

To all Members of the

AUDIT COMMITTEE

AGENDA

Notice is given that a Meeting of the above Committee
is to be held as follows:

VENUE Council Chamber, Civic Office, Waterdale, Doncaster
DATE: Thursday, 7th April, 2016
TIME: 10.30 am

Items for Discussion:

	Page No.
1. Apologies for Absence	
2. To consider the extent, if any, to which the Public and Press are to be excluded from the meeting.	
3. Declarations of Interest, if any	
4. Minutes of the meeting held on 27th January, 2016	1 - 12
A. Reports where the public and press may not be excluded	
5. Statement of Accounts 2015/16 Update.	13 - 16
6. Covert Surveillance - Regulation of Investigatory Powers Act 2000 (RIPA) Update.	17 - 68

Jo Miller
Chief Executive

Issued on: Wednesday, 30 March 2016

Governance Officer Amber Torrington
for this meeting: 01302 737462

7.	Financial and Purchasing and Contract Procedure Rules.	69 - 84
8.	Quarter 3 2015/16 Strategic Risk Register Update.	85 - 92
9.	Annual Report of the Head of Internal Audit 2015/16.	93 - 110
10.	Internal Audit Plan - 2016/17.	111 - 132
11.	Audit Committee Annual Report 2015/16.	133 - 146

Members of the Audit Committee

Chair – Councillor Austen White
Vice-Chair – Councillor Richard A Jones

Councillor Susan Durant
Councillor John Healy
Councillor Alan Jones

Co-opted Member: Kathryn Smart

Agenda Item 4

DONCASTER METROPOLITAN BOROUGH COUNCIL

AUDIT COMMITTEE

WEDNESDAY, 27TH JANUARY, 2016

A MEETING of the AUDIT COMMITTEE was held at the COUNCIL CHAMBER - CIVIC OFFICE, DONCASTER on WEDNESDAY, 27TH JANUARY, 2016 at 10.30 AM

PRESENT:

Chair - Councillor Austen White
Vice-Chair - Councillor Richard A Jones

Councillors Susan Durant, John Healy and Smart

Co-opted Member

Kathryn Smart.

Apologies

An apology for absence was received from Councillor Alan Jones.

Also in attendance:

Simon Wiles, Director of Finance and Corporate Services
Pat Higgs, Assistant Director Adult Social Care
Howard Monk, Head of Strategy & Performance
Colin Earl, Head of Internal Audit
Peter Jackson, Internal Audit Manager
Faye Tyas, Head of Financial Management
Dulcie Aulton, Head of Customer Services
Jillian Burrows, KPMG
Clare Partridge, KPMG

Action

35 DECLARATIONS OF INTEREST, IF ANY

No declarations of interest were made at the meeting.

36 MINUTES OF THE MEETING HELD ON 19 NOVEMBER, 2015

RESOLVED that the minutes of the meeting held on 19th November, 2015 be approved as a correct record and signed by the Chair subject to the following amendments:-

Kathryn Smart be shown as present and the name Claire Pritchard from KPMG be amended in the attendance and in the body of the minutes to Clare Partridge.

Amber
Torrington

ADULTS, HEALTH AND WELLBEING AUDIT RECOMMENDATIONS
PROGRESS REPORT.

The Committee considered a progress report in relation to the completion of the recommendations since April and those that were still outstanding as at the 31 December, 2015 for the Adults, Health and Wellbeing audit.

Members were advised that some progress had been made in reducing the number of outstanding recommendations since the meeting in September, but there were still 22 of the original 84 actions outstanding. It was also advised that in addition to the 84 original action from February, 2015, a further 7 significant and 3 moderate actions had been issued resulting from the completion of two further audits.

It was reported that there were two 'Major' risks outstanding both of which had progressed since the last meeting:-

- The Debtors' Write-Off process had been transferred to Professional Business Support and whilst the deadline had been extended, work was on-going and it was currently on track to be delivered within the revised deadline of 31 March, 2016; and
- In relation to the Resource Allocation System (RAS) calibration had commenced and substantial progress had been made in relation to the analysis. It was acknowledged that some of the stages within action plan timeline had slipped and this was mainly due to the availability of the external RAS expert who was supporting the process, but a meeting had been scheduled for the 15th January to look at progress and review the timeline, However, it appears that there will not be much change to the overall timeline which had a completion date of 29th February, 2016

The Chair asked whether there was an update available for all 30 of the outstanding recommendations. It was advised that a schedule of all outstanding actions/recommendations would be reported at the next meeting of the Committee. An update was also requested in relation to the milestones detailed within the Annex of the report. Members were advised that progress was being made although there was still a way to go in relation to receiving outstanding monies for direct payments. It was stated that credit should be given to Anthony Pattinson and his team for all the good work carried out so far. It was also noted that in relation to pre-payment, instant access cards will make it much easier to recover payments to prevent this problem arising in future.

Pat Higgs

RESOLVED that the update on current recommendation,

All to note

be noted.

38 ELECTRONIC AND PHYSICAL RECORDS PROGRESS REPORT.

The Committee considered an update report on the progress made with regard to the electronic and physical storage of records, including the options considered and the associated costs requested following the Information Governance progress report presented to Committee in February, 2015.

Following the last meeting, a comprehensive review had been carried out of the current records management stores and implement a new Council wide records management solution by identifying suitable Governance premises or an alternative solution to house the Council records.

A number of options were considered when reviewing the current records management stores, which were as follows:-

- Develop our own internal solution for all records management;
- Move the records held at Thorne to a Council building and work to merge the current three records stores at a later date;
- Tender for a commercial managed corporate records management solution; and
- A further option of leaving the records in their current locations was also considered as part of this review. (However the current costs for storage across the 3 locations compared with the costs published in the ESPO framework number 2957 – Document Storage and Retrieval Service, indicated that significant savings could be achieved by going out to tender).

Following analysis of the options, it was identified that the best option was to tender for a commercial managed corporate records management solution. It was noted that the current supplier was not using the ESPO Framework and the Council made a decision to procure via full European Union tender.

It was advised that due to legal negotiations and the dispute around a current contract, the new contract had only just been awarded to one of the tendering suppliers and the Council were currently working with them to develop a comprehensive implementation plan.

Councillor John Healy showed his concern with regard to the current position the Local Authority archives and sought an up to date costing analysis in relation to the records that were kept electronically. He also sought clarification as to how many years the Council were legally obliged to maintain and keep records for. It was advised that generally most records need to be kept for a year period. However, there are records that Council has that are required to be kept on record for life. Members were advised that the team were currently identifying the

records that need to be kept and those that could be destroyed and there was a significant amount of indexing work to be carried out. Members were provided with a brief update as to the current situation and the work being undertaken so far.

Councillor John Healy also expressed concern with regard to Data Protection and whether the risk had now been reduced following the introduction of the action plan and new contract agreement. It was advised that the risk had reduced considerably and the team had confidence in the new company who were considered to be very professional.

A query was made in relation to the removal costs associated with Copley House and Balby Archives highlighted at paragraph 34 of the report and what the cost would be. It was reported that the documents had not been kept in the required conditions and there will be a significant amount of re-boxing to be done of which will have some one-off costs attached to it. It was advised that a quote had been received and officers were currently working through that. It was advised that it may be most cost effective to scan the documents but there is a need to have all the boxes in one place before that can be considered.

With regard to the 3.5 million digital files, Councillor Susan Durant asked whether there was a plan in place to look at these. It was reported that at this time it was too soon to give commitment to this. It was advised that a small team of staff were looking into this and more work would need to be carried out before the development of protocols could take place.

Councillor Susan Durant requested clarity with regard to FOI requests particularly in relation to private properties i.e. un-adopted roads. She asked how these would be managed and filtered to each department and whether this would have any impact on the work the team were carrying out. It was reported that the Council perform very well with FOI requests. There are a few difficulties that occur with non-computerised, physical records but the Council does their best they can. Members were advised that most of the physical records were personal, benefit claim information and it was not very often that requests would be made in relation to un-adopted roads etc. It was noted that there were occasions when a record cannot be found which is where the indexing of records will prove helpful.

Councillor Richard Allan Jones expressed his disappointment in relation to the negotiations on-going with the existing contractor at Thorne and highlighted that the estimated savings from this exercise would be halved as a result on the on-going negotiations. Councillor Jones stated that out of the 3.5m files, there must be some that are out of date. He asked whether the Council had appropriate back-up systems in place. It was reported that with regard to physical files there

was no back-up which was why the scanning of documents was taking place but there was full electronic back-up. With regard to the existing contract, it was advised that the Council were negotiating a financial settlement with the company. However, the Council were primarily to blame as the contract was poor and weak and data protection element was not satisfactory all of which falls within the responsibility of the Council.

It was reported that this exercise was at pilot stage but it was envisaged that it would be rolled out across the Council. It was noted that this project could take up to 2 years to complete but it was hoped that 75% of the work would be completed in year 1 with a further 25% in year 2.

RESOLVED that the report be noted and a further report be brought back to the Committee in 6 months.

All to note

39 ARRANGEMENTS AND TIMETABLE FOR THE PREPARATION OF THE STATEMENT OF ACCOUNTS - 2015/16.

The Committee received a report which provided details of the audit plan and timetable for producing the 2015/16 Statement of Accounts. The statutory deadlines for producing the draft accounts and the approved audited accounts were set out in regulation and were currently 30th June and 30th September respectively.

It was advised that the Accounts and Audit Regulations 2015 will bring forward the timetable for the preparation and approval of the 2017/18 draft accounts to 31st May and an audit deadline of 31st July. It was noted that the Government believed that this change would reduce the burden of the closure process, enabling finance staff to give more time to in-year financial management.

Members were advised that the Council would quicken the production and subsequent publishing of the draft audited accounts over this year and the following years to meet these future timescales. The intention was for the draft accounts for 2015/16 to be certified and published by 31st May with the audited accounts to be finalised and published by 17th August. It was also noted that the Council would be fully compliant with the deadlines and the revised inspection process for the production of the 2017/18 accounts.

Kathryn Smart asked whether Finance were confident in achieving the dates highlighted at paragraph 11 of the report and whether the restructure of the team would have an impact on that. It was advised that the team were confident and were in a good place at this time. It was noted that Mick Wildman would be leaving the team, however,

Rob Isaac would be his replacement and he was very experienced within finance. It was advised that although the team would be working to shorter deadlines it was envisaged that by not providing group accounts which had been agreed with KPMG, this would provide some compensation.

Councillor Richard Allan Jones asked whether the team were confident in receiving the right information and spend from directorates in relation to the budget. It was reported that the timetable is very detailed and the majority of the information is available on the ERP system. With regard to the less specific information such as Assets/Stock Inventory the team would quality assure the information provided. It was also noted that although the timetable was challenging, KPMG had no concerns to report.

In relation to the ERP system, Councillor Richard Allan Jones asked whether managers were using the system and what percentage level were departments at regarding performance. It was reported that managers were using the system, however, receipting was a key area and finance do review the potential impact on final accounts. Members were advised that most cases would be in the 90% bracket but managers need to get used to reporting on a timely basis. It was also advised that compared with other local authorities, Doncaster performed well and were in a good position.

The Chair requested clarity with regard to paragraph 11 of the report and the use of estimation techniques and whether there were any risks associated. It was advised that the changes in techniques were very minimal and were minor changes which had been carried out in conjunction with KPMG. It was advised that an update could be provided to members on this matter. It was also noted that following the KPMG Audits in February and April, they would provide an update on issues that may have been raised.

Faye
Tyas/KPMG

RESOLVED that noted the arrangements being put in place to close down future years' accounts and the draft timetable to meet the revised deadlines for 2015/16.

All to note

40 THE INSURANCE FUND.

Members considered a report which provided information regarding the Insurance Fund and detailed the underwriting arrangements and recent loss histories for the principal areas of insured risk. The provisions and reserves within the Insurance Fund at the end of 2014/15 were also confirmed.

Following the introduction of the report, Members were afforded the opportunity to ask questions. Councillor Richard Allan Jones raised a question with regard to public liability stating that in relation to large claims it didn't make it clear what the adjustment would be. It was

reported that the maximum liability was set at £250,000 and the insurance would cover the remainder if needed. Members were advised that the red figures within the table at paragraph 5.11 of the report were estimations. It was stated that the Council had set up its own team to deal with claims handling which had saved £70,000pa and it was expected that for future years the Council would see a change in fewer reserves outstanding and an increase in liability claims being paid.

Councillor Richard Allan Jones asked when the Council last went out to assess the market with regard to this issue and whether there was a framework to assess whether the Council were providing value for money. It was reported that with regard to claims handling the Council had received an quote for the work of £140,000 but it was felt that the Council would be able to carry out the work in-house for less. It was advised that the Local Authority market was at this time dominated by Zurich and there was very little competition. However, it had been acknowledged that there was a new company albeit in its infancy that may be coming onto the market, so the Council will be keeping an eye on the framework for this.

In relation to small claims, Councillor Jones asked whether the Committee could be advised on the process followed. It was suggested that a report be brought back to the Committee.

Simon Wiles

Councillor John Healy asked what the risk factors would be if the Council reduces its insurance. It was reported that the Council do risk assess claims which can be looked at under different categories.

RESOLVED that the contents of the report regarding the current position of the Insurance Fund be noted.

All to note

41 KPMG EXTERNAL AUDIT PLAN 2015/16.

Members received a report stating that KPMG would be undertaking a programme of work in order to deliver their Code of Audit Practice audit which would cover work on the financial statements and the value for money conclusion for the 2015/16 financial year.

A copy of Appendix 1 to the report which detailed KPMG's plan for completing the review of the Council's financial statements and associated disclosure notes and providing an audit opinion on the Council's 2015/16 Statement of Accounts were attached to the report.

Following the summary of the report, Members of the Committee were afforded the opportunity to ask questions. In respect of the minimum reserve provision detailed at page 47 of the appendix, Councillor Richard Allan Jones asked where this was identified within the accounts. It was reported that the MRP is a charge to the General Fund Revenue Account for the repayment of debt; changing the policy

isn't unusual and all authorities were following that practice. It was also reported that the information would also be included in the Treasury Management Report that would be considered at Full Council in March.

A query was made in relation to estimates and whether there would be added security given to those estimates made. Members were advised that security on estimates would increase and although there was some element of risk associated with estimates as long as officers make it clear on what procedures had been followed then there shouldn't be any concerns.

Councillor John Healy expressed some concern with regard to estimates and asked whether it can be assured that managers would not put estimates in that were not realistic. It was reported that regular monitoring of the process takes place to ensure that this would not happen. It was also stated that finance officers had been assigned to certain departments so relationships have been developed and the officer is aware of what the service looks like.

Councillor Richard Allan Jones asked KPMG whether they had had experience of using the ERP System and whether any pitfalls had been found. It was reported that there is a requirement to monitor the IT controls and there were some pitfalls in the beginning but through regular monitoring this has been managed. It was stated that KPMG would be carrying out a data analysis on the system in 2016.

As this was the first meeting that Jillian Burrows, KPMG had attended, Councillor Richard Allan Jones asked her what she thought of the meeting so far. Jillian stated that although there was a significant amount of information, she felt that members had scrutinised it well and they had understood the relatively complex issues within the reports.

RESOLVED that the content of the External Audit Plan 2015/16 be noted.

All to note

42 KPMG: CERTIFICATION OF CLAIMS AND RETURNS - 2014/15.

The Committee received a report which detailed KPMG's Annual review on Grants and Returns work 2014/15. Members were asked to note that through close liaison with KPMG, efforts had been made to improve the preparation of grant claims, taking improvement opportunities highlighted by KPMG into account. It was explained that this was done to minimise the external audit work required to certify the claims and minimise the respective audit fees.

It was highlighted that the main area of improvement remained the independent review of claims after compilation and before submission to the auditor.

In relation to Housing Benefit Subsidy and the error outlined at paragraph 10 of the report, Kathryn Smart asked whether any lessons had been learnt from this to minimise for the future. It was reported that this was a minor error, which since had been confirmed by the DWP that the claim had been settled on the unadjusted basis and that no payment was required. It was noted that there would be an update with regard to Skills Funding Agency at the next meeting.

KPMG

Councillor Richard Allan Jones asked whether there was an update with regard to the clawback on funding in relation to the FARRRS project. It was noted that a response was expected by the end of December 2015, but at present there was still no outcome. Members were advised that ERDF projects were now audited by the European Commission.

RESOLVED that the report and its findings be noted.

All to note

43 QUARTER 2 2015/16 STRATEGIC RISK UPDATE.

The Committee received a progress update on the strategic risks for Quarter 2015/16. A review was undertaken as part of the challenge process to ensure that the strategic risks reflected the priorities in the Corporate Plan for 2015/16. It was noted that there were currently 17 strategic risks.

It was advised that following the review a new area as follows had been nominated for inclusion on the Strategic Risk Register:-

- The delivery of the Equality & Inclusion Action Plan

Following a request from the Committee, the target risk score had been made more visible which could be seen within risk matrix attached at Appendix A to the report.

Councillor John Healy asked whether this information was reported elsewhere as there was a lot of information which Members/Officers need to be aware of. It was stated that this information is circulated to a number of meetings which would be part of the quarterly performance management reports. Members expressed concern with regard to the risks and assumptions and felt that this needed to be challenged when reports were being written. It was highlighted that the Corporate Report Format requires officers to fill out a risks and assumptions paragraph and this would be challenged at each meeting stage.

Kathryn Smart stated that in relation to Children's Services budget highlighted at page 71/72 of the report, it showed the target risk score being the same as the current risk, and requested clarity as to why the score was the same. It was reported that some of the actions that had been put in place had not be successful and the service were projecting an overspend. It was expected that the target risk score

would be below so this wasn't expected but this may be a result of the timing of the inspection.

In relation to Anti-Poverty highlighted at page 70 of the report, Councillor Susan Durant asked whether Ward Members had been involved with the anti-poverty process and expressed the importance of ward member engagement in this issue. It was reported that the Anti-Poverty Strategy Group had tried to engaged and there had been an all Members Seminar on this subject. It was suggested that Howard Monk would report back to the Group to address ward member engagement.

Howard
Monk

RESOLVED that:-

- (1) the report and strategic risks profiles in Appendix A be noted; and
- (2) the revisions to the Strategic Risk Register highlighted at paragraph 3 be noted.

All to note

All to note

44 DONCASTER COUNCIL GOVERNANCE PLAN 2016 AND UPDATE ON ACTIONS FROM PREVIOUS YEARS.

The Committee considered an update on the actions from previous years in relation to the Doncaster Council Governance Plan 2016. Members were advised that since the last Audit Committee the following recommendations had been implemented:-

R4 Preparation of the financial Statements. Ensure that quality assurance procedures linked to the production of the financial statements are sufficiently resourced to enable timely delivery.

Following the update, Members were afforded the opportunity to ask questions. The Chair, Councillor Austen White asked that an update be provided at the next meeting in relation to the Business Continuity Plan and Date Quality Arrangements. He had also noticed that in relation to Risk Assessment/Health And Safety highlighted at page 96 was on-going and asked whether there was a programme on Health and Safety. It was reported that this matter was shown as on-going as there was a programme of regular training which fully covers Health and Safety.

Colin
Earl/Howard
Monk

RESOLVED that the progress made in relation to the activities and progress in taking forward the Governance Plan for 2016, be noted including the following activities that had now been completed and will now be removed from the Governance Plan:

All to note

R4 Preparation of the financial statements. Ensure that quality assurance procedures linked to the production of the financial statements are sufficiently resourced to enable timely delivery.

INTERNAL AUDIT REPORT FOR THE PERIOD: SEPTEMBER 2015 TO DECEMBER 2015.

The Committee considered a report and appendix which updated Members on the work carried out by Internal Audit for the period 1 September to 31 December 2015, and showed it in the context of the audit plan for the year. The report also included performance information and details on the implementation of major internal audit recommendations.

The report provided members with a summary of the main points from each of the four sections which were identified at paragraphs 4 to 15 of the report.

Kathryn Smart requested clarity with regard to the letter received by the Mayor from a Doncaster citizen and whether this was an incident of Whistleblowing or an enquiry. It was reported that initially this was dealt with as a complaint but would check that this was the case. Additionally it was felt that the issue wasn't worthy of a review and it had been dealt with appropriately. Kathryn also made reference to the Audit team spending a significant amount of time with the Adults/Children Services directorates and asked whether this had impacted across the rest of the Council. It was reported that the team were aware of the changes in priorities through planning the process and the majority of the work is within Adults Services. Members were advised that 3 of the Full Time Staff were working within Adults Services but if there was a need to back fill then this could be accommodated. It was noted that a substantial amount of improvement was needed within Adults Service. However, the full picture would be more visible following the budget meeting at Cabinet.

Colin Earl

With regard to the 2016/17 audit plan and the reference made to creditors, Kathryn Smart asked whether the delay in implementing the review would have an impact on any work being carried out. It was reported that although the planned work had been deferred, there was a resource for this and it shouldn't have an impact on the work that should be completed within the timescale.

In relation to Conisbrough Balby Street Primary School, Members were advised that the work that needs to be carried out with regard to follow-ups had not yet been finalised so as yet there wasn't any information to provide to members. It was stated that this information would be reported through a further progress report.

Peter Jackson

The Chair, Councillor Austen White asked how confident the Audit Team were that actions will be taken with regard to the Short Break Respite Care. It was reported that this would be a 2 stage phased audit and follow-up worked had already been agreed. It was stated that the residual risk had been covered so the team were currently working on

this matter.

