have been let and the sale of land has been completed simultaneously with a Development Agreement.

The installation of art work to the Railway Bridge at the Cliff Town Road junction is already in progress.

Discussions regarding refreshed wayfaring and signage are underway. Joint working across several of the Council's teams is starting to look at creating an urban park with outdoor activities and refreshments at either end of the High Street, with shared space for the creative arts and events.

An affordable housing acquisitions programme has been agreed in order to utilise receipts from Right to Buy sales. This programme also includes use of HRA capital. A number of properties of different types and in different parts of the borough have been viewed with the intention of purchase.

Current plans to ensure sufficient school places continues, with sufficient Year 7 school places for 2019 being available as a result of expansion in a number of local secondary schools. Projects to meet this demand are currently on track for delivery. Since 2016/17, an additional ~50 Southend residents applied for, sat and passed entrance exams, and subsequently attended a Grammar School of their choice each year, as a result of awareness raising and support promoting the option of choice. Similar awareness raising activity will proceed ahead of the September 2019 application round for an entry in September 2020.

Specific skills related programmes to support career aspirations continue, including a possible extension to the "60 minute mentor" programme. The Connexions Service has been successful in ensuring that more learners continue in Education, Employment and Training (EET) beyond statutory school age, and our measure of success has been impressive in improving our NEET (Not in EET) figures.

Aligned to the work in narrowing the gap and career aspirations, the Connexions service delivers #kickstartmyfuture activities in Southend schools to raise the aspiration of students to think about higher education and offering further support to students from deprived areas that have the ability to move on to Higher Education but choose not to.

## Future milestones

The Better Queensway business plan will be considered by the relevant Governance Boards in the autumn.

Cabinet will consider the implications and impact of becoming an accredited real living wage employer at their meeting in September 2019.

Construction will continue along with preparations for the relocation of Westcliff Rugby Club to their new facility.

A "sounding board" is being established to include residents, business owners, landlords, councillors, council employees, students, the Bid, the support sector, etc., to consider key areas for improvement in the Town Centre such as empty properties, safety of the community, the cleanliness of the town centre, homelessness and parking.

Future phases of the HRA land review have been agreed and are being progressed. An Employer's Agent is currently being procured for Phases 3 and 4 of the scheme.

A pilot of Modern Methods of Construction is also up and running with an architect now on board and outline planning is due to be submitted in the autumn.

There are new business plans to support additional resource and enhancement to the Community Officers Scheme, to explore moving the presence for the Council into the High Street with a shift in some resource to the High Street in addition to the support sector.

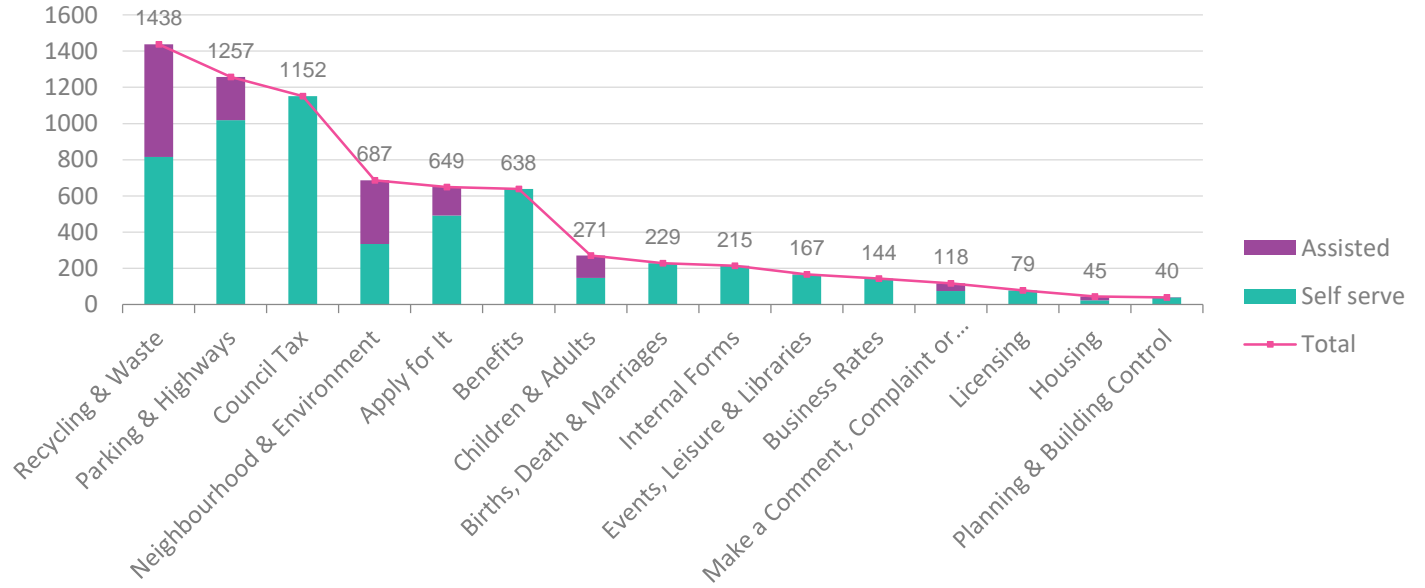
A paper will be going to the new Children and Learning working party proposing options beyond the life of the current expansion programmes. This also includes the possibility of additional funding through a grant by the DfE on top of the basic need allocation.



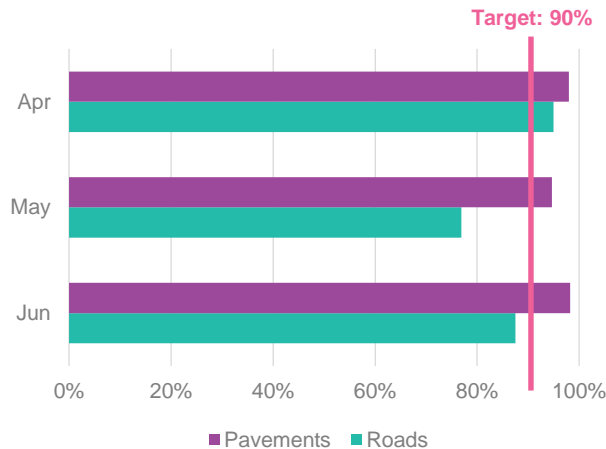
### Key insights:

- Total number of registrations for free Wi-Fi: 91,815
- The High Street is the most popular browsing location for access to free Wi-Fi followed by Eastern Esplanade, Hamlet Court Road and Leigh Broadway
- Most users are between the ages of **15-24**, with a total of **15,000** people registered
- 1,438 online MySouthend forms regarding Recycling & Waste were completed in June 2019 – and of those, 56.75% were self-serve
- **1,257** online MySouthend forms regarding Parking & Highways were completed in June 2019 and of those **80.99%** were self-serve

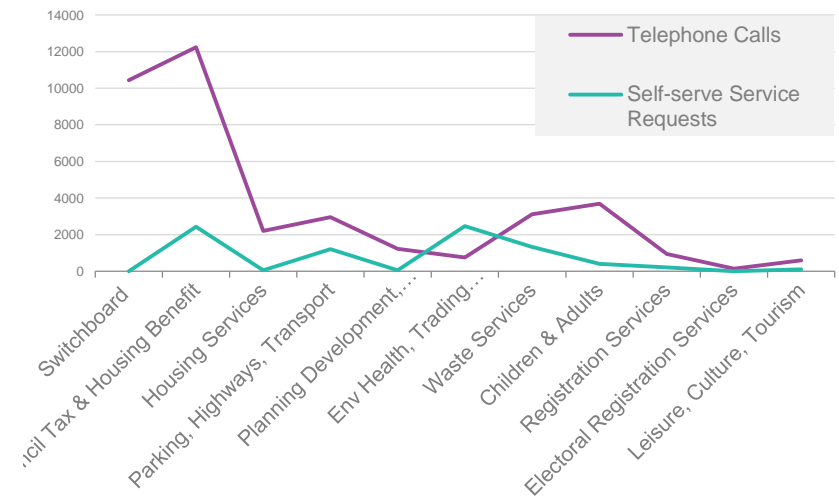
### Service Requests submitted via MySouthend



### Percentage of CAT1 defects made safe within response times (roads and pavements)



### Channel Shift - No. of service requests compared to no. of telephone calls





### Quarter 1: Update

Installation of the footbridge at A127 Kent Elms commenced under overnight road closures from 7 May 2019 with the main span installed on 11 May 2019. Installation of the handrail and decking continued. The installation of hard landscaping around Kent Elms Health Centre and Library commenced.

Work continues on establishing a simple and effective method of managing the Council's data that complies with data protection and enables the focus of collective efforts on the things that make a positive difference to the people of Southend. Data requirements are being specified over July and August, using the work already done for the Joint Strategic Needs Assessment (JSNA) as a base. Once complete, the technical solution to collect, store and share this data will be developed.

The Council continues to embed an agile working culture, with 30 agile working volunteers in place. We have established a clear definition and standardised ICT equipment has been agreed. There was further rollout of agile working on Floor 8 of Civic 1 to promote cross-organisation collaboration to support the delivery of Southend 2050

The Council already has in operation a full fibre ring, capable of delivering high speed broadband across the borough geographically. In addition, the planned implementation of Fibre to the Home from CityFibre and Vodafone will increase the existing geographical coverage by providing connectivity to an additional sixty four thousand homes by 2021. Free Wi-Fi exists throughout the High Street and along the seafront as far as Old Leigh and Leigh Broadway.

### Future milestones

Project completion of the bridge works and finalisation of the Kent Elms scheme in Q2.

A new project group with a variety of work streams has been established to define and deliver a clear vision of agile working over the coming months.

Work on Floor 10 of Civic 1 to be finished to create an open office environment working area for the Corporate Management Team (CMT). Members of CMT will no longer have individual office spaces.

An innovation area will be created on Floor 2 of Civic 1 to test and design potential agile working solutions, including technology, prior to rollout.

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# Southend-on-Sea Borough Council

Report of Executive Director (Finance & Resources)

To

Cabinet

On

17 September 2019

Report prepared by:

Ian Ambrose, Head of Corporate Finance

Caroline Fozzard, Group Manager for Financial Planning and Control

Agenda  
Item No.

9

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**Corporate Budget Performance – Period 4**  
**Policy and Resources Scrutiny Committee**  
**Cabinet Members: Councillor Ian Gilbert and Councillor Ron Woodley**  
***Part 1 (Public Agenda Item)***

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## 1 Purpose of Report

The corporate budget performance report is a key tool in scrutinising the Council's financial performance. It is designed to provide an overview to all relevant stakeholders. It is essential that the Council monitors its budgets throughout the year to ensure that it is meeting its strategic objectives and that corrective action is taken where necessary.

## 2 Recommendations

That, in respect of the 2019/20 Revenue Budget Performance as set out in appendix 1 to this report, Cabinet:

- 2.1 Note the forecast outturn for the General Fund and the Housing Revenue Account as at July 2019;
- 2.2 Approve the planned budget transfers (virements) of £1,872,260 between portfolio services, as set out in section 3.7;
- 2.3 Approve the transfer of £2,000,000 from the Children's Social Care Reserve previously approved to assist with the increase in demand and cost within this area;
- 2.4 Approve the transfer of £500,000 from the Interest Equalisation Reserve to fund the additional interest costs due to advance borrowing to take advantage of exceptionally low interest rates.

That, in respect of the 2019/20 Capital Budget Performance as set out in appendix 2 of this report, Cabinet:

- 2.5 Note the expenditure to date and the forecast outturn as at July 2019 and its financing;
- 2.6 Approve the requested changes to the 2019/20 capital investment programme as set out in Section 2 of Appendix 2;
- 2.7 Note the requested additions to the Fire Improvement Works budget of £750k p.a. for the five years from 2020/21 to 2024/25 as set out in the Fire Safety Report elsewhere on this agenda.

### **3 Background and Summary**

#### **Revenue – General fund**

- 3.1 In February 2019 the Council agreed for 2019/20 a General Fund revenue budget of £125.647M. This report details the projected outturn position for 2019/20 based on information as at the end of July (period 4).
- 3.2 The first four months of 2019/20 has continued in the same vein as the previous financial year, with increasing service demand placing strain on available resources, despite additional ongoing investment being put into priority areas. Childrens social care and highways continue to be the main pressure areas, although this is offset somewhat by higher than budgeted income from business rates and the contribution from the Essex wide Business Rates pool of an estimated £2M.
- 3.3 The budget does include just under £3M contingency yet to be drawn that could be used to meet the forecast overspend should continued actions not succeed in pulling spend back into line with allocated budgets. The Council also continues to maintain healthy reserves, some of which such as the childrens social care reserve are set aside specifically to guard against these in-year pressures.
- 3.4 The current year end forecast for the General Fund is a £2.6M net overspend which is 0.8% of the gross budget. This net overspend is after the expected additional Business Rates income of £2M. There are some further mitigations which have been applied to this net overspend. In setting the Council budget for 2019/20, £2M was specifically set aside in the Childrens Social Care Reserve to deal with the expected additional cost and demand pressures in this area which is now recommended for release. In addition, the Council had set a contingency within its overall base budget of which £3M remains for the rest of this financial year. At this early stage in the year it would not be advisable to release the full amount, however previous years' use of the contingency would indicate that a proportion of this sum would be available to support the current estimated net overspend. It has therefore been assumed within the net overspend, that £1.5M of contingency is likely to be available by the year end to support this position. There is still a requirement to continue with actions to address the service pressures and continued active budget management across all Council services to achieve a balanced budget by year end.

- 3.5 In conclusion, and despite the current spending and income financial pressures being faced, the Council's financial resilience and ability to cope with unexpected challenges including the residual forecast net overspend remains robust and therefore a balanced year end budget remains achievable.
- 3.6 The Council continues to assess the potential financial implications of Brexit on the provision of Council Services, and the next budget monitoring report to Cabinet due in November will include an update and resourcing requirement, as necessary.

### **Revenue – General Fund virements**

- 3.7 All budget transfer virements over £50,000 between portfolio services or between pay and non-pay budget are to be approved by Cabinet. These budget transfers have a net nil impact on the Council's overall budget. The following budget transfers for Cabinet approval this period are:

£'000	
379	Re-alignment of staffing posts in Children's and Adult's
1,419	Re-alignment of staffing posts within Corporate Strategy
75	Re-allocation of Vision 2050 fund

### **Revenue – Housing Revenue Account**

- 3.8 In February 2019 the Council agreed for 2019/20 a balanced Housing Revenue Account revenue budget. This report details the projected outturn position for 2019/20 based on information as at the end of July (period 4).
- 3.9 The forecast for the Housing Revenue Account indicates that the HRA will have a net surplus of (£200,000) in 2019/20, (-0.8%) of gross operating expenditure. Of this £48,000 will be used to fund additional revenue contributions to capital, with the remaining £152,000 being transferred to the HRA Capital Investment Reserve.

### **Capital**

- 3.10 Successful and timely delivery of the capital investment programme is a key part of achieving the Southend 2050 ambition and delivering the outcomes. The investment contributes to the five themes in the following way:
- 3.11 Pride and Joy – the key investment areas are: the ongoing refurbishment and enhancement of Southend's historic pleasure pier and the town's cultural and tourism offer, including libraries, museums and theatres.
- 3.12 Safe and Well – the key investment areas are: the construction and acquisition of new council homes and the refurbishment of existing ones via the decent homes programme; social care with the building of a new care facility and day centre to provide high quality services for people with high and complex needs.
- 3.13 Active and Involved – the key investment area is the Cart and Wagon Shed for the coastal community team to use as part of their community interest company.

- 3.14 Opportunity and Prosperity – the key investment areas are: the Airport Business Park to deliver benefits for both local businesses and local communities, creating thousands of job opportunities and attracting inward investment; the secondary schools expansion programme has delivered 120 permanent additional secondary school places for September 2018 and a further 80 for September 2019. This expansion is across eight of the twelve Southend secondary schools and will result in an additional 1,050 places for 11-16 year old pupils once completed.
- 3.15 Connected and Smart – the key investment areas are: the investment in the borough’s highways and transport network, including the improvements to the A127 Growth Corridor funded by the Local Growth Fund; investment in the Council’s ICT infrastructure and networks to enable and transform outcome focussed service delivery.
- 3.16 In February 2019 the Council agreed a capital investment programme budget for 2019/20 of £74.361M. This budget was revised at June Cabinet to £90.073M following approved re-profiles and other amendments. £50.329M of this budget is identified as strategic schemes such as the Airport Business Park.
- 3.17 About a third of the programme is financed by Government grants and external developer and other contributions and at the end of July approximately a half had been received. The rest of the programme is funded by capital receipts, the use of reserves or by borrowing. Funding schemes by borrowing has a revenue consequence of approximately £70k for every £1M borrowed.
- 3.18 This report details the projected outturn position for 2019/20 based on information as at the end of July (period 4). The report includes details of progress in delivering the 2019/20 capital investment programme and in receiving external funding relating to that year.
- 3.19 Since June Cabinet capital challenge meetings have been held with the Deputy Leader to ensure that budgets are better aligned to the predicted spend across the years of the programme and to the delivery of the desired outcomes. The changes resulting from those meetings have been included in this report. Also since that Cabinet meeting the Investment Board has agreed some proposed new schemes can progress to Cabinet for consideration. As a result of the above, this report includes any proposed budget reprofiles, virements between schemes, proposed new schemes and proposed scheme deletions.
- 3.20 The progress of schemes for 2019/20 is detailed in section 1 of Appendix 2 with Section 2 setting out the resulting requests to:
- Carry forward £10,955,000 of 2019/20 scheme budgets into future years;
  - Bring forward £274,000 of budget from future years into 2019/20;
  - Add scheme budgets totalling £78,000 into 2019/20 where new external funding has been received;
  - Add scheme budgets totalling £3,470,000 into 2019/20 and £450,000 into 2020/21 for new schemes and additions to the capital investment programme;
  - Action virements of budget between approved schemes;
  - Remove £462,000 of 2019/20 scheme budgets no longer required;



- Move £126,000 for 2019/20, £4,083,000 for 2020/21 and £8,432,000 for 2021/22 to the 'Subject to Viable Business Case' section of the programme.

3.21 As at the end of July the expected capital outturn for 2019/20 is £82,352,000.

3.22 The 2019/20 capital budget is part of the wider capital investment programme spanning several years. The table below shows the revised programme if all the above requests are approved:

	2019/20 £(000)	2020/21 £(000)	2021/22 £(000)	2022/23 £(000)	2023/24 £(000)	Total £(000)
At June Cabinet	90,073	88,963	40,420	6,855	6,855	233,166
Amendments	(7,721)	5,491	(8,117)	1,242	0	(9,105)
Revised programme	82,352	94,454	32,303	8,097	6,855	224,061

## 4 Other Options

4.1 The Council could choose to monitor its budgetary performance against an alternative timeframe but it is considered that the reporting schedule provides the appropriate balance to allow strategic oversight of the budget by members and to manage the Council's exposure to financial risk. More frequent monitoring is undertaken by officers and considered by individual service Directors and the Council's Corporate Management Team (CMT) including approval of necessary actions.

## 5 Reasons for Recommendations

5.1 The regular reporting of Revenue and Capital Budget Monitoring information provides detailed financial information to members, senior officers and other interested parties on the financial performance of the Council. It sets out the key variances being reported by budget holders and the management action being implemented to address the identified issues.

5.2 It also informs decision making to ensure that Members' priorities are delivered within the agreed budget provision.

5.3 It is important that issues are addressed to remain within the approved budget provision or where they cannot be contained by individual service management action, alternative proposals are developed and solutions proposed which address the financial impact; Members have a key role in approving such actions as they represent changes to the budget originally set and approved by them.

## 6 Corporate Implications

6.1 Contribution to the Southend 2050 Road Map

The robustness of the Councils budget monitoring processes and the successful management of in-year spending pressures are key determinants in

maintaining the Council's reputation for financial probity and financial stewardship. This also enables the ability of the Council to redirect and prioritise resources to ensure delivery of agreed outcomes.

## 6.2 Financial Implications

As set out in the body of the report and accompanying appendices.

## 6.3 Legal Implications

The report provides financial performance information. It is consistent with good administration for the Council to consider monitoring information in relation to plans and budgets that it has adopted.

Section 3 of the Local Government Act 1999 requires the Council as a best value authority to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". Monitoring of financial and other performance information is an important way in which that obligation can be fulfilled.

The Council is required by section 151 of the Local Government Act 1972 to make arrangements for the proper administration of its financial affairs. The Council is also required by section 28 of the Local Government Act 2003 to monitor its budget, and take corrective action as necessary. The Council's chief finance officer has established financial procedures to ensure the Council's proper financial administration. These include procedures for budgetary control. It is consistent with these arrangements for the Cabinet to receive information about the revenue and capital budgets as set out in the report.

## 6.4 People Implications

None arising from this report

## 6.5 Property Implications

None arising from this report

## 6.6 Consultation

None arising from this report

## 6.7 Equalities and Diversity Implications

None arising from this report

## 6.8 Risk Assessment

Sound budget monitoring processes underpin the Council's ability to manage and mitigate the inherent financial risks associated with its budget, due to the volatility of service demand, market supply and price.

The primary mitigation lies with the expectation on CMT and Directors to continue to take all appropriate action to keep costs down and optimise income (e.g. through minimising spending, managing vacancies wherever possible). Adverse variances will require remedial in-year savings and budget reductions. The back-stop mitigation would be to draw on reserves to rebalance the budget, but this will only be done at year end should other measures fail.

With the likely scale of funding pressures and future resource reductions, it is important that the Council holds a robust position on reserves and maintains the ability to deal with issues that arise during the financial year.

#### 6.9 Value for Money

The budget set reflects the Council's drive to improve value for money and to deliver significant efficiencies in the way it operates. Monitoring the delivery of services within the budget set helps to ensure that the planned value for money is achieved.

#### 6.10 Community Safety Implications

None arising from this report

#### 6.11 Environmental Impact

None arising from this report

### 7 **Background Papers**

None

### 8 **Appendices**

Appendix 1 Revenue Budget Performance 2019/20 – July 2019

Appendix 2 Capital Investment Programme Budget Performance 2019/20 – July 2019

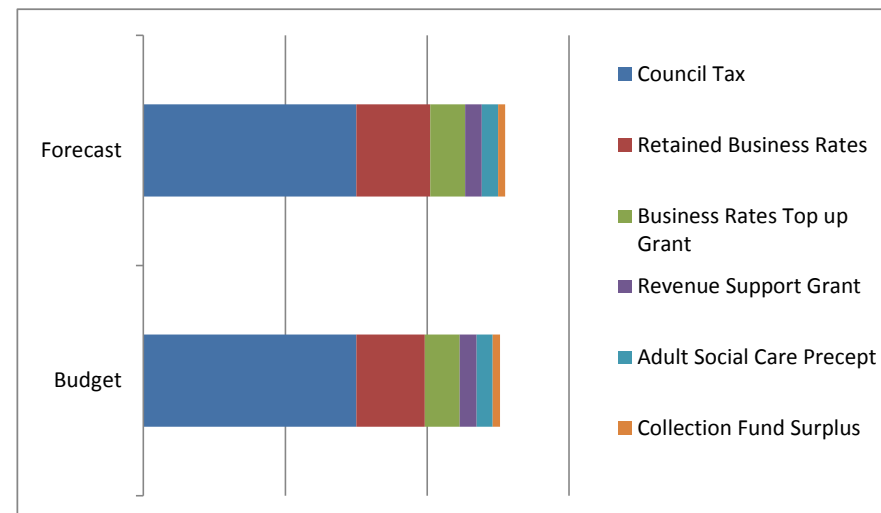
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## Appendix 1 - Revenue Budget Performance 2019/20 - July 2019

### Summary

Portfolio	Revised		
	Budget £M	Forecast £M	Variance £M
Leader	12.7	12.9	0.2
Deputy Leader	3.0	5.8	2.8
Business, Culture and Tourism	4.9	4.9	0.0
Children and Learning	29.3	32.5	3.2
Community Safety and Customer Contact	5.4	5.4	0.0
Environment and Planning	20.3	19.7	-0.6
Health and Adult Social Care	37.0	37.5	0.5
	<b>112.6</b>	<b>118.7</b>	<b>6.1</b>
Corporate Budgets	13.6	12.1	-1.5
	<b>126.2</b>	<b>130.8</b>	<b>4.6</b>
Earmarked Reserves	-1.8	-1.8	0.0
Revenue Contribution to Capital	5.0	5.0	0.0
Non Service Specific Grants	-3.8	-3.8	0.0
<b>TOTAL</b>	<b>125.6</b>	<b>130.2</b>	<b>4.6</b>
Funding	125.6	127.6	2.0
<b>NET</b>	<b>0.0</b>	<b>2.6</b>	<b>2.6</b>

### Sources of funding



67

The first four months of 2019/20 has continued in the same vein as the previous financial year, with increasing service demand placing strain on available resources, despite additional ongoing investment being put into priority areas. The Council is currently forecasting a revenue overspend of £2.6M against the approved budget after applying some in-year mitigations.

Childrens social care and highways continue to be the main pressure areas, although this is offset somewhat by higher than budgeted income from business rates of £2M.

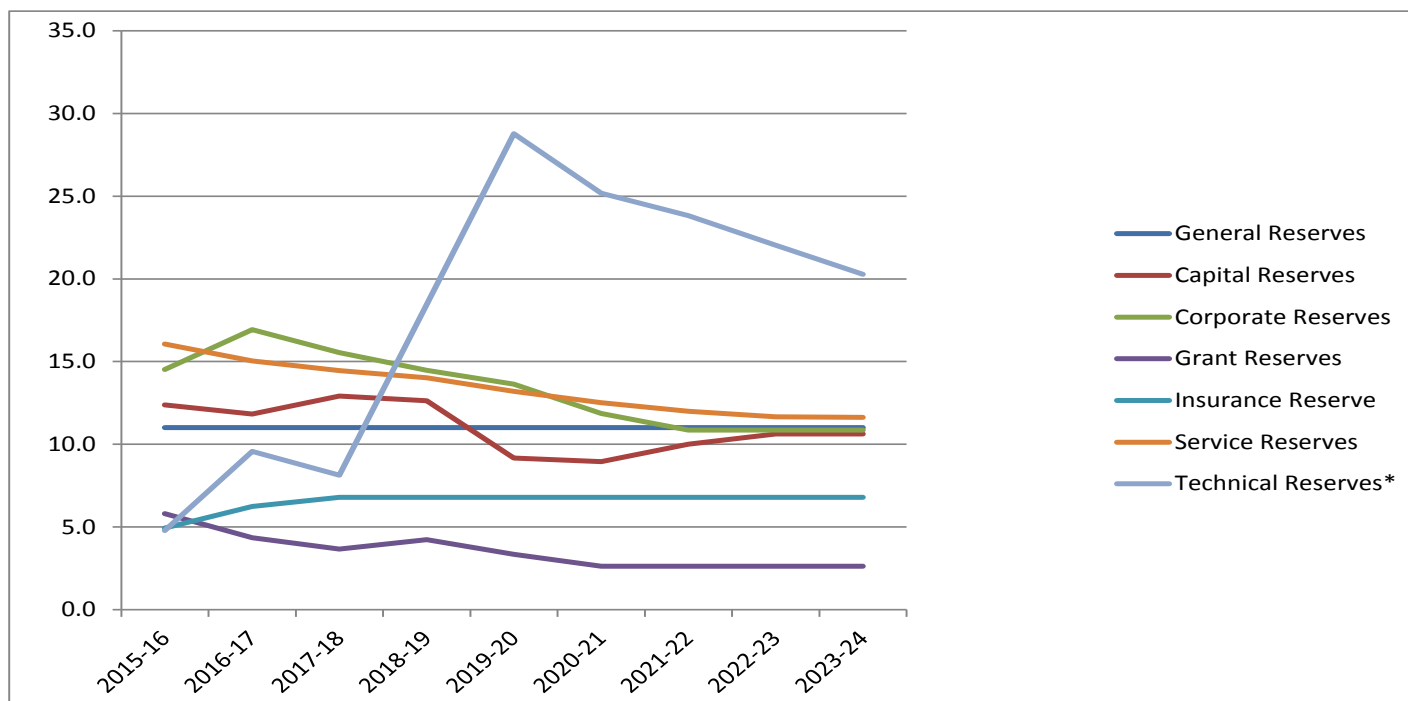
The budget has just under £3M contingency remaining at this stage in the year, and in the table above it has been assumed that £1.5M will be released based upon historical use of the contingency. The table also reflects the release of £2M from the Childrens social care reserve as recommended in setting the 2019/20 Council budget. There is also a planned use of the Interest Equalisation Reserve of £0.5M to meet additional financing costs due to advanced borrowing to take advantage of exceptionally low interest rates.

In conclusion, and despite the current financial pressures being faced and with the Council's healthy reserves, the Council's financial resilience and ability to cope with unexpected challenges remains robust.

## Reserves

The Council maintains General fund reserves at £11.0M in line with the Medium Term Financial Plan which was agreed at Full Council in February. This provides a working cashflow balance and also allows a degree of financial security in the case of unexpected events or emergencies.

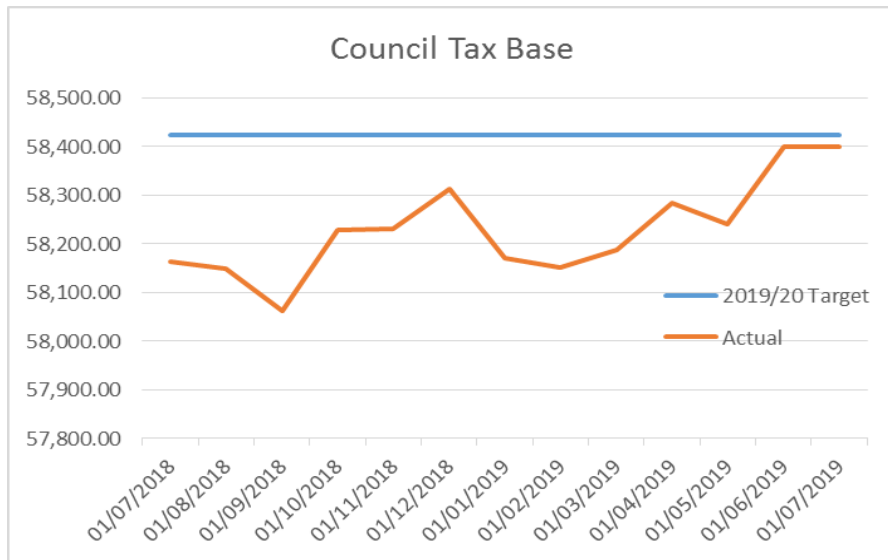
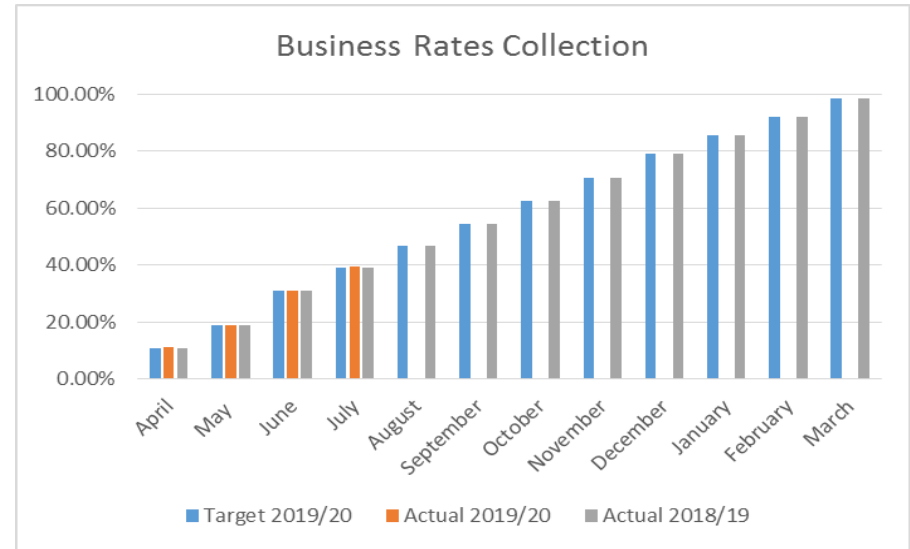
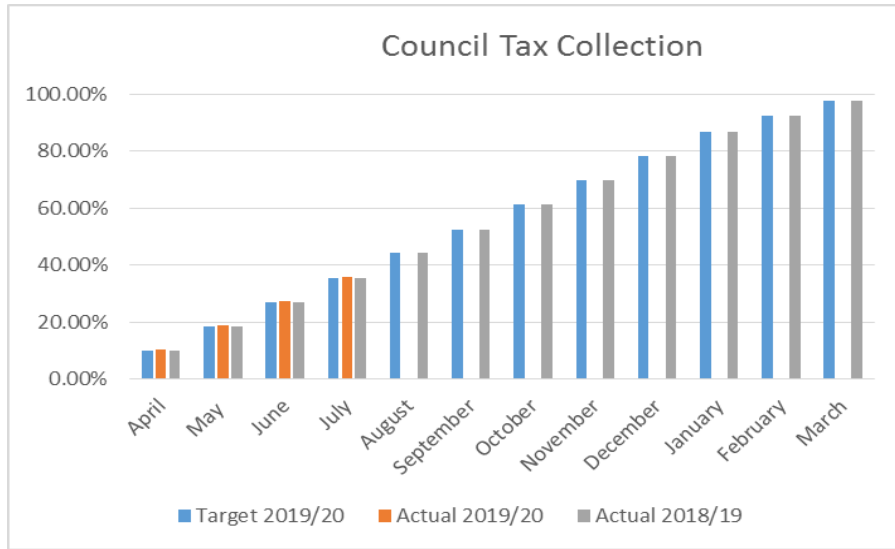
In addition, Earmarked Reserves are set aside to fund future projects and to mitigate specific risk. The level of these reserves will fluctuate as grants are received, risk is realised and projects progress.



