

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.

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Part 1 (Public Agenda Item) - except for Appendix F which is not for publication by virtue of paragraph 7 of Part 1 to Schedule 12A to the Local Government Act 1972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