RESOLVED that:-

- | | | |
|-----|--|-------------|
| (1) | the internal audit work completed in the period be noted; | All to note |
| (2) | the progress made by officers in implementing previous audit recommendations be noted; | All to note |
| (3) | information relating to Internal Audit's performance in the period be noted; and | All to note |
| (4) | The changes to the original audit plan be noted. | All to note |

**To the Chair and Members of the
AUDIT COMMITTEE**

STATEMENT OF ACCOUNTS 2015/16 UPDATE

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Mayor Ros Jones	N/a	No

EXECUTIVE SUMMARY

1. This report provides an update on the Statement of Accounts for the Members of the Council's Audit Committee.

EXEMPT REPORT

2. This report is not exempt.

RECOMMENDATIONS

3. It is recommended that Members of the Audit Committee consider the report and note its findings.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. These arrangements will contribute towards the Council receiving an unqualified opinion on their accounts and secure good governance and value for money in its use of resources.

BACKGROUND

5. The process is underway with no major issues reported to date. Weekly final accounts meetings are taking place within Financial Management to monitor progress against the agreed timetable. A summary of tasks to date from the timetable is shown in the table below: -

Complete	Activity
08/02/16	Final accounts memorandum issued to Directorates
08/03/16	Final accounts manual circulated within Financial Management
22/03/16	Corporate capital resources issued
18/03/16	WIP information produced for further checking
22/03/16	Suspense accounts cleared to date

6. A summary of approaching key deadlines from the timetable is shown in the table below: -

Target	Activity
01/04/16	Valuation Report - Signed Final revaluation report, certificate and supporting schedules issued to finance
01/04/16	All feeders to E5 complete
15/04/16	Capital complete
28/04/16	Balance sheets and revenue complete
06/05/16	Notes to the accounts complete
20/05/16	Completion of single entity CI&ES, Balance Sheet and MIRS
31/05/16	Draft Statement of Accounts signed by Simon Wiles
17/08/16	Audit Committee – to approve and certify Statement of Accounts

7. The interim audit took place 14th – 18th March with KPMG on site. KPMG have confirmed that they will be relying on work completed by internal audit for the systems work, e.g. Council Tax, NNDR, Benefits, Rent Income. Work completed includes sample testing of journals, Payroll - 1 month reconciliation and review of starters/leavers, review of legal expenses and review of information supplied to South Yorkshire pensions actuary.

The KMPG external audit plan detailed the intention to use data analytics as part of the audit. It has been agreed that KPMG will not undertake the AP data analytics during this audit and instead will be doing an overview of general ICT/System controls.

KPMG will be on site on 29th and 30th March to test general IT controls for G/L, NNDR, Council Tax, Benefits and Rents, e.g. who can access the system, password parameters, super-users, starters/leavers, programme changes etc.

The Bank Reconciliation audit is to take place on 20th and 21st April due to the change from Co-op to Lloyds.

OPTIONS CONSIDERED

8. Not relevant to this report.

REASONS FOR RECOMMENDED OPTION

9. Not relevant to this report.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

10.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	<p>Council services are modern and value for money.</p>	<p>Receiving an unqualified opinion on the accounts and a good Value for Money conclusion will show that the Council is delivering effective services and demonstrating good governance arrangements.</p>
	<p>Working with our partners we will provide strong leadership and governance.</p>	

RISKS AND ASSUMPTIONS

11. Failure to meet the statutory deadlines for signing, producing and/or publishing the accounts would attract adverse comments from the auditors who could issue a public interest report.

The auditors need to be confident that the information in the accounts is accurate and reliable otherwise they may not be able to give an unqualified opinion on the accounts.

LEGAL IMPLICATIONS

12. The Council must comply with the CIPFA's Code of Practice on Local Authority Accounting (the 'Code') when preparing the accounts.

The Account and Audit Regulations 2011 (and the 2015 Regulations) and the Local Audit and Accountability Act 2014 specify the deadlines for signing and producing the accounts and when they will be available for public inspection.

FINANCIAL IMPLICATIONS

13. There are no direct financial implications.

HUMAN RESOURCES IMPLICATIONS

14. There are no direct Human Resources implications.

TECHNOLOGY IMPLICATIONS

15. There are no direct Technology implications.

EQUALITY IMPLICATIONS

16. There are no direct Equality implications.

CONSULTATION

17. Not relevant to this report.

BACKGROUND PAPERS

18. None.

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Simon Wiles
Director of Finance and Corporate Services

7th April 2016

**To the Chair and Members of the
AUDIT COMMITTEE**

**COVERT SURVEILLANCE - REGULATION OF INVESTIGATORY POWERS ACT
2000 (RIPA) UPDATE**

EXECUTIVE SUMMARY

- 1.1 The Council uses the Regulation of Investigatory Powers Act 2000 (RIPA) as its authority to conduct covert surveillance in the investigation of matters which it has responsibility to prosecute. Home Office statutory Codes of Practice recommend that best practice is followed if Councillors are involved in overseeing covert surveillance.
- 1.2 At the Audit Committee on 27th July 2010 it was agreed that the Committee should receive a yearly report reviewing the Authority's use of RIPA and its Policy and quarterly update reports on covert surveillance which had taken place. At the Audit Committee on 17th July 2014 it was agreed that the quarterly reports could be replaced with six monthly reports due to the limited number of covert surveillances taking place. This is the yearly report.

RECOMMENDATIONS

2. That the Committee should note the inspection report at Appendix 1 and the Council's action plan at Appendix 2. The inspection was carried out by the Surveillance Commissioner HH Norman Jones QC on 5th January 2016.
3. That the Committee should note the 6 RIPA applications that have been completed in the year from April 2015 and the update of the outcome of these matters shown at Appendix 3. Five matters have been authorised since the last report on RIPA was brought to the Audit Committee in September 2015 and two of these have been concluded, the details of the outcome of these are only briefly mentioned to avoid prejudicing the on-going cases. No RIPA applications have been refused by the Magistrates during the period to which this report relates.
4. The Council's RIPA procedure is reviewed as part of the yearly report and this has been amended in response to the inspection which is detailed in the action plan at Appendix 2. The current amended procedure is attached at Appendix 4.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

5. RIPA policies and procedures ensure that the Council has appropriate arrangements in place to comply with the law relating to RIPA authorisations and Covert Surveillance and that it is properly and lawfully carrying out covert surveillance where it is required.

BACKGROUND

6. The Regulation of Investigatory Powers Act 2000 was introduced in response to The Human Rights Act 1998 to ensure that Local Authorities could continue lawfully to carry out Covert Surveillance. The Government also set up the Office of Surveillance Commissioners who regularly inspects Local Authorities. The Council has been subjected to five inspections namely, 2003, 2004, 2009, 2012 and most recently in January 2016. The Surveillance Commissioner's Report and the Council's action plan following the latest inspection is attached at Appendices 1. and 2.

The three recommendations were:

1. to amend the central record to show the date the authorising officer approved the surveillance.
2. to arrange a training programme to improve RIPA knowledge; and.
3. to amend the RIPA procedure documentation.

Further details with regard to these are show in Appendix 2.

7. The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 came into force on 1st November 2012. This provides that directed surveillance can only be authorised under RIPA where the criminal offence sought to be prevented or detected is punishable by a maximum of at least 6 months imprisonment or would constitute an offence involving sale of tobacco and alcohol to underage children.
8. The Protection of Freedoms Act 2012 also requires Local Authorities to have all their RIPA surveillance authorisations (both directed and Covert Human Intelligence Sources (CHIS)) approved by a Magistrate before they take effect.
9. Appendix 3 details the covert surveillance authorisations in the last financial year and an update on the outcomes from completed matters.

OPTIONS CONSIDERED

10. Failing to follow the revised recommendations of the RIPA Code of Practice with regard to members seeing the reports would lead to criticism at the next inspection by the Office of Surveillance Commissioners.

11. Failing to follow the recommendations of the Inspection Report would leave the Authority open to criticism.

REASONS FOR RECOMMENDED OPTION

12. This will ensure that we are properly and lawfully carrying out covert surveillance where it is necessary

IMPACT ON THE COUNCIL'S KEY OUTCOMES

- 13.

	Outcomes	Implications
	Working with our partners we will provide strong leadership and governance.	The work undertaken by the Audit Committee helps to ensure that the systems of covert surveillance used by the Council are overseen ensuring good governance arrangements and compliance with the law and statutory codes.

RISKS AND ASSUMPTIONS

14. Failing to follow the regulations and Inspection report will put us at risk of criticism at the next inspection by the Surveillance Commissioners. Bearing in mind the limited extent of RIPA usage it would seem expedient and appropriate to have an initial annual report and then a review report after six months. It is considered this can be justified to the Commissioners at the next inspection.

LEGAL IMPLICATIONS

15. Failure to follow the law and the statutory codes and the Inspection Report would lead to criticism at the next inspection by the Surveillance Commissioner and could be the subject of a challenge in court proceedings where RIPA powers were relied upon.

FINANCIAL IMPLICATIONS

16. There are no specific implications due to the recommendations of this report. Where Covert Surveillance is used the costs are met from within individual service budgets.

HUMAN RESOURCES IMPLICATIONS

17. There are no human resources implications arising directly from the report.

TECHNOLOGY IMPLICATIONS

18. There are no technology implications arising directly from the report.

EQUALITY IMPLICATIONS

19. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'Due Regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising directly from this report.

REPORT AUTHOR & CONTRIBUTORS

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Jo Miller
Chief Executive



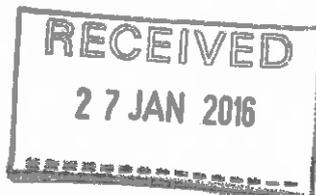
**Office of Surveillance
Commissioners**

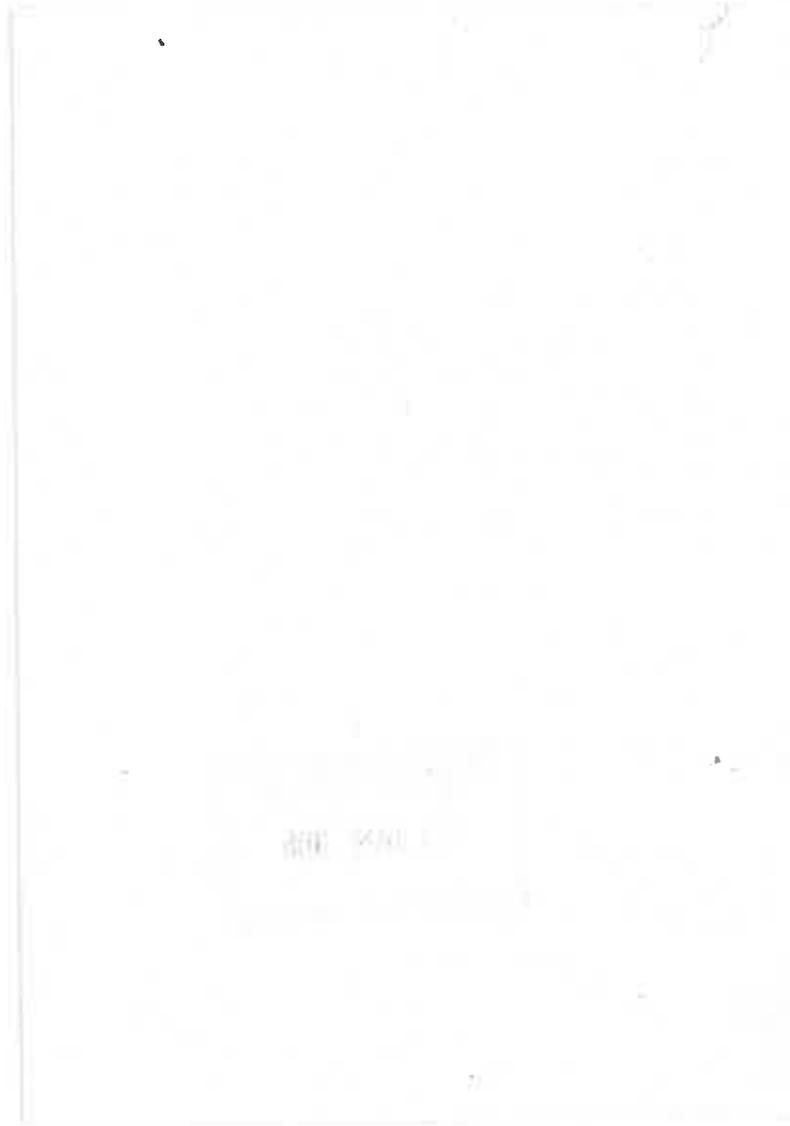
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With Compliments

**Yvette Moore
Clerk to the Secretariat**







Office of Surveillance
Commissioners



Chief
Surveillance
Commissioner

Official -Sensitive

27 January 2016

Covert Surveillance

Dear *Ms Miller,*

I enclose the report dated 19 January made to me by His Honour Norman Jones QC, Assistant Surveillance Commissioner, following his inspection of the arrangements made by the Council to ensure compliance with the legislative provisions which govern the use of covert surveillance.

I have studied the report, which I endorse.

There has been a reduction in the deployment of these statutory powers, but since the last inspection in 2012, a number of authorisations both directed surveillance and CHIS, have been sought and granted. In short, therefore, it is important that the necessary structures should be in place so that any relevant deployment cannot be criticised as unlawful. After the last inspection in 2012, eight recommendations were made. These have all been addressed, and largely, but not entirely, discharged. Examination of the records revealed a number of weaknesses in the process of application/authorisation which are set out in paragraph 13, and were discussed after the inspection. Rather than make each suggestion the subject of a specific recommendation I highlight this paragraph for attention.

The remaining recommendations are, I believe, self-explanatory. The necessity for a full training programme is underlined. Effective refresher training would enable the oversight referred to in paragraph 33 to be more robust. These processes are necessary to ensure compliance. The sensitivities of CHIS deployment and management require no emphasis. The underlying problems seem to me to arise from insufficient or inadequate training of officials and in this way the recommendations are all connected.

I am, of course, aware of some of the pressures on the Council, but in the circumstances it would be sensible for a training programme, directed to the issues raised in the report, to be arranged.

I look forward to hearing from you that these recommendations will be addressed.

Ms Jo Miller
Chief Executive, Doncaster Metropolitan Borough Council
Copley House,
Waterdale
Doncaster DN1 3EY

Norman Jones
Lord Judge

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OFFICIAL - SENSITIVE



**Office of Surveillance
Commissioners**

OFFICE OF SURVEILLANCE COMMISSIONERS

INSPECTION REPORT

Doncaster Metropolitan Borough Council

5th January 2016

**Assistant Surveillance Commissioner:
HH Norman Jones QC.**

OFFICIAL - SENSITIVE

OFFICIAL- SENSITIVE**DISCLAIMER**

This report contains the observations and recommendations identified by an individual surveillance inspector, or team of surveillance inspectors, during an inspection of the specified public authority conducted on behalf of the Chief Surveillance Commissioner.

The inspection was limited by time and could only sample a small proportion of covert activity in order to make a subjective assessment of compliance. Failure to raise issues in this report should not automatically be construed as endorsement of the unreported practices.

The advice and guidance provided by the inspector(s) during the inspection could only reflect the inspectors' subjective opinion and does not constitute an endorsed judicial interpretation of the legislation. Fundamental changes to practices or procedures should not be implemented unless and until the recommendations in this report are endorsed by the Chief Surveillance Commissioner.

The report is sent only to the recipient of the Chief Surveillance Commissioner's letter (normally the Chief Officer of the authority inspected). Copies of the report, or extracts of it, may be distributed at the recipient's discretion but the version received under the covering letter should remain intact as the master version.

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Office of Surveillance
Commissioners

Chief Surveillance Commissioner,
Office of Surveillance Commissioners,
PO Box 29105,
London,
SW1V 1ZU.

19th January 2016.

INSPECTION REPORT DONCASTER METROPOLITAN BOROUGH COUNCIL

Inspection 5th January 2016
Inspector His Honour Norman Jones QC.
Assistant Commissioner

Doncaster MBC.

1. Doncaster Metropolitan Borough Council administers an area covering 219.3 square miles with a mixed urban and rural population of about 304,000 in South Yorkshire. The principal town is Doncaster, but over 70 other settlements are included within the Metropolitan Borough.
2. The Chief Executive, as at the last visit, is Ms Jo Miller who is immediately supported by five Directors and teams led by Assistant Directors.
3. I conducted the previous inspection of the Council for the OSC in October 2012.
4. Mr Roger Harvey, Assistant Director Legal and Democratic Services, continues as the Senior Responsible Officer (SRO) as does Ms. Helen Potts, Principal Legal Officer, as RIPA Co-ordinating Officer.
5. The Council is a more limited user of RIPA than at the time of the last inspection when it had granted 40 authorisations for *directed surveillance* and three for *Covert Human Intelligence Sources (CHIS)* in a period of three years. In The three years preceding this inspection 13 authorisations have been granted for *directed surveillance* and 5 for CHIS all being for trading standards investigations. None were *urgent* or concerned *confidential information*. However Mr Dave McMurdo, Trading Standards Manager and an authorising officer, drew to my attention two authorisations for CHIS in which he had been both authorising officer and controller and thus had self authorised. This was not recorded as such in the Central Record of Authorisations.
6. The Council administrative headquarters is at Copley House, Waterdale, Doncaster, DN1 3EY.

Inspection.

7. Mr Harvey, Ms. Potts and Mr McMurdo extended a warm welcome to Doncaster. During the inspection interviews and discussions were held with those officers and, during a later visit to the CCTV Centre, with Ms. Janice Jones, Alarm Receiving Centre Manager. Ms. Geraldine Morton, Head of Revenues and Benefits, joined the inspection to discuss and consider the authorisations examined. The ready assistance and enthusiasm of all officers interviewed was much appreciated.
8. An examination was undertaken of the Central Record and a sample of the authorisations and ancillary documentation which had arisen since the last inspection. Among the *RIPA* issues discussed were those arising from the examination of records, reasons for reduction in authorisation, progress on the recommendations of the last OSC report, the management of *RIPA*, authorising officers, training, *CHIS* and social media, policy and procedures, the effects of recent legislation, councillor information and CCTV.

Reduction in authorisations

9. Reasons given for the decline in authorisations by over 50% include the following:
 - the effect of the *Protection of Freedoms Act 2012* legislation has reduced the capacity of departments to undertake covert investigations in less serious cases;
 - the Children's Department has now been placed in a trust which is dissociated from the Council;
 - Environmental Health has ceased using covert techniques and deploy signed CCTV cameras at fly tipping sites;
 - The Trading Standards Department has reduced its reliance on the use of children for underage test purchasing and now only targets retailers in relation to whom it has intelligence. However this has only led to a marginal decrease in Trading Standards usage of *RIPA* (18 authorisations against 19 at the last inspection) with all authorisations undertaken since the last inspection emanating from this Department.

Examination of Records

10. The **Central Record** is well maintained on a computerised spreadsheet. It is now almost fully compliant with the requirements of the *Code of Practice for Covert Surveillance and Property Interference* 8.1 but the removal of the date of authorisation is an error requiring rectification.

See recommendation

11. Two *directed surveillance* and two *CHIS* authorisations were examined in detail and other authorisations were reviewed. In each case Mr McMurdo was the authorising officer.
12. It was encouraging to note that the Home Office forms in use had been further improved by additional prompts designed to encourage applicants and authorising officers to pay specific attention to individual issues. Notable amongst these was the inclusion of the three basic elements of *proportionality*.
13. General weaknesses continue to appear in the applications/authorisations and in the ancillary documentation. These were discussed with the officers at some length during the inspection and they include:
 - inadequate consideration of the elements of *proportionality*. Such a consideration should encompass the three fundamental elements: (a) that the proposed covert surveillance is proportionate to the mischief under investigation; (b) that it is proportionate to the degree of anticipated intrusion on the target and others; (c) it

is the only option, other overt means having been tried or considered and discounted. All too frequently only one of these elements is considered and that in spite of the three elements being a specific prompt.

- *Necessity* should embrace a consideration of **why** the use of covert surveillance is *necessary* in the investigation. This was not always included.
- The documents available for inspection did not include, where the investigation was concerned with sales from retail premises, any indication of the intelligence being acted upon. This was a criticism at the time of the last inspection but in discussion with Mr McMurdo he indicated that lists of premises with some indication of intelligence was provided at the time of submission of the authorisation to the *RIPA Co-ordinating Officer*. Ms. Potts accepted that was likely and that she may not have attached that information to the forms when filed although it did go to the magistrates and form part of the documentation considered for approval. This error must be addressed since in such cases the nature of the intelligence forms an integral part of the consideration of both *necessity* and *proportionality*. Ms. Potts was able to recover one such form from her files relating to the test purchase of alcohol being sold for juvenile consumption, and when examined it provided a list of premises to be visited but in terms of intelligence did no more than indicate that the 15 premises concerned had at some stage in the past failed an alcohol test purchase. Four such test purchases had taken place four months before the authorisation and seven between a year and two years before. Three were three years before and one did not provide such information. None appeared to rely upon information that underage sales were currently taking place or that there had been any recent incidence of drink affected behaviour in the vicinity of the premises. The appearance of this authorisation was that it was a fishing exercise largely relying upon stale "intelligence".
- In other cases it should be noted that it is important to articulate the nature of the intelligence relied upon, which should be related to specific premises, and not just to rely upon general terminology such as "police intelligence".
- Authorisations do not pay sufficient attention to the "5W's" prompts provided in the form. Consequently descriptions of how and when operations are to be undertaken are rarely found.
- In one *CHIS* applications/authorisation individuals believed to be selling illicit goods had been identified from Facebook investigation. There was little description of how the computer technology was used to obtain that information and it was clear from the authorisation, but not the application, that a covert Facebook account was in use. The application gave little detail of how the technology was to be used. A number of targets were supplied with the comment that the officer would "manage them". There was no description of any other means considered. A later *CHIS* application utilising similar technology for a similar purpose gave better detail of what was to be undertaken but was still deficient in outlining how the operation was to be conducted. In this case the use of computer technology was not referred to save in the risk assessment. It would appear that more consideration was given to the picking up of goods from an address than of the procedures used to reach that point.
- The forms contained within the Central Record suffered from the weakness that a number were copies of originals. In addition some did not bear signatures either of the applicant or authorising officer. All forms filed with the Central Record should be originals.
- All authorisations were typed and we discussed the best practice of authorisations being handwritten in terms of establishing that authorising officers had put their minds to the authorisation and that the authorisation had not been subsequently amended.
- The fact that the authorising officer acted on occasion as controller has been mentioned above. This practice should cease forthwith.