	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
General Reserves	11.0	11.0	11.0	11.0	11.0	11.0	11.0	11.0	11.0
Capital Reserves	12.4	11.8	12.9	12.6	9.2	8.9	10.0	10.6	10.6
Corporate Reserves	14.5	16.9	15.5	14.5	13.6	11.9	10.9	10.9	10.9
Grant Reserves	5.8	4.4	3.7	4.2	3.3	2.6	2.6	2.6	2.6
Insurance Reserve	4.9	6.2	6.8	6.8	6.8	6.8	6.8	6.8	6.8
Service Reserves	16.1	15.0	14.5	14.0	13.2	12.5	12.0	11.7	11.6
Technical Reserves*	4.8	9.6	8.1	18.5	28.8	25.2	23.8	22.0	20.3
	<b>58.5</b>	<b>64.0</b>	<b>61.5</b>	<b>70.6</b>	<b>74.9</b>	<b>67.9</b>	<b>66.1</b>	<b>64.6</b>	<b>62.8</b>

\*Technical Reserves are held to even out the impact of cyclical spending pressures across a number of years, and underpin the medium term financial plan, e.g. the pensions reserve.

# Collection Rates



Collection targets for the current financial year exceed the monthly target on both Council Tax (0.3% above target) and Business Rates (0.1% above target) for this month. Although this has no immediate impact of the financial situation for 2019/20, if maintained it will provide releasable surpluses for future year budget planning.

The Council Tax Baseline remains less than that used to calculate the base at the start of the year, however following the addition of some properties to the base this month this is just 25 properties less in comparison to the Council Tax Base Setting for the year; this is expected to continue to grow monthly.

## Leader

**29.26%** of Total Gross Revenue  
Service Budget

**£0.2M**

Forecast  
Revenue  
Overspend

**0.22%**

Variance as % of Total  
Gross Budget  
Envelope

Leader	Revised Budget £M	Forecast £M	Variance £M
Strategic Planning and Policy	1.8	1.8	0.0
Revenue and Benefits	0.8	0.8	0.0
Housing	3.1	3.1	0.0
Legal and Democratic Services	2.7	2.9	0.2
Other Services	4.3	4.3	0.0
<b>TOTAL</b>	<b>12.7</b>	<b>12.9</b>	<b>0.2</b>
Gross Expenditure	91.4		
Gross Income	78.7		
<b>TOTAL</b>	<b>12.7</b>		

**Budget £M** **12.7**

**Forecast £M** **12.9**

70

Private Sector Housing is forecasting to underspend by (£246,000) as at the end of period 4. This is because of the vacant posts currently in the team, some of which are being temporarily covered by agency staff. There has recently been a recruitment drive to recruit on a permanent basis.

Strategy & Planning for Housing is forecasting a year end pressure of £200,000. This is in respect of the new temporary staffing structure that is currently in place to implement and deliver the housing strategy.

As a result of the increase in the number of looked after children, there is a forecast £235,000 overspend on barrister's fees for childcare cases, reflecting the overspend last year given that the average number of active cases has not changed.



## Deputy Leader

**6.27%**

of Total Gross Revenue  
Service Budget

**£2.8M**

Forecast  
Revenue  
Overspend

**14.29%**

Variance as % of Total  
Gross Budget Envelope

Deputy Leader	Revised Budget £M	Forecast £M	Variance £M
Asset and Facilities Management	-0.7	-0.5	0.2
Financial Services	3.5	3.5	0.0
Highways and Transport	0.2	2.8	2.6
<b>TOTAL</b>	<b>3.0</b>	<b>5.8</b>	<b>2.8</b>
Gross Expenditure	19.6		
Gross Income	16.6		
<b>TOTAL</b>	<b>3.0</b>		

Budget £M **3.0**

Forecast £M **5.8**

71

Although the energy used by our new LED street lights is 45% lower than in 15/16, the average unit cost of electricity for our unmetered supply has risen by 17% over this time period. As a result, there is currently a forecast pressure of £75,000 for energy costs. Due to the need to maintain or replace damaged lights and columns, there is also a maintenance pressure of £85,000.

Tree maintenance costs on the highway in Q1 of 19/20 are significantly higher than in Q1 of 18/19. This is likely to be as a result of the storms in March 2019 creating additional damage. The budget area is currently forecasting an overspend of £140,000.

The income received in both our on street and off street car parks is higher than expected. Tariffs are being amended to support businesses in the town centre and the cost impact has been provided for by the use of the contingency budget. University Square car park continues to cost more money than it collects in income. The overall income position across the car parking estate is a forecast surplus of (£185,000). However due to instances of anti-social behaviour, security costs at University Square are expected to reach £185,000 at year end, contractor costs are forecast to exceed the budget by £100,000 due to ad-hoc works and parking machine charges of £50,000 have been incurred.

Expenditure on highways maintenance has remained consistent with 18/19 which means an overspend of £630,000 is expected. This was partly

offset last year due to the award of the DfT pothole fund which isn't guaranteed for this year. The demand on the service due to potholes is weather dependant, and after cases of extreme hold and cold weather there is a risk that the infrastructure in places may not be as robust as expected. Additional capital investment in 19/20 and 20/21 has been made in an attempt to improve the quality of the most affected surfaces with the aim to reduce the ongoing maintenance requirement.

Although the number of PCN's issued has increased by 10%, it is still forecast that the income collected from these notices will fall short of the income anticipated when the budget was set by £430,000.

After a transition year regarding the administration of streetwork permits which saw a significant income shortfall in 18/19, there is now a better understanding of the different elements of income anticipated in 19/20. Whilst the income received from permit applications has remained relatively consistent over the past 4 years, the income for penalties and section 74 charges has reduced considerably. The income shortfall is forecast to be £500,000 at the end of the year.

Ongoing support for the Symology system is expected to cost the organisation £100,000 this year. Staff are currently being deployed on a number of projects and initiatives which were not anticipated when the budget was set. This is expected to result in a pressure on the revenue budget of £150,000.

## Business, Culture and Tourism

**3.20%** of Total Gross Revenue  
Service Budget

**£0M**

Forecast  
Revenue  
Overspend

**0.00%** Variance as % of Total  
Gross Budget Envelope

<b>Business, Culture and Tourism</b>	<b>Revised Budget £M</b>	<b>Forecast £M</b>	<b>Variance £M</b>
Economic Development and Regeneration	0.8	0.8	0.0
Tourism	0.5	0.4	-0.1
Culture	3.6	3.7	0.1
<b>TOTAL</b>	<b>4.9</b>	<b>4.9</b>	<b>0.0</b>
Gross Expenditure	10.0		
Gross Income	5.1		
<b>TOTAL</b>	<b>4.9</b>		

**Budget £M** **4.9**

**Forecast £M** **4.9**

Due to the popularity of the pier, the income received for admissions and associated sales is forecast to be above the income budget by (£150,000). July, August and September are traditionally the busiest months on the pier and so this forecast may fluctuate depending upon the number of visitors over this busy time.

## Children and Learning

**27.14%** of Total Gross Revenue  
Service Budget

**£3.2M**

Forecast  
Revenue  
Overspend

**3.77%** Variance as % of Total  
Gross Budget Envelope

Children and Learning	Revised Budget £M	Forecast £M	Variance £M
Childrens Social Care	21.3	24.2	2.9
Youth and Family Support	2.8	3.0	0.2
Education and Schools	5.2	5.3	0.1
Maintained Schools Delegated	0.0	0.0	0.0
<b>TOTAL</b>	<b>29.3</b>	<b>32.5</b>	<b>3.2</b>
Gross Expenditure	84.8		
Gross Income	55.5		
<b>TOTAL</b>	<b>29.3</b>		

Budget £M **29.3**

Forecast £M **32.5**

74

As a result of an overall net increase in the numbers of looked after children (LAC) over the last 4 years (rising from 261 at the start of April 2016 to now current est. 319 as at June 2019), more expensive residential care placements (due to market conditions), and an increase in the number of expensive secured care placements required there is a forecast pressure of £3.5M against the original budget for external private fostering, residential and secured placements. This increase in LAC numbers also means there is an increase in leaving care placements which is creating a pressure on the budget. Care package support has also continued to grow for placements of children with disabilities creating an overspend of £140,000 against the budget. It is recommended that £2M is released from the Childrens Social Care Reserve to fund some of this additional cost.

However, there are signs that the number of looked after children is decreasing from the high seen in April 2019 and there has been a continuous month on month reduction up to and including July.

The national issue of Unaccompanied Asylum Seeker care package support being inadequately funded by the Home Office grant is also contributing to a wider budget pressure of £330,000.

There is an increased case load for our social workers which requires the use of agency staff and additional newly qualified social

workers (NQSW) to support which is resulting in an forecast staffing pressure of £700,000. The service are currently reviewing the use of NQSW and any further increases will be met by a reduction in agency staff which should reduce this pressure.

Although the troubled families service continue to target increased payment by results, the fixed element of the grant funding has continued to reduce which is resulting in a shortfall of the £295,000 against the grant target.

# Community Safety and Customer Contact

**3.33%** of Total Gross Revenue  
Service Budget

**£0M**

Forecast  
Revenue  
Overspend

**0.00%**

Variance as % of Total  
Gross Budget  
Envelope

<b>Community Safety and Customer Contact</b>	<b>Revised Budget £M</b>	<b>Forecast £M</b>	<b>Variance £M</b>
Customer Services	1.9	1.9	0.0
Community Safety	1.0	1.0	0.0
Cemeteries and Crematorium	-1.6	-1.6	0.0
Regulatory Services	1.0	1.0	0.0
ICT	3.1	3.1	0.0
<b>TOTAL</b>	<b>5.4</b>	<b>5.4</b>	<b>0.0</b>

**Budget £M** **5.4**

**Forecast £M** **5.4**

Gross Expenditure	10.4
Gross Income	5.0
<b>TOTAL</b>	<b>5.4</b>

No variances to report

## Environment and Planning

**7.23%** of Total Gross Revenue  
Service Budget

**£-0.6M**

Forecast  
Revenue  
Underspend

**-2.65%**

Variance as % of Total  
Gross Budget  
Envelope

Environment and Planning	Revised Budget £M	Forecast £M	Variance £M
Energy	-0.1	-0.1	0.0
Flooding	0.4	0.4	0.0
Planning	1.0	1.1	0.1
Parks and Open Spaces	4.4	4.5	0.1
Waste and Street Scene	14.6	13.8	-0.8
<b>TOTAL</b>	<b>20.3</b>	<b>19.7</b>	<b>-0.6</b>
Gross Expenditure	22.6		
Gross Income	2.3		
<b>TOTAL</b>	<b>20.3</b>		

**Budget £M** **20.3**

**Forecast £M** **19.7**

77

Applications have been made for a number of significant development projects this year and as a result the income received in the Development Control team has been greater than expected, especially in July. The current forecast is that an additional (£100,000) will have been received by the end of the financial year. In order to cope with the increased demand of these projects as well as the work required to progress the Local Plan, some additional staff support is in place, and staffing supplements have been agreed to retain talented employees. This is expected to result in additional staffing costs of £190,000

Due to the Mechanical Biological Treatment plant (MBT) in Basildon continuing to operate within a commissioning phase SBC are able to dispose of residual waste at a lower rate than the original business case. However, due to uncertainty regarding the availability of the plant, alternative disposal methods need to be utilised during periods of closure. The current average cost of disposal at the MBT is £102, whereas the cost of landfill (including haulage) is £118. Estimates have been made regarding the probability of disposing of waste at the MBT and at landfill and this is resulting in a forecast underspend of (£500,000). As a result of the revised agreement with Essex County Council relating to the Waste Joint Working Agreement, we are continuing to receive a share of the Waste Infrastructure Grant in relation to the MBT. The value of this income in 2019/20 is forecast to be (£230,000).

## Health and Adult Social Care

**23.56%** of Total Gross Revenue  
Service Budget

**£0.5M**

Forecast  
Revenue  
Overspend

**0.68%** Variance as % of Total  
Gross Budget Envelope

Health and Adult Social Care	Revised Budget £M	Forecast £M	Variance £M
Adult Social Care	36.3	36.8	0.5
Health	0.0	0.0	0.0
Voluntary and Community Services	0.7	0.7	0.0
<b>TOTAL</b>	<b>37.0</b>	<b>37.5</b>	<b>0.5</b>
Gross Expenditure	73.6		
Gross Income	36.6		
<b>TOTAL</b>	<b>37.0</b>		

**Budget £M** **37.0**

**Forecast £M** **37.5**

78

Learning Disabilities – forecasting a year end overspend of £188,000 after management actions of (£200,000). The overspend mainly relates to LD passenger transport and this will be mitigated once the Joint Venture goes live from January 2020, but there is also a pressure on LD Supported Living placements. The management actions relate to Supported Living contracts, which will be reviewed in the course of the year with a targeted (£200,000) saving.

Mental Health - forecasting to overspend by £92,000. The main pressure is on supported living placements, with the current year commitment being higher. There has also been more use of agency staff to cover vacant social worker posts on the mental health team, which is costing more than permanent staff.

Older People – forecasting to be £106,000 overspent, with management actions of £900,000. The pressure is mainly on interim residential placements. This is expected, as clients go in interim placements in the first instance, to support them to eventually go back home. The pressure we saw in 2018/19 has continued into 2019/20.



# Housing Revenue Account

**-£0.2M**      Forecast Revenue Underspend      **-0.8%**      Variance as % of Total Gross Budget Envelope

Housing Revenue Account	Revised Budget £M	Forecast £M	Variance £M	
Gross Expenditure	24.7	24.7	0.0	
Gross Income	-28.0	-28.2	-0.2	Budget £M
<b>NET OPERATING EXPENDITURE</b>	<b>-3.3</b>	<b>-3.5</b>	<b>-0.2</b>	<b>-3.3</b>
Revenue Contribution to Capital	2.3	2.3	0.0	Forecast £M
Contribution to / (from) Earmarked Reserves	1.0	1.2	0.2	<b>-3.5</b>
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	

79

The HRA budget for 2019/20 anticipated an operating surplus of £3,328,000.

The latest forecast as at period 4 indicates that the HRA will have an operating surplus of £3,528,000, an increase of £200,000 in 2019/20. This is because predictions as at the end of period 4 are showing higher rental income than budgeted for. The estimate assumes a 4% void allowance across all properties and the actual up to end of July has been less. Rather than increase the HRA balance, normal custom and practice would see this surplus transferred to the HRA Capital Investment Reserve.

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## Capital Investment Programme Performance 2019/20 – July 2019

### 1. Overall Budget Performance by Investment Area

The revised Capital budget for the 2019/20 financial year is £90.073million which includes all changes agreed at June Cabinet. Actual capital spend at 31<sup>st</sup> July is £11.460million representing approximately 13% of the revised budget. This is shown in Section 3. (Outstanding creditors totalling £0.225million have been removed from this figure).

The expenditure to date has been projected to year end and the outturn position is forecast to reflect the Project Manager's realistic expectation. This is broken down by type of investment area as follows:

Investment Area	Revised Budget 2018/19 £'000	Outturn to 31 <sup>st</sup> July 2019/20 £'000	Expected outturn 2019/20 £'000	Latest Expected Variance to Revised Budget 2019/20 £'000	Amended Budget 2020/21 to 2023/24 * £'000
General Fund Housing	2,123	206	2,123	-	1,952
Council Housing & New Build Programme	17,095	1,500	19,445	2,350	37,191
Social Care	10,679	170	6,340	(4,339)	8,100
Schools	12,137	1,155	9,438	(2,699)	3,812
Enterprise & Regeneration	13,906	1,317	13,421	(485)	27,505
Southend Pier	3,325	1,186	3,325	-	13,297
Culture & Tourism	3,659	1,146	4,594	935	19,377
Community Safety	1,786	15	880	(906)	1,906
Highways & Infrastructure	17,099	3,767	15,572	(1,527)	23,302
Works to Property	2,334	130	2,117	(217)	3,208
Energy Saving	1,368	-	663	(705)	1,548
ICT	2,992	820	2,864	(128)	172
S106/S38/CIL	1,570	48	1,570	-	339
<b>Total</b>	<b>90,073</b>	<b>11,460</b>	<b>82,352</b>	<b>(7,721)</b>	<b>141,709</b>

\* This shows the amended budget for those years if the amendments set out in Section 2 are approved.

The capital investment for 2019/20 is proposed to be funded as follows:

	<b>Council Budget £'000</b>	<b>Grant Budget £'000</b>	<b>Developer &amp; Other Contributions £'000</b>	<b>Total Budget £'000</b>
<b>Total Budget</b>	<b>61,091</b>	<b>25,865</b>	<b>3,117</b>	<b>90,073</b>
As a percentage of total budget	67.8%	28.7%	3.5%	
External Funding Received to date		12,791	1,638	<b>14,429</b>
External Funding Outstanding		13,074	1,479	<b>14,553</b>

## Progress of Strategic schemes

Successful and timely delivery of the capital investment programme is a key part of achieving the Southend 2050 ambition and delivering the outcomes.

Although the revised capital investment programme is £90.073million, £50.329million of this relates to strategic schemes.

Following a full review of the capital investment programme, project managers are not reporting any expected variances against the revised budget for strategic schemes except for the Secondary School Expansion programme which will see a carry forward request of £2million, Delaware and Priory of £4.2million and Airport Business Park of £235k. Additional budget of £2.350million will also be added to the HRA Affordable Housing Acquisitions Programme (see commentary below).

Scheme	Revised Budget 2019/20 £000	Outturn to 30th July 2019/20 £000	% spent	Expected outturn 2019/20	Comments	Budget 2020/21 to 2023/24 £000
<b>Strategic schemes</b>						
Airport Business Park (including Local Growth Fund)	11,615	1,142	10%	11,380	All major utilities and infrastructure contracts have now been let and are on site. The planning application has been submitted for the Launchpad building.	13,520
Better Queensway - Regeneration	2,041	175	9%	2,041	Contract signing and JV partnership in April, business plan to be developed by early autumn, awaiting outcome from Homes England in regards to funding	13,500
Forum II – SBC Match Funding to LGF	1,030	58	6%	1,030	RIBA stage 3 signed off, planning permission submitted, on programme to commence on site early 2020	17,450
Delaware and Priory New Build	9,219	42	0%	5,000	Implementation plan is being prepared and a budget profile may be requested at November Cabinet	3,881
School Improvement and Provision of School Places	10,300	1,037	10%	8,300	Works at the Eastwood Academy, Southchurch High and Wentworth Road are complete and Shoeburyness High is in the final stages of building handover. St Thomas More is entering the fit out stage of their new building and Belfairs Academy and St Bernard High are progressing on time.	662
Southend Pier schemes	3,325	1,186	36%	3,325	Issues with structural engineering company causing delays to Timber Outer Pier Head and Prince George Extension works. Expected to be resolved and works to be carried out in the financial year subject to weather conditions	13,297
Civic Campus Redevelopment	94	-	-	-	A request is included in section 2 to move these budgets to the 'Schemes Subject to Viable Business Cases' section	10,648
Local Growth Fund - A127 Growth Corridor	4,737	889	19%	4,737	This relates primarily to the Bell junction and some is likely to be reprofiled back at November Cabinet	7,669
HRA Affordable Housing Acquisitions Programme	4,306	339	8%	6,656	Acquisition programme is now proceeding	-
Construction of New Housing on HRA Land	3,662	193	5%	3,662	Phases 3 and 4 are in the early stages of procuring an Employment Agent (EA). Once on board, the process of procuring an architect will commence. The MMC project is also in the early stages although the EA and architect have been procured and are working up plans for the two sites in Saxon Gardens.	10,791
<b>Total Strategic</b>	<b>50,329</b>	<b>5,061</b>	<b>10%</b>	<b>46,131</b>		<b>91,418</b>
<b>Other schemes</b>						
<b>Other Capital Investment schemes</b>	<b>39,744</b>	<b>6,399</b>	<b>16%</b>	<b>36,221</b>		
<b>TOTAL SCHEMES</b>	<b>90,073</b>	<b>11,460</b>	<b>13%</b>	<b>82,352</b>		

The secondary school expansion programme is progressing into its third year. 120 permanent additional secondary school places were created for September 2018 and a further 80 for September 2019. This expansion is across eight of the twelve Southend secondary schools and will result in an additional 1,050 places for 11-16 year old pupils once completed. These expansions are to ensure that the local authority can meet its statutory duty of supplying a good school place to any local resident that requests one. Works at the Eastwood Academy, Southchurch High and Wentworth Road are complete and Shoeburyness High is in the final stages of building handover. St Thomas More is entering the fit out stage of their new building and Belfairs Academy and St Bernard High are progressing on time.

Following a full evaluation of spend profiles for this expansion programme, a delay on programme has been identified for two schools and a request to carry forward £2million of the 2019/20 budget into 2020/21 has been included in this report.

An evaluation of the Delaware and Priory and Airport Business Park spend profiles have also been carried out and budgets of £4.2million and £235k respectively have been included as carry forward requests as part of this report in line with the revised schedules.

The HRA Affordable Housing Acquisitions Programme is 30% financed by retained Right to Buy capital receipts. To ensure all these receipts can be used within the timeframes set by Central Government £4.65m needs to be spent during 2019/20 with targets in each quarter. The current budget for housing acquisitions is £4.3m and so a request for additional budget of £350k has been included in this report. If the Council exceeds any of the quarterly targets the excess will count towards the next quarter. As conveyancing time frames cannot be guaranteed it would be prudent to plan to exceed the targets rather than to just meet them, in case any of the planned property purchases do not proceed. An additional £2m has been included in this report for this purpose.

## **Progress of other schemes for 2019/20**

### **General Fund Housing**

Budgets totalling £1.095million for 2019/20 and £475k for 2020/21 are to be combined to support a scheme for the Private Sector Housing Strategy. More information will be available on the profile of this once initial works have taken place. A virement has been included in this report to action this.

A total of 36 major adaptations have taken place so far this financial year as part of the Disabled Facilities scheme. This enables residents of Southend to remain living independently in their homes. Families with young children who are coping with severe disabilities have also been assisted. A new Adaptations Surveyor has recently been employed which will enable further adaptations to be completed over the next few months.

### **Council Housing and New Build Programme**

The capital works programme for 2019/20 is progressing mainly in accordance with our works programme. There have been some delays due to a change in the electronic procurement system from E-delta to Pro-contract however this new system is now embedded. One further delay occurred on the Kitchen and Bathroom contract however the issue has now been resolved and the programme will be recovered throughout the remainder of the financial year.

### **Social Care**

The Learning Management System scheme is no longer going ahead as works are taking place to explore the use of Business World. A request to remove the budget of £120k from the capital investment programme has been included in this report.

### **Schools**

The schools conditions programme is allocated to address larger condition items where the cost is over the schools capabilities to fund. Most of these works are being undertaken over the summer holidays to minimise disruption. Various schemes have been delayed to 2020/21 for logistical reasons and these budgets have been included as carry forward requests. The schemes include Chalkwell Infants Relocatables for £109k, Fairways Primary Curtain Walling for £100k and Chalkwell Infants Energy project for £300k. Two new schemes are also included relating to Fairways Primary Trees for £10k and Eastwood Primary Roof Replacement for £50k funded by grant. Underspends on schemes for Chalkwell Hall Juniors Roof and West Leigh Infants Boiler totalling £55k are being used for a new scheme at Fairways on pipeworks. A virement request has been included in this report.

The Devolved Formula Capital is an annual devolution of a dedicated capital grant to all schools and is distributed via the local authority for maintained schools. The notified grant for 2019/20 is £100k and has been distributed in full.

A grant has been awarded from the Department of Education to support the improvement and expansion of special needs places. £250k of the 2019/20 allocation has been included as a carry forward request in regards to special provision in a secondary school.

### **Enterprise and Regeneration**

The Infrastructure Feasibility Studies scheme is closely aligned with ASELA work on the Joint Spatial Strategy and it is unlikely to be completed during 2019/10. The full budget of £250k has therefore been included as a carry forward request in this report.

### **Southend Pier**

The works on Southend Pier are currently progressing well with no significant issues. A number of works are weather dependent which will be monitored closely over the coming months. Schemes currently underway include the Pier Entrance Enhancement, the Timber Outer Pier Head and the Prince George Extension.

There are a number of projects in the programme which will require additional phases and business cases will be brought forward as appropriate.

### **Culture and Tourism**

The scheme for Joint Theatres and Leisure Centres Asbestos works is in place to undertake investigation and surveys to identify asbestos at sites prior to works taking place. No works have been identified for 2019/20 so far therefore it is recommended that the full budget of £115k is carried forward until a future need has been identified.

External refurbishment of the Cliffs Pavilion is currently profiled for 2020/21 but it is likely to be pushed back until 2021/22. A carry forward request for £215k has been included in this report.

The works to Southchurch Park Bowls Pavilion are still in discussion and the budget of £20k has been included as a carry forward request in this report until a way forward has been decided.

Two schemes are underway in advance of schedule and accelerated delivery requests have been included in this report. These schemes are the Cart and Wagon shed for £150k and Cliffs Pavilion Boiler Flues for £124k.

A forward programme was considered by Investment Board for the Fire Improvement Works scheme which is in place to ensure that operational buildings remain safe. An additional £250k was requested for 2019/20 primarily for the Cliffs Pavilion and Southend Leisure and Tennis Centre with a further £750k per annum requested for 2020/21 to 2023/24. The board agreed that the 2019/20 request could be included in this report as a request for additional budget. The request for future years budgets is the subject of a separate report on this agenda.

A five year programme for Property Refurbishment was also considered by Investment Board which included a wide range of works on Southchurch Hall, Central Museum and



Prittlewell Priory. Also included was Civic Campus toilets refurbishment and fixed wire testing. An additional £600k in 2019/20 and £750k per annum from 2020/21 to 2023/24 was requested. The board agreed that the 2019/20 request could be included in this report as a request for additional budget.

Schemes for Belfairs Swim Centre and the Palace Theatre Boilers are now complete and savings were made on the original budget allocations. Budgets of £42k and £12k respectively will therefore be removed from the capital investment programme as part of this report.

### **Community Safety**

The CCTV Equipment Renewal scheme is currently experiencing issues with specification and procurement meaning that the project is slightly delayed. As a consequence, £606k has been included as a carry forward request in this report with £506k profiled to 2020/21 and the remaining £100k in 2021/22.

The Security Measures scheme is in place to implement security for vulnerable locations and automatic bollards. Work is currently on-going with the Counter Terrorism unit and there is unlikely to be clarity on the final scheme until December 2019. £300k of the current budget has therefore been included as a carry forward request in this report.

### **Highways and Infrastructure**

The Local Growth Fund Southend Central Area Action Plan (SCAAP) Growth Point Transport scheme is being developed through the Sunrise project and voting is currently taking place on options. The project has subsequently been delayed and a revised spend profile of £500k has been agreed for 2019/20 and a carry forward request of £1.466million has been included as a carry forward request in this report.

Flood prevention works may now be completed as part of the Seaway development. The project has therefore been slipped back a year to allow space for consultation. Budget of £1.125million is therefore being requested as a carry forward request in this report from 2020/21 to 2022/23. An allocation of £1.125million is already in place for 2021/22.

The scheme at Cinder Path has come to a standstill and a way forward is currently unknown. The remaining budget of £61k will therefore be removed from the capital investment programme in this report and a future bid can be put forward should it be required.

### **Works to Property**

Now that Southchurch High School is settled in to the former Procat buildings and the works to these are complete, the demolition of the former Futures School buildings can progress. As well as mitigating health and safety risks, this capital investment will secure ongoing revenue savings and prepare the site for future development. A request for budget of £40k for 2019/20 and £450k for 2020/21 to be added to the capital investment programme has been included in this report to support this scheme.

A contractor is to be commissioned to complete an options appraisal on the site at 62 Avenue Road. The full budget of £49k has been included as a carry forward request to support works which may be possible in 2020/21 subject to the results of the appraisal.

The planning preference for works at Belfairs Park Restaurant and Golf Club is for leaded windows therefore comparative quotes are in the process of being obtained to inform a way forward and enable planning and tender to proceed. £47k of the current budget has been included as a carry forward request as it is likely that part of these works will take place in 2020/21.

A request to have the £20k budget from the Working Environment scheme to the Civic Campus Efficient use of space scheme has been included as both schemes are working towards the same outcome. The CMT work area is now underway and planning work is due to commence on the former large members room. The agile workstream is underway with the roll-out of modern technology. Detailed pricing is currently being sought and £82k of the 2019/20 budget has been included as a carry forward request as works are likely to span two financial years.

Various schemes have now completed and the remaining budgets are not required. These include Commercial Property Investment for £4k, Pier Arches Toilets Waterproofing Solution for £4k and Porters House for £5k. A request to remove budgets has been included in this report.

There are a set of proposals for consideration to EB in October for the service's cremators, however the lining of cremator 1 has deteriorated quicker than anticipated so works need to be undertaken quickly to mitigate the risk of it not being able to operate. The lining is not expected to last more than 3 months. A request for additional budget of £60k has been included in this report.

Various schemes are currently on hold subject to viable business cases and will therefore be removed from the capital investment programme pending successful cases being put forward. These schemes are Civic East Car Park Redevelopment, Library Car Park Reconstruction, Land Acquisition and East Beach Café Project.

## **Energy Saving**

The Energy Efficiency scheme is looking at a lighting proposal for Civic 1 and seeking prices to establish whether the project can be completed within the payback period required. £100k is expected to be utilised in 2019/20 and the remaining £117k has been included as a carry forward request in this report.

Stage one of the Real Time Air Quality Measurement feasibility is now complete and the results from the DEFRA trials are now awaited. £58k of the current 2019/20 allocation has been included as a carry forward request in this report as it is unlikely that the full scheme will progress until 2020/21.

The Solar PV scheme is now being re-procured through a framework for leisure centres, theatres and retail units owned by the council. A carry forward request of £500k has been

included in this report to take account of the size of the project and potential installation delays.

Two further energy schemes are unlikely to progress therefore it has been proposed that the budgets are removed from the capital investment programme. Budgets of £33k for the Civic 1 Lift Regeneration and £15k for the Old Beecroft Ground Source Heat Pump Feasibility have been removed as part of this report.

A grant of £18k has been awarded by NT Flag to carry out an independent study on electricity supply issues in Chalkwell and the surrounding areas. Match funding of £10k has been identified from the Energy Efficiency scheme and a virement is included as part of this report along with the addition of the grant funding.

## **ICT**

The IoT Smart City Delivery scheme is currently under review for alignment to Southend 2050 therefore the full budget is not expected to be required in 2019/20. A carry forward request of £132k has been included as part of this report.

The scheme for N3 Connectivity has not currently progressed but initial investigations have suggested that a budget saving of £166k will be achieved. This budget will be removed from the capital investment programme in this report.

Central Government are bringing in new accessibility regulations from September 2020 and it will be a legal requirement for every public sector organisation to have a website that will adhere to this. The current council website would currently not pass these regulations, however there is an option to upgrade to new templates called Photon which will ensure all back-end technical elements adhere to these regulations instantly. In addition, the upgraded search functionality will ensure that the customer can find what they're looking for on the website with ease.

The new data centre scheme has been on-going over a number of years and will be the platform for a number of key improvements to be delivered to staff and beyond. This will be an enabler for new technologies such as Office 365 and Teams which will allow the Agile and Collaborative outcome to be achieved. There has been decision to put the implementation of the Southend Operations Centre on hold which has an approved capital allocation of £403k for 2019/20. A proposal to use this budget for the Data Centre was agreed by Investment Board on 5<sup>th</sup> August to be put forward as a virement request and has been included in this report.

Phase two of the Recruitment Contract Implementation project to allow integration with Business World has been proposed and a request to increase the capital investment programme by £170k funded from the Business World earmarked reserve has been included in this report.

## 2. Requested Changes to the 2019/20 Capital Programme

### Carry Forwards to Future Years

Scheme	2019/20 £000	2020/21 £000	2021/22 £000	2022/23 £000	2023/24 £000
Chalkwell Hall Infants replace relocatables	(109)	109			
Fairways Primary curtain walling	(100)	100			
Chalkwell Hall Infants Energy Project	(300)	300			
School Improvement and Provision of School Places	(2,000)	2,000			
Special Provision Capital Fund	(250)	250			
Delaware and Priory LATC	(4,219)	4,219			
62 Avenue Road	(49)	49			
Belfairs Park Restaurant/Golf Club Preventative Works	(47)	47			
Civic Campus - Efficient Use of Space	(82)	82			
Local Growth Fund - (SCAAP) Growth Point	(1,466)	1,466			
Infrastructure Feasibility Studies	(250)	250			
Airport Business Park	(235)	235			
Joint Theatres and Leisure Centres – Asbestos	(115)	115			
Cliffs Pavilion – External Refurbishment Works		(215)	215		
Southchurch Park Bowls Pavilion	(20)	20			
CCTV Equipment Renewal	(606)	506	100		
Security Measures	(300)	300			
Energy Efficiency Projects	(117)			117	
Real Time Air Quality Measurement – Feasibility	(58)	58			
Solar PV Projects	(500)	500			
IoT Smart City Delivery	(132)	132			
Flood Prevention Works		(1,125)		1,125	
<b>Total Carry Forwards</b>	<b>(10,955)</b>	<b>9,398</b>	<b>315</b>	<b>1,242</b>	<b>-</b>

### Accelerated Deliveries from Future Years

Scheme	2019/20 £000	2020/21 £000	2021/22 £000	2022/23 £000	2023/24 £000
Cart and Wagon Shed	150	(150)			
Cliffs Pavilion – Boiler Flues	124	(124)			
<b>Total Accelerated Deliveries</b>	<b>274</b>	<b>(274)</b>	<b>-</b>	<b>-</b>	<b>-</b>

## New External Funding

Scheme	2019/20 £000	2020/21 £000	2021/22 £000	2022/23 £000	2023/24 £000
Fairways Trees	10				
Eastwood Primary Roof	50				
Leigh Energy Appraisal	18				
<b>Total New External Funding</b>	<b>78</b>	-	-	-	-

## Proposed New Schemes

Scheme	2019/20 £000	2020/21 £000	2021/22 £000	2022/23 £000	2023/24 £000
Phase 2 Recruitment Contract Implementation	170				
Cremator 1 - urgent lining works	60				
Futures Demolition	40	450			
HRA Affordable Housing Acquisitions Programme	2,350				
Fire Improvement Works	250				
Property Refurbishment Programme	600				
<b>Total New External Funding</b>	<b>3,470</b>	<b>450</b>	-	-	-

## Virements

Scheme	2019/20 £000	2020/21 £000	2021/22 £000	2022/23 £000	2023/24 £000
Empty Dwelling Management	(357)				
PSH Works in Default - Enforcement Work	(138)				
Private Sector Renewal	(600)	(475)			
Private Sector Housing Strategy	1,095	475			
Chalkwell Hall Juniors roofs	(35)				
West Leigh Infant Boiler	(20)				
Fairways Pipeworks	55				
Working Environment	(20)				
Civic Campus - Efficient Use of Space	20				
ICT – Southend Operation Centre	(403)				
ICT – Data Centre	403				
Energy Efficiency Projects	(10)				
Leigh Energy Appraisal	10				
<b>Total Virements</b>	-	-	-	-	-

## Removed Budgets

Scheme	2019/20 £000	2020/21 £000	2021/22 £000	2022/23 £000	2023/24 £000
Learning Management System	(120)				
Commercial Property Investment	(4)				
Pier Arches Toilets - Waterproofing solution	(4)				
Porters Civic House and Cottage	(5)				
Cinder Path	(61)				
Belfairs Swim Centre	(42)				
Palace Theatre Boilers Replacement	(12)				
Civic Centre Lifts Regeneration	(33)				
Old Beecroft Ground Source Heat Pump Feasibility	(15)				
N3 Connectivity in Civic Building	(166)				
<b>Total Budgets Removed</b>	<b>(462)</b>	-	-	-	-

## Move to 'Subject to Viable Business Case' section

Scheme	2019/20 £000	2020/21 £000	2021/22 £000	2022/23 £000	2023/24 £000
Civic East Car Park Redevelopment *	(50)		(4,790)		
Library Car Park Reconstruction and Enhancement *	(44)	(4,083)	(1,775)		
Land Acquisition Works			(1,867)		
East Beach Café Project	(32)				
<b>Total Budgets moved to 'Subject to'</b>	<b>(126)</b>	<b>(4,083)</b>	<b>(8,432)</b>	-	-

\*Civic Campus Redevelopment

## Remove from 'Subject to Viable Business Case' section

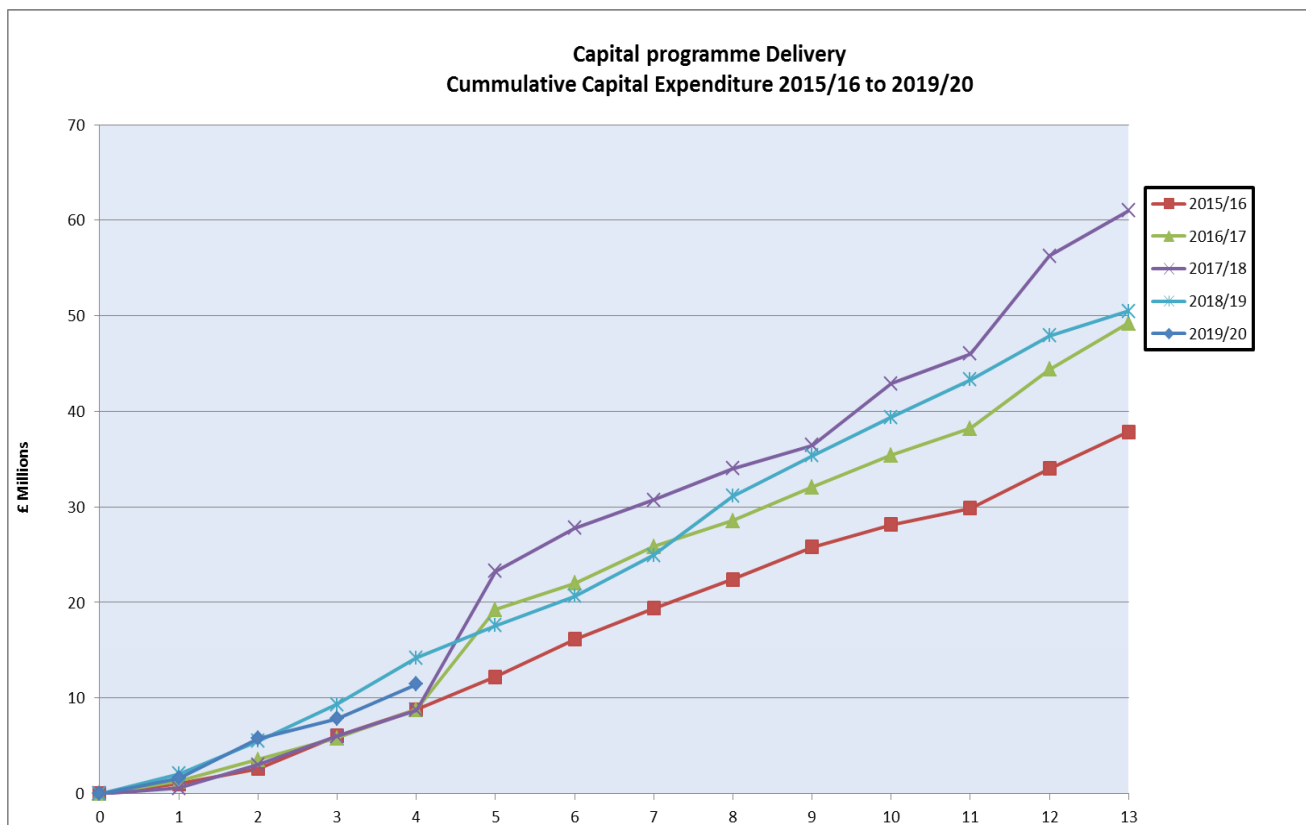
Scheme	2019/20 £000	2020/21 £000	2021/22 £000	2022/23 £000	2023/24 £000
ICT – Southend Operation Centre	(1,000)	(1,000)			
<b>Total Budgets removed from 'Subject to'</b>	<b>(1,000)</b>	<b>(1,000)</b>	-	-	-

### 3. Summary of Capital Expenditure at 31<sup>st</sup> July 2019

	Original Budget 2019/20 £000	Revisions £000	Revised Budget 2019/20 £000	Actual 2019/20 £000	Forecast outturn 2019/20 £000	Forecast Variance to Year End 2019/20 £000	% Variance
General Fund Housing	1,695	428	2,123	206	2,123	-	10%
Council Housing & New Build Programme	12,560	4,535	17,095	1,500	19,445	2,350	9%
Social Care	1,016	9,663	10,679	170	6,340	(4,339)	2%
Schools	14,218	(2,081)	12,137	1,155	9,438	(2,699)	10%
Enterprise & Regeneration	15,000	(1,094)	13,906	1,317	13,421	(485)	9%
Southend Pier	2,468	857	3,325	1,186	3,325	-	36%
Culture & Tourism	5,218	(1,559)	3,659	1,146	4,594	935	31%
Community Safety	1,741	45	1,786	15	880	(906)	1%
Highways & Infrastructure	13,548	3,551	17,099	3,767	15,572	(1,527)	22%
Works to Property	1,969	365	2,334	130	2,117	(217)	6%
Energy Saving	1,426	(58)	1,368	-	663	(705)	0%
ICT	2,559	433	2,992	820	2,864	(128)	27%
S106/S38/CIL	943	627	1,570	48	1,570	-	3%
	<b>74,361</b>	<b>15,712</b>	<b>90,073</b>	<b>11,460</b>	<b>82,352</b>	<b>(7,721)</b>	<b>13%</b>
<b>Council Approved Original Budget - February 2019</b>	<b>74,361</b>						
Council Housing & New Build Programme amendments	4,306						
Social Care amendments	9,219						
Schools amendments	(140)						
Culture & Tourism amendments	(605)						
Highways & Infrastructure amendments	1,447						
Carry Forward requests from 2018/19	7,445						
Accelerated Delivery requests to 2018/19	(4,386)						
Budget re-profiles (June Cabinet)	(2,701)						
New external funding	1,127						
<b>Council Approved Revised Budget - June 2019</b>	<b>90,073</b>						

**Actual compared to Revised Budget spent is £11.460M or 13%**

## 4. Capital Programme Delivery



Year	Outturn £m	Outturn %
2015/16	37.9	97.0
2016/17	48.8	89.0
2017/18	61.0	95.0
2018/19	50.9	96.7



# Southend-on-Sea Borough Council

Report of Strategic Director (Finance & Resources)  
to  
**Cabinet**  
on  
**17 September 2019**

Agenda  
Item No.

**10**

Report prepared by: Caroline Fozzard  
Group Manager – Financial Planning and Control

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**Treasury Management Report – Quarter One 2019/20**  
**Policy and Resources Scrutiny Committee**  
**Cabinet Member: Councillor Ron Woodley**  
***A Part 1 Public Agenda Item***

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**1. Purpose of Report**

- 1.1 The Treasury Management Report for Quarter One covers the treasury management activity for the period from April to June 2019 and compliance with the treasury management strategy for that period.

**2. Recommendations**

**That the following is approved:**

- 2.1 The Treasury Management Report for Quarter One 2019/20.**

**That the following is noted:**

- 2.2 Treasury management activities were carried out in accordance with the CIPFA (The Chartered Institute of Public Finance and Accountancy) Code of Practice for Treasury Management in the Public Sector during the period from April to June 2019.**
- 2.3 The loan and investment portfolios were actively managed to minimise cost and maximise interest earned, whilst maintaining a low level of risk.**
- 2.4 £0.492m of interest was received during this three month period. The total investment income earned including this interest during this three month period was £0.490m, at an average rate of 1.88%. This is 1.31% over the average 7 day LIBID (London Interbank Bid Rate) and 1.13% over the average bank rate. (Section 8).**
- 2.5 The level of borrowing from the Public Works Loan Board (PWLB) (excluding debt relating to services transferred from Essex County Council on 1<sup>st</sup> April 1998) increased from £267.8m to £277.8m (HRA: £77.0m, GF: £200.8m) during the period from April to June 2019.**

**2.6 During the quarter the level of financing for ‘invest to save’ schemes decreased from £8.73m to £8.70m.**

### **3. Background**

3.1 This Council has adopted the ‘CIPFA Code of Practice for Treasury Management in the Public Sector’ and operates its treasury management service in compliance with this code. The code recommends that local authorities submit reports regularly as part of its Governance arrangements.

3.2 Current guidance is that authorities should report formally at least twice a year and preferably quarterly. The Treasury Management Policy Statement for 2019/20 set out that reports would be submitted to Cabinet quarterly on the activities of the treasury management operation. This is the first quarterly report for the financial year 2019/20.

3.3 Appendix 1 shows the treasury management position at the end of quarter one of 2019/20.

3.4 Appendix 2 shows the treasury management performance specifically for quarter one of 2019/20.

### **4. National Context**

4.1 In the UK GDP reduced by 0.2% in the three months to the end of June, the first contraction since 2012. This is in contrast with the strong growth of 0.5% in the first three months of the calendar year which was boosted by stockpiling of goods and materials by businesses on both sides of the Channel ahead of the planned Brexit deadline of 29 March. The extra demand disappeared in the next quarter as companies reduced buying and used up parts of those stockpiles, impacting on new output.

4.2 CPI was at 2.1% in April and at 2% throughout May and June. A no-deal outcome to Brexit would add to inflationary pressures from more expensive imports, due to probable Sterling weakness. The unemployment rate for the quarter was 3.9%, an increase on from the rate last quarter of 3.8%.

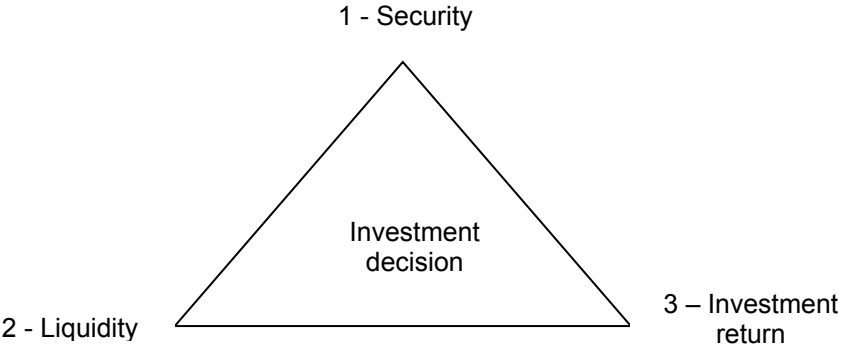
4.3 The Bank of England kept the bank base rate at 0.75% throughout the quarter and left their Quantitative Easing (QE) programme at £435bn. Monetary policy remains on hold as the Brexit debate continues.

4.4 The economic situation together with the financial market conditions prevailing throughout the quarter continued to provide challenges for treasury management activities. Due to the low interest rate environment, only monies needed for day to day cash flow activities were kept in instant access accounts.

4.5 Low interest rates prevailed throughout the quarter from April to June 2019 and this led to low investment income earnings from most investments.

**5. Investments**

- 5.1 A prime objective of our investment activities is the security of the principal sums invested. To ensure this security before an in-house deposit is made an organisation is tested against a matrix of credit criteria and then other relevant information is considered. During the period from April to June 2019 investment deposits were limited to those who met the criteria in the Annual Treasury Management Investment Strategy when the deposit was placed.
- 5.2 Other investment objectives are to maintain liquidity (i.e. adequate cash resources to allow the council to operate) and to optimise the investment income generated by surplus cash in a way that is consistent with a prudent level of risk. Investment decisions are made with reference to these objectives, with security and liquidity being placed ahead of the investment return. This is shown in the diagram below:



**Security:**

- 5.3 To maintain the security of sums invested, we seek to lower counterparty risk by investing in financial institutions with good credit ratings, across a range of sectors and countries. The risk of loss of principal of all monies is minimised through the Annual Treasury Management Investment Strategy.
- 5.4 Pie chart 1 of Appendix 1 shows that at the end of quarter one; 60% of our in-house investments were placed with financial institutions with a long term credit rating of AAA, 37% with a long term rating of A+ and 3% with a long term rating of A.
- 5.5 As shown in pie chart 2 of Appendix 1 these monies were with various counterparties, 40% being placed directly with banks and 60% placed with a range of counterparties via money market funds.
- 5.6 Pie chart 3 of Appendix 1 shows the range of countries where the parent company of the financial institution with which we have monies invested is registered. For money market funds there are various counterparties spread across many countries.

## Liquidity:

- 5.7 At the end of quarter one £34.8m of our in-house monies were available on an instant access basis and £20m was invested in fixed term deposits. The maturity profile of our investments is shown in pie chart 4 of Appendix 1.

## Investment return:

- 5.8 During the quarter the Council used the enhanced cash fund manager Payden & Rygel to manage monies on its behalf. An average balance of £5.1m was invested in these funds during the quarter earning an average rate of 1.48%. More details are set out in Table 3 of Appendix 2.

- 5.9 The Council had an average of £56.2m of investments managed in-house over the period from April to June 2019, and these earned an average interest rate of 0.85%. Of the in-house managed funds:

- an average of £2.9m was held in the Council's main bank account over the quarter. The new banking contract came into effect at the beginning of the quarter and interest will only be earned through a sweeper account. The sweeper account is in the process of being opened during quarter two;
- an average of £8.8m was held in fixed term deposits and earned an average return of 0.95% over the quarter;
- an average of £44.5m was held in money market funds earning an average of 0.88% over the quarter. These work in the same way as a deposit account but the money in the overall fund is invested in a number of counterparties, therefore spreading the counterparty risk.

- 5.10 In accordance with the Treasury Management Strategy the performance during the quarter is compared to the average 7-day LIBID. Overall for both in-house and externally managed investments, performance on all types of investment was higher than the average 7 day LIBID (London Interbank Bid Rate). The bank base rate remained at 0.75% throughout the period from April to June 2019, and the 7 day LIBID rate fluctuated between 0.561% and 0.577%. Performance is shown in Graph 1 of Appendix 2.

## 6. Short Dated Bond Funds

- 6.1 During the quarter two short dated bond funds were used for the investment of medium term funds: Royal London Investment Grade Short Dated Credit Fund and the AXA Sterling Credit Short Duration Bond Fund.

- 6.2 The monies are invested in units in the fund, the fund is then invested as a whole by the fund managers into corporate bonds in the one to five year range. An income distribution will be generated from the coupon on the bond and income distributions are paid to the Council. The price of units can rise and fall, depending on the price of bonds in the fund so these funds are invested over the medium term with the aim of realising higher yields than short term investments.

- 6.3 In line with the capital finance and accounting regulations the Council's Financial Instrument Revaluation Reserve will be used to capture all the changes in the unit value of the funds. Members should be aware that investment returns in some quarters will look very good and in other quarters there may be losses reported, but these will not impact the revenue account as only the distributions paid to the Council will impact that.
- 6.4 An average of £7.6m was managed by AXA Investment Managers UK Limited. During the quarter the value of the fund increased by £0.030m due to an increase in the unit value. There was also an income distribution relating to that period of £0.029m. The combined return was 3.07%.
- 6.5 The AXA fund started the quarter at £7.636m and increased in value due to the increase in the value of the units, with the fund at the end of the period at £7.666m. This is set out in Table 2 of Appendix 2.
- 6.6 An average of £7.8m was managed by Royal London Asset Management. During the quarter the value of the fund increased by £0.035m due to an increase in the unit value. There was also an income distribution relating to that period of £0.048m. The combined return was 4.26%.
- 6.7 The Royal London fund started the quarter at £7.740m and increased in value due to the increase in the value of the units, with the fund at the end of the period at £7.775m. This is set out in Table 2 of Appendix 2.

## **7. Property Funds**

- 7.1 Throughout the quarter long term funds were invested in two property funds: Patrizia Hanover Property Unit Trust (formerly Rockspring Hanover Property Unit Trust) and Lothbury Property Trust.
- 7.2 The monies are invested in units in the fund, the fund is then invested as a whole by the fund managers into properties. An income distribution is generated from the rental income streams from the properties in the fund. Income distributions are paid to the Council. There are high entrance and exit fees and the price of the units can rise and fall, depending on the value of the properties in the fund, so these funds are invested over the long term with the aim of realising higher yields than other investments.
- 7.3 In line with the capital finance and accounting regulations the Council's Financial Instrument Revaluation Reserve will be used to capture all the changes in the unit value of the funds. Members should be aware that investment returns in some quarters will look very good and in other quarters there may be losses reported, but these will not impact the revenue account as only the distributions paid to the Council will impact that.
- 7.4 An average of £14.8m was managed by Patrizia Property Investment Managers LLP (formerly Rockspring Property Investment Managers LLP). During the three month period, the value of the fund decreased by £0.122m due to the decrease in the unit value. There was also an income distribution relating to that period of

£0.178m and this distribution will be confirmed and distributed in quarter two. The combined return was 1.51%.

- 7.5 The Patrizia fund started the quarter at £14.825m and decreased in value due to the decrease in the value of the units, with the fund at the end of the period at £14.703m. This is set out in Table 1 of Appendix 2.
- 7.6 An average of £13.6m was managed by Lothbury Investment Management Limited. During the three month period, the value of the fund increased by £0.051m due to the increase in the unit value. There was also an income distribution relating to that period of £0.107m and this distribution will be confirmed and distributed in quarter two. The combined return was 4.65%.
- 7.7 The Lothbury fund started the quarter at £13.559m and increased in value due to the increase in the value of the units, with the fund at the end of the period at £13.610m. This is set out in Table 1 of Appendix 2.

## **8. Overall Investment Position**

- 8.1 An average of £56.2m of investments were managed in-house. These earned £0.118m of interest during this three month period at an average rate of 0.85%. This is 0.28% over the average 7-day LIBID and 0.10% over the average bank base rate.
- 8.2 An average of £5.1m was managed by an enhanced cash fund manager. This earned £0.019m during this three month period at an average rate of 1.48%.
- 8.3 An average of £15.4m was managed by two short dated bond fund managers. This earned £0.140m during this three month period from a combination of an increase in the value of the units and income distribution, giving a combined return of 3.67%.
- 8.4 An average of £28.4m was managed by two property fund managers. These earned £0.213m during this three month period from a combination of an increase in the value of the units and income distribution, giving a combined return of 3.01%.

## **9 Borrowing**

### **PWLB and short term borrowing**

- 9.1 The Capital Financing Requirement (CFR) is the Council's theoretical need to borrow but the Section 151 Officer can manage the Council's actual borrowing position by either:
- 1 - borrowing to the CFR;
  - 2 – choosing to use temporary cash flow funds instead of borrowing (internal borrowing) or;
  - 3 - borrowing for future increases in the CFR (borrowing in advance of need).

- 9.2 The Council began 2019/20 in the second of the above scenarios, with actual borrowing below CFR.
- 9.3 This, together with the Council's cash flows, the prevailing Public Works Loans Board (PWLB) interest rates and the future requirements of the capital programme, were taken into account when deciding the amount and timing of any loans. A new PWLB loan was taken out in June 2019: £10m at 2.16% for 48 years. No loans matured during the quarter and no debt restructuring was carried out during the quarter.
- 9.4 The level of PWLB borrowing (excluding debt relating to services transferred from Essex County Council on 1st April 1998) increased from £267.8m to £277.8m during quarter one. The average rate of borrowing at the end of the quarter was 4.13%. A profile of the repayment dates is shown in Graph 2 of Appendix 2.
- 9.5 The table below summarises the PWLB activities during the quarter:

Quarter	Borrowing at beginning of quarter (£m)	New Borrowing (£m)	Re-financing (£m)	Borrowing repaid (£m)	Borrowing at end of quarter (£m)
April to June 2019	267.8	10	0	(0)	277.8
<i>Of which:</i>					
General Fund	190.8	10	0	(0)	200.8
HRA	77.0	0	0	(0)	77.0

All PWLB debt held is repayable on maturity.

- 9.6 The level of PWLB borrowing at £277.8m is in line with the financing requirements of the capital programme and the revenue costs of this borrowing are fully accounted for in the revenue budget. The current level of borrowing is also in line with the Council's prudential indicators and is Prudent, Affordable and Sustainable.
- 9.7 These figures exclude debt held by Essex County Council of £11.3m relating to assets transferred on 1st April 1998, which this Council is responsible for servicing. The debt is recognised as a deferred liability on our balance sheet.
- 9.8 Interest rates from the PWLB fluctuated throughout the quarter in response to economic events: 10 year PWLB rates between 1.68% and 2.10%; 25 year PWLB rates between 2.25% and 2.58% and 50 year PWLB rates between 2.11% and 2.41%. These rates are after the PWLB 'certainty rate' discount of 0.20%.
- 9.9 No short term loans for cash flow purposes were taken out or repaid during the quarter. See Table 4 of Appendix 2.

## Funding for Invest to Save Schemes

- 9.10 Capital projects were completed on draught proofing and insulation in the Civic Centre, replacement lighting on Southend Pier and lighting replacements at University Square Car Park and Westcliff Library which will generate on-going energy savings. These are invest-to-save projects and the predicted revenue streams cover as a minimum the financing costs of the project.
- 9.11 To finance these projects in total the Council has taken out interest free loans of £0.287m with Salix Finance Ltd which is an independent, not for profit company, funded by the Department for Energy and Climate Change that delivers interest-free capital to the public sector to improve their energy efficiency and reduce their carbon emissions. The loans are for a period of four and five years with equal instalments to be repaid every six months. There are no revenue budget implications of this funding as there are no interest payments to be made and the revenue savings generated are expected to exceed the amount needed for the repayments. £0.026m of these loans were repaid during the period from April to June 2019.
- 9.12 At the meeting of Cabinet on 23rd June 2015 the LED Street Lighting and Illuminated Street Furniture Replacement Project was approved which was to be partly funded by 25 year reducing balance 'invest to save' finance from L1 Renewables Finance Limited. The balance outstanding at the end of quarter one was £8.59m. There were no repayments during the period from April to June 2019.
- 9.13 Funding of these invest to save schemes is shown in table 5 of Appendix 2.

## **10. Compliance with Treasury Management Strategy**

- 10.1 The Council's investment policy is governed by the CIPFA Code of Practice for Treasury Management in the Public Sector, which has been implemented in the Annual Treasury Management Investment Strategy approved by the Council on 21 February 2019. The investment activity during the quarter conformed to the approved strategy and the cash flow was successfully managed to maintain liquidity. See Table 6 of Appendix 2.

## **11 Other Options**

- 11.1 There are many options available for the operation of the Treasury Management function, with varying degrees of risk associated with them. The Treasury Management Policy aims to effectively control risk to within a prudent level, whilst providing optimum performance consistent with that level of risk.

## **12. Reasons for Recommendations**

- 12.1 The CIPFA Code of Practice on Treasury Management recommends that Local Authorities should submit reports regularly. The Treasury Management Policy Statement for 2019/20 set out that reports would be submitted to Cabinet quarterly on the activities of the treasury management operation.

## **13. Corporate Implications**



### 13.1 Contribution to Council's Ambition & Desired Outcomes

Treasury Management practices in accordance with statutory requirements, together with compliance with the prudential indicators acknowledge how effective treasury management provides support towards the achievement of the Council's ambition and desired outcomes.

### 13.2 Financial Implications

The financial implications of Treasury Management are dealt with throughout this report.

### 13.3 Legal Implications

The Council has adopted the 'CIPFA Code of Practice for Treasury Management in the Public Sector' and operates its treasury management service in compliance with this Code.

### 13.4 People Implications

None.

### 13.5 Property Implications

None.

### 13.6 Consultation

The key Treasury Management decisions are taken in consultation with our Treasury Management advisers.

### 13.7 Equalities and Diversity Implications

None.

### 13.8 Risk Assessment

The Treasury Management Policy acknowledges that the successful identification, monitoring and management of risk are fundamental to the effectiveness of its activities.

### 13.9 Value for Money

Treasury Management activities include the pursuit of optimum performance consistent with effective control of the risks associated with those activities.

### 13.10 Community Safety Implications

None.

### 13.11 Environmental Impact

None.

**14. Background Papers**

None.

**15. Appendices**

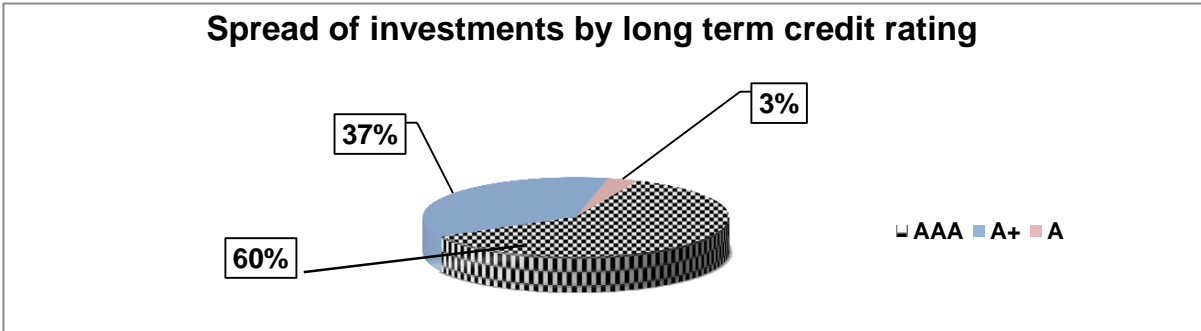
Appendix 1 – In-house Investment Position as at 30 June 2019

Appendix 2 – Treasury Management Performance for Quarter One - 2019/20

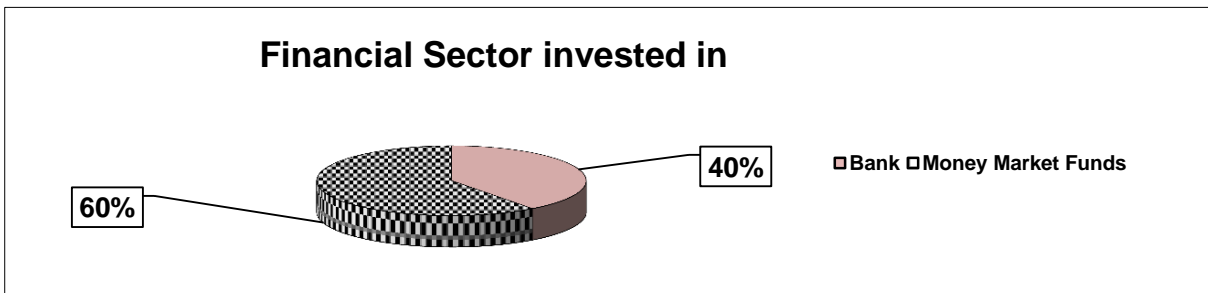
IN-HOUSE INVESTMENT POSITION AS AT 30 June 2019

INVESTMENTS - SECURITY AND LIQUIDITY

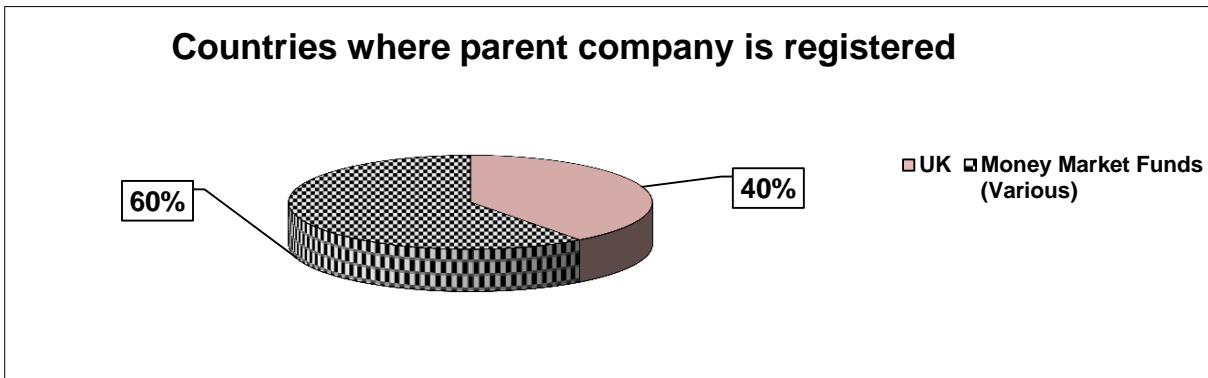
Pie chart 1



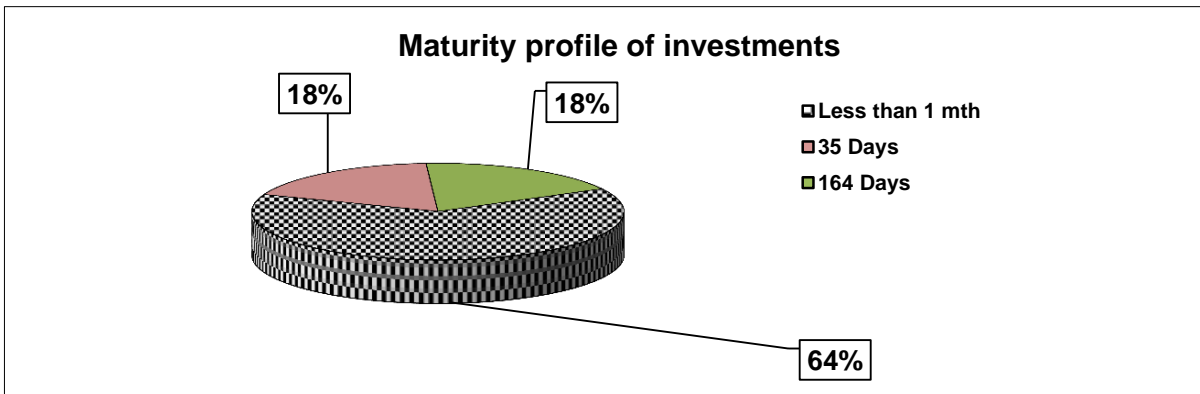
Pie chart 2



Pie chart 3



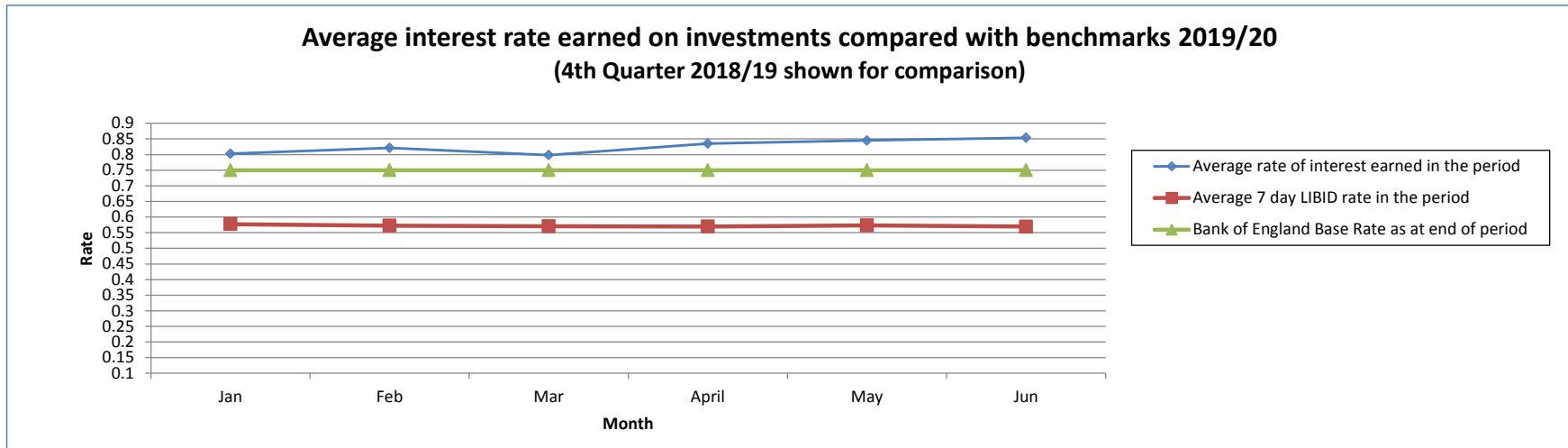
Pie chart 4



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TREASURY MANAGEMENT PERFORMANCE FOR QUARTER ONE - 2019/20

GRAPH 1 - INVESTMENT RETURN



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Table 1 - Property Funds

Financial Institution	Quarter	Period of investment	Value of fund at beginning of Qtr 1 £	Number of units in Qtr 1 Units	Gross Increase / (Decrease) in fund value £	Value of fund at end Qtr 1 £	Income Distribution in Qtr 1 £	Combined interest Rate %
Patrizia(Rockspring) Property Investment Managers LLP	1	5 Years +	14,825,390.00	997	(122,631.00)	14,702,759.00	178,214.93	1.51
Lothbury Investment Management Ltd	1	5 Years +	13,559,226.21	6,844.1438	50,742.48	13,609,968.69	106,778.95	4.65