- Further attention should be paid to ensuring that expiry dates are set and are accurate.
 - Reviews were generally set and conducted. One directed surveillance operation suffered delays, not caused by the officers, and was subject to two reviews before being renewed. The reviews were of a reasonable quality and the first review undertaken following the renewal was also of a reasonable quality. However by the time of the second review following renewal five months had elapsed and there was still no progress being made. It should have been clear that the authorisation should be cancelled but it was allowed to run for another month before being cancelled at the end of the renewal period. A second authorisation was similarly reviewed at times when it was clear that little activity had taken place but was still permitted to continue. Mr McMurdo indicated that the lack of activity was often caused by police officers failing to turn up for operations after arranging to do so and the operation could not be undertaken since only the police had the power to issue the requisite fixed penalty notices.
 - It was noted that cancellations were sometimes being undertaken late, in some cases some months after expiry, and contained little detail of what been achieved.
14. On the positive side it was also noted that a number of the applications gave good detail of what they sought to achieve. Collateral intrusion was always well addressed and regular reviews were undertaken. It should further be remarked that not all applications contained all of the weaknesses described above.
15. It is of some disappointment that issues raised at the time of the last inspection have not been fully addressed. Particularly it is disappointing to see some 15 years after the commencement of RIPA that fundamental issues are not being addressed even where there are clearest prompts within the forms for assistance.

See recommendation

Progress on previous recommendations

16. Eight recommendations were made in the last OSC report:
- i. Insert a column in the Central Record to reflect reviews and ensure that all columns are completed when recording authorisations.*
- This recommendation has been discharged but note the comment in paragraph 10 above.
- ii. Ensure that authorisations are confined to the sole statutory ground available to the Council.*
- Current authorisations are so confined and this recommendation has been discharged.
- iii. Establish a system of robust and immediate oversight of the authorisation process.*

The RIPA Co-ordinating Officer, or occasionally the SRO or another lawyer, will review and check each application/authorisation prior to the authorising officer signing, a process which is recorded in the Central Record. This process should serve as a challenge to some of the weaknesses raised in the examination of the documents at this inspection. At present it does not appear to be doing so and emphasis

should be laid on making the process more robust. This recommendation has been partly discharged.

- iv. *Establish a defined training programme commencing with a professionally delivered session for all who may authorise and likely applicant officers. This should be followed by regular refresher training. Ensure that the weaknesses identified in this report are addressed.*

Since the last inspection corporate training was provided by a professional external trainer in June 2013 and secured a large attendance of both authorising officers and likely applicants. However this has not been followed up by refresher training on a corporate basis although there is regular contact between the Training Standards Department and the *RIPA Co-ordinating Officer* in which she provides updating information and guidance. This recommendation has been partially discharged.

- v. *Establish an equipment record.*

An equipment record has been set up centrally to identify equipment owned by the Council which may be used for covert investigations. Individual records are kept in each Department relating to the use by that Department of such equipment. This recommendation has been discharged.

- vi. *Reduce the number of approved authorising officers and indicate that all authorising officers are enabled to authorise for all departments of the Council. Ensure that all those who may authorise are appropriately trained.*

The 10 authorising officers designated at the time of the last inspection have been reduced to 5. They undertook training outlined above in June 2013 but not since. Authorisation is currently confined to Trading Standards and unless other departments of the Council become more active the number of authorising officers could, if the Council wished, be reduced further to a number which would satisfy the requirement for resilience. This recommendation has been discharged.

- vii. *Amend the Doncaster MBC Procedure for Authorisation for Covert Surveillance or the Use of CHIS document.*

The proposed amendments outlined in the last report have all been adopted. This recommendation has been discharged.

- viii. *Establish a CCTV protocol with the police for the use of the Council's CCTV system for covert surveillance.*

Such a protocol has been established. This recommendation has been discharged.

Management of RIPA.

17. Mr Hartley is an experienced *SRO* having been in the role for several years. He retains close oversight of the operation of the system and maintains regular contact with the *RIPA Co-ordinating Officer*, both being in the same Department. He attends meetings with the *RIPA Co-ordinating Officer* and officers from other departments who may have an

involvement with *RIPA*, in particular with the Trading Standards Department. If complex issues arose he would be informed and would anticipate taking action. If those issues involved a particular officer he would take a robust stance in relation to that officer, although he was at pains to emphasise that he had never been required to do so. He occasionally dip samples authorisations and periodically undertakes a review of the files. He recognises his responsibility for ensuring that authorising officers are appropriately trained.

18. Ms. Potts, as *RIPA Co-ordinating Officer*, is responsible for day-to-day *RIPA* activities. She is recognised as the principal officer in the Council to be approached with regard to surveillance issues. She has recently been approached to advise as to whether there were any *RIPA* implications involved in the use of drones to survey the condition of school roofs. An online page on the Council intranet directs staff to her for such information. With the assistance of Mr Harvey's PA she maintains the Central Record. She reviews each application/authorisation prior to the authorising officer signing it and it is then submitted for approval by the magistrates. (See paragraph 16 (iii) above). In addition she is responsible for the organisation of corporate *RIPA* training. She is responsible for maintaining a good state of *RIPA* awareness throughout the Council and does so with a good degree of success considering the regular approaches made to her by departments concerning *RIPA* issues. The establishment of *RIPA* awareness online e-training for all staff in December 2015 was most encouraging.
19. It is to be noted that the elected members demonstrate an active interest in the subject through the Audit Committee which is regularly briefed and has particularly raised issues concerning the overall awareness by officers of the *RIPA* provisions.

Authorising officers

20. There are now five designated authorising officers although virtually all authorisation is undertaken by Mr McMurdo who acts as authorising officer for the Trading Standards Department. (See paragraph 16(vi) above). Whilst all have been trained the last such training was in 2013 and examination of the authorisations indicates the need for further training. (See **Training** below). In addition the Chief Executive and (in her absence) whoever deputises for her, may authorise for the employment of *juvenile* or *vulnerable CHIS* and for the acquisition of *confidential information*. These officers also must be trained to undertake those authorisation responsibilities.

See recommendation

Training

21. The absence of a corporate *RIPA* training programme, which would ensure regular refresher training, causes some concern. This was part of a recommendation from the previous inspection and it is somewhat disappointing that it has not been followed through. Such refresher training could be delivered internally by Ms. Potts or another officer of the Legal Department with *RIPA* experience. Its purpose would be to ensure that officers are regularly reminded of the principles to be considered when undertaking either applications or authorisations and in particular to remind officers of the importance of articulating their full considerations within the documents and drawing attention to the prompts added to the forms, both by the drafters and by Doncaster MBC, for their assistance. This would address a number of the problems arising from the completed forms examined at this time.
22. A further approach to refresher training was discussed with the officers and embraced the concept of expansion of the new *RIPA* awareness e-training to embrace a more comprehensive system of refresher training. This would have the advantage of ensuring

that all authorising officers and likely applicants would be obliged to undertake the training and to satisfactorily complete exercises attached to the training.

23. It is to be noted that the regular six monthly meetings of authorising officers in a "RIPA Group" ceased in 2013. This served as a useful forum for debating covert surveillance issues and furthermore provided a degree of refresher training.

See recommendation.

CHIS and Social Media

24. CHIS are only deployed by the Trading Standards Department and then only in relation to the use of social media and the collection of illicitly sold items from addresses in and about Doncaster. The CHIS is always an officer of the Council. Resource implications alone preclude any extensive use of CHIS although the deployment of officers acting as such would be considered if it was felt necessary to establish a relationship with a subject believed to be selling items illegally.
25. The importance of ensuring that there are officers able to act as controllers and managers of CHIS in these situations was emphasised. Further emphasis was laid on the importance of ensuring the independence of the authorising officer by him/her not engaging in any activity related to an investigation, which included not being a controller or handler. Training should be provided to officers undertaking these roles although it does not require to be to the level undertaken by the police.

See recommendation.

26. The exploration by Trading Standards of social networking sites to identify those selling counterfeit and other illegal goods was discussed. This practice is employed by the Department and is likely to increase. Whilst there are many technological and legal stumbling blocks in such usage it was encouraging noting that the trading standards officers were aware of the covert surveillance significance attached to such practices and had authorised accordingly. The general practice had been to identify from open sources likely criminal activity and then to obtain appropriate authorisation to become a Facebook "friend" with the use of a covert identity. A relationship would be established with the seller and arrangements would be made for the officer to collect goods from an address. The need to more fully identify within applications and authorisations precisely what was authorised, including the use of computer technology, has previously been discussed. (See paragraph 13 above). A "rule of thumb" guide to the practice was considered during the inspection and may be summarised thus:

Reviewing open source sites does not require authorisation unless the review is carried out with some regularity, usually when creating a profile, in which case *directed surveillance* authorisation will be required. If it becomes necessary to breach the privacy controls and become, for example, a "friend" on the Facebook site, with the investigating officer utilising a false account concealing his/her identity as a Council officer for the purposes of gleaning intelligence, this is a covert operation intended to obtain private information and should be authorised, at the minimum, as *directed surveillance*. If the investigator engages in any form of relationship with the account operator then s/he becomes a CHIS requiring authorisation as such and management by a Controller and Handler with a record being kept and a risk assessment created.

Protection of Freedoms Act 2012 and RIP(Directed Surveillance and CHIS)(Amendment)Order 2012, SI 2012/1500 .

27. This legislation commenced in November 2012. Since that time the Council has granted 17 authorisations all of which have achieved the approval of a Magistrate. The Council has set up a good relationship with the Magistrates' Court and discussed with the court officers the procedures to be adopted. These ensure that applications for approval are submitted in good time by email and considered by the Magistrate, usually a District Judge, prior to appearance. The authorising officer and applicant will normally attend the hearing on behalf Council.

Policy and Procedures

28. The Council's *RIPA* policy is set out in its *Policy Statement - RIPA 2000*. It is a brief document appropriately outlining the approach of the Council to covert surveillance.
29. The procedures to be adopted by Council officers applying for or granting authorisation are outlined in the document, *Procedures for Authorisation of Directed Covert Surveillance or a CHIS* which was last revised in December 2014. It is an informative document covering all of the issues likely to be met by applicant and authorising officers. A few minor amendments were considered with the officers during the inspection and which were noted to be undertaken. A section is included relating to the researching of social media sites for the purposes of obtaining intelligence and evidence. It would be improved by the addition of the guideline outlined in paragraph 27 above.

See recommendation.

Councillors.

30. Regular reports are provided to the Council's Audit Committee relating to *RIPA* activity and an annual report would be delivered to enable Councillors to satisfy themselves that the policy remains fit for purpose.

CCTV

31. A visit was paid to the CCTV Centre where valuable assistance was provided by Ms. Janice Jones, the Alarm Receiving Centre Manager. The Centre has been rebased since the last OSC inspection. It is now an entirely new digital system which covers with 400 cameras the Doncaster town centre, Mexborough, Thorne and Moorends and Council buildings and alarms. In addition it monitors 600 cameras on properties owned by the Council Buildings Service, an arm's-length company. The system operates on a 24/7 basis by three or four operators being on duty at a time. All are appropriately trained.
32. Although the police have not used the system for covert surveillance purposes in recent years a protocol now exists requiring officers to submit a suitably redacted police *RIPA* authorisation to the Centre which would be considered by the Manager and the *RIPA Co-ordinating Officer* before access would be granted to the system. A copy of the authorisation is provided to the *RIPA Co-ordinating Officer* and the original retained on a file at the Centre. This is a distinct improvement on the ad hoc system existing at the time of the last inspection.

Conclusions

33. Most of the conclusions found in the last report are pertinent to this report. The Council has a good management structure for *RIPA* with able and experienced officers within the Legal Department as *SRO* and *RIPA Co-ordinating Officer*. Oversight is exercised on all authorisations prior to their being signed by the authorising officer. It was therefore disappointing to yet again find weaknesses in the actual applications and authorisations. This is indicative of the need for that oversight to be exercised more robustly with

particular attention paid to the articulation of the consideration given to the essential elements and of that which has been authorised.

34. The adoption of an effective system of refresher training would undoubtedly lead to an improvement in the quality of authorisations. In particular it would draw the attention of applicant and authorising officers to the requirement to articulate in detail what is required to be authorised and what is authorised giving full consideration to the "5Ws". It is of particular interest to note that the Council will give active consideration to the use of e-training as a means of establishing refresher training. The principal recommendation in this report relates to the issue of training.
35. It was again encouraging to note that all of the previous recommendations had either fully or partially been discharged.

Recommendations

- 36.
- I. Amend the Central Record of Authorisations.(paragraph 10).
 - II. Establish a training programme to embrace regular refresher training either by the *RIPA* officers or by e-training and address the issues raised in the examination of *RIPA* documentation in this report. Ensure that officers are trained to manage *CHIS*. (paragraphs 13-15, 16(iv), 20, 21-23 and 25).
 - III. Amend the *RIPA Procedures* document. (paragraph 29).

His Honour Norman Jones, QC.
Assistant Surveillance Commissioner.

ACTION PLAN

APPENDIX 2

Following from *RIPA* Inspection on 05/01/16 by Surveillance Commissioner HH Norman Jones QC.

Issues referred to following inspection

No.	Action	Responsible	By Date	Comments	Date Completed
1.	Amend Central Record of Authorisation to include date of authorisation by authorising officer and also the date authorised by a Magistrate.	H Potts	February 2016	Date added.	February 2016
2.	Establish a Training Programme to embrace regular refresher training either by <i>RIPA</i> officers or by e-training and address the issues raised in the examination of <i>RIPA</i> documentation in this report. Ensure that officers are trained to manage Covert Human Intelligence Sources (<i>CHIS</i>)	H Potts D McMurdo	April 2016	<p>Training will consist of:</p> <ul style="list-style-type: none"> a) Roll out online course for officers who need overview of Covert Surveillance. b) Arrange for April external training by expert in <i>RIPA</i> field for Trading Standards staff and Authorising officers which will pick up the areas of weakness identified in the report. c) A yearly review of training with refresher training for those staff regularly involved in <i>RIPA</i> at least every 18 months. <p>Raising awareness of a) will take place using DMT meetings.</p>	<p>External training arranged for 7th April 2016.</p> <p>Online refresher course to be available on mainstream HR portal from April 2016</p>

3.	<p>Update DMBC RIPA Procedure:</p> <ul style="list-style-type: none"> a) Amend social media section at 22 with statement included in report b) Make amendments as below which inspector raised on the day. c) Use 'authorisation' rather than 'approval' at 6.3 and amend last section 'deputy in their absence' d) Add 'proportionate' after necessary at 7.9 e) Add 'unless cancelled or renewed' after 3 months duration in second line and remove 'a maximum of' at 8.7 f) At 9 at end add 'that being the day of the magistrates approval' g) At 15.6 add 'unless cancelled or renewed' and remove 'maximum'. h) At 16.5(a) add in 'necessary ' before proportionate. i) At 23.2 remove 'depending on the number of RIPA applications authorised.' j) At 27.7 add in 'three years from the ending of authorisation or at least until there has been an OSC inspection' 	H Potts	February 2016		February 2016.

APPENDIX 3**DMBC RIPA AUTHORISATIONS 29/05/15 - 08/02/16**

No.	Date of Approval by Magistrate	UNIQUE REFERENCE NUMBER	CASE TYPE	PROSECUTOR	STATUS
128.	29.05.15	URN 94	Counterfeit Goods	Chief Trading Standards Officer	Prosecution
129.	09.10.15	URN 95	Counterfeit Tobacco Sales	Chief Trading Standards Officer	Prosecution
130.	27.10.15	URN 96	Underage Sales	Chief Trading Standards Officer	Fixed Penalty Notice issued /compliance gained.
131.	10.11.15	URN 97	Illegal Tobacco Sales	Chief Trading Standards Officer	Surveillance Informed. Cancellation and alternative methodology used.
132.	18.2.16	URN 98	Illegal Tobacco Sales	Chief Trading Standards Officer	On-going
133.	18.2.16	URN 99	Illegal Tobacco Sales	Chief Trading Standards Officer	On-going

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DONCASTER METROPOLITAN BOROUGH COUNCIL

Authorisation Procedures for the use of Directed Covert Surveillance and a Covert Human Intelligence Source (CHIS)

(In Compliance with Regulation of Investigatory Powers Act 2000)

1. **Background**

- 1.1 The use of surveillance to provide information is a valuable resource for the protection of the public and the maintenance of law and order. In order that local authorities and law enforcement agencies are able to discharge their responsibilities, use is made of surveillance and surveillance devices.
- 1.2 Where this surveillance is **planned** i.e. *is pre-meditated*, and is **covert**, i.e. *the subject of the surveillance is unaware that it is taking place*, then it must be authorised to ensure that it is lawful in accordance with the requirements of the **Regulation of Investigatory Powers Act 2000 (RIPA)**.
- 1.3 **C.C.T.V.** systems in the main will not be subject to this procedure as they are 'overt' forms of surveillance. However, where **C.C.T.V.** is used as part of a pre-planned operation of surveillance then authorisation should be obtained.
- 1.4 From October 2000 planned Covert Surveillance became the subject of a legal framework to ensure that the use of surveillance is subject to **Senior Officer** authorisation, review and cancellation and that there is a procedure to support this.
- 1.5 In terms of monitoring e-mails and internet usage, it is important to recognise the important interplay and overlaps with the existing **DMBC** policy relating to e-mail and internet and guidance and also

The Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, The Data Protection Act 1987 and its Code of Practice. Official **RIPA** forms should be used where **relevant** and they will be only **relevant** where the **criteria** listed on the Forms are fully complied with.

- 1.6 If you are in any doubt about the need to adhere to any **RIPA** related provisions or matters referred to in this document or the related legislative provisions, please consult the **Assistant Director Legal and Democratic Services (or Delegated Officer)**, at the earliest possible opportunity.

- 1.7 At present Authorising Officers who can authorise surveillance are available in the following departments:

Legal
Revenue and Benefits
Trading Standards

2. Objective of This Procedure

- 2.1 The objective of this procedure is to ensure that all work involving Directed Surveillance by **D.M.B.C.** employees is carried out effectively, while remaining in accordance with the law and in particular does not breach **The Human Rights Act 1998**.
- 2.2 This procedure should be read in conjunction with the **Regulation of Investigatory Powers Act 2000** and the latest version of the **Codes of Practice** relating to the *Use of Covert Human Intelligence Sources* and *Directed Surveillance*, which is obtainable on the intranet website under 'Legal Services' or directly from the Assistant Director Legal and Democratic Services.
The Codes of Practice should be available to and read by all persons involved in completing applications and authorising RIPA-governed surveillance and information gathering.

PLEASE NOTE THIS IS THE MOST IMPORTANT DOCUMENT IN THE WHOLE RIPA RELATED PROCESS. YOU SHOULD FAMILIARISE YOURSELF WITH ITS CONTENTS AND STRICTLY FOLLOW THE PROCEDURES REFERRED TO SO THAT POTENTIALLY SERIOUS LEGAL CONSEQUENCES ARE AVOIDED.

The Office of Surveillance Commissioners Procedures and Guidance is a useful document, available on the intranet and should be read in conjunction with the DMBC procedure.

3. Definitions

- 3.1 **'Surveillance'** includes

- monitoring, observing, listening to persons, watching or following their movements, listening to their conversations and other such activities or communications.
- recording anything mentioned above in the course of authorised surveillance.
- surveillance, by or with, the assistance of appropriate surveillance device(s).

SURVEILLANCE can be OVERT OR COVERT

- 3.2 **Overt Surveillance**

Most of the surveillance carried out by the **DMBC** will be done **Overtly** - there will be nothing secretive, clandestine or hidden about it. In many cases, Officers will be behaving in the same way as a normal member of the public (e.g. in the case of most test purchases), and/or will be going about Council business openly (e.g. a market inspector walking through markets).

Similarly, surveillance will be Overt if the subject has been told it will happen (e.g. where an alleged noise nuisance is warned (preferably in writing) that noise will be recorded if the noise continues, or where an entertainment licence is issued subject to conditions, and the licensee is told that officers may visit without notice or identifying themselves to the owner/proprietor to check that the conditions are being met).

3.3 **Covert Surveillance**

Covert Surveillance is carried out in a manner calculated to ensure that the person subject to the surveillance is unaware of it taking place. (**Section 26(9)(a) of RIPA**).

RIPA regulates two types of Covert Surveillance.

(a) **Directed and Intrusive Surveillance**

(b) The use of **Covert Human Intelligence Sources (CHIS)**.

3.4 **Directed Surveillance**

Directed Surveillance is surveillance which:-

- is Covert; and
- is not **Intrusive Surveillance** (see definition below)
- **PLEASE NOTE, DMBC MUST NOT CARRY OUT INTRUSIVE SURVEILLANCE ;**
- is not carried out as an immediate response to events which would otherwise make seeking authorisation under the Act unreasonable, e.g. spotting something suspicious and continuing to observe it; **and**
- it is undertaken for the purpose of a specific investigation or operation in a manner likely to obtain private information about an individual (whether or not that person is specifically targeted for purposes of an investigation). (**Section 26(1) of RIPA**).

Private Information in relation to a person includes any information relating to his private and family life, his home and his correspondence. The fact that

Covert Surveillance occurs in a public place or on business premises does not mean that it cannot result in the obtaining of private information about a person. Prolonged surveillance targeted on a single person will undoubtedly result in the obtaining of private information about him/her and others that she/he comes into contact, or associates with.

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

For the avoidance of doubt, only those Officers designated and certified to be 'Authorised Officers' for the purpose of **RIPA** can authorise 'Directed Surveillance'.

PLEASE NOTE THAT IT IS IMPERATIVE THAT DOCUMENTED PROCEDURES ARE FOLLOWED TO AVOID ADVERSE LEGAL CONSEQUENCES FOR PROCEDURAL FAILURES UNDER RIPA

The **RIPA** authorisation procedures detailed in this Document **MUST** be followed. If an Authorised Officer has not been '**certified**' for the purposes of **RIPA**, he/she **CANNOT** carry out or approve/reject any action set out in this Document.

The surveillance of an employee relating to a disciplinary matter where the Council is looking to enforce its employment contract does not usually fall within **RIPA (C v The Police and the Secretary of State for the Home Department (14th November 2006, No: IPT/03/32/H))**. However any surveillance must ensure that it does not breach the right of an individual under **Article 8 of the HUMAN RIGHTS ACT 1998** and must also be proportionate and necessary.

The Information Commissioner's Officer has issued Employment Practice Codes (Part 3) which covers legal requirements this area.

3.5 Intrusive Surveillance

This is surveillance which:-

- is **Covert**;
- relates to residential premises and private vehicles; and
- **involves the presence of a person in the premises or in the vehicle or is carried out by a surveillance device in the premises/vehicle**. Surveillance equipment mounted outside the premises will not be intrusive, unless the device consistently provides information of the same quality and detail as might be expected if they were in the premises/vehicle.

This form of surveillance can be carried out only by police and other law enforcement agencies. **Council Officers MUST NOT carry out Intrusive Surveillance.**

- 3.6. Authorising Officer is the person who is entitled to give an authorisation for directed surveillance in accordance with the **Regulation of Investigatory Powers Act 2000**.
- 3.7 Private information includes information about a person relating to his private or family life.
- 3.8 Residential premises means any premises occupied or used, however temporarily, for residential purposes or otherwise as living accommodation.
- 3.9 Private vehicle means any vehicle that is used primarily for the private purpose of the person who owns it or of a person otherwise having the right to use it. (This does not include a person whose right to use a vehicle derives only from his having paid, or undertaken to pay, for the use of the vehicle and its driver for a particular journey.) A vehicle includes any vessel or aircraft. (For information vehicle tracking is overt)
- 3.10 ***CHIS (Covert Human Intelligence Source)*** is where the Council use someone to establish or maintain a personal or other relationship for the covert purpose of obtaining or passing on information.

4. PROCEDURE RELATING TO DIRECTED SURVEILLANCE or CHIS

- 4.1 This procedure applies in all cases where **'Directed Surveillance'** or **'CHIS'** is being planned or carried out. Directed Surveillance is defined in the Code of Practice as surveillance undertaken **"for the purposes of a specific investigation or operation"** and **"in such a manner as is likely to result in the obtaining of private information about a person"**.
- 4.2 The procedure **does not apply** to:
- **ad-hoc covert observations** that do not involve the systematic surveillance of specific person(s);
 - **observations that are not carried out covertly;** or
 - **unplanned observations made as an immediate response to events.**

Examples of different types of Surveillance

Type of Surveillance	Examples
<p>Overt</p>	<ul style="list-style-type: none"> - Police Officer or Parks Warden on patrol - Signposted Town Centre CCTV cameras (in normal use) - Recording noise coming from outside the premises after the occupier has been warned that this will occur if the noise persists. - Most test purchases (where the officer behaves no differently from a normal member of the public).
<p><u>Covert</u> but not requiring prior authorisation.</p>	<ul style="list-style-type: none"> - CCTV cameras providing general traffic, crime or public safety information.
<p><u>Directed</u> MUST be <i>RIPA</i> authorised.</p>	<ul style="list-style-type: none"> - Officers follow an individual or individuals over a period, to establish whether he/she is working when claiming benefit.
<p><u>Intrusive</u> <u>DMBC – PROHIBITED ACTIVITY</u></p>	<ul style="list-style-type: none"> - Planting a listening or other device (bug) in the home or in the private vehicle of a surveillance target.

5. EFFECT OF *RIPA* LEGISLATION

5.1 *RIPA*

- **requires** Prior Authorisation of Directed Surveillance.
- **prohibits** the Council from carrying out **Intrusive Surveillance**.
- **requires** Prior Authorisation of the conduct and use of a **CHIS**.
- requires safeguards for the conduct and use of a **CHIS**.

5.2 **RIPA does not:**

- make unlawful conduct which is otherwise lawful.
- prejudice or dis-apply any existing powers available to the **DMBC** to obtain information by any means not involving conduct that may be authorised under this Act. For example, it does not affect the current powers of **DMBC** to obtain information via the **DVLA** or to get information from the Land Registry as to the ownership of a property.

5.3 If an **Authorised Officer** or any **Applicant** is in any doubt about any procedural obligations, he/she should ask the Head of Legal Services **BEFORE** any Directed Surveillance and/or a **CHIS** is authorised, renewed, cancelled or rejected.

6. **Principles of Surveillance**

6.1 In planning and carrying out Covert Surveillance, **D.M.B.C.** employees **MUST** adhere to the following principles:

6.2 **Lawful Purposes**

Directed Surveillance by a Local Authority shall only be carried out where necessary for the purpose of preventing or detecting crime, where the criminal offence sought to be prevented or detected is punishable by a maximum term of at least 6 months of imprisonment or are offences involving sale of tobacco and alcohol to underage children

Prior to 2004 Local Authorities did have other grounds for authorising surveillance but these have now been removed (**The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003.**) Prior to 1st November 2012 offences carrying less than 6 months imprisonment were able to be subject to covert surveillance but this has been restricted by the **Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012.**

6.3 **Confidential Material**

Any Application which has been identified as containing a significant risk of acquiring confidential material **MUST** always **be authorised** by the **Chief Executive** or their **Deputy in their absence.**

6.4 For this purpose '**Confidential Material**' consists of: -

- **matters** subject to **legal privilege** (for example between professional legal advisor and client);
- **confidential personal information** (for example relating to a person's physical or mental health); or
- **confidential journalistic material.**

INTRUSIVE SURVEILLANCE

6.5 A LOCAL AUTHORITY IS NOT PERMITTED TO CARRY OUT INTRUSIVE SURVEILLANCE

6.6 Surveillance becomes Intrusive if the Covert Surveillance is carried out in relation to anything taking place on any **residential premises** or in any **private vehicle** **AND** involves the **presence of the person** undertaking the surveillance **on the premises or in the vehicle** of the subject of the surveillance **or** is carried out by means of a surveillance device which consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle.

DIRECTED SURVEILLANCE

7. AUTHORISATION PROCESS FOR DIRECTED SURVEILLANCE.

7.1 Directed Surveillance can only be lawfully carried out if **properly authorised** and in strict accordance with the terms of the authorisation. The form must be signed by an Authorising Officer and approved by a Magistrate before the authorisation can be acted upon.

7.2 Authorised Officers and Magistrates Approval.

A Central List of Authorised Officers will be retained by the Head of Legal Services. This should be kept up-to-date using the notification procedure. All Authorising Officers should have received adequate training on **RIPA**.

7.3 Authorising Officers within the meaning of this procedure should avoid authorising their own activities. If this occurs it must be recorded on the pro forma sent with the Authorisation to Head of Legal Services on Directed Surveillance.

7.4 Once the form is signed by an Authorising Officer the Magistrates Court should be contacted to arrange for the application to be approved by a Magistrate.

7.5 Application Forms

All applications for Directed Surveillance Authorisations will be made on official designated stationery, which accords with the Code of Practice available on the intranet and **MUST** be personally completed by the applicant in all circumstances.

PERIOD OF VALIDITY OF AUTHORISATIONS

7.6 The Authorisation must be renewed in the time stated and cancelled once it is no longer needed. The Authorisation to conduct the Surveillance lasts for a maximum of 3 months for Directed Surveillance.

- 7.7 At the end of 3 months, if the need for the information continues and this is deemed to be the only way that it can be obtained, the original authorisation can be renewed. This is a prescribed process under the **RIPA Code of Practice**.
- 7.8 All applications for the renewal of Directed Surveillance must be made on the renewal form. The applicant in all cases should complete this where the surveillance is still required beyond the previously authorised period (including previous renewals).
- 7.9 Where authorisation ceases to be either necessary, appropriate or proportionate, the Authorising Officer **MUST** cancel an authorisation, using the cancellation form.
- 7.10 **All authorisations** must be reviewed at least every 4 weeks from the date of authorisation, using the renewal form, which must be attached to the original authorisation.
- 7.11 The respective forms, Code of Practice and supplementary material is available on the Council Intranet, or directly from Legal Services.
- 7.12 Services wishing to adopt a more devolved authorisation process may do so only on the explicit approval of a written policy by the Council;
All authorisations must remain within the scope of the Code of Practice relating to persons permitted to authorise the activity required.

8. Authorisation Criteria for Directed Surveillance

- 8.1 Prior to granting an authorisation for the use of surveillance, the authorising officer must be satisfied that:-
- the authorisation is for a prescribed **lawful purpose (i.e. the prevention or detection of crime) where the criminal offence sought to be prevented or detected is punishable by a maximum term of at least 6 months of imprisonment or are offences involving sale of tobacco and alcohol to underage children;**
 - the purpose of the surveillance is clearly defined and stated.
 - That any evidence obtained will be used if it relates to a specific section of specified Legislation appropriately identified and documented.
 - account has been taken of the likely degree of intrusion into the privacy of persons other than those directly implicated in the operation or investigation (called '**Collateral Intrusion**'). Measures must be taken, wherever practicable, to avoid unnecessary intrusion into the lives of those affected by Collateral Intrusion. These measures and extent of possible intrusion should be recorded on the form;
 - the authorisation is **necessary**;

- the authorised surveillance action is **proportionate** to the information being sought;
- any **equipment** to be used is **specified**;
- the information required **cannot be obtained by alternative methods**.

8.2 Necessity

Surveillance operations shall only be undertaken where there is no reasonable and effective alternative way of achieving the desired objective(s) for the purpose of preventing and detecting crime, preventing disorder and the use of Directed Surveillance is the most reasonable means of obtaining the evidence or intelligence to support a prosecution.

8.3 Effectiveness

Surveillance operations shall be undertaken only by **suitably trained or experienced employees**, or under their direct supervision.

8.4 Proportionality

If the activities are necessary, the person granting the authorisation must believe that they are proportionate to what is sought to be achieved by carrying them out. This involves balancing the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair. A useful summary on proportionality is:

1. Is use of Covert Surveillance **proportionate to the crime** being investigated?
2. Is the surveillance aim **proportionate to the degree of anticipated intrusion** on the target or others?
3. Is it the only option? **Have Overt means been considered** and discounted?

8.5 Authorisation

All Directed Surveillance shall be authorised, **in writing**, in accordance with this procedure. If an authorisation is refused, this should still be sent through to legal as the Central Record should contain refusals as well as authorised surveillance.

8.6 Urgent Authorisations for Directed Surveillance

Due to the Magistrates approval process a Local Authority can no longer seek urgent oral authorisations. In circumstances where the Applicant considers there is some urgency, they should first consider whether the immediate response

provisions of **section 26(2)(c) of RIPA** apply. Alternatively it may be appropriate to contact the Police as they still retain this power.

8.7 Duration for Directed Surveillance

Authorisation for Directed Surveillance must be reviewed in the time stated and cancelled immediately it is no longer required.

Directed Surveillance Authorisations to carry out/conduct Surveillance are valid for 3 months duration from the date of Authorisation unless cancelled or renewed. The Authorisation forms must be cancelled and/or renewed during the 3 month period. The validity of the forms and their related authorisations is not dependent upon whether actual surveillance is carried out/conducted or not, as the forms do not cease to be valid after 3 months because they must either be cancelled or renewed within this period.

8.8 Authorisations can be renewed in writing when the maximum period has expired. The Authorising Officer must consider the matter afresh, including taking into account the benefits of the surveillance to date, and any collateral intrusion that has occurred. The renewal must also be authorised by the Magistrates before being acted upon.

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

9. Time Periods for Authorisations for Directed Surveillance

Written authorisations for directed surveillance expire 3 months beginning on the day from which they took effect; that being the day of the Magistrates approval.

10. Time Periods for Renewals for Directed Surveillance

10.1 If at any time before an authorisation would expire the Authorising Officer considers it necessary for the authorisation to continue for the purpose for which it was given, it may be renewed in writing for a further period of 3 months beginning with the day on which the original or previous authorisation ceases to have effect. Applications for renewals should only be made shortly before the authorisation is due to expire. The renewals must be authorised by a Magistrate.

10.2 Any person entitled to authorise applications may renew authorisations. Applications may be renewed more than once, provided they continue to meet the criteria for authorisation.

11. Review of Ongoing Authorisations for Directed Surveillance

11.1 The Authorising Officer must review all authorisations at intervals of not more than 4 weeks. Details of the review and the decision reached shall be documented on the original application and recorded using the review form.

12. Cancellation of Directed Surveillance Authorisation

- 12.1 The Authorising Officer must cancel an authorisation if he/she is satisfied that the Directed Surveillance no longer satisfies the criteria for authorisation, or at the point where all information sought has been obtained.
- 12.2 There is nothing in the **RIPA** which prevents material obtained from properly authorised surveillance from being used in other investigations. Each Public Authority must ensure that arrangements are in place for the handling, storage and destruction of material obtained through the use of Covert Surveillance. Authorising Officers must ensure compliance with the appropriate data protection requirements and any relevant Codes of Practice produced by individual authorities relating to the handling and storage of material.

13. Obtaining a Unique Reference Number for Directed Surveillance

Each Application form must be identified with a **Unique Reference Number (URN)** which is allocated by Legal Services. The Authorising Officer /Applicant should phone/email Legal Services as soon as possible to obtain the next available URN. Any Surveillance refused by the Authorising Officer should also have a URN and be provided to Legal Services. If an amended request for authorisation is made for the same matter, the same URN can be used so that the matter can be tracked.

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PROCEDURE RELATING TO THE DEPLOYMENT OF A COVERT HUMAN INTELLIGENCE SOURCE (CHIS)

14. Due to the unique and onerous responsibilities relating to the deployment of a **CHIS**, an Applicant must first seek Legal Advice from Legal Services (**Senior Responsible Officer** or **RIPA Coordinating Officer**) before applying for the authorisation of a **CHIS**.

14.1 **CHIS - definition**

Someone who establishes or maintains a personal or other relationship for the Covert purpose of helping the Covert use of the relationship to obtain information.

- 14.2 Using a **CHIS** should not be undertaken lightly as the Authority will have an ongoing duty of care to that person due to the situation they have been placed in. It is therefore essential that a risk assessment takes place before a **CHIS** is deployed.

- 14.3 **RIPA** does not apply in circumstances where members of the public volunteer information to the **DMBC** as part of their normal civic duties, or to contact numbers set up to receive information. However both these situations need to be managed carefully as the Authority asking for further information or encouraging the informant to report back again is likely to lead to the informant becoming a surveillance agent or a **CHIS**.

14.4 **SPECIFIC REQUIREMENTS FOR CHIS AUTHORISATION**

The Conduct or Use of a **CHIS** requires prior authorisation.

- **Conduct** of a **CHIS** means: Establishing or maintaining a personal or other relationship with a person for the Covert purpose of (or is incidental to) obtaining and passing on information.
 - **Use** of a **CHIS** means: Any action, **inducing, asking or assisting** a person to act as a **CHIS** and the decision to use a **CHIS** in the first place.
- 14.5 **PLEASE NOTE DMBC** is only **Permitted by Law** to use a **CHIS** if **RIPA** procedures are **RIGOROUSLY FOLLOWED** as set out in this document.

ADVICE MUST ALWAYS BE OBTAINED FROM LEGAL SERVICES BEFORE A CHIS IS DEPLOYED

14.6 **Juvenile Sources**

Special safeguards apply to the use or conduct of Juvenile Sources (i.e. under 18 years). On no occasion can a child under 16 years of age be authorised to give information against his or her parents. Only the Chief Executive or Deputy are duly authorised by the **DMBC** to use Juvenile Sources, as other more onerous requirements will need to be complied with.

14.7 Vulnerable Individuals

A Vulnerable Individual is a person who is or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of himself or herself, or unable to protect himself or herself against significant harm or exploitation. A Vulnerable Individual will only be authorised to act as a covert human intelligence source in the most exceptional of circumstances. Only the Chief Executive or Deputy, are allowed by the DMBC to authorise the use of Vulnerable Individuals as a **CHIS**, due to the need to comply with additional more onerous requirements.

14.9 Test Purchases

Carrying out test purchases will not (as highlighted above) require the purchaser to establish a relationship with the supplier with the Covert purpose of obtaining information, and therefore, the test purchaser will not normally be a **CHIS**. For example, authorisation would not normally be required for test purchases carried out in the ordinary course of business (e.g. walking into a shop and purchasing a product over the counter).

14.10 By contrast, developing a relationship with a person in the shop, to obtain information about the seller's suppliers of an illegal item. (e.g. illegally imported products) will require authorisation as a **CHIS**. Similarly, using mobile hidden recording devices or **CCTV** cameras to record what is going on in the shop will require authorisation as Directed Surveillance. A **Combined Authorisation** can be given for a **CHIS and Directed Surveillance**.

14.11 Anti-Social Behaviour Activities (e.g. noise)

Persons who complain about anti-social behaviour, and are asked to keep a diary, will not normally be a **CHIS**, as they are not required to establish or maintain a relationship for a covert purpose. Recording the level of noise (e.g. the decibel level) will not normally capture private information and, therefore, does not require authorisation.

14.12 Recording sound (with A DAT recorder) on private premises could constitute Intrusive Surveillance, unless it is done Overtly. For example, it will be possible to record sound if the noise maker has been warned that this will occur. Placing a stationary or mobile video camera outside a building to record anti social behaviour on residential estates will require prior authorisation.

15. CHIS AUTHORISATION PROCEDURE

15.1 The use of **CHIS** can only be lawfully carried out if properly authorised and in strict accordance with the terms of the authorisation.

15.2 Authorised Officers and Magistrates Approval

Forms can only be signed by trained Authorising Officers. A Central List of Authorised Officers will be retained by the Head of Legal Services. This list will be kept up-to-date using the notification procedure. All Authorising Officers should

have adequate training relating to compliance with **RIPA** implementation and be fully conversant with the content of this procedural document.

15.3 Authorising Officers within the meaning of this procedure should avoid authorising their own activities. A **CHIS** is **NOT PERMITTED** to authorise their own activities.

15.4 **Authorisations must be in writing.** Once the form has been signed Legal Services should be consulted to ensure the correct process has been complied with. Upon receipt of Legal Services approval the Applicant should personally contact the Magistrates Court to arrange an appointment with a Magistrate to approve the surveillance application documents.

15.5 **CHIS Application Forms**

All applications for **CHIS** authorisations will be made on official designated stationery, which accords with the Code of Practice. The applicant in all cases should always complete this in person.

15.6 **Duration**

The Authorisation must be renewed in the time stated and cancelled once it is no longer needed. The Authorisation to conduct the Surveillance lasts for 12 months for **CHIS** unless cancelled or renewed.

15.7 At the end of 12 months, if the need for the information continues and this is deemed to be the only way that it can be obtained, the original Authorisation can be renewed and this will need to be placed before a Magistrate before it is effective. This is a prescribed process under the **RIPA Code of Practice** which **MUST** be followed.

15.8 Where Authorisation ceases to be either necessary or appropriate, the Authorising Officer **MUST** cancel an authorisation.

15.9 All Authorisations must be reviewed (**at least every 4 weeks**) from the date of authorisation, and must be attached to the **original authorisation**.

15.10 The respective **Forms, Code of Practice and Supplementary Material** is available on the Council Intranet, or directly from Legal Services.

15.11 Services wishing to adopt a more devolved authorisation process may do so only on the explicit approval of a written policy by the Council; all authorisations must remain within the scope of the Code of Practice relating to persons permitted to give authorisation.

15.12 All applications for **CHIS** should accord with the **CHIS Code of Practice**. The necessary forms are the **Application, Review, Renewal and Cancellation**

16. **Authorisation Criteria**

16.1 Prior to granting an Authorisation for **CHIS**, the Authorising Officer must be satisfied that:-

- the authorisation is for a **prescribed lawful purpose** (i.e. the prevention or detection of crime or the prevention of disorder);
- the purpose of the use of a **CHIS** is **clearly defined and stated**.
- account has been taken of the likely **degree of intrusion** into the privacy of persons other than those directly implicated in the operation or investigation (called '**Collateral Intrusion**'). Measures must be taken, wherever practicable, to avoid unnecessary intrusion into the lives of those affected by Collateral Intrusion. These measures and extent of possible intrusion should be recorded on the form;
- the authorisation is **necessary**;
- the authorised surveillance action is **proportionate** to the information being sought;
- any **equipment** to be used is **specified**;
- the information required cannot be obtained by **alternative methods**.
- A **risk assessment** has been completed.