## TREASURY MANAGEMENT PERFORMANCE FOR QUARTER ONE - 2019/20

Table 2 - Short Dated Bond Funds

Financial Institution	Quarter	Value of fund at the start of Qtr 1 £	Number of shares in Qtr 1 Units	Increase / (Decrease) in fund value £	Fund Value at end of Qtr 1 £	Income Distribution during the Qtr 1 £	Combined Interest Rate %
Royal London	1	7,740,416.66	7,751,286.43	34,105.58	7,774,522.24	47,871.83	4.26
AXA	1	7,636,490.17	7,406,876.9870	29,627.51	7,666,117.68	28,549.87	3.07

Table 3 - Enhanced Cash Fund

Financial Institution	Quarter	Value of fund at the start of Qtr 1 £	Number of shares in Qtr 1 Units	Increase / (Decrease) in fund value £	Fund Value at end of Qtr 1 £	Income Distribution during the Qtr 1 £	Combined Interest Rate %
Payden & Rygel	1	5,065,721.50	501,591.3500	6,420.37	5,072,141.87	12,288.99	1.48

**BORROWING**

Table 4

SHORT TERM BORROWING	Counterparty	Rate %	Amount £	From	To
In place during this Quarter	None				
Taken Out This Quarter	None				

Table 5 - INVEST TO SAVE FUNDING

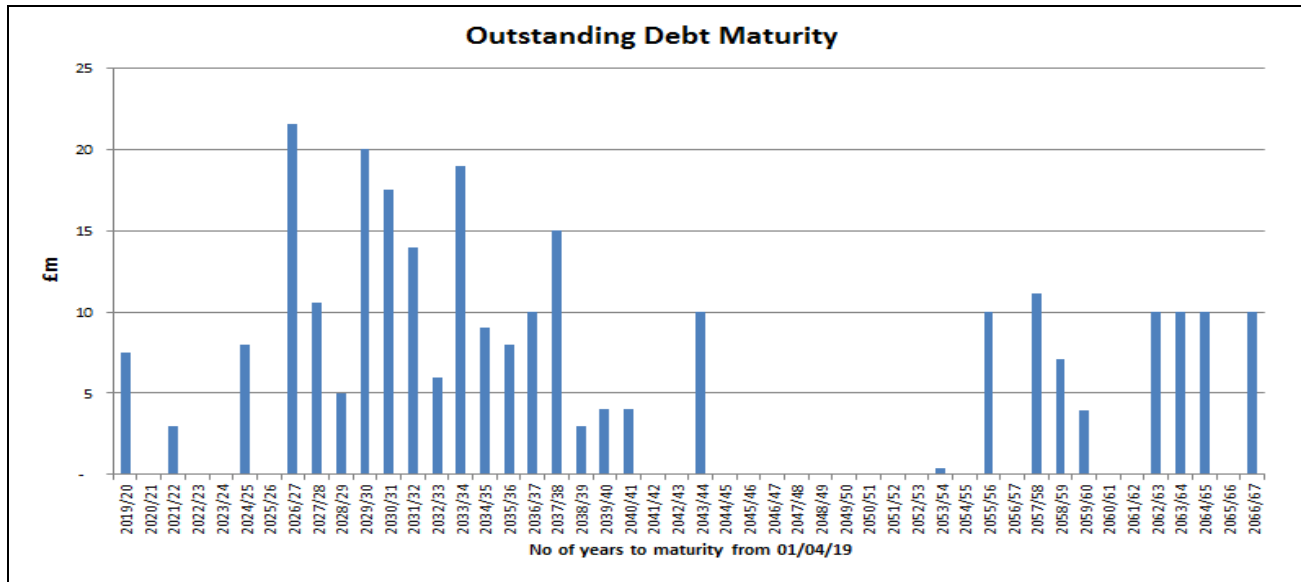
Financial Institution	Date	Period of loan	Final Repayment date	Amount borrowed £	Amount Repaid to Date £	Closing Balance Qtr 1 £	Rate of interest %
Salix Finance Ltd Energy Efficiency Programme	26/03/2015	4 Years	01/04/2019	141,059	(141,059)	0	0
	23/03/2017	5 Years	01/04/2022	82,017	(32,807)	49,210	0
	22/02/2019	5 Years	01/02/2024	64,148	0	64,148	0

L1 Renewables Finance Ltd

- 25 year reducing balance finance
- balance of £8.6m outstanding at the end of quarter one
- there was no repayments in this quarter

TREASURY MANAGEMENT PERFORMANCE FOR QUARTER ONE - 2019/20

GRAPH 2 - LONG TERM BORROWING - PWLB



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**New this quarter**

<u>Rate (%)</u>	<u>Amount (£)</u>	<u>From</u>	<u>To</u>
2.16	10,000,000	04/06/2019	04/06/2067

**Repaid this quarter**

None

	<u>Lowest</u>	<u>Highest</u>
Range of 10 years PWLB new loan rates this quarter (inc certainty rate)	1.68	2.10
Range of 25 years PWLB new loan rates this quarter (inc certainty rate)	2.25	2.58
Range of 50 years PWLB new loan rates this quarter (inc certainty rate)	2.11	2.41

**TABLE 6 - COMPLIANCE WITH TREASURY MANAGEMENT STRATEGY**

All transactions properly authorised	✓
All transactions in accordance with approved policy	✓
All transactions with approved counterparties	✓
Cash flow successfully managed to maintain liquidity	✓
Any recommended changes to procedures	None required

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# Southend-on-Sea Borough Council

Report of Strategic Director (Finance and Resources)

To

Cabinet

On

17 September 2019

Report prepared by: Andrew Barnes (Head of Internal Audit)

Agenda  
Item No.

11

## Control Environment Assurance

### All Scrutiny Committees

Cabinet Member Councillor Woodley (Appendices A to D)

Cabinet Member: Councillor Gilbert (Appendices E and F)

**Part 1 (Public Agenda Item) - except for Appendix F which is not for publication by virtue of paragraph 7 of Part 1 to Schedule 12A to the Local Government Act 1972**

#### 1. Purpose of Report

To update the Cabinet on the proposed revisions being made to the Control Environment in respect of Risk Management, Counter-Fraud, Bribery & Corruption, Counter Money Laundering, Whistleblowing and the Regulation of Investigatory Powers.

#### 2. Recommendations

- 2.1 That Cabinet approves the revised Risk Management Policy Statement and Strategy (**Appendix A**, including the action plan included at Appendix 2 of that document).
- 2.2 That Cabinet approves the revised Counter Fraud, Bribery & Corruption Policy and Strategy (**Appendix B**), the revised Counter Money Laundering Policy & Strategy (**Appendix C**) and the revised Whistleblowing Policy (**Appendix D**).
- 2.3 That Cabinet approves the revised Policy and Procedures for undertaking Directed Surveillance and the use of Covert Human Intelligence Sources (CHIS) (**Appendix E** – and also the detailed procedures for use of a CHIS as set out in confidential **Appendix F**).
- 2.4 To note that:
  - (a) The Council has not used the surveillance powers available to it under RIPA between 1 April 2018 and the 31st March 2019 and neither has it used any CHIS during this period.
  - (b) Thurrock Council has not used any such powers on behalf of Southend-on-Sea Borough Council when undertaking Anti-Fraud work between 1 April 2018 and the 31st March 2019.

2.5 To note the staff training undertaken in 2018/19 and proposed for 2019/20 in connection with RIPA - also details of the regulation of CCTV activities as detailed in the report.

### 3. Risk Management

3.1 The Council's risk policy, strategy and toolkit was last formally reviewed in June 2015. As a result of the changes being made to the governance architecture to deliver the Southend 2050 Ambition and Outcomes a review of the Council's approach to risk management has been undertaken by the senior officer Good Governance Group and the Corporate Management Team (CMT).

3.2 The Policy Statement and Strategy, have, therefore, been reviewed and updated, to align with changes to Council policy, structures and resources since 2015. The review found that while the overall approach to corporate risk is sound, some areas required updating and there was a need to update the approach in response to the changes that are being implemented to the culture and governance arrangements of the Council. The main points of note are:

- The changes to reflect the new governance arrangements implemented by the Council to deliver the 2050 Ambition
- Enhancements to use of risk appetite and tolerance included to reflect a desire for the Council to increasingly focus on where it is prepared to take risks and exploit opportunities to deliver the desired outcomes
- A simplified scoring system for the risk matrix has been included
- The roles and responsibilities for groups and individuals have been updated.

3.3 The current position in relation to the Council's approach to risk is that:

- The Corporate Risk Register (CRR) is reported to the Council's Corporate Management Team quarterly and Cabinet every 6 months – it is proposed that this continues
- Risk registers, following the format of the CRR, are included in Service Plans – it is proposed that this is updated to reflect the new governance arrangements
- Risk registers are included in major council project plans, and the risks monitored regularly, although the format may vary, depending on project requirements – it is proposed that this continues with the format simplified to achieve increased engagement and utilisation
- High level risks are monitored as part of reports to Corporate Delivery and Capital Boards – it is proposed that this continues, but with reporting to the new governance groups as necessary
- Risk is a regular item at CMT meetings, and is discussed regularly at Departmental Management Teams – it is proposed that this continues, supported by the risk management resource available.

3.4 The Cabinet are, therefore, asked to review the Policy Statement and Strategy (**Appendix A**), prior to further work to shape, disseminate and implement across the Council, in accordance with Appendix 2 of the Policy Statement and Strategy.

#### **4. Counter-Fraud, Bribery & Corruption, Counter Money Laundering and Whistleblowing**

- 4.1 The Counter Fraud, Bribery & Corruption policy and strategy (**Appendix B**) is designed to advise council workers and suppliers on what fraud, bribery and corruption is, how to identify it and report it. This policy sets out what the council will do to make it the most difficult environment for fraud to occur and the responsibility on everyone in the council to find fraud and report it.
- 4.2 Money laundering is a serious crime and recognised as a 'critical enabler' for organised criminal gangs and terrorists to benefit and use for other criminality. Denying criminals the use of their ill-gotten gains disrupts criminality and can help law enforcement identify offenders. The Counter Money Laundering policy & strategy (**Appendix C**) is designed to advise council workers and suppliers on what money laundering is, how to identify it and report it and sets out the action we will take to mitigate the risk that money could be laundered through our systems.
- 4.3 The Whistleblowing Policy (**Appendix D**) provides arrangements to raise any serious concerns that employees, workers or contractors have about any aspect of service provision or the conduct of Councillors, officers of the Council or others acting on behalf of the Council.
- 4.4 The policies have been updated to reflect changes in legislation, reporting methods and current best practice.

#### **5. Directed Covert Surveillance and RIPA**

- 5.1 If the Council wants to carry out directed covert surveillance then:
- (a) It must be in connection with the investigation of a criminal offence which attracts a maximum custodial sentence of 6 months or more, or involves the underage sale of alcohol or tobacco;
  - (b) It must not be intrusive surveillance (only the Police can carry out intrusive surveillance inside a house or vehicle);
  - (c) Such surveillance must be properly authorised internally. In particular authorising officers must be formally designated and trained – and only authorised and trained officers should carry out surveillance;
  - (d) A Justice of the Peace must make an Order approving the grant of authorisation referred to in (c) above; and
  - (e) There must be compliance with the Codes of Practice issued by the Home Office, the Investigatory Powers Commissioner's Office (IPCO) (formerly the Office of Surveillance Commissioners OSC) – and the Council's own Policy & Procedures (see 5.3 below).

## CHIS and RIPA

- 5.2 Similar requirements to those set out in 5.1 above apply if the Council wants to use a covert human intelligent source (CHIS). The requirement for the use of CHIS is that it relates to the prevention and detection of crime or disorder; there is no requirement for the offence to have a 6 month sentence.

### Council Policy and Procedures for undertaking Directed Covert Surveillance and the use of a CHIS

- 5.3 In order to ensure that the Council acts legally and properly and complies with RIPA, it has put in place "Policy and Procedures for undertaking Directed Covert Surveillance and the use of Covert Human Intelligence Sources (CHIS)".
- 5.4 The Policy & Procedures are regularly updated to ensure they are fit for purpose and incorporate legislative, procedural and staff changes (**Appendix E**). The most significant change is that the detailed procedures for the use of a CHIS are now set out in a separate document (confidential **Appendix F**). The Policy and Procedures also includes a revised section on the use of social media for research and investigations (as this has been the focus of IPCO attention) and clarification of joint agency surveillance to reflect current practice.

### Use of surveillance powers available under RIPA in 2018/19

- 5.6 The Council has not used the surveillance powers available to it under RIPA between 1 April 2018 and the 31st March 2019 and neither has it used any CHIS during this period.
- 5.7 Thurrock Council has not used any such powers on behalf of Southend-on-Sea Borough Council when undertaking Anti-Fraud work between 1 April 2018 and the 31st March 2019.

## Training

- 5.8 It is important that Council officers who are, or could be, involved with surveillance receive proper training.
- 5.9 Annual training was carried out on the 10 December 2018, attended by 39 members of staff with a focus on awareness of RIPA requirements and also the use of social media for research and investigations.
- 5.10 In 2019/20 a CHIS training session has already been held with 6 members of staff from Regulatory Services and the regular annual training event is planned for early December 2019.

## CCTV

- 5.11 The Council's CCTV System helps to provide a safe and secure environment in the Town Centre and other parts of the town covered by the cameras. It therefore contributes to the continuing safety and vitality of those areas, for the benefit of all those living, working and visiting there.

- 5.12 The control room is manned twenty-four hours a day 365 days a year by Security Industry Authority (SIA) trained operators and is fully compliant with the guidelines laid down by the IPCO and the Surveillance Camera Commissioner (SCC).
- 5.13 The inspections by the OSC (now the IPCO) as referred to in 5.14 (below), have always involved a visit to the control room to ensure compliance with the guidelines; although it should be noted that overt CCTV does not require a formal RIPA authority. In 2018 the control room was involved in 8566 incidents that were covered by CCTV which involved 739 arrests being made. This highlights the value of the CCTV System.

### Oversight

- 5.14 The IPCO provides independent oversight of the use of investigatory powers by intelligence agencies, police forces and other public authorities. The Council is subject to inspection by the IPCO to ensure compliance with the statutory provisions which govern surveillance. The Council's last inspection was in August 2016 and was carried out by the former OSC: This presented a very positive picture.
- 5.15 It is also important that councillors should review the Council's use of RIPA and its Policies and Procedures on an annual basis; hence the need for this report.

## **6. Other Options**

None

## **7. Reasons for Recommendations**

To comply with the Home Office Codes of Practice and IPCO Guidance on RIPA.

## **8. Corporate Implications**

### **8.1 Contribution to Southend 2050 Road Map**

The Corporate Assurance and Risk Framework underpins the operational effectiveness of the Council's Corporate Governance arrangements and helps the management of key risks associated with achieving the Council's Ambition and Outcomes. Contributing to and monitoring progress with the Corporate Risk Register reinforces the effectiveness of these arrangements and assists to ensure that Outcomes are delivered.

Work undertaken to reduce fraud and enhance the Council's anti-fraud and corruption culture contributes to the delivery of all Southend 2050 outcomes.

Sound policies and procedures in respect of surveillance contribute to various aspects of the Southend 2050 Road Map, particularly the objective in Safe & Well that people in all parts of the Borough feel safe and secure at all times.

## 8.2 Financial Implications

The funding of risk management activities across the Council is generally contained within individual budgets.

Proactive fraud and corruption work acts as a deterrent against financial impropriety and might identify financial loss and loss of assets. Any financial implications arising from identifying and managing the fraud risk will be considered through the normal financial management processes. Proactively managing fraud risk can result in reduced costs to the Council by reducing exposure to potential loss and insurance claims.

## 8.3 Legal Implications

The Accounts and Audit Regulations 2015 Section 3 requires that:

*'The relevant authority must ensure that it has a sound system of internal control which:*

- *facilitates the effective exercise of its functions and the achievement of its aims and objectives*
- *ensures that the financial and operational management of the authority is effective*
- *includes effective arrangements for the management of risk.'*

The proposed risk management arrangements ensure that the Council is compliant with this requirement.

The Home Office and IPCO provide guidance in respect of RIPA. This report has been prepared to ensure compliance with that guidance.

## 8.4 People Implications

Failure to manage the corporate risks could have a major impact upon the resources available to the Council and the ability to deliver identified outcome priorities.

Where fraud or corruption is proven the Council will:

- take the appropriate action which could include disciplinary proceedings, civil law and criminal prosecution
- seek to recover losses using criminal and civil law
- seek compensation and costs as appropriate.

## 8.5 Property Implications

None, but identified as part of the corporate and other risk registers.

## 8.6 Consultation

Internal only

## 8.7 Equalities and Diversity Implications

None

## 8.8 Risk Assessment

The report is aimed to enhance the Council's ability to assess and manage risk in achieving its Ambition and Outcomes.

Failure to operate a strong anti-fraud and corruption culture puts the Council at risk of increased financial loss from fraudulent or other criminal activity. Although risk cannot be eliminated from its activities, implementing these strategies will enable the Council to manage this more effectively.

Having up to date RIPA Policy and Procedures and a staff training programme, ensures any risks associated with surveillance, social media investigations or the use of a CHIS are minimised.

## 8.9 Value for Money

Effective forecasting and timely management of risk is a key factor in preventing waste, inefficiency and unnecessary or unplanned use of resource.

An effective counter fraud and investigation directorate should save the Council money by reducing the opportunities to perpetrate fraud, detecting it promptly and applying relevant sanctions where it is proven.

## 8.10 Community Safety Implications

None, but identified as part of the corporate and other risk registers.

## 8.11 Environmental Impact

None, but identified as part of the corporate and other risk registers.

## 9. Background Papers

None

## 10. Appendices

**Appendix A** - Risk Management Policy Statement and Strategy 2019

**Appendix B** - Revised Counter Fraud, Bribery & Corruption Policy & Strategy

**Appendix C** - Revised Counter Money Laundering Policy & Strategy

**Appendix D** - Revised Whistleblowing Policy

**Appendix E** - Updated Council Policy and Procedures for undertaking Directed Surveillance and the use of Covert Human Intelligence Sources

**Appendix F (Part 2)** - Detailed Council Procedures for use of Covert Human Intelligence Sources (CHIS)



# RISK MANAGEMENT POLICY STATEMENT & STRATEGY

**Approved by:**  
*Corporate Management Team: 7 August 2019*  
*Cabinet: 17 September 2019*

**Next Planned Review:**  
2021



# Risk Management Policy

The focus for Southend Borough Council is set out within the 2050 ambition and in delivering against the desired outcomes, to fulfil that ambition, decisions are taken regarding allocation of increasingly finite resources. The Council has needed to become more innovative and commercially minded in order to exploit opportunities whilst still operating in an environment where there are high expectations around transparency, integrity and accountability. Delivering value for money remains at the heart of good governance in local authorities.

The Council's Risk Management Framework needs to evolve, along with other elements of the governance framework, to support the achievement of the 2050 outcomes. There are a number of core principles at the heart of the new Council's Risk Management Framework, these include that:

- risk management is a positive value added activity, focused on achievement and successes, not a negative bureaucracy – by changing the perception and raising awareness officers will have increased confidence when managing operational risks
- all staff are responsible for risk management and resources that support the framework are there to 'support and challenge' not 'own and do'
- wider Member involvement in identifying and monitoring the most strategic risks the organisation faces would add value, whilst the roles of the Audit Committee, Scrutiny and Cabinet are critical to robustness of the overall framework
- the Southend 2050 ambition and outcomes need to drive the Council's budget and financial management arrangements, performance management of the outcome delivery plans and risk management framework
- by getting the conversations happening with the right people, at the right time and in the right place, the required thinking can be applied and the processes to capture, document and report risks will be simple and become part of business as usual
- the framework ensures joined up Strategic, Operational, Programme and Project Risk Management whilst recognising the differences between them.

It is important for everyone to recognise that:

**Risk management is not about being 'risk averse' – it is about being 'risk aware'.**

Risk is ever present and some amount of risk taking is necessary if the Council is to achieve its ambition. In the current climate the council will embark on more risky activities in pursuit of greater outcomes for residents, however the actions to mitigate those risks must bring the risk exposure within the appetite and tolerance approved by members. By being '**risk aware**' the Council is in a better position to mitigate threats and take advantage of opportunities.

The Council will achieve effective Risk Management by:

- implementing this Strategy and a process that is fit for purpose, compliments and strengthens the other governance arrangements within the 2050 programme, including assurance and performance management processes
- ensuring that the management structure is not a barrier to sharing the ownership of risks or the efficiency in the control environment
- equipping managers with the skills and understanding to ensure that robust risk decisions happen across the Council
- ensuring a consistent understanding of the organisation’s risk appetite so that effective communication, escalation and cascade, exists across the Council
- acknowledging that risks are increasingly shared across partner organisations, which can increase the complexity of analysis and reporting, and also that assurances regarding the level of risk may need to be sought from third parties as well as internal sources, and that these bodies may need support from the Council to achieve efficient risk management.

We will also annually review the:

- effectiveness of Risk Management activity during the year
- completion of the Risk Management action plan
- approach to ensure it remains in line with good practice.

Every two years we will review and update the formal Policy and Strategy document.

CHIEF EXECUTIVE

LEADER

.....

.....

# Risk Management Strategy

## Introduction

The Council's Members and Corporate Management Team recognise:

- the importance of effective mechanisms to identify, analyse, manage and monitor risk and for effective channels of communication about risk within the organisation
- their statutory responsibilities for Risk Management particularly in areas where there is a high inherent risk such as Health and Safety
- that risks around projects and partnerships must be effectively captured and communicated within the risk management framework of the organisation to ensure that a holistic approach to risk management is embedded
- that effective risk management will help improve the delivery of the outcomes identified in the Southend 2050 programme by directing finite Council resources to where they can achieve the most, whilst exploiting opportunities to achieve outcomes via more innovative means.

These views are endorsed by the increased focus on the importance of governance frameworks within public sector bodies and that the Council has a statutory responsibility to have in place arrangements for managing risks, as stated in the Accounts & Audit Regulations 2015:

*“The relevant body shall be responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control which facilitates the effective exercise of that body’s functions and which includes the arrangements for the management of risk.”*

The Risk Management Policy Statement and Strategy provides the foundation on which robust risk management activity, supporting the efficient and effective achievement of outcomes and delivery of services, will be embedded within business processes and contribute to the effectiveness of the governance framework.

More detail to support and guide the organisation in successfully embedding Risk Management will be provided within the guidance that will accompany this strategy.

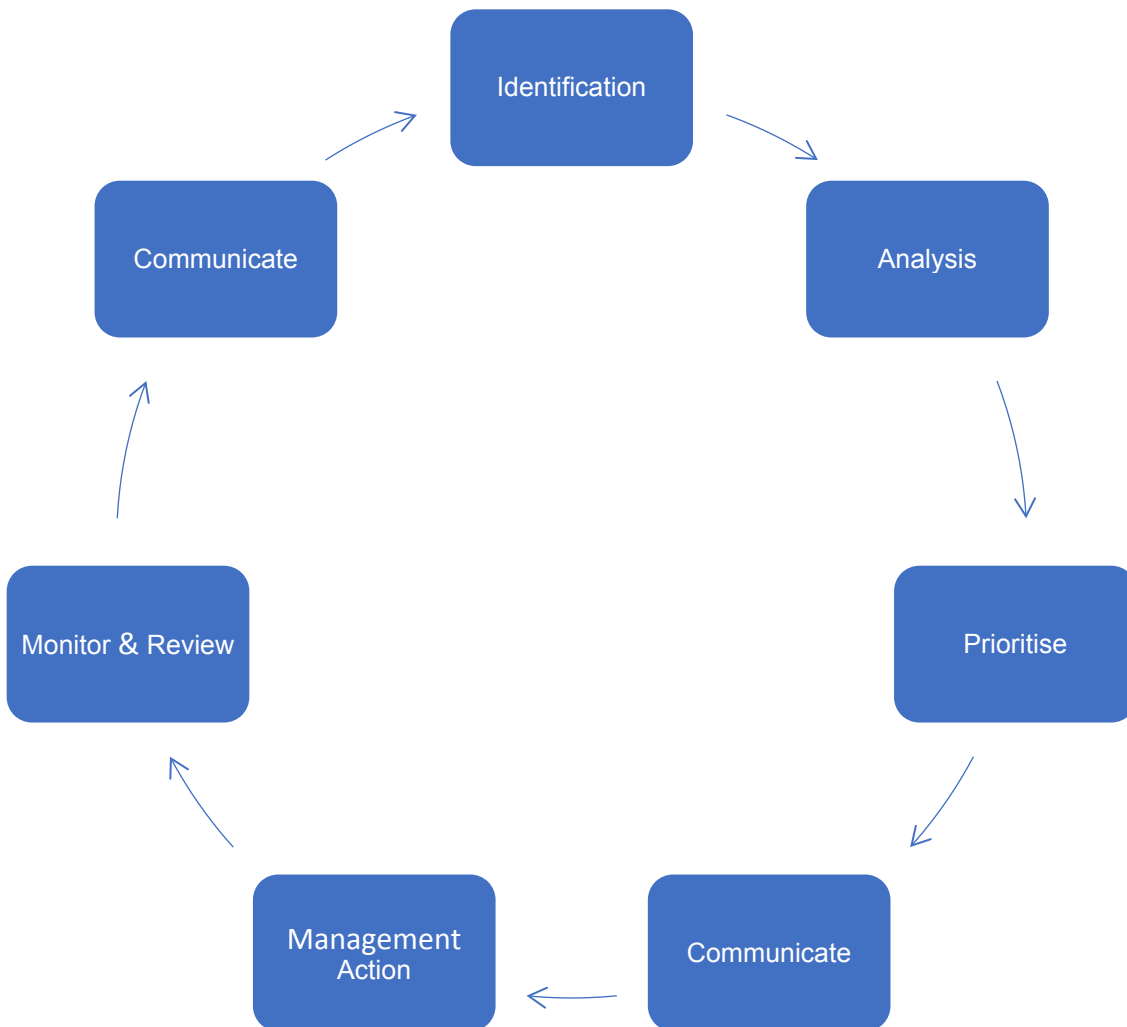
An action plan, covering the planned duration of the Strategy, has been developed to implement the strategy and further embed Risk Management into the governance framework of the organisation (Appendix 2).

## Definition of Risk

The definition of risk used within the Council is that **RISK** is ‘The chance of something happening that will have an impact (negative = threat or positive = opportunity) on the Council’s ability to successfully deliver its approved outcomes. This includes external and internal, risks and opportunities’.

**RISK MANAGEMENT** is therefore the process by which risks are identified, analysed, prioritised, managed and monitored / reviewed. The Council has determined two clear points in the cycle where communication needs to be considered.

**FIG 1: Risk Management Cycle**



The approved methodology will be outlined within the guidance to support Management, however the high level approach is outlined in paragraphs below.

The activity to **IDENTIFY** risk is most effective when aligned to strategic, operational and project planning processes focused on the achievement of outcomes. In the context of the Southend 2050 programme risk will be identified against the themes and outcomes identified within the Council's ambition.

The Council's methodology for risk **ANALYSIS** is for the **likelihood** of the risk materialising, and the **impact**, should it materialise, to be scored using a defined criteria and scored on a four by four grid.

Guidance that supports the implementation of this strategy provides criteria to promote consistency of evaluation of risk across the organisation.

A template Risk Register is in place for the Corporate Risk Register which is supported by the Pentana system. Templates used for all risk registers will be refined and agreed by December 2019 as part of implementing this strategy. The aim will be to ensure consistency across the organisation in how risk is captured and communicated but also ensure that the templates are fit for purpose to support a streamlined approach.

A summary table is included here for information to assist in risk **ANALYSIS**. More detailed guidance is included within the Risk Management Toolkit.

Likelihood			Impact		
Score 1-4	% chance	Time Frequency	Score 1-4	Disruption to Services <i>Residents affected or aware</i>	Budget
1 Unlikely	< 25%	Once in <5 years	1 Negligible	Minor disruption to services <i>Up to 5%</i>	>1%
2 Likely	25 -50%	Once in < 3 years	2 Material	1-2 weeks <i>Up to 10%</i>	>5%
3 Very Likely	50-75%	could materialise next 18-24 months	3 Severe /Significant Opportunity	Up to one month <i>Up to 25%</i>	5-10%
4 Almost Certain	>75%	could materialise within 6-12 months	4 Catastrophe / Exceptional Opportunity	1 – 3 month <i>Up to 50%</i>	10-20%

Consistency is also increased through the challenge mechanisms that exist within the governance structure which are documented in the delivering the strategy section. These challenge mechanisms are outlined in the appendices of this strategy (see Appendix 1).

Plotting the risks visually can help with prioritisation and also challenge i.e. when risks are reviewed in relation to other risks also being reported within the organisation. The grid below is used to present the relative importance of risks.

### Risk Matrix

Risk tolerance level – Risks above this level will need particular resources and focus

I  
M  
P  
A  
C  
T

Catastrophic / exceptional opportunity	4	8	12	16
Severe / significant opportunity	3	6	9	12
Material	2	4	6	8
Negligible	1	2	3	4
	Unlikely <25%	Likely 25-50%	Very Likely 50-75%	Almost Certain >75%

Risk acceptance level (activity below which attracts minimum effort and resources)

### LIKELIHOOD

**Risk Ratings:** 1 – 2 = low risk (Green) / 3 – 10 = medium risk (Amber) / 12 – 16 – high risk (Red)

In assessing a risk there are three ratings to be confirmed from the analysis of the risk.

The **Inherent Risk** Score – the level of risk before any mitigations have been applied.

The **Residual Risk** Score – taking into account the mitigations currently in place and the effectiveness of those implemented mitigations.



The **Target Risk Score** – the level at which the risk will fall within the Council's appetite and be accepted.

Decisions regarding target risk will be driven by the approved **Risk Appetite** This is the amount of risk that the Council is willing to seek or accept in the pursuit of its objectives.

Risk appetite will vary from person to person and is influenced by the type of risk. Guidance will be provided to Management and mechanisms within the process and procedures are designed to challenge and as a result increase consistency of decisions regarding risk across the Council. This will be reported to Cabinet twice a year, and annually the effectiveness of these mechanisms will be considered and assurances provided to Audit Committee to assist with their Annual Report to Council.

The **Risk Tolerance** of the organisation is the boundaries of risk taking outside which the Council is not prepared to venture in the pursuit of its long-term objectives. Effective communication regarding risk is essential to ensuring that the risk appetite being applied is ensuring risks are managed within the approved tolerance level.

The Risk Appetite and Tolerance of the organisation will be considered annually as part of the planned annual review of the framework, and changes to procedures and guidance made as required.

The **PRIORITISATION** of risks will be dependent of the outcome of the analysis stage and the gap between the residual and target risk ratings.

When taking decisions regarding the appropriate action to manage a risk consideration will be given to whether it is the likelihood or impact that we seek to reduce.

At this stage it may be necessary for **COMMUNICATION** with other individuals, teams, groups or boards. Others may need to understand the risk that is being managed, or their role in the control environment that needs to be in place.