16.2 **Necessity for CHIS**

Surveillance operations shall only be undertaken where there is no reasonable and effective alternative way of achieving the desired objective(s).

16.3 **Effectiveness of CHIS**

Surveillance Operations shall be undertaken only by suitably trained or experienced employees, or under their direct supervision.

16.4 **Proportionality for CHIS**

The use of surveillance shall not be excessive, i.e. it shall be in proportion to the significance of the matter being investigated. A useful test is:

1. Is use of Covert Surveillance proportionate to the mischief being investigated?
2. Is the surveillance aim proportionate to the degree of anticipated intrusion on the target or others?
3. Is it the only option? Have Overt means been considered and discounted?

16.5 **Authorisation for CHIS**

All **CHIS** shall be authorised, **in writing**, in accordance with this procedure. When authorising the conduct or use of a **CHIS**, the Authorised Officer must also:-

- (a) be satisfied that the conduct and/or use of the CHIS is **necessary and proportionate** to what is sought to be achieved;
- (b) be satisfied that appropriate arrangements are in place for the **management and oversight** of the CHIS and this must address **health and safety issues** through a risk assessment;
- (c) consider the likely **degree of intrusion** of all those potentially affected;
- (d) consider any **adverse impact on community confidence** that may result from the use or conduct or the information obtained;
- (e) ensure **records contain particulars** and are not available except on a need to know basis; and
- (f) ensure that there is an **appointment of a Controller, Handler and Record Keeper** in each case. The person referred to in **section 29(5)(a)** of the **2000 Act** (the “**Handler**”) will have day to day responsibility for:
 - dealing with the **CHIS** on behalf of **The Authority** concerned;
 - directing the day to day activities of the **CHIS**;
 - recording the information supplied by the **CHIS**; and
 - monitoring the security and welfare of the **CHIS**.
- The Handler of a **CHIS** will usually be of a rank or position below that of the Authorising Officer. The person referred to in **section 29(5)(b)** of the **2000 Act** (the “**Controller**”) will normally be responsible for the management and supervision of the “**Handler**” and general oversight of the use of the **CHIS**.

16.6 Urgent Authorisations for use of a CHIS

Due to the changes in the Law requiring the approval of a Magistrate, Local Authorities are **no longer permitted** to seek **Urgent Oral Authorisation**. In circumstances which the Applicant considers there is some urgency they should first consider whether the immediate response provisions of **RIPA** apply under **section 26(2)(c) of the RIPA Regulations** (unlikely with a **CHIS**). Alternatively it may be appropriate to contact the Police as they still retain this power.

16.7 CHIS Duration

The Authorisation must be reviewed in the time stated and cancelled once it is no longer needed. The ‘Authorisation’ to carry out/conduct the surveillance for a **CHIS** lasts for a maximum of 12 months (from authorisation). However, whether the surveillance is actually carried out/conducted or not, during the relevant period, does not mean the ‘authorisation’ becomes ‘spent’. In other words, the Forms and their related authorisations) do not expire. The forms have to be reviewed and/or cancelled (once they are no longer required).

16.8 Authorisations can be renewed in writing when the maximum period has expired. The Authorising Officer must consider the matter afresh, including taking into account the benefits of the surveillance to date, and any Collateral Intrusion that has occurred. The Renewals will only be effective once authorised by a Magistrate.

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

17. CHIS Time Periods for Authorisations

17.1 Written authorisations for CHIS expire 12 months beginning on the day from which they took effect.

18. CHIS Time Periods for Renewals

18.1 If at any time before an authorisation would expire the authorising officer considers it necessary for the authorisation to continue for the purpose for which it was given, it may be renewed in writing for a further period of 12 months beginning with the day on which the original or previous authorisation ceases to have effect. Applications for renewals should only be made shortly before the authorisation is due to expire. Approval of a Magistrate is necessary before it will be effective.

18.2 Any person entitled to authorise applications may apply to renew authorisations. Applications may be renewed more than once, provided they continue to meet the criteria for authorisation. All renewals require approval of a Magistrate.

19. Review of Ongoing Authorisations of CHIS

The Authorising Officer must review all authorisations at intervals of **not more than 4 weeks**. Details of the review and the decision reached shall be documented on the original application and recorded using the review form.

20. Cancellation of Authorisation of CHIS

The Authorising Officer must cancel an authorisation if he/she is satisfied that the Directed Surveillance no longer satisfies the criteria for authorisation, or at the point where all information sought has been obtained.

21. CHIS Unique Reference Number (URN).

Each form must have a Unique Reference Number allocated by Legal Services. The Authorising Officer/Applicant should phone/email Legal Services as soon as possible to be allocated the next available URN.

22. Investigations involving Social Media

22.1 Social Media sites are a useful tool for intelligence and evidence gathering. However there is a fine distinction between accessing readily available personal information posted into the public domain on Social Media and interfering in an

individual's private life. The Internet is a surveillance device as defined by **section 48(1) RIPA**.

Surveillance is **Covert** "if, and only if, it is conducted in a manner that is calculated to ensure that persons who are subject to the surveillance are unaware that it is, or may be taking place." Knowing that something is capable of happening is not the same as an awareness that it is or may be taking place.

22.2 Reviewing open source sites does not require authorisation unless the review is carried out with some regularity, usually when creating a profile, in which case directed surveillance authorisation will be required. If it becomes necessary to breach the privacy controls and become for example 'a friend' on the Facebook site, with the investigating officer utilising a false account concealing his/her identity as a council officer for the purposes of gleaning intelligence, this is a covert operation intended to obtain private information and should be authorised, at the minimum, as directed surveillance. If the investigator engages in any form of relationship with the account operator then they become a CHIS requiring authorisation as such and management by a Controller and Handler with a record being kept and a risk assessment created.

22.3 The use of Social Media for the gathering of evidence to assist in enforcement activities should be used with the following considerations:

- It is only in the most exceptional cases that a false identity should be used in order to 'friend' individuals on social networks and **RIPA** Authorisation must always be obtained. A possible use may be to investigate the sale of counterfeit goods on Social Media site where there is no other method of obtaining evidence.
- Officers viewing an individual's open profile on a social network should do so only in order to obtain evidence to support or refute their investigation; this should only be done to obtain the information and if necessary later to confirm the information.
- Systematic viewing of a profile will normally amount to surveillance and a **RIPA** Authorisation should be obtained.
- **RIPA** should also be considered where a friend request is sent or if a conversation has been entered into with the owner of the page as this may amount to a **CHIS**.
- Officers should be aware that it may not be possible to verify the accuracy of information on social networks and, if such information is to be used as evidence, reasonable steps must be taken to ensure its validity.

23. Monitoring

- 23.1 Each Service must maintain a record of all applications for authorisation (including refusals), renewals, reviews and cancellations. This **record must be used** to ensure authorisations are subsequently reviewed, renewed or cancelled.
- 23.2 At least annually the Council's arrangements will be reviewed and a report submitted to the Audit Committee. **Interim Update** reports shall be delivered to the Committee at intervals of approximately six months.

24. Training and Training Records

- 24.1 Directors shall arrange for all officers regularly involved in the use of **RIPA** to receive appropriate training. Authorising Officers must receive regular training on **RIPA** and **Council Procedures**.
- 24.2 The Directors shall ensure that appropriate records of such training is retained so that it may be produced at a **RIPA Surveillance Commissioner Inspection**.

25. Working in conjunction with Other Agencies

- 25.1 When some other agency has been instructed to undertake any action under **RIPA** on behalf of the DMBC, this Document and the Council Forms **MUST** be used (as per normal procedure). The agency should be advised or kept informed of any specific requirements as necessary. Any agent must be made explicitly aware of the scope and limitation of their authority to protect DMBC against any breach of the **RIPA** related provisions.
- 25.2 When any external agency (e.g. Police, Customs & Excise, Inland Revenue, etc.):-
- (a) wish to use any resource of **DMBC** (e.g. **CCTV** surveillance systems), that agency must use its own **RIPA** procedures and, before any Officer agrees to allow the resources of **DMBC** to be used for the other agency's purposes, he/she must obtain a copy of that agency's **RIPA** form for the record (a copy of which must be passed to the Head of Legal Services for the Central Register) and/or relevant extracts from the same which are sufficient for the purposes of protecting **DMBC** and the use of its resources;
 - (b) wish to use any premises controlled by **DMBC** for their own **RIPA** action, the Officer should, normally, co-operate with the same unless there are security or other good operational or managerial reasons why the those premises should not be used for the agency's activities. Suitable insurance or other appropriate indemnities may be sought from the other agency to secure co-operation from **DMBC** in the agent's **RIPA** operation. The **RIPA** Forms and documentation normally used by the **DMBC** should not be used in such cases, however, as the **DMBC** is only 'assisting' and not being 'involved' in the **RIPA** activity of the external agency.
- 25.3 In terms of 24.2(a) above, if the Police or other Agency wish to use **DMBC** resources for General Surveillance, as opposed to Specific **RIPA** Operations, a

letter detailing the proposed use, extent of remit, duration, and identity of the person responsible for undertaking the general surveillance and the purpose of the operation must be obtained from the Police or other Agency before any **DMBC** resources are made available for the proposed use.

- 25.4 **IF THERE IS ANY REASON FOR DOUBT OR UNCERTAINTY REGARDING PROCEDURAL ISSUES**, please consult with the Head of Legal Services at the earliest opportunity.

26. **Security and Retention of Documents**

Documents created under this procedure are **Highly Confidential** and shall be treated as such. Services shall make proper arrangements for their retention, security and destruction, in accordance with the requirements of the **Data Protection Act 1998 and the Codes of Practice**.

27. **Internal Overview, Equipment and Records Management**

- 27.1 **Senior Responsible Officer (SRO)** is the **Assistant Director – Legal and Democratic Services**. The **SRO** has the Legal Responsibility on behalf the Authority for **RIPA** related activity and fulfils a recommendation in the **Directed Surveillance** and **CHIS Code of Practice**, including responsibility to ensure that all Authorising Officers are trained to the appropriate standard and is liable to remedy any concerns highlighted by any **Inspection Report from the Office of the Surveillance Commissioners**. The Assistant Director regularly attends Corporate Leadership Team meetings in accordance with the requirements of the **RIPA Codes of Practice**.

27.2 **RIPA Coordinating Officer.**

A Principal Legal Officer (**PLO**) for the Authority undertakes the role of the **RIPA Coordinating Officer** whose duties include:

- a) Ensuring maintenance of the the Central Record of Authorisations and collating the original applications/authorisation, reviews, renewals and cancellations.
- b) Oversight of submitted **RIPA** documentation.
- c) Organising a **RIPA** training programme.
- d) Raising **RIPA** awareness with in the Council.
- e) Ensuring a **URN** is correctly allocated.

Due to the Oversight Role of the Coordinating Officer he/she cannot also be an Authorising Officer.

27.3 **Councillor Overview Role**

The Codes also require that:

- a) Councillors should review the use of **RIPA** by **DMBC** and also review the policy at least once a year;
- b) Councillors should also consider internal reports on use of **RIPA** on a regular basis to ensure that it is being used consistently in accordance with the Council's Policy and to ensure that the policy remains fit for purpose. They should not be involved in making decisions on specific authorisations.

27.4 **Head of Paid Service**

The Code also requires that the authorisation level when knowledge of Confidential Information is likely to be acquired or when a vulnerable individual or juvenile is to be used as a **CHIS** source must be the Head of Paid Service or (in their absence) the person acting as the Head of Paid Service. Doncaster Council's Constitution specifically states that the Assistant Director – Legal and Democratic Services is to act in this role in the absence of the Head of Paid Service.

27.5 **Records**

The DMBC must keep a detailed record of all authorisations, renewals, cancellations and rejections in Departments and a Central Register of all Authorisation Forms will be maintained and monitored by the Senior Responsible Officer (**SRO**).

27.6 **Central Register maintained by the Head of Legal Services**

Authorised Officers MUST forward each original authorisation form along with the pro forma (Appendix 3) and then each renewal or cancellation form to the Head of Legal Services for the Central Register, **WITHIN 1 week of the authorisation, review, renewal, cancellation or rejection.** Authorised Officers must ensure when sending the originals of any forms to the Head of Legal Services they are sent in sealed envelopes and marked '**Strictly Private and Confidential**'. The Head of Legal Services will monitor the same and give appropriate guidance, from time to time, or amend this Document, as necessary.

27.7 **DMBC** will retain records for a period of at least three years from the ending of the authorisation or until the next OSC Inspection if longer. The Office of the Surveillance Commissioners (OSC) can audit/review **DMBC's** policies and procedures, and individual authorisations.

27.8 **Records maintained in the Department**

The following documents must be retained by the relevant Heads of Service (or his/her Designated Officer) for such purposes.

- copy Forms together with any supplementary documentation and notification of the approval given by the Authorising Officer;
- a Record of the period over which the surveillance has taken place;

- the Frequency of Reviews prescribed by the Authorised Officer;
- a Record of the Result of each review of the authorisation;
- a copy of any renewal of an authorisation, together with the supporting documentations submitted when the renewal was requested;
- the Date and Time when any instruction was given by the Authorising officer;
- the Unique Reference Number for the authorisation (URN).

Documents should be retained for a minimum of three years from the ending of the authorisation. Documentation should be securely maintained, with limited access, to ensure confidentiality is not breached.

27.9 Each form will have a URN. These are allocated by Legal Services (see 14).

27.10 **Equipment Register**

An Equipment Register is maintained by the RIPA Coordinating officer of all equipment that the Council holds for the purposes of Covert Surveillance. This lists the names of the Responsible Officers for each piece of equipment who will ensure that an equipment log is kept detailing equipment in/out and the URN that the equipment is being used for. Any changes to the equipment kept should be notified by the responsible persons listed to the RIPA Coordinating Officer. The log in/out of equipment should be retained and available for any check by the **RIPA** Coordinating Officer, Senior Responsible Officer and Surveillance Commissioners.

28. **External Overview**

28.1 The Office of Surveillance Commissioners provides an independent overview of the use of the powers contained within the Regulation of Investigatory Powers Act 2000. This scrutiny includes inspection visits to local authorities by Inspectors appointed by the Office of the Surveillance Commissioners.

28.2 It is anticipated that the inspectors will speak to the Head of Legal Services and the Central Corporate co-ordinator.

28.3 Inspections can take place unannounced.

28.4 The Human Rights Act 1998 (which brought much of the European Convention on Human Rights and Fundamental Freedom 1950 into UK domestic law) requires the DMBC and organisations working on its behalf, pursuant to Article 8 of the European Convention, to respect the private and family life of citizens, his home and his correspondence.

28.5 The European Convention did not, however, make this an absolute right, but a qualified right. Accordingly, in certain circumstances, the DMBC may interfere in the citizen's right mentioned above, if such interference is:-

- (a) in accordance with the law;
- (b) necessary (as defined in this Document); and
- (c) proportionate (as defined in this Document).

28.6 The Regulation of Investigatory Powers Act 2000 (**'RIPA'**) provides a statutory mechanism (i.e. 'in accordance with the law') for authorising covert surveillance and the use of a 'Covert Human Intelligence Source' (**'CHIS'**) - e.g. undercover agents. It seeks to ensure that any interference with an individual's right under Article 8 of the European Convention is necessary and proportionate. In doing so, the **RIPA** seeks to ensure both the public interest and the human rights of individuals are suitably balanced.

28.7 Directly employed Council staff and external agencies working for the DMBC are covered by the Act for the time they are working for the DMBC. All external agencies must, therefore, comply with RIPA and the work carried out by agencies on the Council's behalf must be properly authorised by one of the Council's designated Authorised Officers.

28.8 If the correct procedures are not followed, evidence may be disallowed by the courts, a complaint of maladministration could be made to the Ombudsman, and/or the Council could be ordered to pay compensation. Such action would not, of course, promote the good reputation of the **DMBC** and will, undoubtedly, be the subject of adverse press and media interest. It is essential, therefore, that all persons involved with **RIPA** comply with this Document and any further guidance that may be issued, from time to time, by the Assistant Director Legal and Democratic services.

29. **Use of covert surveillance outside of RIPA**

29.1 **RIPA** legislation is permissive i.e. it gives a Local Authority reassurance that in carrying out Covert Surveillance that it is not breaching **The Human Rights Act 1998**. In very unique and specific circumstances it may be possible to lawfully carry out surveillance outside of the **RIPA** legislation. This will require a procedure to be followed very similar to that used for **RIPA** authorisations. The **SRO** and the Coordinating Officer must be consulted before any such surveillance is considered.

30. **Complaints**

30.1 The **Regulation of Investigatory Powers Act 2000** establishes an Independent Tribunal. This has full powers to investigate and decide any cases within its jurisdiction.

30.2 The Council will ensure that copies of the Tribunal's information sheet, their complaint form and their Human Rights Act claim form will be made available on request at all main Council public offices.

30.3 Copies of the **RIPA Code of Practice** and **Council Policy Statement** will be supplied on request from anyone seeking a copy.

- Drafted - April 2003**
- 1st Amendment - April 2004**
- 2nd Amendment - March 2008**
- 3rd Amendment - September 2009**
- 4th Amendment - November 2012**
- 5th Amendment - May 2013**
- 6th Amendment - December 2014**
- 7th Amendment - March 2016**

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7th April 2016

**To the Chair and Members of the
AUDIT COMMITTEE**

FINANCIAL AND PURCHASING & CONTRACT PROCEDURE RULES

EXECUTIVE SUMMARY

1. This Report provides Members with details of Waivers and Breaches to Contract Procedure Rules (C.P.R's) for the period 1st October 2015 to the end of March 2016.
2. The table below identifies the number of new waivers and breaches recorded by each Directorate since the last audit report presented in November 2015. The details of each waiver and breach are summarised in the appendices of this report.

Period 1 October 2015 to the end of March 2016	Breaches	Waivers
Adults, Health & Wellbeing	0	12
Learning & Opportunities: Children & Young People	4	2
Finance & Corporate Services	0	4
Regeneration & Environment	0	10
GRAND TOTAL	4	28

RECOMMENDATION

3. To note the information and actions contained in this report, regarding waivers and breaches of C.P.R's

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. There are no specific implications within this report, with regards to waivers or breaches.

BACKGROUND

5. The Director of Finance and Corporate Services monitors compliance with Contract Procedure Rules (C.P.R.s) via an update from the Corporate Procurement team, detailing any reported waivers of C.P.R.s and instances of breach

Contract Procedure Rules (C.P.R's)

6. C.P.R.s set various value thresholds (detailed in paragraph 8 below) where commensurate competition should be undertaken by officers to ensure that value for money is being achieved and that all tender opportunities are fairly and appropriately advertised to suppliers.
7. The Audit committee is reminded that the Council Contract Procedure Rules were updated and approved by full Council on the 28 January 2016, with the thresholds being revised, as set out below:
 - £5,000 - use of an in-house supplier, Council wide contract, framework agreement or direct award where possible to a Doncaster based organisation.
 - Between £5,000 and £25,000 – use of an in-house supplier, Council wide contract, framework agreement or obtain three verbal quotes one of which must be from a Doncaster based organisation (a record of quotes is to be maintained);
 - Between £25,000 and £164,176 use of an in house supplier, Council wide contract, framework agreement or obtain three written quotes one of which must be from a Doncaster based organisation where the above is not available;
 - Over £164,176 use of an In-house supplier, Council wide contract, framework agreement or carry out a formal tender process.
8. Whilst the EU thresholds are set within the legislation and, therefore, cannot be waived, it is recognised that from time to time discretionary thresholds within C.P.R's may be a barrier to the delivery of the service and, therefore, Council officers can request that the C.P.R's are waived in specific instances via a C.P.R waiver report, which is approved by the Director of Finance and Corporate Services in accordance with the following permissible exemptions.
 - a. the goods, services or works are proprietary in nature (i.e. where only one supplier can supply the product or services);
 - b. the contract is for goods, services or works that are required in circumstances of extreme urgency;
 - c. the circumstances of the proposed procurement are covered by legislative exemptions (whether under EU or UK. law);

- d. there are other circumstances that are genuinely exceptional.

Breaches to CPR's

9. Breaches arise from either the aggregation of spend with one supplier going over pre prescribed limits, a complete absence of any identifiable contract, a failure to comply with requirements to obtain adequate competition or an extension of contract beyond its agreed term or lifetime.
10. It is therefore important that steps are taken to ensure breaches are identified, investigated and plans quickly put in place to rectify the position. A summary report is produced for each breach and detail actions required to be taken, including where necessary the decommissioning of contracts.
11. Four breaches to CPR's have been reported this period (see detail of each breach at appendix 1).

Update to Breaches previously reported

12. In November 2015, there were two new breaches of CPR's reported to Audit Committee as well as updates to five existing unresolved breaches.
13. Since the November report two of these breaches been remedied and contracts in the process of being awarded in respect of Mortuary Services and CCTV services.
14. However, the five remaining unresolved breaches are set out below:-
- Doncaster Mind & Changing Lives – Review is still ongoing though this still on target to be concluded at the 31st March 2016.
 - Older Peoples alarm scheme with various suppliers – a report with recommendations has been prepared and a way forward will be agreed in March/April. The provision will remain in breach until the recommended option has been agreed and implemented.
 - Springwell Lane and Lanark Drive – Agreement has been reached with the Clinical Commissioning Group (CCG), for the CCG, to fund Springwell Lane from 1st April 16, discussions with the CCG regarding the funding of Lanark Drive remain ongoing.
 - Solar Centre –Review of service is ongoing with the outcome being determined by individual review timescales.
 - Autism Family Practitioners – the insourcing of this service is expected to be completed by 31 March 2016.