Risks can be **MANAGED** by:

- **Treating** – management action / control to bring within risk appetite or to ensure that the opportunities available are being optimised
- **Transferring** – passing to a third party, usually via a contract i.e. insurance – this would bring the activity within the council's appetite and overall tolerance level
- **Tolerating** – accepting the current level of risk, because it is within the council's defined appetite to do so and/or the cost of mitigations to reduce it further outweigh benefits to be gained in terms of affecting the likelihood or impact
- **Terminating** – ceasing the activity – usually because the risk exceeds the Council's appetite or moves the overall level of risk over its tolerance for risk and/or the cost of mitigations to rectify this far exceeds the resources available.

Risks and their corresponding action plans need to be periodically **REVIEWED AND MONITORED** to ensure changes are recognised and captured. The frequency of review should not be arbitrary, focus should be directed based on three factors:

- 1) The level of risk, more frequent attention to those of most significance to outcomes
- 2) Those risks where deadlines for actions are due, it is important to ensure actions are completed as planned and that they have had the expected effect on the risk rating
- 3) Risks where the Residual and Target risk ratings are furthest apart, as these are the risks where the council is most exposed and greatest action is required to move to within appetite.

There will be an expectation that risk registers are formally reviewed at least quarterly throughout the financial year.

Efficiency can be built into this process by ensuring robust assurances are in place regarding the materialisation of risk indicators or with regards to the design of the control environment. These assurances exist within the Council in many forms, this includes but is not limited to performance data, feedback, reviews, inspections and internal audits. Where gaps in assurances are noted then Management may not have reliable information with which to manage risk.

As risks are reviewed it may be necessary to **COMMUNICATE** the risk to others. If management actions have failed to reduce risk then it may need to be escalated. If the risk has changed then despite actions taken working the risk may still have increased and need to be escalated. Risks that become deemed to be managed to within appetite may be removed from the corporate risk register and included on a more operational risk register level, for on-going monitoring.

## **AIMS AND OBJECTIVES**

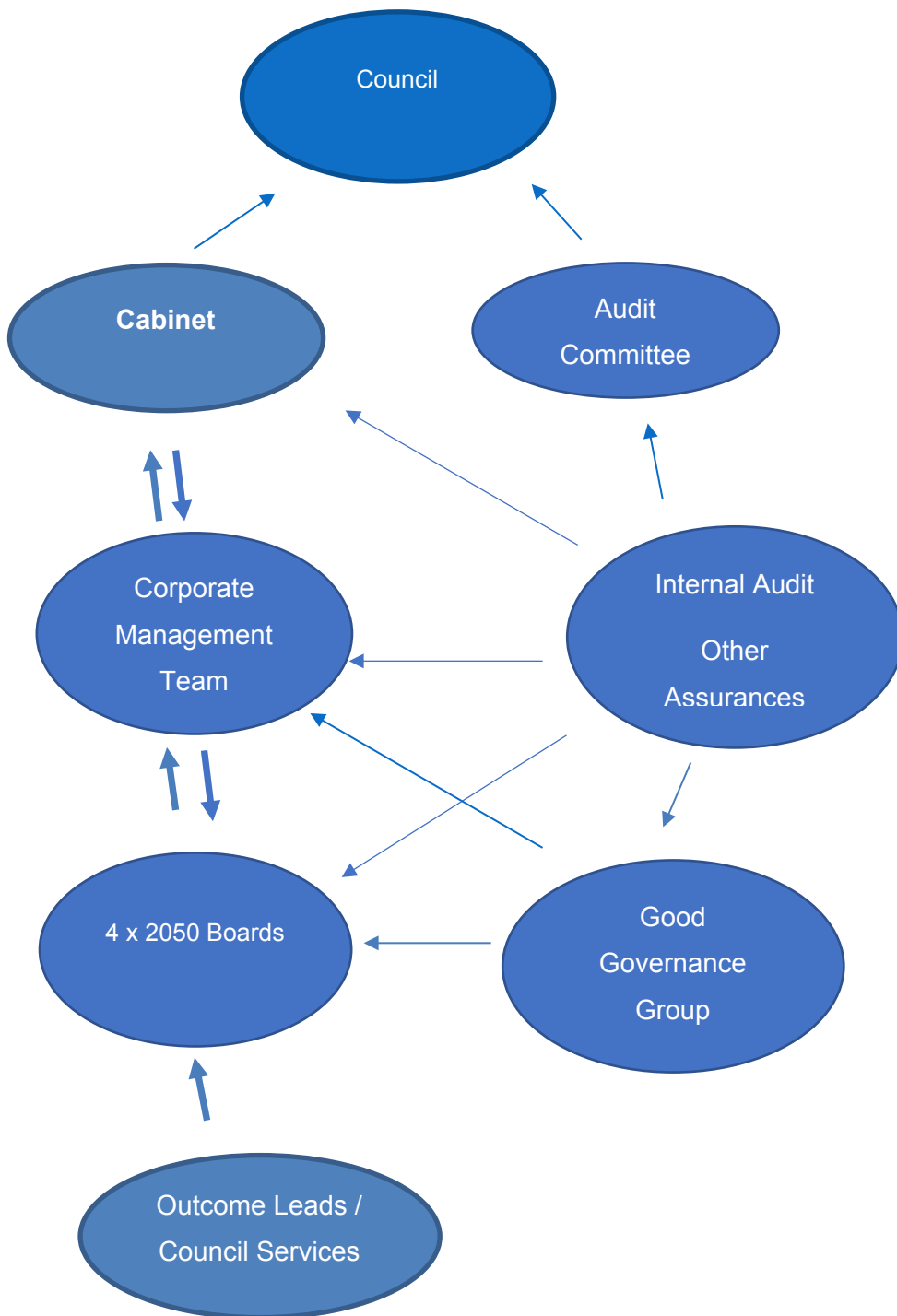
The Council's Risk Management aims and objectives, for the period of this Strategy, are as follows:

- To ensure that actions taken to maximise opportunities and minimise the likelihood of risks crystallising, and / or reducing the impact of consequences should risks crystallise, are in accordance with the Council's defined appetite and tolerance
- To further embed robust risk management into the culture of the Council in line with the approved policy, supporting procedures and good practice
- To ensure that the Risk Management process including effective reporting arrangements to senior Management and Members remain fit for purpose, optimising the efficiency of resources input.

How these objectives will be achieved is outlined within the Delivering the Strategy section below.

## DELIVERING THE STRATEGY

The diagram below outlines the governance structure with regards risk management.



**Appendix 1** outlines the roles and responsibilities with regards Risk Management in the Council. The effective delivery of the strategy will be reliant on fulfilment of the respective roles and responsibilities.

An action plan is in place to ensure implementation of the approved policy and strategy. This can be found at **Appendix 2**. From 2019/20 there is an acknowledgement that the activity will be supported by the Head of Internal Audit with other risk resources, and that the procedures will need to continue to develop and evolve as the governance around the 2050 programme evolves, until this becomes embedded.

A timetable for reporting cycles has been included as **Appendix 3** for the financial year 2019/20. This will be updated and communicated to key stakeholders annually as part of the annual review of the risk management arrangements.

A guidance document will be created to support officers in applying the requirements of the policy and strategy into their day to day roles and responsibilities. This will be finalised and approved by December 2019.

Group / Individual	Role / Responsibility
Cabinet	<ul style="list-style-type: none"> <li>To have regard to the risks faced by the council within the Cabinet decision making process</li> <li>Periodically review and challenge the Corporate Risk Register</li> <li>Endorse the Council's Risk Management Policy Statement and Strategy.</li> </ul>
All Councillors	<ul style="list-style-type: none"> <li>Support and promote risk management</li> <li>Consider the risks involved in any key decisions made.</li> </ul>
Councillor Theme / Outcome Leads	<ul style="list-style-type: none"> <li>Support the development and have a shared understanding of the risk registers that relate to their allocated theme / outcome.</li> </ul>
Audit Committee	<ul style="list-style-type: none"> <li>To assure themselves that the Risk Management Framework is operating effectively and in accordance with the approved Policy and Strategy</li> <li>To provide independent assurance to Cabinet and Council on the above</li> <li>Seek assurances that action is being taken on risk related issues identified by auditors and inspectors.</li> </ul>
Chief Executive and Corporate Management Team	<ul style="list-style-type: none"> <li>To ensure that the corporate risk register reflects those organisational risks that may prevent it delivering on the 2050 ambition</li> <li>Support and promote risk management throughout the council</li> <li>To oversee the development / review of the council's Risk Management Strategy / Framework</li> <li>To ensure engagement in risk and control mechanisms across their respective service areas.</li> </ul>
Head of Internal Audit  (Officer Champion for Risk)	<ul style="list-style-type: none"> <li>Facilitating the link across risk management activity at the corporate level</li> <li>Managing resources to support risk management in the organisation at the operational level</li> <li>Attending CMT quarterly strategic forward looking meetings</li> <li>Identifying the resources to deliver the action plan (appendix 2) and confirming to CMT and Audit Committee they are in place.</li> </ul>
S2050 Theme Leads	<ul style="list-style-type: none"> <li>Champion and ensure that risk management is implemented across the five themes and 23 outcomes</li> <li>Identify relevant lead officers / risk owners as appropriate</li> <li>To ensure that Members are briefed on significant risks that fall within their theme / outcome and actions to address these</li> <li>Consider cross cutting, joint working and risks within partnership working</li> <li>Escalate risks as appropriate to CMT / Corporate Risk Register.</li> </ul>
Good Governance Group	<ul style="list-style-type: none"> <li>Challenge the Corporate Risk Register quarterly</li> <li>Focus their agenda on gaps in controls and / or assurances</li> </ul>
S2050 Outcome Leads	<ul style="list-style-type: none"> <li>To embed risk management into their outcome and escalate risks as required.</li> </ul>
Risk Champions	<ul style="list-style-type: none"> <li>To support the continued development of risk management by embedding risk management in the running of their respective board/service and acting as a point of contact to provide support and information as appropriate.</li> </ul>

Group / Individual	Role / Responsibility
Internal Audit	<ul style="list-style-type: none"> <li>• To offer independent, objective assurance and advice on risk management activity</li> <li>• To undertake an audit of risk management arrangements and make recommendations on actions to be considered</li> <li>• To provide assurance on the effectiveness of controls, including annual assessment of the council's risk management and internal control mechanisms as part of the Annual Governance Statement.</li> </ul>
Risk Management Function	<ul style="list-style-type: none"> <li>• To ensure that the Risk Management Framework, including the Policy Statement, Strategy and guidance, are kept up to date, reflect best practice and are relevant to the organisation</li> <li>• To provide support on risk management across the council</li> <li>• To co-ordinate the reporting of the corporate risk register to senior officers and Councillors and provide advice and challenge as appropriate, including the tracking of action plans in the risk register</li> <li>• To support the identification of and analyse key new and emerging risks and report to CMT for consideration (horizon scanning)</li> <li>• Support communication of the risk management strategy and process, and update as appropriate, across the council through risk reviews and training sessions</li> <li>• Advise on possible actions that may be required in respect of business change initiatives</li> <li>• Ensuring there is a robust framework of assurances shared within the council. For example ensuring there is periodic consideration of insurance management information reports and other risk focused performance data, and take forward any identified initiatives arising from identifying incidents that can add value to the business and avoid loss control</li> <li>• Promoting risk management awareness.</li> </ul>
All Employees	<ul style="list-style-type: none"> <li>• To understand the risks that relate to their role and activities and their role in reporting on and managing these</li> <li>• To report new or emerging risks in a timely manner.</li> </ul>

<b>Ref</b>	<b>Implementation Action Plan</b>	<b>Estimated Timing by</b>
1	General communications to the organisation following approval of the Policy Statement and Strategy	September 2019
2	Attendance at four 2050 Governance Boards to capture programme / corporate risks Identification of Risk Champions	October 2019
3	Attendance at Good Governance Group to workshop corporate risks and procedures	October 2019
4	Attendance at CMT to propose risk management procedures and seek approval for operational guidance documents	November 2019
5	Attendance at Directorate Management Team Meetings to promote risk management and new approach	December 2019
6	Refresh of Corporate Risk Register	December 2019
7	Attendance at service team meetings to promote new approach	March 2020
8	Meetings with outcome leads / groups to workshop risks	March 2020
9	Refresh of Corporate Risk Register	March 2020
10	Update and refresh of this action plan for 2020/21 as part of the Annual Review of Risk Management	May 2020
11	Independent review of Risk Management for inclusion in Annual Report and Head of Internal Audit Opinion. To manage conflict of interest for Head of Audit.	May 2020

<b>Dates</b>	<b>Reporting Action Required</b>
October 2019	2050 Governance Boards to capture programme / corporate risks
October 2019	Good Governance Group to workshop corporate risks and procedures
December 2019	CMT to propose risk management procedures
December 2019	CMT update and Corporate Risk Register
January 2020	Cabinet update and Corporate Risk Register
February 2020	CMT update and Corporate Risk Register
May 2020	Good Governance Group update and Corporate Risk Register
May 2020	CMT update and Corporate Risk Register
July 2020	Cabinet update and Corporate Risk Register



## **Counter Fraud, Bribery and Corruption Policy and Strategy**

**VERSION CONTROL SHEET**

<b>Title:</b>	Counter Fraud, Bribery and Corruption Policy and Strategy
<b>Purpose:</b>	To advise council workers and suppliers on what fraud, bribery and corruption is, how to identify it and report it.
<b>Owner:</b>	Counter Fraud & Investigation Directorate
<b>Approved by:</b>	Corporate Management Team – 07/08/2019 Cabinet – 17/09/2019
<b>Date:</b>	Approved – 17/09/2019 Implemented – 18/09/2019
<b>Version Number:</b>	2.2
<b>Status:</b>	Draft
<b>Review Frequency:</b>	Bi-annually
<b>Next Review Date:</b>	September 2021

Change History		
Date	Change Details	Approved by
Nov 2018	Revision of formatting and reporting methods, legislative changes.	Joe Chesterton, Strategic Director (Finance & Resources)
August 2019	Revision of formatting and reporting methods, legislative changes.	Joe Chesterton, Strategic Director (Finance & Resources) John Williams, Strategic Director (Legal & Democratic Services)

## **Policy Statement**

Southend-on-Sea Borough Council is serious about protecting the public money we are charged with to protect. We take a strong stance against those who seek to commit fraud against the council.

It is an unfortunate reality that Southend-on-Sea Borough Council, like any large organisation, is not immune from fraud, bribery and corruption from both those outside the organisation and the few who may work here and commit crime.

Cases of internal fraud are extremely rare and we have a strong framework of policies and controls in place to detect any risks, supported by our Internal Audit Service and Counter Fraud & Investigation Directorate.

This policy sets out what the council will do to make it the most difficult environment for fraud to occur and the responsibility on everyone in the council to find fraud and report it.

Fraud in councils can happen anywhere. No team or department is immune. As a council we spend around £520m annually. International standards say that about 3% of that spending will be lost due to fraud and corruption. That equates to £15m, every year.

It is important that we look after our resident's money and make sure no one misuses it. It is incumbent on all of us in the council to report any suspicions we may have and support the Internal Audit and Counter Fraud services in their work.

**Alison Griffin**

Chief Executive & Town Clerk

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Southend-on-Sea Borough Council  
**Counter Fraud, Bribery and Corruption Policy and Strategy**

**1. Introduction**

- 1.1 As a local authority Southend-on-Sea Borough Council (the Council) is responsible for delivering key frontline services such as maintaining roads, keeping our borough clean and green, educating our children and young adults as well as supporting the vulnerable in health and social care support.
- 1.2 We deliver these services with the £520m of public money we have in our budget. Criminals do and will continue to seek to take that money from the Council. Criminals can come in all forms from services users, to suppliers and the colleagues sitting next to us.
- 1.3 The way to beat those who seek to take the public's money is to make sure our systems and controls in place are strong, and then consistently implement them. This means all of the procedures we have as teams are robust and auditable, so we can prevent fraud and identify possible concerns.
- 1.4 This policy sets out what fraud, bribery and corruption is, how you can spot it and what to do if you suspect it.
- 1.5 Every council worker and our partners are responsible for following this policy and reporting their suspicions to our Head of Internal Audit and Counter Fraud & Investigation Directorate.
- 1.6 As council workers we are public officials who must all follow the seven Principles of Public Life, also known as the Nolan Principles. These are:

**1. Selflessness**

Holders of public office should act solely in terms of the public interest.

**2. Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**3. Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**4. Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**5. Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**6. Honesty**

Holders of public office should be truthful.

**7. Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **2. What is Fraud?**

- 2.1 In this policy 'fraud' is used as shorthand for any criminal offence where money or assets belonging to the Council can be lost. It includes theft, fraud, burglary and other deception offences such as corrupt practices by those who work for us or suppliers.
- 2.2 Fraud is where a person is dishonest in their actions in order to cause a loss to the Council or expose the Council to a potential loss. It also includes where a person causes a chain of events by doing **or** not doing something, that causes **or** exposes the Council to a loss.
- 2.3 Any of the actions described above are criminal offences and can result in imprisonment.

## **3. How is fraud committed against Council?**

### **Applying for Services / Making a Declaration**

- 3.1 The Council provides hundreds of different services to the public we serve. Unfortunately there is a small minority of those who seek to take advantage of those services. This could be by a person embellishing their circumstances, making something up completely or purposefully not declaring something.
- 3.2 In the Council's welfare support services such as Social Care, Housing and Essential Living Fund, this could be a person not being honest about their needs, what their financial status is or what they will be using the services for. It may be a person acting on the service user's behalf that is being dishonest in order to benefit them.
- 3.3 In each of these examples the frauds are denying the legitimate use of Council funds for those who are in need.

### **Suppliers / Providers**

- 3.4 The highest risk to the public sector is from its supply chain. A Council is a business making regular and sometimes large financial transactions with our suppliers and providers in order to deliver our services.
- 3.5 Some unscrupulous suppliers, or staff working in supplier companies, may seek to take advantage of our payment systems and processes.
- 3.6 Fraud in this area can be committed where suppliers submit false or 'erroneous' invoices or other requests for payment. Suppliers may also be dishonest in how they are delivering the services or goods we have asked them for. They may be poor quality or not supplied at all.
- 3.7 Staff that deal with our suppliers and providers must ensure that the Council is getting what it has paid for. The Council's Corporate Procurement Team is experienced in letting and managing contracts and applying the right controls when sourcing goods, works and services.

### **Did you know?**

In 2014, the Council prosecuted a Foster Carer who stole £5,500 from a child in their care.

### **Council Worker Fraud**

- 3.8 Like any large employer employing thousands of people, there will always be a small minority of people who seek to commit fraud or allow fraud to take place.
- 3.9 Fraud in this area can be staff who take unauthorised absences, such as:
- Claiming 'flexi time' when they haven't accrued any
  - Claiming to be working from home when they are not
  - Claiming to be working in the field but going home early / starting later.
- 3.10 Payroll or expenses fraud can also be committed by Council workers. For example, staff falsely claiming overtime for hours they have not worked or mileage or subsistence for expenses they have not incurred.
- 3.11 It is therefore important for all staff to follow the Council's procedures, particularly those staff in management positions authorising such claims or transactions, as well as colleagues who may notice irregularities.

### **Did you know?**

The impact if all staff falsely worked half an hour less per week would effectively be a cost to the Council of £130k every year.

## **4. What is bribery and corruption?**

- 4.1 As public servants, all workers in the Council are in a privileged position to serve the public of Southend-on-Sea. That responsibility comes with a significant amount of trust and confidence in how we conduct ourselves.
- 4.2 It has always been a criminal offence for anyone working at the council to receive gifts or hospitality where the person giving the gift or hospitality is seeking to induce us to, or reward us for doing something for their, or somebody else's benefit.
- 4.3 This type of corruption has been depicted in many different films and fictional stories since time began. Examples have seen cases of criminals:
- seeking to build a house that would normally be rejected by planners
  - wanting the Council to 'look the other way' for parking fines or other enforcement responsibilities.
- 4.4 This type of criminality is the most serious type of dishonesty.
- 4.5 Those who act corruptly or offer themselves to receive gifts or hospitality to feed this criminality bring the Council and their colleagues in to disrepute.

## **5. What do I do if I suspect fraud, bribery or corruption?**

- 5.1 The Counter Fraud & Investigation Directorate (CFID) is responsible for dealing with any cases of suspected criminality described in this policy, **not the police**.
- 5.2 It is the responsibility of everyone working here to look for and report any possible fraud taking place. You **do not** have to speak to a manager before reporting your suspicions.
- 5.3 If you see any of the suspicious activity linked to fraud **you should**:
- △ Not tell the person that you have any suspicions about them
  - △ Take copies of any records that could help to a secure location
  - △ Telephone a member of the CFID team right away on **03000 999111 (24/7)**
  - △ Follow the instructions given by the CFID team.

## **6. What does the Council do with cases of suspected fraud?**

- 6.1 The Council has a dedicated team of professionally trained and accredited investigation officers who fully investigate instances of suspected fraud. The CFID team work around the clock, anywhere in the UK, utilising powers to arrest persons, search their premises and seize their assets to take back what the Council has lost.
- 6.2 In cases where there may be a proven case of fraud the Council's Legal Services has dedicated Criminal Prosecutors who apply the Code for Crown Prosecutors. This code is used by a lawyer to decide, independently, whether:
- there is sufficient evidence of a crime
  - it is in the public interest to prosecute those responsible.

### **Did you know?**

Since 2014, the Council has recovered £552k from fraudsters.

- 6.3 CFID also has a dedicated Criminal Finances Unit that is accredited by the National Crime Agency to present cases to a Judge where necessary to obtain consent to pursue actions requiring that approval, and confiscate any criminal proceeds.
- 6.4 The Council will always publicise cases of proven fraud in the media to act as a deterrent and encourage people to come forward to report fraud.
- 6.5 CFID share all the allegations they have received and the work that they have done to investigate those allegations with the Executive Director (Finance & Resources) and the Head of Internal Audit on a monthly basis.



## **7. Whistleblowing**

- 7.1 The Council is committed to providing the highest quality service to our residents, businesses and visitors to Southend-on-Sea. Maintaining the full trust and confidence in the way the Council manages our services and resources is essential. Our priority is making sure those in need and vulnerable are provided for safely, effectively and in accordance with best practice.
- 7.2 The Council's Whistleblowing Policy is intended to encourage and enable workers to raise serious concerns. Council workers reporting concerns this way are afforded certain rights and protection through legislation enacted under the Public Interest Disclosure Act 1998.
- 7.3 Workers who report concerns will be supported and protected from reprisals. Everything possible will be done to protect their confidentiality. They will be advised of the action that has been taken by the person to whom they reported their concerns.
- 7.4 Management are responsible for reporting all allegations received from whistleblowing under the confidential reporting code to the Monitoring Officer. The Monitoring Officer will refer the allegations relating to suspected fraud, money laundering, bribery and corruption to the Counter Fraud & Investigation Directorate for investigation. All such cases should be recorded in a register maintained by the Monitoring Officer.
- 7.5 CFID will deal with the matter promptly, efficiently and in accordance with the law, involving such outside agencies as appropriate (including the police). Where a service provider employee is involved, the supplier will be informed where appropriate in liaison with the Executive Director (Finance & Resources) and CFID.

## **8. Information Sharing**

- 8.1 As a responsible data controller, the Council always ensures that personal data we hold is safeguarded in accordance with the Data Protection Act 2018 and the General Data Protection Regulation.
- 8.2 The Council will use data to ensure that we are protected from any cases of suspected fraud, bribery or corruption as well as money laundering and identify those involved.
- 8.3 Any workers contacted by the CFID, Internal Audit or Legal Services as part of a criminal investigation must provide any Council data held in any form (paper or electronically). Council workers must not tell anyone that they have been asked for any material for an investigation, unless permitted to by the CFID, Internal Audit or Legal Services.
- 8.4 Any concerns workers may have about releasing information should be directed to the Assistant Director for Fraud & Investigation, Head of Internal Audit, Strategic Director (Finance & Resources) or Strategic Director (Legal & Democratic Services).

## **9. Monitoring Delivery**

- 9.1 The CFID leads the Council's fight against fraud and economic crime, including bribery and corruption. The team reports quarterly to the Council's Corporate Management Team and Audit Committee on its work to tackle the problem and its performance in delivering this Strategy.

## **Expected Behaviour**

The Council requires all staff and Councillors to act honestly and with integrity at all times and to safeguard the resources for which they are responsible. Fraud is an ever-present threat to these resources and hence must be a concern to all staff and Councillors. The purpose of this statement is to set out specific responsibilities with regard to the prevention of fraud.

***Section 151 Officer (Executive Director (Finance & Resources)) is responsible for:***

- Proper administration of the authority's financial affairs
- Reporting to Councillors and External Audit if the Council, or one of its representatives makes, or is about to make, a decision which is unlawful, or involves illegal expenditure or potential financial loss (Local Government Finance Act 1988 s.114)

***Monitoring Officer is responsible for:***

- Reporting on contraventions or likely contraventions of any enactment or rule of law
- Report on any maladministration or injustice where the Ombudsman has carried out an investigation
- Receiving copies of whistleblowing allegations of misconduct
- Promoting and maintaining high standards of conduct through and with the support of the Standards Committee
- Advice on vires (legality) issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Councillors

***Managers are responsible for:***

- Maintaining internal control systems and ensuring that the authority's resources and activities are properly applied in the manner intended
- Identifying the risks to which systems and procedures are exposed
- Developing and maintaining effective controls to prevent and detect fraud
- Ensuring that controls are being complied with, including making sure their staff are performing well and meeting council policies and procedures.

***Individual members of staff are responsible for:***

- Their own conduct and for contributing towards the safeguarding of corporate standards (including declarations of interest, gifts & hospitality, private working, whistleblowing etc.)
- Acting with propriety in the use of official resources and in the handling and use of corporate funds, such as when dealing with contractors and suppliers
- Reporting details immediately to the Counter Fraud & Investigation Directorate if they suspect that a fraud, theft, bribery, corruption or money laundering has been committed, or see any suspicious acts or events

Southend-on-Sea Borough Council  
**Counter Fraud, Bribery and Corruption Policy and Strategy**  
**Appendix 1: Roles & Responsibilities**

***Internal Audit is responsible for:***

- The independent appraisal of control systems
- Reporting to the Corporate Management Team and the Audit Committee on the council's governance framework
- The implementation of an annual audit plan to include identification of fraud risks to the Counter Fraud & Investigation Directorate

***Counter Fraud & Investigation Directorate is responsible for:***

- The investigation into allegations of any money laundering, fraud, bribery, theft, corruption and related offences committed against the authority
- Reporting of persons for consideration of prosecution (or the application of an alternative sanction)
- All action under the Proceeds of Crime Act 2002 and Criminal Justice Act 1988 in respect of financial investigation, restraint, detention, forfeiture and confiscation
- The co-ordination of participation in the National Fraud Initiative (NFI)
- Providing Counter-Fraud, Money Laundering, Theft, Bribery & Corruption Awareness
- Taking redress from offenders under criminal and civil law
- Referring any matters to & receiving information and intelligence from all law enforcement agencies (Police, HMRC, Home Office etc) where appropriate.

***External Audit has specific responsibilities for:***

- Reviewing the stewardship of public money
- Considering whether the Council has adequate arrangements in place to prevent fraud and corruption
- Signing off the annual accounts of the authority

***Councillors are each responsible for:***

- Their own conduct
- Contributing towards the safeguarding of corporate standards, as detailed in the Members' Code of Conduct

Southend-on-Sea Borough Council  
**Counter Fraud, Bribery and Corruption Policy and Strategy**  
**Appendix 2: Key Contacts**

Contact	Details
<b>Counter Fraud &amp; Investigation Directorate</b>	9 <sup>th</sup> Floor, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6EN Tel: <b>03000 999 111</b> E-mail: <b>counterfraud@southend.gov.uk</b> Web: <b>southend.gov.uk/fraud</b>
<b>David Kleinberg</b> Assistant Director for Fraud & Investigation	Tel: <b>03000 999 111</b> E-mail: <b>davidkleinberg@southend.gov.uk</b>
<b>Joe Chesterton</b> Strategic Director (Finance & Resources) <i>(s.151 Chief Finance Officer)</i>	10 <sup>th</sup> Floor, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6EN Tel: <b>01702 215200</b> E-mail: <b>joechesterton@southend.gov.uk</b>
<b>John Williams</b> Strategic Director (Legal and Democratic Services) <i>(Monitoring Officer)</i>	2 <sup>nd</sup> Floor, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6EN Tel: <b>01702 215102</b> E-mail: <b>johnwilliams@southend.gov.uk</b>
<b>Andrew Barnes</b> Head of Internal Audit	9 <sup>th</sup> Floor, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6EN Tel: <b>07827 348375</b> E-mail: <b>andrewbarnes@southend.gov.uk</b>
<b>Protect</b> <i>(Independent charity for whistleblowing, providing free independent legal advice)</i> 	CAN Mezzanine, 7-14 Great Dover Street, London SE1 4YR Tel: <b>020 3117 2520</b> E-mail: <b>whistle@protect-advice.org.uk</b> Web: <b>pcaw.org.uk</b>

Southend-on-Sea Borough Council  
**Counter Fraud, Bribery and Corruption Policy and Strategy**  
**Appendix 3: Fraud Legislation**

## **1 Fraud**

1.1 The Fraud Act 2006 introduced the first statutory definition of fraud whereby:

*“A person is guilty of fraud if he is in breach of any of the sections listed in subsection (2) (which provide for different ways of committing the offence).*

*Fraud can be committed by:*

- a) section 2 (Fraud by False Representation),*
- b) section 3 (Fraud by Failing to Disclose Information), and*
- c) section 4 (Fraud by Abuse of Position). “*

### **Fraud by false representation**

A fraud will be committed if a person dishonestly makes a false representation and when doing so intends to make a gain or cause loss (or a risk of loss) to another.

### **Fraud by failing to disclose information**

A fraud will be committed if a person dishonestly fails to disclose information where there is a legal obligation to do so and when doing so intends to make a gain or cause loss (or a risk of loss) to another.

### **Fraud by abuse of position**

A person will commit fraud if he occupies a position in which he is expected to safeguard, or not act against, the financial interests of another person and he dishonestly abuses that position; and in doing so intends to make a gain or cause loss (or a risk of loss) to another.

## **2 Theft, Burglary and Robbery**

2.1 A person is guilty of **theft** if they dishonestly appropriate property, belonging to another, with the intention of permanently depriving the other of it.

2.2 Theft includes where someone takes something “and uses it as their own”.

2.3 A person is guilty of **robbery** if they steal, and immediately before or at the time of doing so, and in order to do so, they use force on any person or put or seek to put any person in fear of being then and there subjected to force.

2.4 A person is guilty of **burglary** if they enter any building or part of a building as a trespasser and with intent to steal anything in the building or part of a building in question, of inflicting on any person therein any grievous bodily harm; or having entered any building or part of a building as a trespasser they steal or attempt to steal anything in the building or that part of it or inflicts or attempts to inflict on any person therein any grievous bodily harm.

## **1 Bribery**

- 1.1 A bribe is “*a financial or other advantage that is offered or requested with the intention of inducing or rewarding the improper performance of a relevant function or activity, or with the knowledge or belief that the acceptance of such an advantage would constitute the improper performance of such a function or activity.*”
- 1.2 The types of offending relating to bribery are:
- 1.2.1 **Bribery:** Giving or receiving something of value to influence a transaction dishonestly makes a false representation.
  - 1.2.2 **Illegal gratuity:** Giving or receiving something of value after a transaction is completed, in acknowledgment of some influence over the transaction.
  - 1.2.3 **Extortion:** Demanding a sum of money (or goods) with a threat of harm (physical or business) if demands are not met.
  - 1.2.4 **Conflict of interest:** Where a worker has an economic or personal interest in a transaction.
  - 1.2.5 **Kickback:** A portion of the value of the contract demanded / provided as a bribe by an official for securing the contract.
- 1.3 The Bribery Act 2010, which came into force on 1<sup>st</sup> July 2011, introduced four primary offences in a single piece of legislation with all previous statutes being repealed.
- 1.3.1 Section 1: Offences of bribing another person, where:
    - (a) *a person offers, promises or gives a financial or other advantage to another person, and*
    - (b) *intends the advantage to:*
      - (i) *induce a person to perform improperly a relevant function or activity, or*
      - (ii) *reward a person for the improper performance of such a function or activity.*
  - 1.3.2 Section 2: Offence relating to being bribed.
  - 1.3.3 Section 6: Bribery of foreign public officials.
  - 1.3.4 Section 7: Failure by a commercial organisation to prevent bribery.
- 1.4 Under the Bribery Act, an organisation has a defence if it can show that it has adequate bribery prevention procedures in place. The Ministry of Justice guidance<sup>1</sup> on the Bribery Act 2010, explains what needs to be in place to rely on this defence:
- 1.4.1 **Proportionality:** An organisation’s procedures to prevent bribery by persons associated with it are proportionate to the bribery risks it faces and to the nature, scale and complexity of the organisation’s activities. They are also clear, practical, accessible, effectively implemented and enforced.
  - 1.4.2 **Top Level Commitment:** *Those at the top of an organisation are in the best position to ensure their organisation conducts business without bribery. We want to show that we have been active in making sure that our staff (including*

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<sup>1</sup> <http://www.justice.gov.uk/downloads/legislation/bribery-act-2010-quick-start-guide.pdf>

*any middle management) and the key people who do business with us and for us understand that we do not tolerate bribery.*

1.4.3 **Risk Assessment:** The organisation assesses the nature and extent of its exposure to potential external and internal risks of bribery on its behalf by persons associated with it. The assessment is periodic, informed and documented. It includes financial risks but also other risks such as reputational damage.