Waivers to CPR's

15. Twenty eight waivers to CPR's have been approved this period (see appendix 2

for the detail of each waiver).

16. The waivers detailed in this report have been reviewed and agreed either by the Assistant Director of Finance and Performance, the Director of Finance and Corporate Services or the Chief Executive (for Finance and Corporate Services Directorate).

REVIEW OF PROCUREMENT ARRANGEMENTS ABOVE £5,000

17. The Corporate Procurement Team continues to work closely with all Directorates to improve procurement generally, but to also provide assurance that arrangements are robust and compliant with CPR's. Where waivers and breaches are identified, they are recorded and appropriate procurement plans are agreed and developed if/where appropriate.

OPTIONS CONSIDERED

18. Each waiver is examined and where appropriate challenged for alternative options prior to approval.

REASONS FOR RECOMMENDED OPTION

19. It is clearly important that the Council's Contract Procedure Rules are adhered to and that from a governance and procurement perspective, where breaches are identified a robust corrective plan is put in place to protect the council's commercial interests through contracts.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

20.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p><i>The individual waivers (set out in Appendix 2) seek to ensure that the Council is able to properly continue to deliver modern, cost effective, good quality vital services.</i></p>
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	

	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	<p>Council services are modern and value for money.</p>	<p><i>The individual waivers (set out in Appendix 2) seek to ensure that the Council is able to properly continue to deliver modern, cost effective, good quality vital services.</i></p>
	<p>Working with our partners we will provide strong leadership and governance.</p>	

RISKS AND ASSUMPTIONS

21. With regards to the ongoing review of commercial arrangements with suppliers the risks of breaches to CPR'S potentially exposes the Council to reputational, legal and commercial risk. The review and plans arising from its aim to remedy this and mitigate any remaining open risk.

LEGAL IMPLICATIONS

22. There are no specific legal implications arising from this report. However, Legal Services provide advice and assistance on the specific context of CPR breaches and waivers and reviewing existing commercial arrangements.

FINANCIAL IMPLICATIONS

23. There are no specific implications within this report, as each waiver or breach is considered on its own merits. Where financial implications arise from the wider review of commercial arrangements with suppliers these will be reviewed on a case by case basis.

HUMAN RESOURCE IMPLICATIONS

24. There are no specific human resource implications within this report, as each waiver or breach is considered on its own merits.

TECHNOLOGY IMPLICATIONS

25. There are no specific technology implications within this report, as each waiver or breach is considered on its own merits.

EQUALITY IMPLICATIONS

26. The author of each waiver would need to consider all equality implications.

CONSULTATION

27. This report has significant implications in terms of the following:

Procurement	✓	Crime & Disorder	
Human Resources		Human Rights & Equalities	
Buildings, Land and Occupiers		Environment & Sustainability	
ICT		Capital Programme	

BACKGROUND PAPERS

28. None

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APPENDIX 1

BREACHES

This appendix details the C.P.R. breaches that have been identified to the end of March 2016, together with a brief explanation of the reasons for the breach and their current status

Directorate & Responsible Officer	Description	Annual Breach Value	Contract End Date	Reason for breach	Proposed action	Timescale for resolution
Learning & Opportunities	White Rose SEN Schools & College Placements	£1.4m	30.08.15	Delays in the regional implementation of the White Rose Framework due to the lack of resource/capacity in the region to lead this work.	No further action as the new Framework has been implemented	New agreement in place October 2015.
Learning & Opportunities	Sam and Sammie	£145k	N/A	A number of individual orders have been placed with the same company.	Working with the service area to understand current project length and spending requirements to determine the appropriate procurement route	Procurement plan to be in place by April 2016.
Learning & Opportunities	Affinity workforce	£114,850		Employment of an interim Manager in the SEN team under CPR Waiver CPR-15-01-0004 for 4 months. Contract continued beyond original waiver request	Placement to come to an end 31 March 2016	31 March 2016

Learning & Opportunities	Consultants own Limited Company	£185k since 2011-12 to present date	N/A	KP employed to work with Secondary Schools within L&O against various projects since 2011-12 to date working ad hoc days as and when required.	To cease current arrangements and procure service using the Council's framework providers only.	1 st April 2016
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APPENDIX 2

WAIVERS

This appendix details the C.P.R. waivers that have been agreed since the last report covering the period 1st October 2015 to the end of March 2016, together with a brief explanation of the reasons for the waiver.

Department	Value	Reason
Adults, Health & Wellbeing CPR/15/10/0002	£71,812	<p>Waiver request has been granted to extend the current contract for one year with Doncaster Mind for the provision of short term housing support to people living in accommodation at Morley Road.</p> <p>The current contract commenced in October 2010 for a 5 year period following a previous open tender exercise.</p> <p>It was anticipated that the contract would be re-tendered during 2015, however, due to work taking place within the Clinical Commissioning Group in respect of Mental Health Services, in particular Crisis Services, as well as a mental health social care review commencing in the near future, it was proposed to extend the contract with Doncaster MIND. This extension to the contract will enable work on the crisis service to be completed as well as accommodation pathways. The current contract is delivering performance and quality standards as outlined in the service specification.</p>
Adults, Health & Wellbeing CPR/15/11/0009	£6,080	<p>Waiver granted to extend the current contract with Library Ideas Ltd for a further 12month period for the provision of Sony music downloads.</p> <p>Library Ideas remains the only solution providing music downloads to library services in the UK, and specifically the only service providing the catalogue of Sony UK titles.</p>
Adults, Health & Wellbeing CPR/15/10/0010	£60,000	<p>Waiver granted to extend and vary the current contract with Changing Lives for the provision of a sex worker support service. The contract is extended for a further period of up to 18 months and will include a women towards recovery service as part of the contract.</p>
Adults, Health & Wellbeing CPR/15/10/0007	£370,187	<p>Waiver granted to extend the current contract for a 12 month period with Target Housing for the provision of a support service for offenders/ex-offenders/those at risk of offending.</p> <p>The current contract commenced on 3 January 2011,</p>

		<p>for a 5 year period, following a previous open tender exercise. The annual contract value has reduced by 10% since the contract first started as a result of contract negotiations.</p> <p>It was anticipated that the service would be re-tendered during 2015. However, during a service review, changes in the offender landscape were identified, particularly in relation to Transforming Rehabilitation programme reforms.</p> <p>The new arrangements for prison and probation service delivery under the Transforming Rehabilitation reforms are still bedding in. This has led to some uncertainty over the potential overlap with existing commissioned services. An additional year will allow for clarity on the changing landscape and better inform future accommodation and support commissioning intentions so that any future service specification is designed to appropriately meet need, avoid over-provision and duplication and gain the most efficient use of limited Council resources.</p> <p>A tender exercise could then take place in 2016 with a more fit for purpose service specification, which is likely to include a reduced service offer.</p>
Adults, Health & Wellbeing CPR/15/10/0008	£17,700	Waiver granted to extend the current contract with Sheffield Hallam University for an additional 6 months to allow for the continued evaluation of the Social Prescribing Service contract.
Adults, Health & Wellbeing CPR/15/10/0001	£225,000	<p>Waiver granted to award a contract for two KeyRing schemes. The KeyRing scheme provide support services to people with a learning disabilities. The two schemes are based in Bentley and Rossington.</p> <p>The contracts with KeyRing have previously been in place since 2003. Prior to the waiver being granted the market was reviewed to determine whether there was an alternative provider of this type of service and a number of other local authorities who purchase services with KeyRing were contacted to explore potential alternative arrangements. It was found that due to the unique / specialist nature of the KeyRing model, contracts had been directly awarded to KeyRing without competition.</p>
Adults, Health & Wellbeing CPR/15/11/0002	£2,913	Waiver granted to extend the current contract with Paloma Systems (for a 12 mth period), for the provision of a Case Management System used in the

		Domestic Abuse service. The waiver was granted to allow work to continue to scope out and adapt or develop the required functionality.
Adults, Health & Wellbeing CPR/16/01/0007	£45,000	Waiver granted to extend the current contract with Doncaster Dial for the provision of a Welfare Benefits and Tribunal Service, The waiver has been granted for 6 months to provide sufficient time to properly consult with the market prior to a tender being let in March 2016.
Adults, Health & Wellbeing CPR/16/01/0003	£93,318	Waiver granted to award contracts to Making Space and Sue Ryder for the provision of a Doncaster Admiral Service Pilot. The pilot is for a 14 month period and will inform the CCG and the Council of the components of a long term arrangement should a longer term contract be required at the end of the pilot project.
Adults, Health and Wellbeing CPR/16/02/0003	£70,000	<p>Waiver granted to extend the current contract with New Horizons for up to a further 12 month period to provide Infrastructure support for the Third Sector in Doncaster.</p> <p>The service was reviewed in 2015. A new service specification for Third Sector Engagement and Support was jointly developed by Doncaster Council and NHS Doncaster CCG and was published on YorTender in September 2015 with a procurement project plan that would ensure that the new service would start on 1 January 2016.</p> <p>The procurement process received 3 tender submissions. A successful bidder was chosen, but a decision was made by senior leaders to abandon the tender before contract award in light of the outcomes of the Autumn Comprehensive Spending Review.</p> <p>Discussions have been on-going in relation to potential next steps and there is willingness to lead the development of a new model for Third Sector engagement and support. The development of a new model and the subsequent procurement/sourcing necessitates up to a 12 month extension period.</p>
Adults, Health and Wellbeing CPR/16/03/0008	£85,140	Waiver granted to directly award a contract to the National Development Team for Inclusion (NDTI) for 18mths as part of the service transformation programme and specifically to deliver 2 key strands of work, namely:-

		<ul style="list-style-type: none"> the redesign of the customer pathway consideration of the preferable model of delivery
Adults, Health and Wellbeing CPR/16/03/0005	£14,022,074	<p>Waiver granted to directly award a 24 month contract to RDaSH to provide 0-5 Public Health Services including; Health Visiting, FNP, Smoking in pregnancy and Healthy Start vitamin distribution services for 2016/17.</p> <p>Health Visiting and FNP services novated to DMBC from NHS England on 1st October 15, leaving 6 months until contract expiry (31.03.16). Given the short time these services have been under the control of the Council, it has not been possible to carry out a robust commissioning process in order to ensure safe, effective and efficient service provision.</p> <p>As this is a large and complex contract which will require a substantial period for a re-procurement, it is anticipated that any tendering process will need to consider the impact upon service users and is likely to involve consideration of TUPE matters. A procurement exercise at this point is not appropriate as there is a risk of destabilising current service provision.</p>
Learning & Opportunities: Children & Young People CPR/16/01/0005	£564,413	Waiver granted to award a contract to the Imagination Library for 3 years to provide a book gifting service on behalf of the Doncaster Schools Forum with the aim of raising the levels of literacy in Doncaster.
Learning & Opportunities: Children and Young People CPR/16/01/0004	£16,875	<p>Waiver granted to Homestart Doncaster, for a period of three months (April to June 16), to provide Family Support Services. The Waiver was applied for, due to the following reasons:</p> <ol style="list-style-type: none"> To allow for re-commissioning in line with the new early help delivery model which was approved by Cabinet in November 2015. To allow for capacity within children's commissioning and procurement services i.e. as both services have been utilised in delivering the successful re-commissioning of two higher cost contracts (Children's Short Breaks and the White rose interim Framework.)
Financial and Corporate Services CPR/15/10/0009	£24,000	<p>Waiver granted to extend the current contract with Wolters Kluwer for Audit Software "TeamMate" for 3 years.</p> <p>The waiver was granted on the basis that the software is a propriety item and the support and maintenance is</p>

		only available from this software house.
Finance and Corporate Services CPR/15/11/0001	£50,000	Waiver granted (on a one off basis) to extend the current contract with PriceWaterhouseCoopers to deliver an additional piece of consultancy work for Adults, Health and Wellbeing i.e. concerning the development of the adult transformation programme.
Finance and Corporate Services CPR/15/12/0001	£70,000	Waiver granted to extend the current arrangement with Doncaster Bassetlaw Hospital Trust for an additional 3 months to allow for the effective and efficient running of the Coroner's Court, while the Council undertakes a re-tender exercise.
Regeneration and Environment CPR/15/10/0003	£82,250	<p>Waiver granted to award a contract to the Education Foundation for 10 months to deliver phase 2 of the programme of work to rethink the future of education, employment and business – for skills, growth and the future of young people in Doncaster.</p> <p>The Education Foundation are the only such provider of such education. This is a one off commission.</p>
Regeneration and Environment CPR/15/11/0006	£200,000	Waiver granted to enter into an agreement with JMC (Engineering) UK Ltd (currently on site and contracted by the Coal Authority) for the Demolition of buildings and structures at Hatfield Colliery to reduce “on site” risks, to members of the public. This is a one off commission
Regeneration and Environment CPR/15/11/0003	£22,000	Waiver granted to award a one off contract to JBA Consulting for 4 months to carry out a Strategic Flood Risk Assessment Level 2 to be included in the Councils Local Plan as a follow up to their level 1 assessment which was commissioned through the HCA framework. Ph2 is heavily reliant on Lv1 commission & therefore it would not be appropriate to be delivered by any other company.
Regeneration and Environment CPR/15/11/0007	£33,000	Waiver granted to extend the current contract for Support and Maintenance with Northgate for the Regulation and Enforcement Information Management System (M3) for 12 months to March 2017, pending a full tender exercise.
Regeneration and Environment CPR/15/10/0004	£62,946	Waiver granted to award a contract to M Hughes Land Surveyors Ltd to carry out track monitoring of the East Coast Main line in relation to phase 1 of the Finningley and Rossington Regeneration Route Scheme. The commission was in addition to work already procured (under Contract Procedure Rules) but could not be

		executed by the main contractor and therefore exceeded the original contract value.
Regeneration and Environment CPR/15/10/0006	£20,000	Waiver granted to award a contract to Archomai Ltd for consultancy services associated with developing international trade routes and inward investment opportunities for the Borough. This contract is unique in making significant links to UK & Int. Governments, the British Embassy and World Bank to drive future rail investments in to Doncaster.
Regeneration and Environment CPR/15/11/0005	£22,022	<p>Waiver granted to extend the contract with First Media Solutions for a further 12 months to enable the continuation of the connectu2 website which provides young people with access to impartial careers Information, advice and post 16 opportunities across schools, academies, training providers and colleges.</p> <p>The website was originally procured from First Media Solutions in 2013 (for a 3 year period) because the DMBC in-house website provision was not young person friendly. There has been insufficient time, budget, or resource within the DMBC Participation and Transition Team to undertake a re-commissioning exercise prior to the expiry of the contract.</p> <p>The value of the contract is to remain the same, however, the provider has agreed to undertake more duties to allow for the development of the area wide prospectus. The cost of the contract is in line with other local authorities who are provided with the same service.</p> <p>The request to extend the contract has been agreed by the IGB Board.</p> <p>This service enables the Council to meet its prescribed statutory responsibilities as set out in DFE guidance.</p>
Regeneration and Environment CPR/15/12/0002	£20,000	Waiver granted to provide Doncaster Chamber of Commerce with additional funding (for up to 7 months only) to extend business enterprise activities in schools to support the embedding of the enterprise curriculum in secondary schools/colleges as part of Doncaster Skills Academy.
Regeneration and Environment CPR/16/02/0002	£150,000	Waiver granted to allow the Innovation Unit (IU) to work in a collaborative partnership with the Council. The IU has worked closely with senior members of the Council to develop a bespoke package of work

		that is tailor-made to the needs of the authority.
Regeneration and Environment CPR/16/03/0002	£12,000	<p>Waiver granted to allow a 12 month contract extension to Re:Systems for the provision and maintenance of an inward investment and business support CRM system. The system underpins the activities of Business Doncaster to attract and support employment, create businesses and engage with counterparts across the Sheffield City Region.</p> <p>In January 2016, the Council's Information Governance Board (IGB) supported the proposed extension of the contract by 1 year (to March 2017), pending a full tender exercise i.e. on the basis that the extension would allow for a review to be undertaken to identify new options beyond the two competing systems known to Business Doncaster and both used previously.</p>

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**To the Chair and Members of the
AUDIT COMMITTEE**

Q3 2015/16 STRATEGIC RISK UPDATE

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Mayor Ros Jones	N/a	No

EXECUTIVE SUMMARY

1. The purpose of this report is to provide a progress update on strategic risks for Quarter 3 2015/16.
2. A review of Strategic Risks was undertaken as part of the challenge process to ensure that the strategic risks reflected the priorities in the Corporate Plan for 2015/16. There are currently 18 strategic risks.
3. As a result of the Q3 review no risks have been nominated for demotion and no new strategic risks have been identified.

RECOMMENDATIONS

4. The Audit Committee members are asked to:
 - a) Note and comment on the report and the strategic risk profiles in Appendix A;

EXEMPT REPORT

5. Not Applicable

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

6. The embedding of robust risk management arrangements within the Council incorporating the management of strategic risks creates an environment in which we can successfully meet our objectives to deliver Doncaster's priorities and the Mayoral Priorities Outcome Framework.

OPTIONS CONSIDERED

7. Not Applicable

REASONS FOR RECOMMENDED OPTION

8. Not Applicable

IMPACT ON THE COUNCIL'S KEY OUTCOMES

9.

Priority	Implications
All people in Doncaster benefit from a thriving and resilient economy.	The embedding of robust risk management arrangements within the Council will contribute to the effective delivery of all the Council's key priorities
People live safe, healthy, active and independent lives.	
People in Doncaster benefit from a high quality built and natural environment.	
All families thrive.	
Council services are modern and value for money.	
Working with our partners we will provide strong leadership and governance.	

RISKS AND ASSUMPTIONS

10. The Risk Management Policy includes a requirement to review strategic risks on a quarterly basis and this is a matter of good management and good governance.

LEGAL IMPLICATIONS

11. Any specific implications will be reported separately and in the context of any initiative proposed to be taken in relation to the management of strategic risk.

FINANCIAL IMPLICATIONS

12. Should any specific initiatives be required, in response to the management of strategic risks, any cost implications will be reported and addressed as and when they arise.

HUMAN RESOURCES IMPLICATIONS

13. There are no direct human resources implications resulting from this report

TECHNOLOGY IMPLICATIONS

14. There are no direct technology implications resulting from this report.

EQUALITY IMPLICATIONS

15. There are no specific equality implications arising from this report. However, any activities arising from the management of strategic risks will need to be the subject of separate 'due regard' assessments.

CONSULTATION

16. Consultation has taken place with strategic risk owners and Directorate Management Teams as part of the quarterly performance challenge process.

BACKGROUND PAPERS

17. Reports generated via Covalent for Directorate Q3 challenge meetings.

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Simon Wiles
Director of Finance and Corporate Services

Simon Wiles

Current austerity measures result in increased poverty in Doncaster, causing deprivation for citizens and restricting the borough's ability to improve and grow

Current Risk	<p>Current position: Score = 20 (impact 5 likelihood 4). The impacts of poverty and welfare reform continue to affect local people and are a risk to the achievement of Council and partnership objectives.</p> <p>Mitigating actions: Following the elected member workshop, in December 2015, the completion of key tasks and consideration of additional evidence, the partnership Anti-Poverty Strategy Group is developing new actions to address the causes and effects of poverty within the borough.</p>	Target Risk
<p>20</p>		<p>12</p>

Health and social care services do not change fast enough, impacting on quality, accessibility and affordability of services for people who need them most

Kim Curry

Current Risk	<p>Current position: The work required to maximise independence and Transform Adult Social care services has not happened quickly enough and improved service outcomes, financial savings and ambition levels are not where they need to be at this time. A single transformation plan is being developed and key staff and resources are being put in place to ensure these changes happen quickly. Some success is now being seen particularly through work on residential placements but there is much still to deliver over the next 18 months.</p> <p>Mitigating actions: A cross council Improvement Board chaired by the Chief Executive will oversee key work and govern the transformation process in the short to medium term, meeting on a three weekly basis. Additional support both internal and external to the council has been put into place with further support in the process of being arranged. A single plan will co-ordinate the key strands of work that will deliver the changes needed to maximise people's independence and establish a modern health, well-being and social care service for Doncaster. A peer review of adults safeguarding has been undertaken and the recommendations from the review are now being progressed. A new Director of Adult's Health and Wellbeing has recently been appointed to drive the transformation forward.</p>	Target Risk
<p>20</p>		<p>15</p>

Children and Young People do not achieve in line with national expectation

Damian Allen

Current Risk	<p>Current position: Provisional Key Stage 2 Level 4 results for reading, writing and Maths combined have shown a disappointing drop in performance for 2015 putting Doncaster in the bottom quartile nationally. 2015 GCSE 5 A*-C Inc. English and Maths indicate a decline in line with the National trend but remain below the national average. Under the new Ofsted framework and inspection arrangements very few Doncaster schools have been subject to inspection, but those that have are improving their grades and the vast majority of interim Ofsted monitoring visits report positive progress The Key Stage 2 rapid improvement strategy has been approved by the Minister for schools and has engaged the vast majority of schools in Doncaster. All interim targets so far have been reached. An indicative projection for outcomes based on standardised tests in year 6 is encouraging and a range of very focused initiatives are in place to raise standards according to the new framework of tests. A Key stage 4 strategy is planned with the Academies and a variety of challenging curriculum groups are in place led by the LA and supported by the Teaching School Alliance</p> <p>Mitigating actions:</p> <ul style="list-style-type: none"> . Continue to deliver School Improvement 3 year Post Ofsted action plan which is currently midway through its implementation – with an improving picture regarding the quality of 'Leadership & Performance' which will have an effect on the overall Ofsted outcomes. . Challenge Schools Commissioner and Sponsors of Academies on underperformance. . Ensure School Improvement Strategy is delivered, taking into account new Ofsted Measures. . Improve pupil attendance via enhanced early help . deliver the aspects of the education and skills strategy to include: <ul style="list-style-type: none"> Key Stage 2 and 4 rapid improvement initiatives Academy exploration and growth strategy for schools at risk of decline and those wishing to join Multi-Academy Trusts Revision support in the community for students and parents Leadership succession and recruitment support initiatives in partnership with the Teaching School Alliance 	Target Risk
<p>16</p>		<p>12</p>

Lack of capacity from house builders to build affordable properties

Peter Dale

<p>Current Risk</p> <p style="text-align: center; font-size: 24pt;">16</p> <p>Likelihood</p> <p>Impact</p>	<p>Current position: The cumulative impact of policy and funding changes from Govt has significantly reduced the ability of HA's to deliver affordable housing in the Borough. Changes in planning definitions and introduction of new Starter Homes may further erode the delivery of Affordable Rented properties in coming years.</p> <p>Mitigating actions: The Council and SLHD will continue to deliver the current committed programmes to increase supply of affordable through the Council House Building, Empty Homes Purchase and Empty Properties Grants. In addition the new Housing Delivery Programme will in future provide additional stimulus to help meet the Boroughs housing needs and demands across all market sectors.</p>	<p>Target Risk</p> <p style="text-align: center; font-size: 24pt;">6</p> <p>Likelihood</p> <p>Impact</p>
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Failure to achieve the budget target for 2015/16 and 16/17

Simon Wiles

<p>Current Risk</p> <p style="text-align: center; font-size: 24pt;">16</p> <p>Likelihood</p> <p>Impact</p>	<p>Current position: For 2015/16 the council has a challenging programme of savings to deliver, which is being robustly managed by programme leads and reviewed by AD's & Directors on a quarterly basis. The overall overspend forecast is £2.0m; this includes a number of pressures which have been taken into account in the 2016/17 budget process and funding allocated accordingly.</p> <p>Mitigating actions: Developing other savings or utilising one off funds for any delays in the savings for 2015/16.</p>	<p>Target Risk</p> <p style="text-align: center; font-size: 24pt;">9</p> <p>Likelihood</p> <p>Impact</p>
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Failure to improve Data Quality will prevent us from ensuring that data relating to key Council and Borough priorities is robust and valid.

Simon Wiles

<p>Current Risk</p> <p style="text-align: center; font-size: 24pt;">16</p> <p>Likelihood</p> <p>Impact</p>	<p>Current position: Poor data quality may seriously hamper the ability for the Council' to transform and poor data and information will also reduce the effectiveness of the decisions that the Council makes. There are specific examples that demonstrate this including adult social care client management system that at the moment does not provide the quality of data that is required to support and add value that is needed.</p> <p>Mitigating actions: A new Data Quality Strategy will be developed in early 2016 that will provide specific actions that will improve data quality across the council and set out the vision for data quality over the next few years. Engagement across all Council departments will be required to ensure improvements are made quickly and appropriately. A register for all returns to central government will be updated and monitored to ensure the data supplied nationally is of good quality and ownership is clear. A business intelligence model which will support 'open data' across Doncaster is in the early stages of discussion and will once established help to support good and where appropriate automated information flows between systems improving the quality of data available in Doncaster. This risk links to all existing council plans, since the data we use informs all actions and decisions.</p>	<p>Target Risk</p> <p style="text-align: center; font-size: 24pt;">4</p> <p>Likelihood</p> <p>Impact</p>
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A failure to identify, or to act on, areas of serious performance weakness in the Doncaster Children's Service Trust or in the Council, which could result in significant harm to a child or children which could have been avoided, or which could lead to an 'inadequate' judgement at Ofsted Inspection, which will negatively impact on the reputation of the local authority.

Damian Allen

<p>Current Risk</p> <p style="text-align: center; font-size: 24pt;">15</p> <p>Likelihood</p> <p>Impact</p>	<p>Current position: The formal arrangements to monitor and review the effectiveness and input of services to children provided by the Trust and the council are believed to provide assurance against this risk. Trust and Council performance has shown an overall improvement against the key indicators since the establishment of the contract. Ofsted commented that formal systems for the Council to monitor and challenge performance by the Trust exceed the requirements set out in the contract between the organisations.</p> <p>Mitigating actions: The Council has formally agreed the results of the Annual Contract Review which includes a revised suite of performance indicators, which have been subject to extensive joint development between the Council and the Trust. The new indicators are believed to provide more effective assurance against this risk, alongside additional Quality Assurance reporting, and this new approach has been agreed; which taken together will contribute towards the establishment of a continuous improvement framework. The formal variations to the contract await the Secretary of State's directions.</p>	<p>Target Risk</p> <p style="text-align: center; font-size: 24pt;">15</p> <p>Likelihood</p> <p>Impact</p>
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Failure to obtain assurance as to the safeguarding of children in the borough

Damian Allen

<p>Current Risk</p> <p style="text-align: center; font-size: 24pt;">15</p> <p>Likelihood</p> <p>Impact</p>	<p>Current position: The formal arrangements to monitor and review the effectiveness and input of services to children provided by the Trust are believed to provide assurance to this risk. Overall the safeguarding indicators specific to children are now performing better than they were this time last year although further improvement will be needed in order to achieve a higher Ofsted grading. Ofsted did not raise any concerns as to the safety of children in the borough, but did recommend improvements to social work practice.</p> <p>Mitigating actions: An Ofsted improvement plan has been developed and submitted to Ofsted in draft form on 9th February 2016. Further work in conjunction with Ofsted to embolden this plan will continue and a final iteration will be submitted before the final deadline of 8th March 2016.</p>	<p>Target Risk</p> <p style="text-align: center; font-size: 24pt;">15</p> <p>Likelihood</p> <p>Impact</p>
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Failure to set robust assumptions on pensions deficit recovery and future contribution rate for the 2016 valuation

Simon Wiles

<p>Current Risk</p> <p style="text-align: center; font-size: 24pt;">12</p> <p>Likelihood</p> <p>Impact</p>	<p>Current position: The next tri-annual assessment is due in 2016 and effective for the 3 year period 2017/18 to 2019/20, this is a significant cost for the Council and will need to be based on robust assumptions for pensions deficit recovery and future contribution rates. The Council has been prudent in its assumptions for 2017/18 but a relatively small change in discount rates could result in significant extra costs for the Council.</p> <p>Mitigating Actions: The Council will be reviewing and challenging the assumptions made by the Actuary with SYPA and other LA's in South Yorkshire. The Actuary will be attending a meeting of the South Yorkshire Finance Directors to explain the position. The assumptions need to be finalised before July 2016 in order that the information can be fed into our budget setting process. The Council will be working with other LA's at a local and at a national level through the LGA to minimise any additional costs arising from the 2016 Valuation.</p>	<p>Target Risk</p> <p style="text-align: center; font-size: 24pt;">4</p> <p>Likelihood</p> <p>Impact</p>
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Failure to deliver the actions identified in the Equality and Inclusion action plan may impact our ability to effectively embed and delivery the equality agenda which could result in the council being exposed to public 'due regard' challenge

Simon Wiles

<p>Current Risk</p> <p style="text-align: center; font-size: 24pt;">12</p> <p>Likelihood</p> <p>Impact</p>	<p>Current position: The Year Two action plan is reviewed and monitored by the Equalities Steering Group and Portfolio Holder Deputy Mayor Glyn Jones. 38 of the 44 actions within the Equality & Inclusion Year 2 Action Plan are complete or on track, this equates to 86%.</p> <p>Mitigating actions:</p> <ul style="list-style-type: none"> - We have strengthened the governance arrangements and have been focusing on profiling our service specific equality objectives; - The leads of activities that are not on track are being asked to review and provide actions to bring activities back on track; - Additional assistance will be provided by the Strategy and Performance Unit to support the delivery of the actions; 	<p>Target Risk</p> <p style="text-align: center; font-size: 24pt;">8</p> <p>Likelihood</p> <p>Impact</p>
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DN17 Programme does not deliver the level of savings required and this impacts on the services the council can offer to the public

Simon Wiles

<p>Current Risk</p> <p style="text-align: center; font-size: 24pt;">12</p> <p>Likelihood</p> <p>Impact</p>	<p>Current position: The Doncaster 2017 Programme is showing £3.59m projected slippage for 2015/16. This is mostly attributable to Appropriate Assets and Modern & Productive Workforce. It should be noted that the pace of transformation for some of the projects is slow, one-off funding has been used to meet the shortfalls and some projects will need to extend beyond 2016/17 in order to achieve their outcomes.</p> <p>Mitigating actions: Robust plans are being developed for the Adults Improvement Programme which will feed into the wider transformation programme. It is recognised that Digital Council is a key enabler for transformation across the Council and therefore the aim is for the digital strategy to be fully embraced and embedded across the council to ensure the pace and successful delivery of projects within the programme and across the organisation as a whole. The Implementation Boards that form part of the DN17 programme governance and support the outcomes and achievement of the £109m savings to 2016/17 are under review, to ensure they are fit for purpose going forward, these will be put in place for Q4 of 2015/16.</p>	<p>Target Risk</p> <p style="text-align: center; font-size: 24pt;">6</p> <p>Likelihood</p> <p>Impact</p>
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Failure to comply with the Data Protection Act 1998

Simon Wiles

Current Risk	<p>Current position: There have been 6 data protection incidents by the Council in quarter 3 and 3 incidents reported by the Trust. None were serious enough to be reported to the ICO from the Council; however, the Data Protection Officer may have to report 1 incident from the Trust but is working with the team to establish if this does need to be reported depending on the score matrix when all information has been collated. As usual all incidents are down to human error.</p> <p>Mitigating actions: To mitigate this risk, the SIRO and Data Protection Officer as well as the SIRO Board are constantly implementing actions to deter any further breaches.</p>	Target Risk
<p>12</p>		<p>8</p>

The agreed standards and policies are not adequately understood and implemented by practitioners who work with vulnerable adults increasing the risk of vulnerable people experiencing harm or abuse

Kim Curry

Current Risk	<p>Current position: Revised South Yorkshire Procedures launched across Doncaster on 5th October 2015 in line with the Care Act. LGA Peer Review undertaken during November 2015, highlighted areas for improvement and urgent review to ensure pathways and processes are robust and effective; as confusion on current work creates an increased risk for vulnerable adults.</p> <p>Mitigating actions: The action plan from the Peer Review and implementation of required changes will take place from 1 April 2016, with a view to reducing the risk identified here, by improving process and delivering a clearer pathway for safeguarding individuals. Implementation of the SY Procedures brings a new model for safeguarding adults, to include Health professionals, in decision making process will be supported by training for staff to ensure successful implementation of the new procedures.</p>	Target Risk
<p>10</p>		<p>10</p>

Poorly developed early help services could result in children and young people failing to maximise their opportunities and the council failing to improve or ameliorate health, education and life inequalities across the Borough

Damian Allen

Current Risk	<p>Current Position: The Early Help Hub has now been in operation for 12 weeks and is nearly fully staffed with a multi-agency compliment.</p> <p>Mitigating Actions: The Early Help hub will be moving into management by Doncaster Children's Service Trust by end of February 2016. Strategic risk remains the same as transfer is effected and new reporting and quality assurance systems are put into place. This will be fed back to the partnership via the Early Help Implementation Group and will challenge colleagues in terms of contribution and quality of input. The Early Help implementation plan will set out specific plans to increase engagement and quality of Early Help Assessments.</p>	Target Risk
<p>9</p>		<p>6</p>

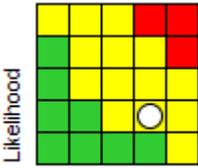
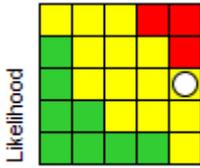
Failure to identify and manage Health and Safety risks

Peter Dale

Current Risk	<p>Current position: This risk has been reviewed and remains unchanged. Health and Safety Training for Managers continues to be mandatory across all Directorates. The new Health and Safety Advisor post for Construction Services continues to work well. Risks have been identified at Hatfield Colliery and work is ongoing to mitigate risks to public safety. This includes proposals to demolish and secure buildings. Intensive work, with the assistance of competent advisors and mining engineers has taken place during quarter 3. Separate reports on this work are being provided to the Chief Executive and Leadership Team to update on progress.</p> <p>Mitigating Actions: A further Health and Safety Training post is being developed as part of a review and restructure of the Regulation and Enforcement Service within Environment. A substantial amount of work has also been undertaken to identify and mitigate the health and safety risks within the Council's Markets with appropriate action plans now in place. Work has been undertaken within the Assets Team regarding health & safety risks on Council land. A programme of unannounced 'drop in' audits across a range of service areas has also commenced and will continue throughout 2016. Action plans will be developed with managers where appropriate to drive and monitor improvements against the audit findings.</p>	Target Risk
<p>8</p>		<p>8</p>

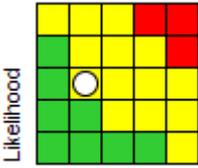
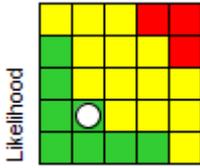
Failure to respond adequately to borough emergencies or mitigate effectively against the effects of extreme weather conditions e.g. flooding.

Peter Dale

Current Risk	<p>Current Position: This risk has been reviewed and is considered to remain appropriate. The Council's plans for preparedness and business continuity continue to be reviewed and maintained. The plans and arrangements have been rehearsed with partners from across South Yorkshire and a recent assessment of DMBC's emergency response capabilities by the Cabinet Office has demonstrated a high level of preparedness and compliance with Government expectations for Civil Contingencies.</p> <p>Mitigating Actions: A series of interactive Doncaster Council Corporate Exercise have taken place in November 2015 to consider the Council and Partner Agencies preparedness arrangements for a flood event affecting Doncaster. The exercises enabled approx. 100 tactical level response staff working in the Emergency Control Centre to refresh and rehearse emergency flood response arrangements. To further embed flood response awareness at a strategic level, Resilience and Emergency Planning organised a South Yorkshire Strategic Training session on the roles and responsibilities of Gold Commanders themed around the strategic response to flooding. Winter preparedness plans for 2015/2016 have been reviewed and are in place to support response arrangements in the event of severe winter weather.</p> <p>The target risk score of 15 was profiled as part of the Q1 assessment process. Due to the effectiveness of the mitigating actions (detailed above) the risk has been managed down to a risk rating of 8, well below the target.</p>	Target Risk
<p>8</p> 		<p>15</p> 

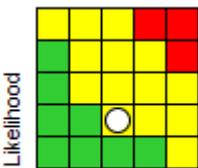
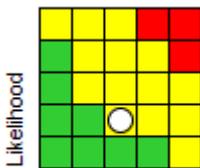
Low staff motivation/morale and low performance

Simon Wiles

Current Risk	<p>Current position: Morale, motivation and performance levels remain steady this quarter, although there are challenges particularly due to the transformation / improvement programme within Adults. It was a positive step forward to achieve collective agreement with the Trade Unions regarding the changes to Terms and Conditions and this needs to be continued to be managed sensitively and consistently.</p> <p>Attendance management targets have been set for 2015/16 both corporately and within individual directorates. The overall target for the Council for 2015/16 is 8.5 days per FTE. Current performance for the quarter is at 2.61 days/FTE an increase from 2.25 days /FTE in the previous quarter. The Council overall is now forecasted to exceed the corporate target and two directorates continue to be forecasted to be above the directorate target.</p> <p>There is still a high proportion of service reviews being undertaken along with on-going organisational transformation that will impact on morale, therefore this risk, although still currently manageable given the mitigating actions put in place, will remain the same for this quarter.</p> <p>Mitigating actions: Continue to monitor sickness trend and ensure action plans progress. Monitor impact on on-going organisation-wide transformation, particularly within Adults, Health and Well Being.</p>	Target Risk
<p>6</p> 		<p>4</p> 

Failure to implement the Council's key borough objectives in partnership

Simon Wiles

Current Risk	<p>Current position: During Quarter 3 the Partnership held its 3rd Annual Partnership Summit, the invitees including members from Team Doncaster, and the four Theme Boards discussed a number of prevalent topics including employment opportunities for young adults leaving secondary school. The Partnership event held open space sessions which partners identified a number of issues and solutions to factors facing Doncaster currently. The evaluation from this event and next steps are to be considered by Team Doncaster at its meeting on the 23rd February 2016.</p> <p>Mitigating actions: The Councils Partnership Team continues to review the content of its refreshed Borough Strategy, ensuring the partnership objectives and asks reflect the current views of Partners. It is the intention with the establishment of the SP Unit that detailed one to one interviews with Team Doncaster members will take place during Quarter 4 to ensure the partnerships are achieving their full potential.</p>	Target Risk
<p>6</p> 		<p>6</p> 

To the Chair and Members of the AUDIT COMMITTEE

ANNUAL REPORT OF THE HEAD OF INTERNAL AUDIT 2015/16

EXECUTIVE SUMMARY

1. This report provides information on the work of Internal Audit during 2015/16 and its overall opinion on the Council's system of internal control. The report also refers to the formal review of the effectiveness of Internal Audit required to be completed in accordance with the Accounts and Audit Regulations 2015.

Head of Internal Audit Annual Report 2015/16

2. It is a requirement of the United Kingdom Public Sector Internal Audit Standards (UKPSIAS) that an annual report is produced by the Head of Internal Audit on the work undertaken by the Audit Section. The report for this year covers details of work done in 2015/16.
3. Headlines from the annual report, which is attached at **Appendix 1**, are as follows:
 - Internal Audit's net expenditure in the year was £504,000 compared with a budget of £525,000, with the underspend being largely due to the departure of staff during the year. During 2015/16, Internal Audit had an establishment of 10.06 full time equivalent (FTE) staff which is amongst the lowest levels of staffing when compared with similar sized authorities in South and West Yorkshire.
 - The service delivered 1,641 (92%) actual chargeable days against a budgeted total of 1,775. The main reasons for the shortfall being two members of staff leaving part way through the year, special granted leave, relocation to the Civic Building, an upgrade to the electronic audit system, increased management time in developing the audit planning process and preparing a tender submission
 - Approximately 20% of Internal Audit time was used responsively to address issues which arose during the year. This is consistent with 21% in the previous year.
 - 82% of internal audit recommendations have either been completed or are in progress and on time. Work is ongoing with services to improve this performance
 - The service was rated as 'satisfactory' or 'very satisfactory' in 100% of client surveys received.

- The service has achieved good overall performance against its key performance indicators.
 - A self-assessment against the new UKPSIAS confirms compliance with the standards.
 - Internal Audit supported schools to submit their Schools Financial Value Standard returns to the Department of Education by providing help and support to School Governors and staff on the requirements. All Doncaster maintained schools successfully completed and returned their submissions by the stipulated deadline.
 - The service carried out a range of investigations during the period, some of which resulted in disciplinary and / or Police action.
4. Based upon the audit work undertaken it has been possible to complete an assessment of the Council's overall control environment. This assessment takes account of the work of the External Auditor and the result of any external inspections carried out. **The Head of Internal Audit is able to confirm that the Council's system of internal control for 2015/16 was adequate and operated satisfactorily during the year.**
5. Internal Audit has identified two new areas to be considered for inclusion in the Council's 2015/16 Annual Governance Statement (AGS):
- Direct Payments
 - Supporting Adults Personal Assets Team

Updates have been provided on three other Items which were included in the 2014/15 AGS::

- Core Financial Processes – Debtors
 - Core Financial Processes – Creditors (Procure to Pay) System
 - Doncaster Markets
6. Other weaknesses not considered significant enough for inclusion in the AGS have been highlighted by Internal Audit's work during the year and these have been brought to management's attention. The weaknesses do not change Internal Audit's overall opinion on the control environment.

Review of the Effectiveness of Internal Audit

7. The Accounts and Audit Regulations 2015 include a requirement for local authorities to:
- “...undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance” Reg 5 (1) and
- “conduct a review of the effectiveness of the system of internal control ...” Reg 6 (1) (a).
8. The UK Public Sector Audit Standards have a requirement for an external assessment of the service to be conducted every five years. Kirklees Council's Internal Audit Service will be reviewing our compliance with the

Standards during 2016/17, and we will be conducting a review of Bradford Council's audit function in the 2016/17 year.

For this year the review of the effectiveness of Internal Audit had been informed mainly by:

- Internal Audit's annual report,
- Customer satisfaction,
- A self-assessment against the United Kingdom Public Sector Internal Audit Standards.

9. The main features from these reports that contribute to this satisfactory review of Internal Audit are summarised below:

Internal Audit Annual Report

10. The annual report is referred to above.

Customer Satisfaction

11. At the end of every completed audit, clients are asked to feedback their rating of the auditor's performance. Based upon the team's customer survey responses, the service was rated as 'satisfactory' or 'very satisfactory' in 100% of all surveys received.

Review of Internal Audit

12. The Head of Internal Audit has undertaken an annual self-assessment as required by the standards. Internal Audit is compliant with the standards with one exception; the standards require the Audit Committee to approve decisions relating to the appointment and removal of the Head of Internal Audit. This does not currently reflect local government practice and is not regarded to be a material non-compliance issue and so no change is proposed.