1.4.4 **Due Diligence:** *Knowing exactly who we are dealing with can help to protect our organisation from taking on people who might be less than trustworthy.*

1.4.5 **Communication:** *Communicating our policies and procedures to staff and to others who will perform services for us enhances awareness and helps to deter bribery by making clear the basis on which our organisation does business.*

1.4.6 **Monitoring and Review:** we monitor and review procedures designed to prevent bribery by persons associated with it and makes improvements where necessary.

1.5 Prior to 2011, under Common Law, a person commits an offence where a person *“Offering, giving or receiving, any undue reward, by or to any person whatsoever in a public office, in order to influence his behaviour in office and incline him to act contrary to the known rules of honesty and integrity.”*

## **Corruption**

1.6 Corruption can be committed in many ways but normally involves *“two or more people entering into a secret agreement.”*

1.7 Indicators showing this type of offending can include the following:

1.7.1 Abnormal cash payments.

1.7.2 Pressure exerted for payments to be made urgently or ahead of schedule.

1.7.3 Private meetings with public contractors or companies hoping to tender for contracts.

1.7.4 Lavish gifts being offered or received.

1.7.5 An individual who never takes time off even if ill, or holidays, or insists on dealing with specific contractors himself or herself.

1.7.6 Making unexpected or illogical decisions accepting projects or contracts.

1.7.7 Abuse of the decision process or delegated powers in specific cases.

1.7.8 Agreeing contracts not favourable to the organisation either because of the terms or the time period.

1.7.9 Unexplained preference for certain contractors during tendering period.

1.7.10 Avoidance of independent checks on the tendering or contracting processes.

1.7.11 The Council's or its suppliers / partner's procedures or guidelines not being followed.

- 1.8 The Local Government Act 1972 requires under section 117(2) that employees must disclose any personal interest in contracts that have been, or are proposed to be, entered into by the Council. Failure to do so is a criminal offence.





# FRAUD AFFECTS COUNCILS TOO

**Have you seen anything suspicious?**

- Unusual applications for council services
- Suspicious identity documents or transactions
- Suppliers not delivering what we pay for

**If you suspect it, report it.**

Call in confidence on **03000 999 111** or  
visit **[southend.gov.uk/fraud](https://southend.gov.uk/fraud)**



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## **Counter-Money Laundering Policy and Strategy**

**VERSION CONTROL SHEET**

<b>Title:</b>	Counter-Money Laundering Policy & Strategy
<b>Purpose:</b>	To advise council workers and suppliers on what money laundering is, how to identify it and report it.
<b>Owner:</b>	Counter Fraud & Investigation Directorate
<b>Approved by:</b>	Corporate Management Team – 07/08/2019 Cabinet – 17/09/2019
<b>Date:</b>	Approved – 17/09/2019 Implemented – 18/09/2019
<b>Version Number:</b>	2.2
<b>Status:</b>	Draft
<b>Review Frequency:</b>	Bi-annually
<b>Next Review Date:</b>	September 2021

<b>Change History</b>		
<b>Date</b>	<b>Change Details</b>	<b>Approved by</b>
May 2017	Inclusion of 4 <sup>th</sup> Money Laundering Directive	Joe Chesterton (Head of Finance & Resources)
August 2019	Revision of formatting and reporting methods, legislative changes.	Joe Chesterton, Executive Director (Finance & Resources) John Williams, Executive Director (Legal & Democratic Services)

### **Counter-Money Laundering Policy Statement**

Southend-on-Sea Borough Council is serious about protecting public money and ensuring that criminals do not use the council in their enterprises.

Money laundering is a serious crime and recognised as a 'critical enabler' for organised criminal gangs and terrorists to benefit and use for other criminality. Denying criminals the use of their ill-gotten gains disrupts criminality and can help law enforcement identify offenders.

The UK has developed strong legislation to tackle the problem with the right focus being on the financial services industries that are largely targeted to launder the proceeds of crime. The 'regulated sector', as it is known, has experienced and robust processes to make it difficult for criminals to launder their criminal proceeds.

As this work by the banks, financial institutions, legal and property related firms becomes more successful the way criminals launder their illegal money becomes more difficult for them.

The effect of this success is that more and more public bodies are being targeted by criminals to launder their criminal proceeds.

Southend-on-Sea Borough Council takes a strong stance against any criminality. Our dedicated Criminal Finances Unit in the Counter Fraud & Investigation Directorate is experienced in using their powers to identify, seize and confiscate criminal proceeds. We need to ensure that the entire council is live to this reality and works hard to prevent and detect it.

We will continue to work closely with our partners in the National Crime Agency to share information and intelligence and pursue criminals who seek to use the council as a money laundering vehicle.

**Ali Griffin**

Chief Executive

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## **1. Introduction**

- 1.1 An overriding responsibility of all public sector organisations is the provision of effective and efficient services to our residents in a manner that seeks to ensure the best possible protection of the public funds we use.
- 1.2 This policy sets out the action we will take to mitigate the risk that money could be laundered through our systems.
- 1.3 The legislative requirements concerning anti-money laundering procedures are lengthy and complex. Whilst the risk to the Council of contravening the legislation is relatively low, it is extremely important that all Council and schools workers are familiar with their legal responsibilities. Serious criminal sanctions may be imposed for breaches of the legislation, including imprisonment.
- 1.4 As a responsible public body we expect all of our suppliers and contractors to follow our strong stance and not tolerate any criminality attempting to affect our services or staff.

## **2. What is Money Laundering?**

- 2.1 Money laundering is the process through which 'criminal property' (i.e. a person's benefit from criminal conduct) is given the appearance of having originated from a legitimate source.
- 2.2 Criminal conduct is anything that is a criminal offence in the United Kingdom. It could be fraud, theft, drug dealing, prostitution, terrorism and includes offences such as breaching building planning law and trade mark offences
- 2.3 Criminal property is defined as anything which is a person's benefit from their criminal conduct. That could be money, real and personal property (houses, buildings, boats, cars, horses, watches etc), 'things in action' and other intangible or incorporeal property (i.e. debts, intellectual property such as copyright, designs and patents etc)

### **3. What are the Money Laundering criminal offences?**

#### Proceeds of Crime Offences

- 3.1 The criminal offences of money laundering are contained in the Proceeds of Crime Act 2002. They are committed when ‘criminal property’ is transferred, concealed, disguised, converted or removed by a person from England, Wales, Scotland & Northern Ireland.
- 3.2 A person also commits the offence of ‘money laundering’ if they enter into or become concerned in an arrangement which they know or suspect facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person
- 3.3 A person commits a criminal offence when they do something that might prejudice ‘a money laundering investigation’, for example, falsifying or concealing a document or ‘tipping off’ (“telling”) a person who is suspected of being involved in money laundering.

#### Terrorist Financing Offences

- 3.4 The Terrorism Act 2000 also creates money laundering offences where a person enters in to or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property (“money”);
  - by concealment
  - by removal from the United Kingdom
  - by transfer to nominees, or
  - in any other way
- 3.5 It should be understood that ‘terrorist property’ covers not only the money stolen in, say, a terrorist robbery, but also any money paid in connection with the commission of terrorist acts. Any resources of a proscribed organisation are also covered: not only the resources they use for bomb-making, arms purchase etc but also money they have set aside for non-violent purposes such as paying their rent.
- 3.6 A proscribed organisation is defined under Schedule 2 of the Terrorism Act 2000. The Counter Fraud & Investigation Directorate is responsible for monitoring these organisations and responding appropriately.



- 3.7 A person also commits a criminal offence if they fail to disclose to a constable that they believe a person has committed a terrorism money laundering offence.

Criminal Law Defences

- 3.8 A person does not commit a criminal offence where they can demonstrate that **“his employer has established a procedure for the making of disclosures of the matters specified”** and they follow that procedure.

**4. How to identify suspected Money Laundering**

- 4.1 All council workers should be alert to the possibility of someone trying to launder criminal proceeds through the Council. Some indications of suspicious activity are:

- △ Large cash payments (e.g. paying business rates in cash)
- △ Overpayments by a person/ company in any way
- △ Duplicate payments by a person/ company in any way
- △ Regular requests for refunds of payments
- △ Regular ‘chargebacks’ for card payments
- △ Someone paying on behalf of a third party
- △ Cash buyers purchasing land or property (e.g. Right to Buy properties)

- 4.2 Any council workers with concerns about money laundering should contact a member of the Counter Fraud & Investigation Directorate (CFID) on **03000 999111** for advice.
- 4.3 CFID regularly provides training to council services on identifying and reporting suspected money laundering.

## **5. How to report suspected Money Laundering**

- 5.1 The Counter Fraud & Investigation Directorate (CFID) is responsible for managing any cases of suspected money laundering.
- 5.2 It is the responsibility of every council worker to look for and report any possible money laundering taking place. You **do not** have to speak to a manager before reporting your suspicions.
- 5.3 If you see any of the suspicious activity linked to money laundering **you should**:
- △ Not tell the person that you have any suspicions about them
  - △ Take all the records (and any cash) from the person to a secure location
  - △ Telephone a member of the CFID team right away on **03000 999111 (24/7)**
  - △ Follow the instructions given by the CFID team.
- 5.4 **Remember:** Failure to report your suspicions to CFID could expose *you* to criminal prosecution.

## **6. What does the council do about Money Laundering?**

- 6.1 The Criminal Finances Unit in the Counter Fraud & Investigation Directorate is accredited by the National Crime Agency to conduct money laundering investigations. The Accredited Financial Investigators in the team can obtain court Production Orders to access a person's bank accounts, seize any cash and restrain a person's assets, worldwide, who they suspect of money laundering.
- 6.2 In cases where money laundering is proven the council will prosecute those offenders and use the Proceeds of Crime Act 2002 to take their ill-gotten gains. Any money confiscated is paid back in to the council to fight crime.

## **7. Monitoring Delivery**

- 7.1 The Counter Fraud & Investigation Directorate leads the council's fight against fraud and economic crime, including money laundering. The team reports quarterly to the Council's Audit Committee on its work to tackle the problem.
- 7.2 The service also reports regularly on its performance to the Council's Corporate Management Team.

## **8. Relevant Legislation**

- 8.1 The Terrorism Act 2000 as amended by the Anti-Terrorist Crime and Security Act 2001
- 8.2 The Proceeds of Crime Act 2002 (POCA)
- 8.3 Serious Organised Crime and Police Act 2005
- 8.4 The Money Laundering Regulations 2007
- 8.5 Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (*known as the EU 4<sup>th</sup> Money Laundering Directive*)

**9. Appendix 1 – Key Contacts**

Contact	Details
<p><b>Counter Fraud &amp; Investigation Directorate</b></p>	<p>9<sup>th</sup> Floor, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6EN            Tel: <b>03000 999 111</b>            E-mail: <b>counterfraud@southend.gov.uk</b>            Web: <b>southend.gov.uk/fraud</b></p>
<p><b>David Kleinberg</b>            Assistant Director for Fraud &amp; Investigation</p>	<p>Tel: <b>03000 999 111</b>            E-mail: <b>davidkleinberg@southend.gov.uk</b></p>
<p><b>Joe Chesterton</b>            Strategic Director (Finance &amp; Resources)  <i>(s.151 Chief Finance Officer)</i></p>	<p>10<sup>th</sup> Floor, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6EN            Tel: <b>01702 215200</b>            E-mail: <b>joechesterton@southend.gov.uk</b></p>
<p><b>John Williams</b>            Strategic Director (Legal and Democratic Services)  <i>(Monitoring Officer)</i></p>	<p>2<sup>nd</sup> Floor, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6EN            Tel: <b>01702 215102</b>            E-mail: <b>johnwilliams@southend.gov.uk</b></p>
<p><b>Andrew Barnes</b>            Head of Internal Audit</p>	<p>9<sup>th</sup> Floor, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6EN            Tel: <b>07827 348375</b>            E-mail: <b>andrewbarnes@southend.gov.uk</b></p>
<p><b>Protect</b>  <i>(Independent charity for whistleblowing, providing free independent legal advice)</i></p> 	<p>CAN Mezzanine, 7-14 Great Dover Street, London SE1 4YR            Tel: <b>020 3117 2520</b>            E-mail: <b>whistle@protect-advice.org.uk</b>            Web: <b>pcaw.org.uk</b></p>



# MONEY LAUNDERING

**Could you spot the signs?**

- Cash payments over £1,500
- A person regularly receiving account refunds
- One person paying the debts for several individuals

**If you suspect it, report it.**

Call in confidence on **03000 999 111** or  
visit **[southend.gov.uk/fraud](https://southend.gov.uk/fraud)**

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# WHISTLEBLOWING "CONFIDENTIAL REPORTING" POLICY AND PROCEDURE

PRODUCED BY: HEAD OF INTERNAL AUDIT

SUBJECT TO BI ANNUAL REVIEW

**PRESENTED TO:**

CORPORATE MANAGEMENT TEAM: AUGUST 2019

CABINET: SEPTEMBER 2019

AUDIT COMMITTEE: OCTOBER 2019

# WHISTLEBLOWING POLICY

## VERSION CONTROL SHEET

<b>Title:</b>	Whistleblowing Policy
<b>Purpose:</b>	The policy and procedure have been developed so that council workers will know how to raise concerns in the right way at an early stage, and to enable managers to understand their responsibilities in relation to allegations of misconduct and impropriety.
<b>Owner:</b>	Monitoring Officer
<b>Approved by:</b>	Corporate Management Team – 07/08/2019 Cabinet – 17/09/2019
<b>Date:</b>	Approved – 17/09/2019 Implemented – 18/09/2019
<b>Version Number:</b>	2.1
<b>Status:</b>	Draft
<b>Review Frequency:</b>	Bi-annually, subject to legislative changes and operational changes
<b>Next Review Date:</b>	September 2021

Change History		
Date	Change Details	Approved by
March 2013	Revision of formatting and reporting methods, legislative changes.	Joe Chesterton, Head of Finance & Resources
August 2019	Revision of formatting, reporting details and officer details.	Joe Chesterton, Executive Director (Finance & Resources) John Williams, Executive Director (Legal & Democratic Services)



# **WHISTLEBLOWING POLICY**

## **INTRODUCTION**

The council is committed to providing the highest quality service to those that live, work, visit, do business and study in the borough. This involves ensuring that the local community can have full trust and confidence in the way the Council manages its services and resources and making sure that all those who are vulnerable such as children, the elderly and people with learning disabilities are provided for safely, effectively and in accordance with best practice.

Employees, workers or contractors at one time or another may have concerns about what is happening at their work with Southend-on-Sea Borough Council (“the Council”). Usually these concerns are easily resolved by speaking to their manager without using a formal process. The Council has this Whistleblowing Policy and Procedure to enable employees, workers or contractors to raise more serious concerns.

This Whistleblowing Policy cannot be used by employees who have a grievance regarding their own employment, who should use the Grievance processes, or by members of the public, who should use the Council’s Complaints processes.

The Council is committed to the highest standards of openness, probity and accountability. In line with that commitment we encourage employees, workers and contractors with serious concerns about any aspect of the Council’s work to come forward and voice their concerns. The Council would rather they raised the matter when it is just a concern rather than wait for proof. It is recognised that certain cases will have to proceed on a confidential basis. This Whistleblowing Policy makes it clear that such concerns can be raised without fear of reprisals.

This Whistleblowing Policy is not intended for initial reporting of minor lapses of standards, inaction or incidents. If, however, employees, workers or contractors have something more serious that is troubling them which they have discussed with their manager but feel that they have not been taken seriously, or due to the sensitivity of the matter feel they cannot raise their concerns within their service, then they should use this Whistleblowing Policy.

## **LEGISLATIVE BACKGROUND**

The Public Interest Disclosure Act 1998 protects workers making disclosures about certain matters of concern, where those disclosures are made in accordance with the Act’s provisions.

The 1998 Act is incorporated into the Employment Rights Act 1996, which also protects employees who take action over, or raise concerns about health and safety at work.

# WHISTLEBLOWING POLICY

## DEFINITION

Any serious concerns that employees, workers or contractors have about any aspect of service provision or the conduct of Councillors, officers of the Council or others acting on behalf of the Council can be reported under the Whistleblowing Policy.

Workers are protected by law (under the Public Interest Disclosure Act 1998) from any possible reprisals or victimisation for having raised any issues where they **reasonably believe** that in appropriate actions are being, or will be, undertaken. These may include:

- a criminal offence
- fraud & corruption, including bribery
- failure to comply with legislation
- failure to comply with good practice, especially where this endangers children and/or vulnerable adults
- disclosure relating to miscarriage of justice
- health and safety risks, including risks to the public as well as other employees
- damage or danger to the environment
- sexual, physical, emotional or psychological abuse of clients
- failure to comply with the Employees or Members Code of Conduct
- theft of Council property and assets
- failure to comply with the Council's rules on gifts and hospitality
- serious mismanagement or failure to manage
- continuing inappropriate conduct or behaviour or performance by any employee which has been reported to a relevant manager, especially harassment or bullying or discriminatory behaviour. This may include, but not be confined to, actions considered to be based upon the race, gender, disability, age, religion/belief or sexual orientation of the victim
- a cover up of, or failure to report, any of the above.

Under the Public Information Disclosure Act 1998 a "protected disclosure" is specified under section 43B. Not all disclosures detailed in this paragraph offer 'protected disclosure' under the Act. However the Council undertakes to extend the same protection for all disclosures wherever possible.

## COMMITMENT OF THE COUNCIL

The Council is committed to considering the concerns of employees, workers or contractors and will take actions as appropriate in line with the Whistleblowing Procedure outlined in this policy.

# WHISTLEBLOWING POLICY

## SAFEGUARDS

### *Harassment or victimisation*

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect employees, workers or contractors when they raise a concern in good faith.

The Council will treat any harassment or victimisation as a serious disciplinary offence to be dealt with under the Discipline and Dismissal at Work Policy.

This does not mean that if employees are already the subject of disciplinary, redundancy or other procedures that those procedures will be halted as a result of their whistleblowing.

### *Confidentiality*

The Council recognises that employees, workers or contractors may nonetheless want to raise a concern in confidence under this Whistleblowing Policy. If an employee, worker or contractor asks the Council to protect their identity, the Council will do its best not to disclose it without their consent. If the situation arises where the Council is not able to resolve the concern without revealing the employee, worker or contractors identity (for instance because their evidence is needed in court), we will discuss with them whether and how we can proceed.

### *Anonymous allegations*

This Whistleblowing Policy encourages employees, workers or contractors to put their name to their allegation. Concerns raised anonymously are much less powerful but they will be considered at the discretion of the Council.

In exercising the discretion the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern
- the likelihood of confirming the allegation.

### *Untrue allegations*

If an employee makes an allegation in good faith but it is not confirmed by the investigation no action will be taken against them. If however, an employee makes a malicious or vexatious allegation, disciplinary action may be taken against them.

## **THE MONITORING OFFICER (EXECUTIVE DIRECTOR (LEGAL AND DEMOCRATIC SERVICES))**

The Executive Director (Legal and Democratic Services) is the Monitoring Officer for the Council. The Monitoring Officer has overall responsibility for the maintenance and operation of this Whistleblowing Policy and Procedure.

## **WHISTLEBLOWING POLICY**

The Counter Fraud & Investigation Directorate maintains a record of concerns raised under the Whistleblowing Policy and Procedure and the outcomes of any investigation undertaken on behalf of the Monitoring Officer, who will report if necessary to the Standards Committee. This is done in a form that does not endanger employee, worker or contractor confidentiality.

The Monitoring Officer will consult with such other Council officers as he or she considers necessary and may arrange for any investigation to be conducted and dealt with in such manner as he or she decides.

### **SCOPE OF POLICY**

- This Whistleblowing Policy applies to all employees, workers and contractors working for the Council, for example agency workers, builders, drivers etc. to enable them to raise serious concerns that they have about any aspect of service provision or the conduct of Councillors, officers of the Council or others acting on behalf of the Council
- This Whistleblowing Policy cannot be used by employees who have a grievance regarding their own employment, who should use the Grievance processes, or by members of the public, who should use the Council's Complaints processes.

### **DELEGATION**

- All managers are authorised to discuss and act upon employees concerns about what is happening at work without using the formal process of the Whistleblowing Policy
- The Monitoring Officer (Executive Director (Legal & Democratic Services)), Corporate Directors, Heads of Service and the Head of Internal Audit are authorised to act (in conjunction with the Counter Fraud & Investigation Directorate) upon serious concerns raised under the Whistleblowing Policy, in accordance with the Whistleblowing Policy and Procedure
- All concerns raised under this Whistleblowing Policy will be notified to the Counter Fraud & investigation Directorate
- All concerns raised under this Whistleblowing Policy regarding financial issues will also be notified to the Head of Internal Audit.

# WHISTLEBLOWING POLICY

## WHISTLEBLOWING PROCEDURE

### HOW TO RAISE A CONCERN

Employees who raise concerns that fall within the scope of other Council Procedures will not be dealt with under this Whistleblowing Procedure, but will be advised on the appropriate procedure to use. Such employees will still receive protection as detailed in the Whistleblowing Policy.

Employees, workers or contractors should normally raise concerns with their immediate manager, without needing to use the Whistleblowing Policy. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice.

Where a concern is serious or where it is a concern about the line manager, or having made a report they believe that their manager has failed to take appropriate action, the employee, worker or contractor should contact:

- the Counter Fraud & Investigation Directorate on 03000 999111 or via [counterfraud@southend.gov.uk](mailto:counterfraud@southend.gov.uk) or
- the Council's Confidential Report Line on 01702 215215

Concerns should be raised in writing, clearly marked “**Whistleblowing, Counter Fraud & Investigation Directorate**” and placed in an envelope marked “**Staff in Confidence**”. The background and history of the concern (giving names, dates, and place where possible), and the reasons for the concern should be set out.

The earlier employees, workers or contractors express a concern, the easier it is to take action. Employees may invite a trade union representative or work colleague to raise a matter on their behalf.

All concerns raised under this Whistleblowing Policy regarding financial issues will also be notified to the Head of Internal Audit.

### HOW THE COUNCIL WILL RESPOND

Once an employee, worker or contractor has raised their concern under the Whistleblowing Policy with the Counter Fraud & Investigation Directorate, initial enquiries will be made to decide if an investigation is appropriate and if so what form the investigation should take.

The employee, worker or contractor will be advised of the following:

- who is considering the issue
- how that person can be contacted
- whether their further assistance may be needed.

The senior officer responsible for considering the issue will write to the employee, worker or contractor summarising their concern and setting out how the Council proposes to handle it, if requested to do so. The employee, worker or contractor will also be requested to state any personal interest they may have in the matter.

## WHISTLEBLOWING POLICY

The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures. The action taken by the Council will depend on the nature of the concern and may:

- be resolved by agreed action without the need for investigation
- be investigated internally
- be referred to the police
- be referred to the external auditor
- form the subject of an independent inquiry.

The amount of contact between the employee, worker or contractor and the officers investigating the concerns will depend on the concerns raised, but the Council may need to seek further information from the employee, worker or contractor. Any meetings may be arranged on or off site and an employee may be accompanied by a friend, union or professional body representative.

While the purpose of this Whistleblowing Policy is to enable the Council to investigate possible malpractice and take appropriate steps to deal with it, they will provide as much feedback to the employee, worker or contractor as they properly can. If requested, confirmation of the response may be provided in writing. It may not, however, be possible to advise the precise action that will be taken where this would infringe a duty of confidence owed by the Council to someone else.

### HOW A CONCERN CAN BE TAKEN FURTHER

If you are unsure whether or how to use this procedure or want independent advice, you may contact the independent charity, **Protect** (formerly known as Public Concern at Work) on 020 3117 2520. Their lawyers can give you free confidential advice at any stage on how to raise a concern about serious malpractice at work.

The Whistleblowing Policy is intended to provide employees, workers or contractors with the reassurance they may need to raise concerns internally and that they will be satisfied with any action taken.

However, if they are not, and feel that it is appropriate to take the matter outside the Council or if they feel unable to raise their concerns internally, the Council would rather they raised the matter with an appropriate regulator than not at all. The following are possible contact points:

- Local Council Member
- Local Government Ombudsman
- The employee's trade union
- Local Citizens Advice Bureau
- The Police
- Relevant professional bodies, regulatory or other organisations.

**If employees, workers or contractors take their concerns outside the Council they should take care not to disclose any confidential information.**



**Policy and Procedures  
for undertaking Directed Covert Surveillance  
and the use of Covert Human Intelligence Sources**

Produced by

- Internal Audit Services, April 2010
- Updated w 1<sup>st</sup> November 2012
- Updated May 2014
- Updated June 2016
- UPDATED OCTOBER 2016
- UPDATED SEPT 2018
- UPDATED SEPT 2019

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## PART 1

### POLICY FOR UNDERTAKING DIRECTED COVERT SURVEILLANCE AND USE OF COVERT HUMAN INTELLIGENCE SOURCES

#### 1. Introduction

1.1 The performance of certain investigatory functions of Local Authorities may require the surveillance of individuals or the use of informants. Such actions may intrude on the privacy of individuals and can result in private information being obtained and as such, should not be undertaken without full and proper consideration. Legislation now governs how Local Authorities should administer and record surveillance and the use of informants and renders evidence obtained lawful for all purposes. This Policy sets out the Council's rules and procedures.

1.2 The purpose of this Policy is to ensure there is a consistent approach to the undertaking and authorisation of surveillance activity. Therefore, this Policy is to be used by all Council service areas and officers undertaking investigation work and using the techniques of surveillance or the use of Covert Human Intelligence Sources (CHIS's).

1.3 In this Policy the following terms shall have the meanings stated:

**"Investigating Officer"** – shall mean any Council officer undertaking or wishing to undertake directed covert surveillance or to use a CHIS provided he / she has received appropriate training.

**"Authorising Officer"** – shall mean.

- i) All Chief Officers who have received appropriate training
- ii) Holders of the following three posts provided he/she has received appropriate training – Group Manager for Environmental Health, Group Manager Waste and Environmental Care and the Director for Public Protection

**"Senior Responsible Officer"** – shall mean the Executive Director (Legal & Democratic Services) John Williams  
[johnwilliams@southend.gov.uk](mailto:johnwilliams@southend.gov.uk)

**"Principal Legal Executive"** – shall mean the officer with this job title currently Tessa O'Connell  
[tessaoconnell@southend.gov.uk](mailto:tessaoconnell@southend.gov.uk)

- 1 4 This Policy was updated in November 2012 to reflect the provisions of the Protection of Freedoms Act 2012 which from the 1<sup>st</sup> November 2012 requires that a Justice of the Peace ("JP") must approve all Local Authority RIPA applications and renewals

Two guidance documents explaining this authorisation process have been issued by the Home Office to Local Authorities and Magistrates and these are available on the following links

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/118173/local-authority-england-wales.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/118173/local-authority-england-wales.pdf)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/118174/magistrates-courts-eng-wales.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/118174/magistrates-courts-eng-wales.pdf)

This Policy was updated in June 2016 to incorporate additional information on surveillance outside RIPA in Section 6 and regarding the internet and social media for research and investigations in Section 7

This Policy was updated in September 2018 to reflect the "Covert Surveillance and Property Interference Revised Code of Practice" issued by the Home Office ("the 2018 Code") and this can be accessed using the link below

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/742041/201800802\\_CSPI\\_code.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf)

- 1 5 RIPA was overseen by the Office of Surveillance Commissioners (OSC) However, from 1 Sept 2017 oversight transferred to the Investigatory Powers Commissioner's Office (IPCO) IPCO is the independent inspection regime whose remit includes providing comprehensive oversight of the use of the powers to which the 2018 Code applies, and adherence to the practices and processes described in it IPCO also provides guidance to be followed which is separate from the 2018 Codes

- 1.6 This Policy is intended to be a best practice guide It is not intended to replace the 2018 Code and where necessary the Code should be consulted. However, following this Policy ensures compliance with the 2018 Codes

- 1 7 This Policy is not intended to be an exhaustive guide and specific legal advice should be sought if Council officers do not find questions answered after reading this document and the 2018 Code. Officers should always consult the Legal Team before seeking authorisation

## 2. Background

- 2.1 On 2<sup>nd</sup> October 2000 the Human Rights Act 1998 (HRA) came into force making it potentially unlawful for a Local Authority to breach any article of the European Convention on Human Rights (ECHR) Any such breach may now be dealt with by the UK courts directly, rather than through the European Court at Strasbourg
- 2.2 Article 8 of the ECHR states that everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of
- National security
  - Public safety
  - The economic well-being of the country
  - The prevention of disorder or crime
  - The protection of health or morals
  - The protection of the rights and freedoms of others
- 2.3 The performance of certain functions by Local Authorities may require the directed covert surveillance of individuals or the use of informants or undercover officers, known as CHIS.
- 2.4 Those who undertake directed covert surveillance on behalf of a Local Authority may breach an individual's human rights, unless such surveillance is consistent with Article 8 of the ECHR and is both necessary and proportionate to the matter being investigated
- 2.5 As a result of the legislative changes referred to in 1 above, Local Authorities can now only authorise directed covert surveillance under RIPA for the purpose of preventing or detecting conduct which constitutes a **criminal offence** which is:
- (a) punishable (whether on summary conviction or indictment) by a maximum term of at least six months imprisonment; or
  - (b) involves the sale of alcohol or tobacco to children
- 2.6 Furthermore, if authorised by an authorised officer, the Council's authorisation can only be given effect once an Order approving the authorisation has been granted by a JP

### **It is important to note**

- A Local Authority cannot authorise the use of directed covert surveillance under RIPA to investigate low level offences e.g. littering, dog control and fly posting. Neither can a Local Authority authorise such surveillance for the purpose of preventing disorder, unless this involves a criminal offence punishable in the way described above.
- The crime threshold referred to above applies only to the authorisation of directed covert surveillance under RIPA, not to the authorisation of Local Authority use of CHIS or their acquisition of communications data.

- 2.7 In order to properly regulate the use of directed covert surveillance and the use of CHISs in compliance with the HRA, the Regulation of Investigatory Powers Act 2000 (RIPA) came into force on 25<sup>th</sup> September 2000.
- 2.8 RIPA requires that all applications to undertake directed covert surveillance of individuals or to use CHISs are properly authorised, recorded and monitored. The detailed procedure for undertaking directed covert surveillance or using a CHIS are set out in Parts 2 and 3.
- 2.9 Failure to comply with RIPA may leave the Council open to potential claims for damages or infringement of individual's human rights. It may also mean that any evidence obtained in breach of the provisions of RIPA is rendered inadmissible in Court.

### **3. What is Surveillance?**

#### 3.1 Surveillance is

- Monitoring, observing or listening to persons, their movements, their conversations or their other activities or communications.
- Recording anything monitored, observed or listened to in the course of surveillance, with or without the assistance of a device.

3.2 By its very nature, surveillance involves invading an individual's right to privacy. The level of privacy which individuals can expect depends upon the nature of the environment they are within at the time. For example, within an individual's own home or private vehicle, an individual can expect the highest level of privacy. The level of expectation of privacy may reduce if the individual transfers out into public areas.

3.3 There are different types of surveillance which, depending on their nature, are either allowable or not allowable and require different degrees of authorisation and monitoring under RIPA.

3.4 **Overt surveillance** is where the subject of surveillance is aware that it is taking place. Overt surveillance is outside the scope of RIPA and therefore does not require authorisation. The 2018 Code also provides guidance that authorisation under RIPA is not required for the following types of activity:

- General observations that do not involve the systematic surveillance of an individual or a group of people
- Use of overt CCTV surveillance
- Surveillance where no private information is likely to be obtained
- Use of overt ANPR systems to monitor traffic flows or detect motoring offences
- Surveillance undertaken as an immediate response to a situation
- Review of staff usage of the internet & e-mail (but see Section 6.7 below)
- Surveillance not on statutory grounds (see section 6 Surveillance outside of RIPA)

3.5 **Covert surveillance** is defined as “surveillance which is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is or may be taking place” and is covered by RIPA. Covert surveillance is categorised as either intrusive or directed.

3.6 **Intrusive covert surveillance** is defined as covert surveillance that is carried out in relation to anything taking place on any residential premises or in any private vehicle and involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device. RIPA does not empower Local Authorities to authorise or undertake intrusive covert surveillance. Other means of investigation should be considered.

3.7 **Directed covert surveillance** is surveillance which is covert but not intrusive and undertaken.

- For the purposes of a planned specific investigation or operation,
- In such a manner as is likely to result in the obtaining of private information about a person (whether or not that person is specifically targeted for the purposes of an investigation or operation), and
- Other than by immediate response to circumstances when it would not be practical to seek authorisation, for example, noticing suspicious behaviour and continuing to observe it.

3.7.1 **Private information** includes any information relating to a person’s private or family life. As a result, private information is capable of including any aspect of

a person's private or personal relationship with others, such as family and professional or business relationships

**Note:** Information which is non-private includes

- Publicly available information such as books, newspapers, journals, TV and radio broadcasts, newswires, web sites, mapping imagery, academic articles, conference proceedings, business reports, and more.
- Commercially available data where a fee may be charged, and any data which is available on request or made available at a meeting to a member of the public

3.7.2 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. Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information which is on the internet, particularly where accessing information on social media websites (see 7 below)

3.7.3 Private information may include personal data, such as names, telephone numbers and address details. Where such information is acquired by means of directed covert surveillance of a person having a reasonable expectation of privacy, authorisation is required

3.7.4 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 covert surveillance, a directed surveillance authorisation may be considered appropriate

3.7.5 Directed covert surveillance involves the observation of a person or persons with the intention of gathering private information to produce a detailed picture of a person's life, activities and associations

3.7.6 Directed covert surveillance does not include entry on or interference with property or wireless telegraphy but may include the use of photographic and video equipment (including the use of CCTV)

3 7 7 Directed covert surveillance is covered by RIPA and requires prior authorisation

#### **4. What is a Covert Human Intelligence Source (CHIS)?**

4 1 A CHIS is defined in section 25(7) of the RIPA as a person who establishes or maintains a personal or other relationship with another person for the covert purpose of facilitating anything that

(a) Covertly uses such a relationship to obtain information or to provide access to any information to another person, or

b) Covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship

4 2 By virtue of section 26(9)(b) of RIPA 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

4 3 By virtue of section 26(9)(c) of RIPA 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.

4 4 Special consideration must be given to the use of Vulnerable Individuals as a CHIS. A 'Vulnerable Individual' is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself, or unable to protect himself against significant harm or exploitation. Any individual of this description, or a Juvenile as defined below, should only be authorised to act as a source in the most exceptional circumstances and only then when authorised by the Chief Executive (or, in her absence, the Deputy Chief Executive).

4.5 Special safeguards also apply to the use or conduct of Juvenile Sources; that is sources under the age of 18 years. On no occasion should the use or conduct of a source under 16 years of age be authorised to give information against his parents or any person who has parental responsibility for him

4.6 Legal advice must be sought if considering using a vulnerable or juvenile CHIS.

4 7 It is not anticipated that CHISs will be used often in the normal course of Council investigatory activity. Any Council Officer considering the use of a



CHIS must first contact the Senior Responsible Officer or the Principal Legal Executive to discuss the suitability of this approach

4 8 Authorisation is not required when individuals, including members of the public, are requested to provide information pertaining to other individuals, unless they are required to form a relationship, or manipulate an existing relationship with those other individuals

4 9 Detailed procedures for the use of CHIS are set out in Part 3.

## 5. Procedural principles for Surveillance and use of CHIS's

5 1 Detailed procedures for undertaking directed covert surveillance are set out in Parts 2 and 3 of this Policy respectively

5 2 The conduct of surveillance which is consistent with these procedures can be undertaken with confidence that any evidence obtained will be admissible in a criminal trial, provided the conduct is authorised and is carried out in accordance with the authorisation. The authorisation must be shown to be necessary on the grounds of preventing or detecting crime (see 2.5 above).

5 3 The Investigating Officer seeking authorisation for directed covert surveillance or CHIS activity and the Authorising Officer must give consideration to the following factors

- **Necessity** – Is directed covert surveillance or CHIS activity the only or best way to obtain the desired information in connection with a potential criminal offence of the types referred to in 2 5, or are other less invasive methods appropriate?
- **Proportionality** – Is the surveillance activity or CHIS activity proportional to the evidence that will be obtained and to the privacy the subject could reasonably expect? The methods used to obtain evidence should not be excessive and should be as non-invasive as it possible. The surveillance should not restrict an individual's right for privacy more than is absolutely necessary
- **Collateral Intrusion** – Will the surveillance result in the observing of innocent people? If so can it be avoided or minimised?

5 4 Further Considerations

- Does the application relate to a criminal offence which has a maximum sentence of at least 6 months or relate to the sale of alcohol or tobacco to children
- Have other ways of getting the information been investigated?

- Is surveillance a reasonable approach and “not a sledge hammer to crack a nut”?
- The risk of the directed surveillance and CHIS activity must be considered and managed
- Surveillance authorisations remain valid for 3 months but must be cancelled prior to that if no longer required
- CHIS authorisations remain valid for 12 months and must be cancelled prior to that if no longer required
- Authorisations should be periodically reviewed by the Authorising Officer and the need for continued surveillance or CHIS activity ascertained; if no longer required, authorisations should be cancelled

5.5 All Council officers undertaking directed cover surveillance or wishing to use a CHIS must have received appropriate training to enable them to undertake this task

5.6 Training should be periodically arranged to ensure that sufficient Authorising Officers are available

5.7 Where directed covert surveillance or the use of a CHIS is likely to result in the obtaining of confidential information, it is imperative that legal advice should first be sought from the Senior Responsible Officer or the Principal Legal Executive. “Confidential information” includes, though is not limited to, matters subject to legal privilege, confidential personal information and confidential journalistic material. 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

5.8 The application for authorisation must include the following elements and the Authorising Officer must consider these, before authorising the directed covert surveillance or CHIS activity.

- full details of the reason for the directed covert surveillance or CHIS activity and the intended outcome,
- the proposed surveillance activity described as fully as possible, with the use of maps or other plans as appropriate,
- the necessity and proportionality to the potential offence consideration and whether other methods of less intrusive investigation should / have been attempted and whether they are appropriate,
- the resources to be applied and tactics and methods should also be included,

- the anticipated start date and duration of the activity, if necessary broken down over stages;
  - details (including unique reference number) of any surveillance previously conducted on the individual
- 5 9 In addition the Authorising Officer should notify the Chief Executive of an authorisation
- 5 10 Services that undertake surveillance activity or use of CHISs should put in place adequate arrangements for the retention of evidence gathered. The arrangements must comply with the Criminal Procedure and Investigations Act 1996 and any other relevant guidance or procedures to ensure the integrity of the evidence
- 5.11 Evidence or intelligence obtained as a result of a RIPA authorisation should not be passed to other agencies such as the Police unless the request meets the Data Protection Act 2018 (“DPA”) requirements under the Law Enforcement processing procedures or Schedule 2, Part 1 Paragraph 2 the replacement for section 29 DPA This will assist with oversight of the process
- 5 12 The Authorising Officer’s statement on the authorisation form should clearly demonstrate agreement that the activity is necessary and proportionate and that he / she has thoroughly considered the matter before authorising and state exactly what activity is authorised, against whom, where and in what circumstances
- 5 13 The responsibilities of the Senior Responsible Officer are
- Maintaining the Council’s RIPA Policy and Procedures
  - Ensuring the integrity of the processes in place within the Council to authorise directed covert surveillance
  - compliance with the legislation and Codes of Practice
  - engagement with the IPCO and inspectors when they conduct their inspections,
  - where necessary, overseeing the implementation of any post inspection action plans recommended or approved by the IPCO, and
  - for ensuring that all *Authorising Officers* are of an appropriate standard in light of any recommendations in the inspection reports prepared by the IPCO. Where an inspection report highlights concerns about the standards of *Authorising Officers*, this individual will be responsible for ensuring the concerns are addressed

- 5.14 The Principal Legal Executive will maintain a Central Record of RIPA Applications and Authorisations (including the JP approval form) This Central Record will be used to track the progress of authorisations and ensure that reviews, renewals and cancellations take place within the prescribed timeframe. Copies of all RIPA authorisations, reviews, renewals and cancellations should be forwarded to the Principal Legal Executive promptly The record will be available to the IPCO, at any time The Central Register format will be consistent with that detailed in the 2018 Code
- 5.15 A report on the use of RIPA will be submitted annually to the Cabinet Cabinet will consider this Policy and review the Council's use of RIPA
- 5.16 The head of each section which undertakes directed surveillance or CHIS activity will ensure that.
- staff receive the necessary training,
  - all activity is in accordance with RIPA and the 2018 Code, and
  - relevant procedures are maintained to ensure the above

## 6. Surveillance outside of RIPA

- 6.1 As a result of the change in the law from the 1<sup>st</sup> November 2012 directed covert surveillance under RIPA will only apply to the detection and prevention of a criminal offence that attracts a penalty of 6 months imprisonment or more or relates to the sale of alcohol or tobacco to children This essentially excludes surveillance of many offences that the Council may investigate such as disorder (unless it has 6 months custodial sentence) and most summary offences such as littering, dog fouling etc Other examples are referred to in 6.4 below
- 6.2 This change does not mean that Council enforcement officers cannot undertake such surveillance, but because it is **not** regulated by the IPCO, responsibility for monitoring this type of activity falls to the Council's Senior Responsible Officer (SRO) As a result procedures need to be in place to ensure that the Council can prove that it has given due consideration to necessity and proportionality which are central tenets of European Law and the likely grounds of any challenge
- 6.3 If it is necessary for the Council to undertake surveillance which does not meet the criteria to use the RIPA legislation, (such as in cases of disciplinary investigations against staff or surveillance relating to Anti-Social Behaviour appertaining to disorder) the Council must still meet its obligations under the Human Rights Act and be able to demonstrate that its actions (which may infringe a person's Article 8 rights to privacy) are necessary and proportionate, which includes taking account of the intrusion issues. To demonstrate this accountability, the decision making process and the

management of such surveillance must be documented. Therefore, should Council officers need to undertake such surveillance outside of RIPA, they should complete the Non RIPA Surveillance form (available from the RIPA pages on the intranet). This should be submitted to one of the Authorising Officers listed within this Policy to be considered for authorisation before any activity can be undertaken. There will be no requirement to have the authorisation approved by a Justice of the Peace. Should the activity be approved, the procedures to be followed will be the same as any RIPA authorised activity. Therefore, the Council expects that the procedure and management of the activity, from the initial surveillance assessment, through to completion and cancellation to be managed appropriately at the same level that the RIPA legislation and guidance requires. For further advice, refer to the RIPA pages on the Intranet.

#### 6.4 Examples of Surveillance outside of RIPA

##### 6.4.1 Planning

Some planning scenarios require evidence to be gathered either before service of a Notice or post service of a Notice to establish whether the Notice has been breached. A common example may be someone running a car repair business from home. It is often the case that this causes disruption and disturbance to neighbours who complain. Diary sheets may be issued to establish the level of activity and the person may be spoken to by a Planning Enforcement officer. It is often the case that the person states they only repair a few cars as a hobby for friends and family and are not running a business. At some stage it may be necessary for a Notice to be issued to the person. The repairs may then continue with the neighbours complaining. It is at this stage that targeted covert surveillance may be required as the best means of gathering the required information to establish if the Notice has been breached which would be a criminal offence. The offence does not meet the 6 months imprisonment criteria for it to be RIPA surveillance.

##### 6.4.2 Social Services

Social Services need to carry out investigations to protect vulnerable persons such as children. These would not be treated as criminal investigations and are normally dealt with by the Family Court. There may be occasions where some form of targeted covert surveillance activity is required to gather evidence for decision making or court proceedings. It is often the case that this type of surveillance is carried out by outside contractors. If this is the case, the above procedure for surveillance outside of RIPA should be followed in order to demonstrate that the Council has considered the activity with regard to Necessity and Proportionality and taken account of the intrusion on anyone.

##### 6.4.3 Disciplinary Investigations

There may be serious disciplinary investigations that require some form of targeted covert surveillance activity which will engage Article 8 rights to privacy. There is specific guidance issued by the Information Commissioners Office (ICO) in the Employment Practices Code under Part 3 Monitoring at

Work. There is a link to this guidance below This guidance make it clear that surveillance should only be used for serious matters and that the activity must be Necessary and Proportionate taking account of the intrusion issues.

[https://ico.org.uk/media/for-organisations/documents/1064/the\\_employment\\_practices\\_code.pdf](https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf)

6.4.4 In the above scenarios, if these issues were criminal investigations and the offences carried the required sentence of 6 months imprisonment they would be meet the Directed Covert Surveillance criteria under RIPA and would require authorisation However these scenarios are to be treated as targeted surveillance operations outside of RIPA and the procedure for surveillance outside of RIPA should be followed in order to demonstrate that the Council has considered the activity with regard to Necessity and Proportionality and taken account of the intrusion on anyone

6.5 Other routine activity that may be surveillance

6.5.1 There are other routine scenarios that may amount to surveillance for example the **deployment of a noise recording machine**, which may be monitoring persons and conversations etc. In these instances, the persons responsible for the noise are notified that the recording activity may take place, which would give them a reduced expectancy of privacy However, the Council still has an obligation to consider the intrusion issues and Necessity and Proportionality which will include the management and disposal of any personal data obtained Therefore, staff should carry out some form of privacy impact assessment and be able to demonstrate why it was necessary to deploy the noise machine and that it was a proportionate response to the problem to be resolved It is likely that this can be documented and managed within the case notes of that particular complaint

## 7 Internet and Social Media - use for Research and Investigations

7.1 Online open source research is widely regarded as the collection, evaluation and analysis of material from online sources available to the public, whether by payment or otherwise to use as intelligence and evidence

7.2 The use of online open source internet and social media research techniques has become a productive method of obtaining information concerning individuals to assist the Council with its regulatory and enforcement functions It can also assist with service delivery issues, employment matters and debt recovery However, the use of the internet and social media is constantly evolving and there are risks associated with these types of enquiries, regarding breaches of privacy under Article 8 Human Rights Act (HRA) and other operational risks

7.3 The activity may require RIPA authorisations for Directed Covert Surveillance or CHIS. Where this is the case, the application process and the contents of this Policy is to be followed

- 7.4 Where the activity falls within the criteria of surveillance outside of RIPA, again this will require authorising on a non RIPA form which will be authorised internally
- 7.5 In carrying out online research and investigations in respect of individuals regard should be had to the 2018 Code Attached at [Appendix 3](#) is the summary of the key points relating to social media from the 2018 Code In addition the Council has prepared a separate procedure note specifically dealing with the use of the Internet and Social Media for investigations

## **8. Use of CCTV**

- 8.1 The use of the CCTV systems operated by the Council do not normally fall under RIPA However, it does fall under the Data Protection Act 2018 and the Council's CCTV Policy. Guidance on operation of CCTV is provided in the "Surveillance Camera Code of Practice" issued under the Protection of Freedoms Act 2012 ("the 2012 Act") and overseen by the Surveillance Camera Commissioner Local Authorities should also be aware of the relevant Information Commissioner's code of practice ("In the Picture – A Data Protection Code of Practice for Surveillance Cameras and Personal Information") Should there be a requirement for the CCTV cameras to be used for a specific operation to conduct surveillance it is likely that the activity will fall under directed covert surveillance and therefore require an authorisation
- 8.2 On the occasions when the CCTV cameras are used for directed covert surveillance, 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 at least a copy of the authorisation page. It is important that the staff check the authority and only carry out what is authorised
- 8.3 Operators of the Council's 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

## **9 Use of material as evidence**

- 9.1 Material obtained through directed covert surveillance, may be used as evidence in criminal proceedings The admissibility of evidence is governed primarily by the common law, the Criminal Procedure and Investigations Act 1996, the Civil Procedure Rules, section 78 of the Police and Criminal Evidence Act 1984 and the Human Rights Act 1998.
- 9.2 Ensuring the continuity and integrity of evidence is critical to every prosecution Accordingly, considerations as to evidential integrity are an important part of the disclosure regime under the Criminal Procedure and

Investigations Act 1996 and these considerations will apply to any material acquired through directed covert surveillance or property interference that is used in evidence. When information obtained under a directed covert surveillance authorisation is used evidentially, it will be necessary to be able to demonstrate how the evidence has been obtained, to the extent required by the relevant rules of evidence and disclosure.

## **10 Safeguards of Material**

- 10.1 The Council and all staff should ensure that their actions when handling information obtained by means of directed covert surveillance comply with the Data Protection Act 2018, General Data Protection Regulation and the Council's Data Retention Policy and the Criminal Procedures Investigations Act 1996 (CPIA). This will ensure that any interference with privacy is justified in accordance with Article 8(2) of the European Convention on Human Rights. Compliance with these legal frameworks will ensure that the handling of private information so obtained continues to be lawful, justified and strictly controlled, and is subject to robust and effective safeguards.
- 10.2 Dissemination, copying and retention of material must be limited to the minimum necessary for authorised purposes. This obligation applies equally to disclosure to additional persons within the Council and to disclosure outside the authority.
- 10.3 Material obtained through directed covert surveillance or property interference, and all copies, extracts and summaries of it, must be handled and stored securely, so as to minimise risk. It must be held so as to be inaccessible to persons who would not need to see it (where applicable). This requirement applies to all those who are responsible for the handling of the material.
- 10.4 Any breaches of data protection requirements should be reported to the Council's DPA Officer and the SRO as it is likely to constitute an error.

## **11 Errors**

- 11.1 Proper application of the surveillance provisions in the 2018 Codes should reduce the scope for making errors.
- 11.2 An error must be reported if it is a "relevant error". A relevant error is any error by a public authority in complying with any requirements that are imposed on it by any enactment which are subject to review by a Judicial Commissioner. This would include compliance by public authorities with Part II of the 2000 Act (RIPA).
- 11.3 Examples of relevant errors occurring would include circumstances where



- Surveillance activity has taken place without lawful authorisation.
- There has been a failure to adhere to the safeguards set out in the relevant statutory provisions and Chapter 9 of the 2018 Code relating to the safeguards of the material

11.4 Errors can have very significant consequences on an affected individual's rights. All relevant errors made by public authorities must be reported to the IPCO by the public authority that is aware of the error as soon as reasonably practicable and a full report no later than ten working days. The report should include information on the cause of the error, the amount of surveillance or property interference conducted, and material obtained or disclosed; any unintended collateral intrusion; any analysis or action taken; whether any material has been retained or destroyed, and a summary of the steps taken to prevent recurrence.

#### Serious Errors

11.5 The IPCO must inform a person of any relevant error relating to that person if the Commissioner considers that the error is a serious error and that it is in the public interest for the person concerned to be informed of the error. The Commissioner may not decide that an error is a serious error unless they consider that the error has caused significant prejudice or harm to the person concerned. The fact that there has been a breach of a person's Convention rights (within the meaning of the Human Rights Act 1998) is not sufficient by itself for an error to be a serious error.

11.6 It is important that all staff involved in the RIPA process report any issues so they can be assessed as to whether it constitutes an error which requires reporting.

## 12 Complaints

12.1 The Investigatory Powers Tribunal (IPT) has jurisdiction to investigate and determine complaints against Local authority use of investigatory powers, including those covered by the 2018 Code, and is the only appropriate tribunal for human rights claims against the intelligence services. Any complaints about the use of powers as described in the 2018 Code should be directed to the IPT.

12.2 The IPT is entirely independent from Her Majesty's Government and all public authorities who use investigatory powers. It is made up of members of the judiciary and senior members of the legal profession. Following receipt of a complaint or claim from a person, the IPT can undertake its own enquiries and investigations and can demand access to all information necessary to establish the facts of a claim and to reach a determination. A 'person' for

these purposes includes an organisation, an association, or combination of persons (see section 81(1) of RIPA), as well as an individual.

- 12.3 Further information on the exercise of the Tribunal's functions and details of the relevant complaints procedure can be obtained from

Investigatory Powers Tribunal  
PO Box 33220  
London  
SW1H 9ZQ

Tel 0207 0353711

[www.ipt-uk.com](http://www.ipt-uk.com).

- 12.4. Notwithstanding the above, members of the public will still be able to avail themselves of the Council's internal complaints procedure, where appropriate, and can complain to the Local Government Ombudsman.

### **13 Oversight by the IPCO**

- 13.1 The Investigatory Powers Act 2016 provides for an Investigatory Powers Commissioner ("the Commissioner"), whose remit includes providing comprehensive oversight of the use of the powers to which this Policy applies, and adherence to the practices and processes described in it. The Commissioner will be, or will have been, a member of the senior judiciary and will be entirely independent of Her Majesty's Government or any of the public authorities authorised to use investigatory powers. The Commissioner will be supported by inspectors and others, such as technical experts, qualified to assist the Commissioner in his or her work. The Commissioner will also be advised by the 'Technology Advisory Panel'
- 13.2 One of the duties of the IPCO is to carry out planned inspections of those public authorities who carry out surveillance as specified in RIPA, to ensure compliance with the statutory authorisation procedures. At these inspections they have unfettered access to all locations, documentation and information systems as necessary to carry out their full functions and duties. All relevant persons using investigatory powers must provide all necessary assistance to the Commissioner and anyone who is acting on behalf of the Commissioner.
- 13.3 An inspection report will be presented to the Chief Executive, which should highlight any significant issues, draw conclusions and make appropriate recommendations. The aim of inspections is to be helpful rather than to measure or assess operational performance.

- 13 4 In addition to routine inspections, spot checks may be carried out from time to time.
- 13 5 There is a duty on every person who uses the powers provided by Part II of RIPA, which governs the use of directed covert surveillance or covert human intelligence sources, to disclose or provide to the Chief Commissioner (or his duly appointed Inspectors) all such documents and information that he may require for the purposes of enabling him to carry out his functions

## PART 2

### DETAILED PROCEDURES FOR UNDERTAKING DIRECTED COVERT SURVEILLANCE

#### 1. **Purpose**

To ensure that surveillance is only undertaken in appropriate cases, is properly authorised and recorded and is compliant with the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 and appropriate Code of Practices, made there under

#### 2 **Scope**

- 2 1 These procedures must be complied with by all sections and Investigating Officers, who routinely or occasionally undertake directed covert surveillance in connection with preventing or detecting crime with a maximum 6 months imprisonment or relate to the sale of alcohol or tobacco to children (the only permitted purpose for such surveillance). Local investigation procedures should make reference to this Policy

#### 3. **Procedure**

- 3 1 It is very important that the correct authorisation procedure is followed prior to undertaking surveillance activity. Interference of the right to privacy without proper authorisation may render any evidence obtained unusable in a criminal court. If surveillance is conducted on individuals without the necessary authorisation, the Council and possibly individuals may be sued for damages for a breach of Human Rights. In civil matters adverse inferences may be drawn from such interference.
- 3 2 This procedure is supported by the 2018 Code. If the surveillance is not likely to obtain private information, the 2018 Code does not apply. All Investigating Officers and Authorising Officers should fully acquaint themselves with the 2018 Code and refer to it during both the application and authorisation processes.
- 3 3 All directed covert surveillance activity must be approved prior to the activity taking place by an Authorising Officer and a Justice of the Peace ("JP"). Officers seeking authority to undertake directed covert surveillance should complete the form, "Application for use of Directed Covert Surveillance". A sample application form with notes is attached at **Appendix 1**, but the latest

version from the Gov UK website must always be used. Completed application forms should be forwarded to the relevant Authorising Officer.

- 3.4 Completed authorisation forms should be allocated a reference number by the Investigating Officer relevant to the department / team and the particular investigation. The Investigating Officer should also obtain the next unique reference number from the Central Record of RIPA Applications and Authorisations maintained by the Principal Legal Executive.
- 3.5 The Authorising Officer will consider the completed application form and inform the Investigating Officer of his / her decision. The Authorising Officer will retain a copy of the authorisation form and monitor this for review, renewal and cancellation should it be approved by a JP. The original will be required to be returned to the applicant if authorised to be presented before a JP. If refused by the Authorising Officer or JP the original will be forwarded to the Principal Legal Executive for filing.
- 3.6 In addition the Authorising Officer must notify the Chief Executive of an authorisation.
- 3.7 The Investigating Officer and the Authorising Officer must give consideration to the following factors.
- **Necessity** – is covert surveillance the only or best way to achieve the desired information, or are other less invasive methods appropriate?
  - **Proportionality:**
    - 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; and
    - evidencing, as far as reasonable practicable, what other methods had been considered and why they were not implemented
  - **Collateral intrusion** – that is the obtaining of information relating to persons other than the subject of the investigation and the need to minimise this.
  - **Confidential Information** - The Investigating Officer and the Authorising Officer must consider the possibility that the surveillance activity may result in the acquiring of confidential information. If this is

considered to be likely then the Investigating Officer must highlight this on the application

- 3.8 All Investigating Officers completing RIPA applications must ensure that applications are sufficiently detailed. When completing an application or authorisation, the Investigating Officer and Authorising Officer must ensure that the case for the authorisation is presented in the application in a fair and balanced way. In particular, all reasonable efforts should be made to take into account information which weakens the case for the warrant or authorisation. Authorising Officers should refuse to authorise applications that are not to the required standard and should refer them back to the Investigating Officers.
- 3.9 **Magistrates' Court Approval:** As from the 1<sup>st</sup> November 2012 all applications and renewals for Directed Covert Surveillance and use of a CHIS will be required to have a JP's approval.
- 3.10 Having had the activity authorised by the Authorising Officer, the Investigating Officer must now complete the relevant Judicial Approval form to seek approval from a JP. The Investigating Officer must ensure compliance with the statutory provisions and should refer to the Home Office publication (October 2012) "Protection of Freedoms Act 2012 – changes to provisions under the Regulation of Investigatory Powers Act 2000 (RIPA) Home Office guidance to local authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for directed surveillance"
- <https://www.gov.uk/government/publications/changes-to-local-authority-use-of-ripa>)
- 3.11 The Judicial Approval form (see **Appendix 2**) will be submitted to the JP for approval. The form requires the Investigating Officer to provide a brief summary of the circumstances of the case on the judicial application form.
- 3.12 The contact numbers for Her Majesty's Court and Tribunals Service to arrange a hearing is
- Within office hours 01245 313315 or 01245 313313
  - If out of hours the contact numbers are 07736 638551 or 07774 238418
- 3.13 At the hearing which is on oath, the officer must present to the JP.
- the partially completed judicial approval/ order form,
  - a copy of the RIPA application / authorisation form, together with any supporting documents setting out the case, and

- the original application / authorisation form (this must be retained by Investigating Officer)

It is preferred that the Authorising Officer also attends the hearing at the Magistrates' Court

- 3.14 The JP will consider the paperwork and may ask questions to clarify points or require additional reassurance on particular matters

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,
- Consider whether there continues to be reasonable grounds;
- Consider whether the person who granted the authorisation or gave the notice was an appropriate designated person within the Local Authority, and
- Consider whether if the authorisation was made in accordance with the law, i.e. that the crime threshold for directed covert surveillance has been met

- 3 15 The JP may:

- Decide to approve the Grant or renewal of an authorisation which will then take effect and the Local Authority may proceed to use the technique in that particular case, or
- Refuse to approve the grant or renewal of an authorisation in which case the RIPA authorisation will not take effect and the Local Authority may not use the technique in that case

- 3 16 Where an application has been refused the Investigating Officer should consider the reasons for that refusal. If more information was required by the JP to determine whether the application / authorisation has met the tests, and this is the reason for refusal, the Investigating 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.

- 3 17 Where the JP refuses to approve the application / authorisation or renew the application / authorisation and decides to quash the original authorisation or notice the court must not exercise its power to quash the application / authorisation unless the applicant has had at least 2 business days from the date of the refusal in which to make representations. If this is the case the officer will inform Legal Services who will consider whether to make any representations.

- 3 18 Whatever the decision, the JP will record their decision on the order section of the judicial application / order form. The court will retain the copy of the Local Authority RIPA application and authorisation form and the judicial application / order form. The officer will retain the original application / authorisation and a copy of the judicial application / order form
- 3 19 As previously stated the Principal Legal Executive is responsible for giving each authorisation a central unique identification number using a standard consistent format and recording it in a Central Record of RIPA Applications and Authorisations. This is to ensure that an up-to-date central record is maintained for all directed covert surveillance activity. Similarly, copies of all cancellations, renewals and review applications should be forwarded to the Principal Legal Executive promptly. The original authorisation should be kept on the investigation file
- 3 20 Written surveillance authorisations last for a maximum of three months. They cannot be authorised for a lesser period and the commencement date is the date approved by the JP. Surveillance authorisations must be cancelled when no longer required (see 3 30 below)

### **Reviews**

- 3 21 The Authorising Officer has the responsibility to set the review dates for each authorisation and will determine what the review dates will be. The review date is detailed on the authorisation form. The review date will be at most one month from the date approved by the JP or previous review. The Authorising Officer should conduct the review with the Investigating Officer. Reviews should not be conducted solely by the Investigating Officer. Details of the review should be recorded on the form "Review of the use of Directed Surveillance Authorisation", available on the Home Office website and retained with the original authorisation. The Authorising Officer must ensure through diarisation or otherwise that reviews are conducted at the correct date
- 3 22 Any proposed or unforeseen changes to the nature or extent of the surveillance operation which may result in the further or greater intrusion into the private life of any person should be brought to the attention of the Authorising Officer by means of a review.
- 3 23 There is no requirement for a review form to be submitted to a JP. However if a different surveillance techniques is required it is likely a new application will have to be completed and approved by a JP.

### **Renewal**

- 3.24 Should it be necessary to renew a Directed Covert Surveillance or CHIS application / authorisation, this must be approved by a JP



- 3 25 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)
- 3 26 The applicant should complete all the sections within the renewal form and submit the form to the Authorising Officer
- 3 27 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.
- 3 28 If the Authorising Officer refuses to renew the application the cancellation process should be completed. If the Authorisation Officer 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**

- 3 29 The Investigating Officer must complete the "Cancellation of the use of Directed Covert Surveillance" form available on the Home Office website and forward to the Authorising Officer who granted or last renewed the authorisation. It must be cancelled if they are satisfied that the directed covert 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.
- 3 30 As soon as the decision is taken that directed covert 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 RIPA Applications and Authorisations along with a note of the amount of time spent on the surveillance.
- 3 31 The officer submitting the cancellation must complete in detail the relevant sections of the form and include the period of surveillance and if any images were obtained and any images containing third parties. The Authorising

Officer must then take this into account and issues instructions regarding the management and disposal of the images etc

- 3 32 The cancellation process should also be used to evaluate whether the objectives have been achieved and whether the applicant carried out what they stated was necessary in the application form. This check will form part of the oversight function. Where issues are identified they will be brought to the attention of the line manager and the Senior Responsible Officer. This will assist with future audits and oversight

#### **4. Joint Agency Surveillance**

- 4 1 In cases where one agency is acting on behalf of another, it is usually for the lead agency to obtain or provide the authorisation subject to 4 2 below. 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 are to ensure that all parties taking part are authorised on the authorisation page of the application to carry out the activity and at all times their line manager must be made aware of the joint surveillance. When Council staff are operating on another organisation's 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. They should also inform the Senior Responsible Officer or the Principal Legal Executive of the unique reference number, the agencies involved and the name of the officer in charge of the surveillance.

#### **Commissioned Services**

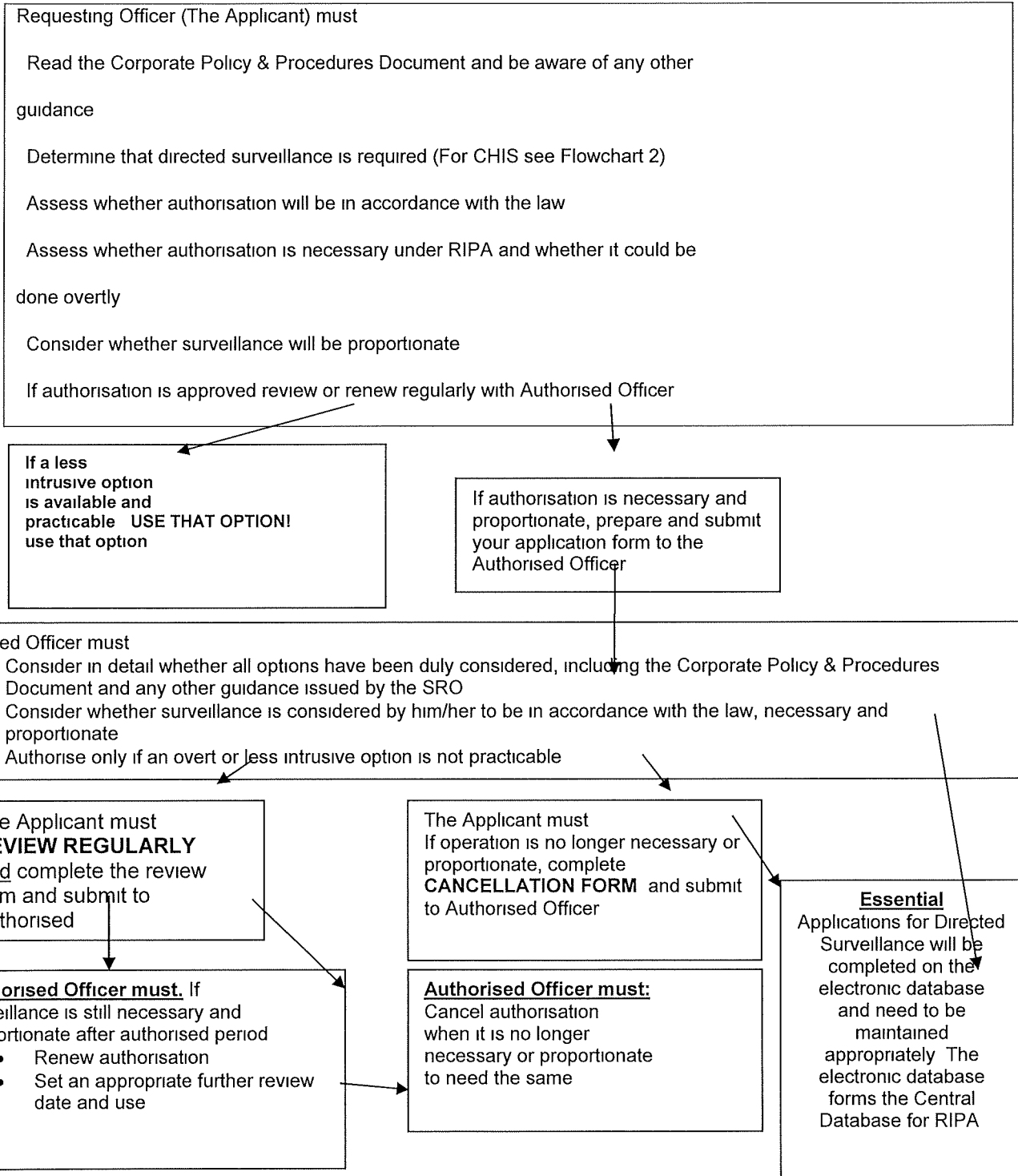
- 4 2 If the Council commissions another Local Authority to undertake investigatory services on its behalf and directed covert surveillance or the use of a CHIS is required, then that other Local Authority will normally obtain the necessary authorisation under its RIPA procedures including making application to the Magistrates' Court. The other Local Authority must supply the Council with a copy of the authorisation form.

**PART 3**  
**DETAILED PROCEDURES FOR USE OF COVERT**  
**HUMAN INTELLIGENCE SOURCES (CHIS)**

- 1 1 RIPA covers the activities of Covert Human Intelligence Sources (CHIS) which relates not only to sources commonly known as informants (members of the public providing the Council with information), but also the activities of undercover officers. It matters not whether they are employees of the Council, agents or members of the public engaged by the Council to establish or maintain a covert relationship with someone to obtain information. However, not all human intelligence source activity will meet the definition of a CHIS. For example, a source may be a public volunteer or someone who discloses information out of professional or statutory duty or has been tasked to obtain information other than by way of a covert relationship.
- 1 2 Recognising when a source becomes a CHIS is important as this type of activity may need authorisation.
- 1 3 There is a separate CHIS Policy which provides advice as to when someone is a CHIS and requires authorisation under RIPA together with the requirements involved in the process.
- 1 4 Should a CHIS authority be required, all of the staff involved in the process should make themselves fully aware of all of the CHIS Codes of Practice.
- 1 5 Legal advice should always be sought where consideration is given to the use of CHIS.



**RIPA FLOW CHART 1 : DIRECTED SURVEILLANCE**



**NB if in doubt, ask the Group Manager (Legal and Democratic) BEFORE any directed surveillance and/or CHIS is authorised, reviewed, renewed, cancelled, or rejected.**

**SAMPLE APPLICATION FORM FOR USE OF DIRECTED COVERT SURVEILLANCE**

<b>Unique Reference Number</b>	Refer to your policy as to how you obtain the unique number. All applications must have one and put on each page.
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**Part II of the Regulation of Investigatory Powers Act 2000**

**Authorisation Directed Surveillance**

<b>Public Authority</b> <i>(including full address)</i>	State your Public Authority Name and full address		
<b>Name of Applicant</b>	Details of the person completing the form	<b>Unit/Branch /Division</b>	Section and department
<b>Full Address</b>	Provide the address of your department		
<b>Contact Details</b>	Provide full contact details including email address. Make it easy for the Authorising Officer, or anyone else associated with the process to contact you.		
<b>Investigation/Operation Name (if applicable)</b>	This may be an investigation reference number allocated to this case, or some other reference		
<b>Investigating Officer (if a person other than the applicant)</b>	If the form is being completed by someone who is not the investigator, then the investigators details must be put in this box.		

## DETAILS OF APPLICATION

1. Give rank or position of authorising officer in accordance with the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 No. 521.<sup>1</sup>

As above.

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

Also use the description of the person's position contained within your policy to remove any confusion.

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

Describe the investigation to date including the offences and the relevant legislation. When, where and how are the offences occurring. Remember the Authorising Officer needs to be clear what the offence is and the circumstances. (keep information relevant and to the point)

Include the details of the suspects and persons involved and the role they play within the investigation. (Do not put confidential information in such as informants' names)

Consider disclosure implications under CPIA with regards to not revealing unnecessary information. However, the AO needs sufficient relevant information to make a decision. The provisions of using CPIA sensitive information may be a way of dealing with the sensitivity issues later, by editing material if it has to be disclosed. However, if the document contains sensitive information remember to keep it secure at all times.

Cross reference where necessary to other relevant applications

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

This should be completed, after attending the area of where the activity is to be carried out, and having carried out a surveillance assessment having taken into account risks or limiting factors. Limiting factors are anything can affect the success of the operation.

Consider the AO statement in box 12, the 5 WH. The applicant can only do what is authorised by the AO, not what they have applied for.

Consider the aims and objectives, confirmation of address may only need static observations; however, lifestyle intelligence may require foot/mobile and use of covert cameras etc. What exactly do you want to do? Is it static observations, foot or mobile? You want a combination? However, only ask for what you can realistically carry out. It is not a wish list; it should be carried out to achieve the objectives.

How do you want to carry out the surveillance and what equipment do you want to use? You must make the AO aware of the capabilities of any equipment you want to use.

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

Where is the activity to take place? Who is the activity against and when do you want to carry it out?

What is the expected duration? It does not mean that it must only be authorised to this point. Once signed, the authorisation lasts for a 3 month period. You must update the AO when they set the review dates. If your operation ends prior to any review date or the 3 month period, you must cancel it straight away and submit the cancellation form. It does not expire.

**REMEMBER YOU CAN ONLY DO WHAT IS AUTHORISED ON THE AO SECTION, NOT WHAT YOU HAVE APPLIED FOR IN THIS SECTION.**

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

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

If you do not know who the subjects are, insert any descriptions you may have. If as a result of the surveillance, you identify anyone, you must submit this information on a review form to the AO.

Consider any known associates. If the intelligence is that the subject of the surveillance has known associates, are they likely to become subjects of the surveillance? If so, detail them as part of the application.

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

These are the surveillance objectives. They should have been identified during the planning stage and a feasibility study carried out to assess whether they can be achieved. It's no use setting objectives that can't be achieved.

What is the surveillance going to tell you?

What, if any, criminality will it establish?

Will it identify subjects involved in criminality?

Will it house subject or their criminal associates?

E.G.

- Identify the location of the subject's place of work
- To gather intelligence and evidence to establish the extent of the criminality (size).
- Identify other persons involved, such as suppliers.
- Identify other premises involved, such as storage buildings.
- Obtain best evidence through the use of photographic equipment to assist with identifying the offenders
- 

Obtain best evidence to assist with a prosecution of offenders

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

- In the interests of national security;



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

For Directed Surveillance, Local Authorities only lawful purpose is preventing or detecting crime and the crime must be capable of carrying six months imprisonment 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.

Due to the nature of the offences, if any other areas above are applicable such as protection of public health, this should be made clear in the body of the application and the proportionality section.

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

You can reiterate the criminal offences

Why is it necessary at this stage of the enquiry to carry out covert activity?

What is the purpose of the operation?

How will the activity assist or progress the investigation?

What will be the consequences of the proposed action be to the victim?

Why do we need this evidence/intelligence/information?

What other enquiries have been carried out and results? This does not have to be a last resort, but if there is a less intrusive way of achieving your objectives you should take that option, or explain why you can't take that option.

Consequences of not taking action

It is not for the applicant to state on the application that they believe it to be necessary. This is the responsibility of the AO to reach that decision.

**8. Supply details of any potential collateral intrusion and why the intrusion is unavoidable. [Bear in mind Code paragraphs 3.8 to 3.11.]**

Describe precautions you will take to minimise collateral intrusion.

There are three parts to this section (see above). You must answer them all, as this section directly impacts upon the proportionality test.

**1. SUPPLY DETAILS OF POTENTIAL COLLATERAL INTRUSION**

Visit the location of where the activity is to take place and carry out a risk assessment. Who lives at the property that you may be watching. Have they got children who might be affected such as going to school etc.?

Determine where you need to be to carry out the surveillance. What else can you see?

What equipment will you be using and what will it see and record?

Consider Confidential Information

It may be useful to paint the picture in words of what it is you will be watching in the locality. This will assist the AO. You may also want to refer to any plans or maps attached to the application.

## 2. WHY IS THE INTRUSION UNAVOIDABLE?

Consider why the intrusion is unavoidable, such as the location and time frame that the observations have to be carried out. It may be that you are limited to the use of certain equipment only and therefore governed by its operating capabilities. Your observation position may be the only place you can use.

## 3. DESCRIBE THE PRECAUTIONS YOU WILL TAKE TO MINIMISE COLLATERAL INTRUSION

Having carried out the risk assessment and identified what the intrusion is, consider ways of reducing the intrusion, or keeping it to a minimum. You should consider:

State who the activity will be focused on, such as the subject etc., not the innocent third parties subject to the collateral intrusion.

Keeping the surveillance activity focussed with regards to length of time spent on the observations. However, remember that you still need time to achieve your objectives. You will need some flexibility built in to your timings.

If using technical equipment such as video or covert recordings, consider the position and focal length of the lenses when filming to reduce the intrusion. Consider when and who you will use the equipment against, such as the suspects only.

How will you manage any images obtained? Consider Data Protection, confidentiality, security, dissemination of the images, and any guidance provided by your organisation, including any Home Office guidance.

Are the staff trained to carry out the activity? If so, this may assist, as they should know what they are doing with regards to collateral intrusion.

The activity needs to be tightly managed and reviewed constantly. If there is a considerable change in the intrusion once the activity commences, then the AO needs to be made aware.

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

In the necessity box we stated why it was necessary to carry out the covert activity. In this box we are assessing whether the actions requested are proportionate to the overall operational aims within the investigation, having taken into account of the intrusion issues.

How serious are the offences under investigation? What is the direct or accumulative consequence of the offences?

**What are the effects of the offences on the victim or the consequences of what is happening?**

**Are you asking to do a lot to achieve a little? Do not use a sledgehammer to crack the nut. If you have provided a good explanation of how the intrusion will be reduced and managed in the collateral intrusion box, refer them to it.**

**Explain why you need to undertake this activity to achieve your objectives, against using other methods. Why, in operational terms, does your need to use the activity (how the activity will progress the investigation) outweigh the level of intrusion? Why is this method the least intrusive option?**

**Are your methods/tactics balanced in relation to the likely results?  
Consider the length of time of the surveillance operation**

**What methods are required to achieve the objectives and are there any less intrusive methods? You should explain what if any less intrusive methods have been considered. If they can be used they should be. If however less intrusive methods cannot be used, explain why. You should also take account that technical surveillance may be more intrusive.**

**Consequences of not taking action.**

**10. Confidential information [Code paragraphs 4.1 to 4.31].  
INDICATE THE LIKELIHOOD OF ACQUIRING ANY CONFIDENTIAL INFORMATION:**

**Is there any likelihood of Health, Solicitors, Counselling, and Spiritual etc.**

**It is unlikely that you will obtain this type of material, but an assessment should take place. If you are, it is a higher level of Authorising Officer who needs to consider it.**

**Do not mix this up with Private Information which is part of the consideration when assessing whether the activity falls under RIPA.**

**11. Applicant's Details**

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

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

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

**REMEMBER THAT EACH CASE HAS TO BE ASSESSED ON ITS OWN MERITS.**

**Who are you authorising to carry out the activity? Are the staff from one office? Or if a joint operation, please state that fact and name the other organisation. You have to actually authorise the other organisation's staff in writing.**

**What are you authorising them to do and what equipment are you authorising them to use? You**

should have a knowledge of the equipment's capability.

Who are you authorising them to do it against, person, address, vehicle, etc?

When are you authorising them to do it?

Where are you authorising the activity to take place?

Why are you authorising whatever you are allowing them to do? They should have stated within the application earlier what they are hoping to achieve.

When authorising the activity, it is live for 3 months. In other words, as an AO, you cannot authorise for less. You should set a review date for you to review it if you think that the surveillance should be a shorter period.

***DO NOT BE AFRAID AS AN AO, TO ONLY ALLOW THEM TO UNDERTAKE CERTAIN ACTIVITY, AS OPPOSED TO ALL THE ACTIVITY APPLIED FOR, IF IT MEANS THAT IT IS PROPORTIONATE. STATE WHY ON THE FORM***

***IF NOT AUTHORISING, STATE WHY.***

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

***IF YOU ARE WRITING IN THIS SECTION, PRINT THE FORM OUT WITH ENOUGH SPACE TO WRITE IN. YOU WILL REQUIRE SOME SPACE TO DETAIL HOW YOU HAVE COME TO YOUR DECISION.***

Below are 5 areas that should be dealt with by the AO when considering the application.

Code 3.3 requires that the person granting an authorisation BELIEVES that the authorisation is necessary in the circumstances of the particular case for one of the statutory reasons (see box 6). Have they made clear what the offence or offences are in the body of the application?

Code 3.4 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. AO must also BELIEVE that the objectives can't be met by other less intrusive means.

Sec 72 RIPA 2000, a person exercising or performing any power or duty in relation to which provision may be made by a code of practice under section 71 shall, in doing so, HAVE REGARD TO THE PROVISIONS (so far as they are applicable) of every code of practice for the time being in force under that section. (You have to know what the codes say).

Collateral Intrusion Code of Practice 3.8 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.

Code of Practice 3.15 .Any person granting or applying for an authorisation will also NEED TO BE AWARE OF particular sensitivities in the local community where the surveillance is taking place and of similar activities being undertaken by other public authorities which could impact on the deployment of surveillance.

This will take some consideration. Read and study the application fully. Refer to the applicants boxes that deal with these issues.

Detail your thought processes. How have you come to the conclusion? Do not rubber stamp, do not use template or cut and paste answers. This is your original note that you may be relying on in

court. If you are making decisions from reading supporting material, mention the material and keep a copy which needs to be part of the central register. Be careful to make your decisions on written material not discussions with the case officer which may be difficult to justify at a later date at court.

Model answer from codes and OSC

- 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 target 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.

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

This is completed by the AO who has the responsibility to consider the authorisation if confidential information is likely to be obtained. (Usually someone of a much higher position than a normal AO.) e.g. In a Local Authority it will be the Chief Executive.

See rear of codes of practice for relevant position and refer to your policy.

Date of first review

AO must set the review date. Consider what the applicant has stated regarding the length of time required. Remember, this is so you as the AO can now review the need for the activity to continue on the date you have set. Also refer to policy. Most state that it must not be longer than a month. However, you must assess it against all the facts.

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

As above.

<b>Name (Print)</b>		<b>Grade / Rank</b>	
<b>Signature</b>		<b>Date and time</b>	
<b>Expiry date and time [ e.g.: authorisation granted on 1 April 2005 - expires on 30 June 2005, 23.59 ]</b>		<b>From 1 Nov 12 this date will be from when a Magistrate approves it. Put in the expiry date. Remember it lasts for 3 months once signed (see opposite)</b>	

15 **Urgent Authorisation [Code paragraph 5.9]: Authorising officer: explain why you considered the case so urgent that an oral instead of a written authorisation was given.**

OSC guidance states that there is no longer a requirement to complete the whole application form; contemporaneous notes should have been made by both applicant and AO. However, check what your policy says as some organisations still require at least this part to be completed with certain other sections. If your policy does not make it clear, seek advice.

**FROM 1 NOVEMBER 2012 THERE WILL BE NO URGENT PROVISIONA AVAILABLE FOR LOCAL AUTHORITIES**

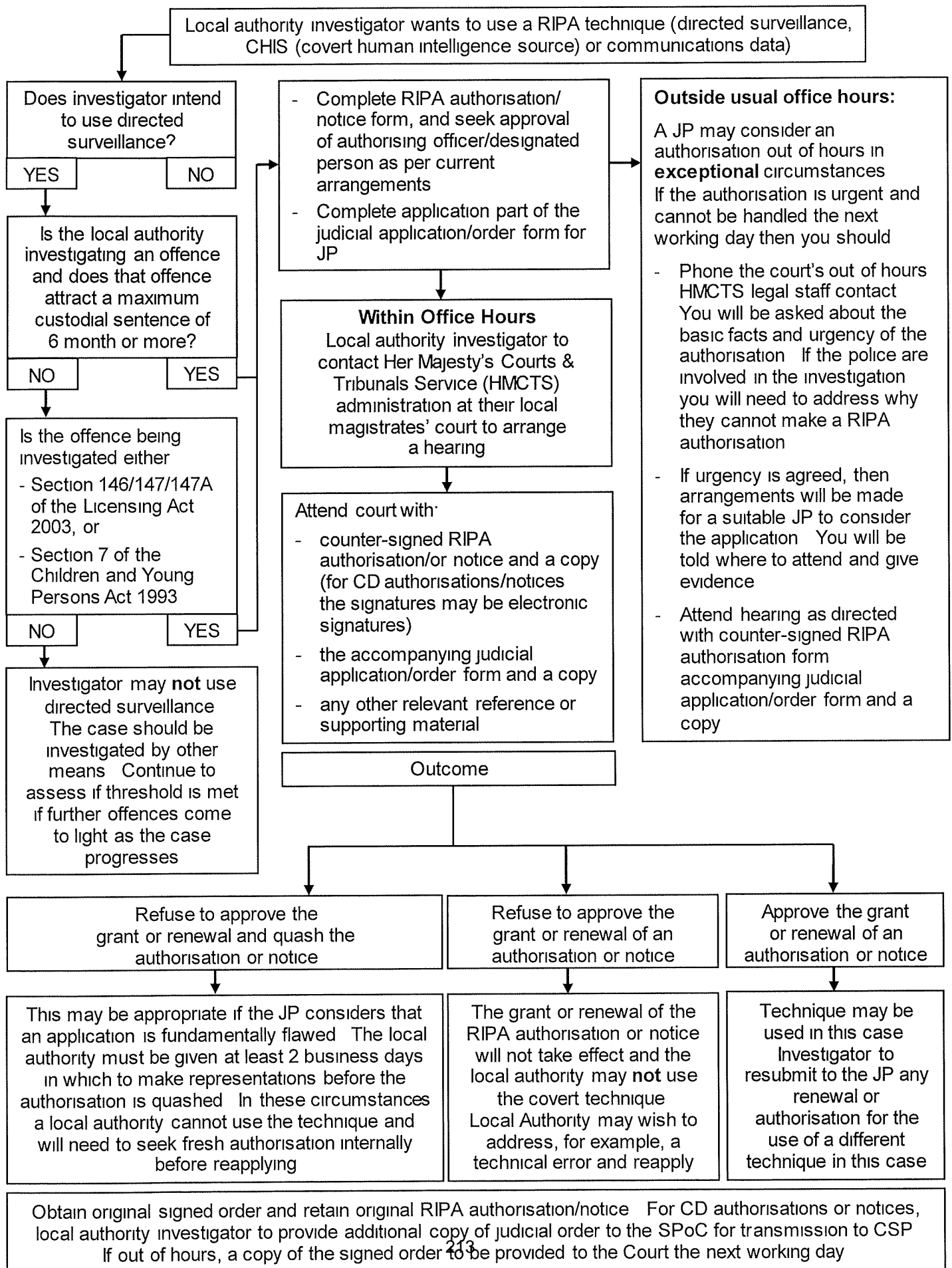
16 **If you are only entitled to act in urgent cases: explain why it was not reasonably practicable for the application to be considered by a fully qualified authorising officer.**

This is because the legislation allows for a lower rank/grade to authorise in urgent cases for some organisations. Refer to your policy.

See Statutory Instrument 2010 No 521.

<b>Name (Print)</b>		<b>Grade/ Rank</b>	
<b>Signature</b>		<b>Date and Time</b>	
<b>Urgent authorisation Expiry date:</b>		<b>Expiry time:</b>	
<i>Remember the 72 hour rule for urgent authorities – check Code of Practice.</i>	e.g. authorisation granted at 5pm on June 1 <sup>st</sup> expires 4 59pm on 4 <sup>th</sup> June		

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



**COPY APPLICATION FORM AND ORDER FOR JUDICIAL APPROVAL**

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

Local authority: .....  
Local authority department.....  
Offence under investigation:.....  
Address of premises or identity of subject .....  
.....  
.....

Covert technique requested: (tick one and specify details)

- Communications Data
- Covert Human Intelligence Source
- Directed Surveillance

Summary of details

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

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

Investigating Officer .....  
Authorising Officer/Designated Person: .....  
Officer(s) appearing before JP: .....  
Address of applicant department.....  
.....  
Contact telephone number: .....  
Contact email address (optional) .....  
Local authority reference: .....  
Number of pages: .....



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

Magistrates' court:.....

Having considered the application, I (tick one):

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

Notes

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

Reasons

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

Signed

Date:

Time:

Full name.

Address of magistrates' court:



**Summary of the key points relating to Social Media from the  
Covert Surveillance and Property Interference Revised Code of Practice August 2018**

Online Covert Activity (Directed Surveillance Codes Aug 18)

3.4 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. Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information which is on the internet, particularly where accessing information on social media websites. See paragraphs 3.10 to 3.17 below for further guidance about the use of the internet as a surveillance tool

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

3.6 Private information may include personal data, such as names, telephone numbers and address details. Where such information is acquired by means of covert surveillance of a person having a reasonable expectation of privacy, a directed surveillance authorisation is appropriate<sup>13</sup>

*Example 1. A police officer undertakes a simple internet 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 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 or other identifiers of an individual or group are applied to the search or analysis, an authorisation should be considered.

#### Internet and Urgent Enquires

Example: An authorisation under the 2000 Act would not be appropriate where police officers conceal themselves to observe suspicious persons that they come across in the course of a routine patrol or monitor social media accounts during a public order incident.

#### General Observations

3.33 The general observation duties of many law enforcement officers and other public authorities do not require authorisation under the 2000 Act, whether covert or overt. Such general observation duties frequently form part of the legislative functions of public authorities, as opposed to the pre-planned surveillance of a specific person or group of people. General observation duties may include monitoring of publicly accessible areas of the internet in circumstances where it is not part of a specific investigation or operation.

#### Collateral Intrusion

4.14 In order to give proper consideration to collateral intrusion, an authorising officer or person considering issuing the warrant should be given full information regarding the potential scope of the anticipated surveillance or interference, including the likelihood that any equipment or software deployed may cause intrusion on persons or property other than the subject(s) of the application. If an automated system such as an online search engine is used to obtain the information, the authorising officer should be made aware of its potential extent and limitations. Material which is not necessary or proportionate to the aims of the operation or investigation should be discarded or securely retained separately where it may be required for future evidential purposes. The authorising officer or person considering issuing the warrant should ensure appropriate safeguards for the handling, retention or destruction of such material in accordance with chapter 9 of this code, as well as compliance with data protection requirements

4.15 Where it is proposed to conduct surveillance activity or property interference 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 or property interference activity should be carefully considered against the necessity and proportionality criteria

4.16 Where a public authority intends to access a social media or other online account to which they have been given access with the consent of the owner, the authority will still need to consider whether the account(s) may contain information about others who have not given their consent. If there is a likelihood of obtaining private information about others, the need for a directed surveillance authorisation should be considered, particularly (though not exclusively) where it is intended to monitor the account going forward

*Example: If an individual provides the police with passwords and log-in details for their personal social networking accounts in order to provide evidence of threats made against them, this would not normally require a directed surveillance authorisation. If the police then decided to monitor the accounts for the purposes of obtaining further evidence of criminal activity by the author of the threats, they should consider applying for a directed surveillance authorisation in circumstances where private information is likely to be obtained. This is because the police would be acting with the intention to monitor an individual who has not consented to and may not be aware of the surveillance. The public authority will also need to consider the extent of the collateral intrusion into the privacy of others who may comment on or post information onto the accounts under surveillance.*

#### Use of a Third Party

4.32 In some circumstances it may be appropriate or necessary for a public authority to work with third parties who are not themselves a public authority (such as an individual, company or non-governmental organisation) to assist with an investigation. Where that third party is acting in partnership with or under the direction of a public authority, then they are acting as an agent of that authority and any activities that third party conducts which meet the 2000 Act definitions of directed or intrusive surveillance or amount to property interference for the purposes of the 1994 or 1997 Act, should be considered for authorisation under those Acts by the public authority on whose behalf that activity is being undertaken. Similarly, a surveillance authorisation should also be considered where the public authority is aware that a third party (that is not a public authority) is independently conducting surveillance and the public authority intends to make use of any suitable material obtained by the third party for the purposes of a specific investigation being undertaken by that public authority

#### CHIS Codes Aug 18

#### Online Covert Activity

4.11 Any member of a public authority, or person acting on their behalf, who conducts activity on the internet in such a way that they may interact with others, whether by publicly open websites such as an online news and social networking

service, or more private exchanges such as e-messaging sites, in circumstances where the other parties could not reasonably be expected to know their true identity (as an official rather than private individual), should consider whether the activity requires a CHIS authorisation. A directed surveillance authorisation should also be considered, unless the acquisition of that information is or will be covered by the terms of an applicable CHIS authorisation.

4.12 Where someone, such as an employee or member of the public, is tasked by a public authority to use an internet profile to establish or maintain a relationship with a subject of interest for a covert purpose, or otherwise undertakes such activity on behalf of the public authority, in order to obtain or provide access to information, a CHIS authorisation is likely to be required.

For example:

- An investigator using the internet to engage with a subject of interest at the start of an operation, in order to ascertain information or facilitate a meeting in person.
- Directing a member of the public (such as a CHIS) to use their own or another internet profile to establish or maintain a relationship with a subject of interest for a covert purpose.
- Joining chat rooms with a view to interacting with a criminal group in order to obtain information about their criminal activities.

4.13 A CHIS authorisation will not always be appropriate or necessary for online investigation or research. Some websites require a user to register providing personal identifiers (such as name and phone number) before access to the site will be permitted. Where a member of a public authority sets up a false identity for this purpose, this does not in itself amount to establishing a relationship, and a CHIS authorisation would not immediately be required, though consideration should be given to the need for a directed surveillance authorisation if the conduct is likely to result in the acquisition of private information, and the other relevant criteria are met.

*Example 1: An HMRC officer intends to make a one-off online test purchase of an item on an auction site, to investigate intelligence that the true value of the goods is not being declared for tax purposes. The officer concludes the purchase and does not correspond privately with the seller or leave feedback on the site. No covert relationship is formed and a CHIS authorisation need not be sought.*

*Example 2: HMRC task a member of the public to purchase goods from a number of websites to obtain information about the identity of the seller, country of origin of the goods and banking arrangements. The individual is required to engage with the seller as necessary to complete the purchases. The deployment should be covered by a CHIS authorisation because of the intention to establish a relationship for covert purposes.*

4.14 Where a website or social media account requires a minimal level of interaction, such as sending or receiving a friend request before access is permitted, this may not in itself amount to establishing a relationship. Equally, the use of electronic gestures such as “like” or “follow” to react to information posted by others online would not in itself constitute forming a relationship. However, it should be borne in mind that entering a website or responding on these terms may lead to further interaction with other users and a CHIS authorisation should be obtained if it is intended for an officer of a public authority or a CHIS to engage in such interaction to obtain, provide access to or disclose information.

*Example 1: An officer maintains a false persona, unconnected to law enforcement, on social media sites in order to facilitate future operational research or investigation. As part of the legend building activity he “follows” a variety of people and entities and “likes” occasional posts without engaging further. No relationship is formed and no CHIS authorisation is needed.*

*Example 2: The officer sends a request to join a closed group known to be administered by a subject of interest, connected to a specific investigation. A directed surveillance authorisation would be needed to cover the proposed covert monitoring of the site. Once accepted into the group it becomes apparent that further interaction is necessary. This should be authorised by means of a CHIS authorisation*

4.15 When engaging in conduct as a CHIS, a member of a public authority should not adopt the identity of a person known, or likely to be known, to the subject of interest or users of the site without considering the need for authorisation. Full consideration should be given to the potential risks posed by that activity.

4.16 Where use of the internet is part of the tasking of a CHIS, the risk assessment carried out in accordance with section 6.13 of this code should include consideration of the risks arising from that online activity including factors such as the length of time spent online and the material to which the CHIS may be exposed. This should also take account of any disparity between the technical skills of the CHIS and those of the handler or authorising officer, and the extent to which this may impact on the effectiveness of oversight.

4.17 Where it is intended that more than one officer will share the same online persona, each officer should be clearly identifiable within the overarching authorisation for that operation, providing clear information about the conduct required of each officer and including risk assessments in relation to each officer involved. (See also paragraph 3.23)

5.29 Where an over-arching authorisation has been provided as a framework for investigators to establish an online presence intended to provide a basis for future enforcement activity, this should be treated as part of the same investigation or operation for renewal purposes. However, where this generic activity leads to a separate operation against subjects identified through the online presence, a fresh authorisation should be considered, and a decision taken on a case by case basis by reference to the factors listed in paragraph 5.28 above.

#### OSC procedures & Guidance 2016

76. To assist an Authorising Officer to reach a proper judgment, the value of the data, information or intelligence on which the application has been made should be clear. It is considered best practice for law enforcement agencies to utilise standard evaluation nomenclature which grades both the source and the information. While it is not necessary or desirable in the application to spell out in detail the content of intelligence logs, cross-referencing to these enables an Authorising Officer to check detail. Particular care should be taken when using data or information obtained from open or unevaluated sources such as the Internet or social networks.

243. Covert Internet Investigators (now often referred to as undercover officers on line (UCOL)) may establish or maintain a relationship with more than one individual in relation to different investigations. If it is not possible to construct a single authorisation to cover all of the relationships (because the persons with whom relationships are established are not known in advance) it will be necessary to construct for each person with whom a relationship has been established a separate authorisation each of 12 months' duration. It is important that the same Authorising Officer considers each authorisation to ensure that operational conflict and risks do not develop and to monitor the security and welfare of the CHIS. When appropriate, reviews should be combined to establish whether separate authorisations can be combined into a single authorisation to reduce bureaucracy and error.

#### Covert Surveillance of Social Networking Sites (SNS)

289. 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 SNS 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.

289.1 Whilst it is the responsibility of an individual to set privacy settings to protect unsolicited access to private information, 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. In some cases data may be deemed private communication still in transmission (instant messages for example). Where privacy settings are available but not applied the data may be considered open source and an authorisation is not usually required. Repeat viewing of “open source” sites may constitute directed surveillance on a case by case basis and this should be borne in mind.

289.2 Providing there is no warrant authorising interception in accordance with section 48(4) of the 2000 Act, if it is necessary and proportionate for a public authority to breach covertly access controls, the minimum requirement is an authorisation for directed surveillance. An authorisation for the use and conduct of a CHIS is necessary if a relationship is established or maintained by a member of a public authority or by a person acting on its behalf (i.e. the activity is more than mere reading of the site’s content).

289.3 It is not unlawful for a member of a public authority to set up a false identity but it is inadvisable for a member of a public authority to do so for a covert purpose without an authorisation for directed surveillance when private information is likely to be obtained. The Senior Responsible Officer (SRO) should be satisfied that there is a process in place to ensure compliance with the legislation. Using photographs of other persons without their permission to support the false identity infringes other laws.

289.4 A member of a public authority should not adopt the identity of a person known, or likely to be known, to the subject of interest or users of the site without authorisation, and without the consent of the person whose identity is used, and without considering the protection of that person. The consent must be explicit (i.e. the person from whom consent is sought must agree (preferably in writing) what is and is not to be done).



**POLICY & RESOURCES SCRUTINY COMMITTEE  
IN-DEPTH STUDY 2019/20**

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**TOPIC: HOW THE COUNCIL AND COUNCILLORS  
1) COMMUNICATE WITH LOCAL PEOPLE AND STAKEHOLDERS  
AND 2) FACILITATE ENGAGEMENT AND PARTICIPATION**

**FRAMEWORK FOR SCRUTINY / SCOPE OF PROJECT:**

The Council/Councillors undertakes thousands of communications and interaction with local people, businesses and stakeholders every day. Every one of these interactions will impact on that person or businesses opinion of the Council, positively or negatively.

In addition to these two-way communications, the Council/Councillors also regularly 'broadcasts' information about its services and projects, be it through social media, traditional media, and digital platforms.

This project will consider how the Council/Councillors communicates and engages with local people, stakeholders and each other, and where improvements or changes could be made, to ensure that wherever possible the Council is projecting a professional and consistent tone and message.

The scope of the project should also consider the emphasis on co-production, participation and engagement and moving towards becoming a participatory Council that truly listens and acts on the concerns of its residents.

The review will look at and consider the following:

- (i) Service design
- (ii) Engagement and participation
- (iii) Effective communication
- (iv) Customer services

**Method:** Through project team meetings and witness session

*(At these sessions, evidence will be taken in public - unless local government access to information rules requires private consideration of information).*

**Target date:** April 2020

**MEMBERSHIP:**

Councillors M Davidson, S Habermel, C Walker, M Dent, H McDonald, B Ayling, I Shead and P Collins

Officer Core team: A Keating, B Nemeth, N Constantine, E Butler, K Pachalko and F Abbott (project coordinator).

As and when required: TBC

**PROPOSED OUTCOMES:**

- Advice and recommendations to support the development of a new engagement portal to replace the current consultation portal
- Development of a new Participation and Engagement Strategy
- Recommendations on how the Council/Councillors communicates in both a broadcast and two-way sense

**SOURCES OF EVIDENCE**

The main evidence base will be:

- ✚ Case studies
- ✚ Evidence from key stakeholders

**POSSIBLE ACTIVITY / INDICATIVE PROGRAMME:**

Meeting 1 – 26<sup>th</sup> September 2019

- Appointment of Chair for project
- Current situation - context of review & setting scene (*what happens now*)
- Southend 2050 feedback
- Case studies from other areas such as Barking & Dagenham (Engagement Platform) etc.
- Open conversation - What are the Councillors roles to unlock participation?

Meeting 2

Preparing for witness session

Meeting 3 – witness session

With focus on assets / responsibilities of local people  
Service design - how co produce / co create

Meeting 4

Possible site visit

Meeting 5

Review evidence & draft recommendations

**STAKEHOLDER/WITNESS GROUPS:**

Barking & Dagenham (engagement platform) & demonstration  
Officers  
Residents / Citizens Panel  
OP Assembly  
Youth Council  
YMCA  
Local supported living project  
Catch22 College

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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