13. While carrying out the self-assessment the Head of Internal Audit has identified two further areas where the Service's arrangements could be improved; these are, (1) to be more explicit in reporting how the Service's work 'adds value' to the organisation and (2) to ensure the risk based audit plans take into account the Council's overall assurance framework as this develops. These are regarded as improvement opportunities rather than non-compliance issues.

Conclusion

14. It is concluded that:

- Internal Audit has effectively planned its work and has completed sufficient work to be able to provide an opinion to the Council on its system of internal control.
- Based on the planning and completion of audit work described in the annual report, customer feedback and self-assessment against the new UKPSIAS standards, it can be confirmed that there has been an effective Internal Audit during 2015/16.

RECOMMENDATIONS

15. The Audit Committee is asked:

- To note the Internal Audit Annual Report for 2015/16, including confirmation that the Council’s system of internal control was adequate and operated satisfactorily during the year.
- To support the conclusion that there was an effective Internal Audit in place for 2015/16.
- To note the Head of Internal Audit’s self-assessment that the service is compliant with the UKPSIAS.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

16. Effective Internal Audit arrangements add value to the Council in managing its risks and achieving its key priorities of improving services provided to the citizens of the borough.

BACKGROUND

17. This report provides the Audit Committee with information on the performance of and outcomes from internal audit work and allows the Committee to discharge its responsibility for monitoring Internal Audit activity and provides an assessment on the system of internal control.

IMPACT ON THE COUNCIL’S KEY OUTCOMES

18. Internal Audit assesses how effectively the Council is managing risks that threaten the achievement of the Council’s objectives. Any improvement in the management of the risks will have a positive impact thereby increasing the likelihood of the Council achieving its objectives. Internal Audit’s work is, therefore, relevant to all priorities but in particular the following:

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster’s vital services</i> 	
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
	<p>People in Doncaster benefit from a high quality built and natural</p>	

	<p>environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	<p>Council services are modern and value for money.</p>	<p>Internal Audit adds value to the organisation through a systematic, disciplined approach to evaluate and improve the effectiveness of the Council's Services</p>
	<p>Working with our partners we will provide strong leadership and governance.</p>	<p>The work undertaken by Internal Audit improves and strengthens governance arrangements within the Council and its partners.</p>

RISKS AND ASSUMPTIONS

19. This report, in presenting information about the state of the Council's internal control environment, allows Members to form an opinion about risks within the Council. The risk to the Council arises if there is inadequate or ineffective action to improve the risk management arrangements identified as unsatisfactory during the year. Information detailed in this report on the implementation of internal audit recommendations gives Members an insight into the extent to which the management of risk is being improved

LEGAL IMPLICATIONS

20. There is a statutory obligation on the Council to provide an adequate and effective internal audit of its accounts and supporting systems of internal control.

FINANCIAL IMPLICATIONS

21. There are no identified direct financial implications arising from this report.

HUMAN RESOURCES IMPLICATIONS

22. There are no identified human resources implications arising from this report.

TECHNOLOGY IMPLICATIONS

23. There are no identified technology implications arising from this report.

EQUALITY IMPLICATIONS

24. We are aware of the Council's obligations under the Public Sector Equalities Duties and whilst there are no identified equal opportunity issues within this report, all of the reports identified within the annual report would have been subject to their own relevant equalities implications assessment.

CONSULTATION

25. There is consultation with managers at the outset, throughout and at the conclusion of individual audits in order to ensure that the work undertaken and findings are relevant to the risks identified and are accurate.

BACKGROUND PAPERS

26. Internal Audit TeamMate files, United Kingdom Public Sector Internal Audit Standards (UKPSIAS), Local Government Advisory Note, Internal Audit Customer Survey Responses, Internal Audit Management Information System.

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Head of Internal Audit**

ANNUAL REPORT OF THE HEAD OF INTERNAL AUDIT 2015/16

1. Purpose of the report

- 1.1 The purpose of the report is to present the Head of Internal Audit's annual report, which supports the Council's annual governance assessment and its Annual Governance Statement.
- 1.2 The report also contributes to the requirements of the Accounts and Audit [England] Regulations 2015, for the Council to conduct an annual review of the effectiveness of Internal Audit.

2. Introduction

- 2.1 The report has been prepared by the Council's Head of Internal Audit. The aim of the report is to provide information on the role of Internal Audit and the work undertaken during the past year, and to support the statement prepared by the Head of Internal Audit on the Council's System of Internal Control.
- 2.2 It is not the intention of this report to give a detailed summary of each of the audits that have been undertaken during the year but to provide a broad review of the Council's control arrangements.

3. Legislation Surrounding Internal Audit

- 3.1 Internal Audit is a statutory requirement for all local authorities in accordance with Section 151 of the Local Government Act 1972 and more recently the Accounts and Audit [England] Regulations 2015. The main thrust of these statutes is that every authority shall have arrangements for the proper administration of its financial affairs.
- 3.2 The Accounts and Audit Regulations 2015 require councils to undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control. Further, councils must, at least once in each year, conduct a review of the effectiveness of its internal audit.
- 3.3 It is a requirement of the United Kingdom Public Sector Internal Audit Standards (UKPSIAS) that an annual report is produced by the Head of Internal Audit on the work undertaken by the Audit Section.

4. Reviewing the Service

4.1 Internal Audit Resources

Internal Audit's net expenditure in the year was £504,000 ^{*1} compared with a budget of £525,000. Income was generated by providing a comprehensive Internal Audit service to St Leger Homes and Doncaster Children's Services Trust throughout the year.

^{*1} Estimate at March 2016

During 2015/16, Internal Audit had an establishment of 10.06 full time equivalent (FTE) staff which is among the lowest levels of staffing when compared with similar sized authorities in South and West Yorkshire. The establishment will increase slightly to 10.70 (FTE) for 2016/17, increasing the overall available audit days to 1,821 days for the year. A careful approach to risk based planning and robust performance management of our resources is essential given the level of available resources, but it is the opinion of the Head of Internal Audit that current resource levels provide sufficient capacity to provide an adequate level of assurance to the Audit Committee and the Director of Finance and Corporate Services.

4.2 Audit Work Undertaken

A breakdown of time spent in the year April 2015 to March 2016 is summarised below:

Internal Audit Plan v Actual Days April 2015 to March 2016:

Strand	Activity	Planned Days	Total Planned Days	Actual Days	Total Actual Days
Mandatory	Corporate	61		57	
	Core financial systems	211		233	
	Financial admin	141		106	
	Previous year completions	60		90	
	School financial admin	88	561	64	550
Must do work	Governance	30		66	
	Grant and performance Certification	75		48	
	IT Audit	72		52	
	Internal Projects	0		9	
	Proactive Anti-Fraud and Error	184		173	
	National Fraud Initiative	36	397	26	374
Follow-up work			80		123
	Responsive and risk related work		737		592
Total Plan			1,775		1,641

Overall, 92% of chargeable time was delivered, with the main reasons for the shortfall being two members of staff leaving during the year, special granted leave, relocation to the Civic Building, an upgrade to the electronic audit system and increased management time in developing the audit planning process and preparing a tender submission.

There were variances across the original categories of work, but priority was given to ensuring sufficient work was completed to enable the Head of Audit to form an opinion on the internal control environment and be responsive to management for their requests for advice and support.

4.3 Implementation of Recommendations

The Internal Audit Team continues to work closely with managers to encourage a high level of implementation of recommendations that are aimed at improving the level of internal control. The extent to which managers within the Council implemented recommendations within agreed timescales is as follows:

Implementation of Recommendations:

	Number of recs	Implemented (number / %)	In Progress but still in time (number / %)	Not yet Implemented / out of time (number / %)
2015/16	565	328/58%	137/24%	100/18%
<i>Comparable data for 2014/15 to 2012/13:</i>				
2014/15	525	325 / 62%	120 / 23%	80 / 15%
2013/14	724	484 / 67%	187 / 26%	53 / 7%
2012/13	--	57%	37%	6%

The above table demonstrates that since 2012/13 management overall is responsive to and takes action to implement audit recommendations.

Within the 100 actions that have not been implemented are 13 major recommendations. 9 of these relate to the Information Records Management Audit. Progress is anticipated to be made imminently upon a contractual dispute being resolved.

The remaining 4 major actions relate to 2 schools and are based on issues surrounding financial and governance arrangements. This situation has been escalated to the Chairs of Governors and the Assistant Director for Learning & Achievement.

This is a pleasing situation as there were 27 major recommendations outstanding at the beginning of the year and highlights effective arrangements and management response to implementing agreed actions.

Of further note is the Adults Health & Wellbeing Directorate. In February 2015

a report was brought to Audit Committee detailing 84 recommendations outstanding of which 7 related to major risk exposures. As at 18th March 2016 there were only 23 recommendations outstanding, none of which involved exposure to major risks. This has represented a comprehensive improvement in the management of audit recommendations within this directorate. A report is just being agreed around overpayment of personal budgets and this will have many recommendations within it, some of which are major. We are however confident that the directorate will address these issues in a timely manner as has been demonstrated throughout this year.

Any major recommendations that are not implemented in line with agreed timescales are reported as part of the Council's quarterly performance and finance challenge process and consequently monitored through that process as well as being routinely reported to Audit Committee.

Internal Audit will continue to closely monitor progress on these and bring any relevant matters to the Audit Committee's attention in its progress reports to the Committee.

4.4 Customer Satisfaction

At the end of every completed audit, clients are asked to feedback their rating of the auditor's performance. Based upon the team's customer survey responses, the service was rated as 'satisfactory or very satisfactory' in 100% of all surveys received.

4.5 Performance Indicators

At its meeting in June 2013, the Audit Committee agreed the key performance indicators that should be reported to it relating to the performance of the Internal Audit service. The indicators are shown below along with current performance for the year April 2015 to March 2016.

Performance Indicator	Target	April to March	Variance
Percentage of planned audit work completed	90%	85%	-5%
Draft reports issued within 15 days of field work being completed	90%	93%	3%
Final reports issued within 5 days of customer response	90%	92%	2%
% of critical or major recommendations agreed	100%	100%	-
Cost per Chargeable Day	£306	£307	£1
Percentage of Customer Satisfaction Surveys rated satisfactory or very satisfactory	90%	100%	10%

The difference between the target and actual percentage of planned audit work completed is due to members of staff leaving during the year reducing the actual days delivered.in total whilst still resourcing unplanned responsive work

Results relating to major recommendations and customer satisfaction remain very positive.

4.6 Compliance with the UKPSIAS

The Head of Internal Audit is required to report on Internal Audit's compliance with the UKPSIAS. Basic requirements for this are as follows:

- a) The Head of Internal Audit periodically reviews the internal audit charter and strategy and presents it to senior management and the Audit Committee for approval.
- b) The Internal Audit service is organisationally independent.
- c) There is a Quality Assurance and Improvement Programme (QAIP), the results of which are reported to senior management and the Audit Committee. The results of the QAIP assessment carried out in 2015/16 noted only relatively minor improvement requirements that will be addressed during the following months and will be reflected in the external assessment to be carried out during the year and our own progress reports as required.
- d) There is an external assessment of the service conducted every five years. Kirklees Council's Internal Audit Service will be reviewing our compliance with the Standards during 2016/17, and we will be conducting a review of Bradford Council's audit function.
- e) All instances of non-compliance with the UKPSIAS are reported to the Audit Committee.
- f) The non-conformances are not considered to be significant deviations from the UKPSIAS and therefore do not require disclosure in the Council's Annual Governance Statement.

The Head of Internal Audit has undertaken an annual self-assessment as required by the standards. He has concluded that Internal Audit is compliant with the standards with the exception of the following item:-

- The Standards require the Audit Committee to approve decisions relating to the appointment and removal of the Head of Internal Audit. This does not currently reflect local government practice and is not regarded to be a material non-compliance issue and so no change is proposed. This is an issue reported in previous years.

Additionally, he has identified two further areas which the team can develop to further improve the service:. These are:

- Record and report more explicitly how the internal audit activity adds value to the organisation and its stakeholders by providing objective and relevant assurance and contributing to the effectiveness and efficiency of the governance, risk management and internal control processes.
- To take into account the Council's assurance framework as this becomes better developed

These are regarded as improvement opportunities rather than non-compliance issues.

5. Planning Processes.

The 2015/16 audit plan was derived from the following sources:-

- Review of the Council's risk registers
- Review of revenue and capital budgets
- Cumulative audit knowledge and experience
- Review of key plans, reports and press coverage
- Awareness of priorities identified by the Council's Directors and Assistant Directors
- Knowledge of existing management and control environments, including information relating to any system changes
- Information Asset and Systems Asset Registers
- Review of major partnership risks and major contracts
- Professional judgement on the risk of fraud or error.

6. Summary of Findings from Audit Reviews.

6.1 Main Financial Systems

As part of the annual audit plan Internal Audit undertakes a programme of reviews that covers the main financial systems of the Council. Internal Audit work in these areas is examined by KPMG, who seek to place reliance on this work to assist their own audit of the Council's annual accounts.

6.2 Significant Issues Arising

Internal Audit provides an 'opinion' on the control environment for all systems which are examined. A limited / no assurance opinion is given where one or more major / critical risks are identified in the area under examination.

Updates on three areas of significant weakness identified in the 2014/15 Annual Governance Statement are provided below:

a) Doncaster Markets Financial Administration Review

The internal Audit review identified serious weaknesses in relation to Financial Administration and Health and Safety standards

A significant amount of work has now been completed by management to implement recommendations made by Internal Audit and Health and Safety.

Consequently, significant improvements have been made in respect of Health and Safety concerns.

Financial administration arrangements have also improved. There has been a very substantial reduction in the value of cash collected from traders with the majority of rental income now collected/invoiced through the accounts receivable system. There has been a significant increase in the proportion of spend procured through the appropriate corporate processes.

Full implementation of all the audit recommendations is expected to be completed when the markets team is fully staffed (June 2016), the planned new markets administration system is implemented (September 2016) and the review of leases/rentals is completed (December 2016).

b) Procure to Pay (P2P)

There was a high volume of 'confirmation orders' being raised which are required when users do not initially raise a purchase order via the P2P system. The requirement for confirmation orders generally indicates non-compliance with procurement procedures and adversely impacts on both the efficiency of the payments processes and the length of time taken to pay invoices.. From April 2015 to date there has been a reduction in the numbers of confirmation orders being raised. This is due to system users being retrained and persistent raisers of confirmation orders being targeted.

Invoices were being held within the system as they could not be matched to an order, hence preventing payment .Additional staff resources have cleared a lot of the backlog resulting in 97% of invoices now being paid on time against a target of 95%.

In some Directorates there was a high proportion of off contract spend and further work is being carried out within the procurement team to address this.

Overall, the processes within P2P appear to be working better than last year

c) Debtors and Income Management

This area was exposed to major risks for the period 2014/15 and a limited assurance was given due to:

- Some departments within the Authority not following correct procedures when raising accounts, particularly where goods and services could have been prepaid, causing higher costs for debt collection and a higher risk of non-payment.
- some major delays between provision of services and raising of accounts by some departments.
- the need to reinstate the use of Debt Recovery Agencies and legal action were immediately implemented
- the need for performance targets to be set.

During 2015/16 the vast majority of areas audited received positive audit opinions. There were, however, two areas where significant improvements

were needed, as follows:

a) Safeguarding Adults Personal Assets Team Investigation

There are concerns over the financial administration in the Safeguarding Adults Personal Assets Team. Work is ongoing and is being reported to the Adults improvement Board. A further report will be presented to Audit Committee on completion of the work.

b) Overpayment Review of Direct Payments

There are concerns over the level of overpayments that have been made in paying personal budgets for adult social care and work is currently being completed to establish the full extent of these overpayments.

A key decision has been made to now pay new personal budget monies into bank accounts controlled by the Council and a series of recommendations have been accepted and are being implemented by management. These arrangements will help manage future levels of overpayments.

Work is ongoing and will be regularly reported and monitored by management. A further report will be presented to Audit Committee on completion of the work.

Internal Audit will recommend the above areas are considered for inclusion in the Council's Annual Governance Statement (AGS) for 2015/16, to reflect the significance of the findings in these areas.

Other areas with limited assurance audit opinions but which, in Internal Audit's view, are not sufficiently significant to require consideration for entries in the AGS are summarised below.

1) Payment Card Industry Data Security Standard (PCIDSS) Compliance

Our review found that some teams within the Council do not meet PCI Standards. A submission is being made to the accrediting body to determine whether it now accepts the Council's revised arrangements, or whether these will need to be changed.

2) ICT Governance - Learning & Opportunities: Children & Young People

There were weaknesses in ICT Governance in Learning & Opportunities: Children & Young People (LOCYP). Officers were not clear about their roles and responsibilities and relationships to others with regards ICT Governance. The systems asset register was not up to date and attendance at the Corporate Information Governance Board was poor.

Work undertaken in the last few months has improved the arrangements in place and outstanding improvement actions are anticipated to be complete before the end of March 2016.

3) ICT Themes - CCTV Monitoring

An assessment against the 12 principles of the Data Protection Code of Practice for Surveillance Cameras and Personal Information concluded the principles were not being fully met.

The Alarm Response Centre is currently working with teams across the Council to ensure that staff are aware of the Code and systems comply with it.

4) Short Break Respite Care – Aiming High Team

A partial review undertaken in this area identified several weaknesses regarding the financial management and governance arrangements over the team, including:

- A lack of accurate and complete information regarding respite decisions and commitments made
- An inadequate audit trail to show the implementation of decisions reached
- A lack of clarity about the completion of reviews
- An absence of contractual agreements for some provision

The Service is implementing a case management system that should help to alleviate these issues and we will carry out a follow-up review during 2016/17, to ensure risks have been mitigated.

5) Driver Licence Checks

Internal Audit testing identified that the Transport Team had a backlog of nearly 1/3 of its drivers to check with the DVLA to ensure these drivers held valid licences.

The backlog has now been considerably reduced and is anticipated being fully addressed by the end of April 2016.

6) European Structural and Investment Fund (ESIF)

ESIF funds consist of the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the European Agricultural Fund for Rural Development (EAFRD).

We identified that there was a lack of corporate instructions for project officers planning to use or using European Structural Funds which has now been addressed.

6.3 Schools

Internal Audit supported schools to submit their Schools Financial Value Standard (SFVS) returns to the Department of Education by providing help and support to School Governors and staff on the requirements of the returns. All maintained schools successfully completed and returned their submissions by the stipulated deadline.

Two schools where we carried out routine audits received 'unsatisfactory' opinions. These opinions were due to:

- the lack of experience of staff dealing with financial processes
- lack of budgetary revisions together with official orders not being raised causing inaccurate budgetary information and
- no contingency arrangements for the finance function.

A review was carried out at another school to ensure there were no concerns with the finance processes at the school following the suspension of the Headteacher. Major issues with the performance management process and declarations of interest at the school were raised and have since been rectified,

One follow up review was carried out at a primary school as there had been very little progress made in implementing outstanding actions from the audit carried out late in 2014. Since the follow up review, there are only two outstanding actions awaiting implementation, both of these will be actioned in the next couple of months.

A review was carried out at a school where Internal Audit identified expenditure relating to gifts, hospitality, presents and rewards for staff and volunteers at the school made from the voluntary funds. Gifts were routinely made by the Head with the knowledge of the Chair of Governors, to show appreciation for the recipients work at this school. Such gifts on a regular basis are not consistent with good practice and parents' expectations. The school have since revised their policy on the use of school voluntary funds and have improved the transparency of the use of these funds.

6.4 **Responsive Work.**

6.4.1 Approximately 20% of Internal Audit time was used to address issues which arose during the year. This compares to 21% in the previous year and is consistent with a steady demand for investigatory type work. This work can be sub-divided into two categories; investigations and requests for assistance / advice.

6.4.2 Some of the more significant issues not referred to elsewhere in this report that Internal Audit has addressed during 2015/16 include:

- **Deprivation of Liberty Safeguards (DOLS) Invoices** - Members of the DOLS team became suspicious of a potential false invoice received relating to a DOLS assessment. Internal Audit was asked to examine whether the service had been received in this case, and to assess whether there were any other potential false invoices received. The audit work identified no further potentially erroneous claims, but procedures have been strengthened to minimise the risk of future inaccurate claims being received. No safeguarding issues were identified.
- **Investigation - Residents' Monies at a private care home** - The Doncaster Safeguarding Adults Board had been dealing with safeguarding / care issues at a private care home in which the Council has previously placed a small number of clients. South Yorkshire Police became involved after concerns were raised by a client's family about

money missing from their relative's bank account. Internal Audit was requested to review records relating to other clients to determine whether there were similar issues with other clients / residents monies. Evidence was found of further discrepancies, but no further action could be taken by South Yorkshire Police because the evidence was not strong enough to proceed with.

- **Fraud Allegations on Planning Applications** - Significant allegations were received about 5 planning applications, including:
 - Fraud / Corruption –collusion with a developer to pass inappropriate planning applications
 - Data protection breaches
 - Falsification of information for planning purposes and Freedom Of Information (FOI) requests
 - Tampering with information for FOI requests.

These allegations were investigated and all found to be false.

- **Drainage Board Issues** - The Internal Audit Team continued to support enquiries into governance issues and concerns that had commenced in 2014/15. Some of the concerns are now being addressed by central government bodies. Further work is anticipated to be necessary in the next financial year.

6.4.3 Overall, despite the current economic context, the Council is experiencing relatively little reported fraudulent activity. The examples stated above do not change the audit opinion that, overall, the arrangements in place for preventing and detecting fraud and corruption are satisfactory and do not have a detrimental impact on the overall control environment.

7. Assessment of the System of Internal Control for Year to 31st March 2016.

Based upon the audit work undertaken it has been possible to complete an assessment of the Council's overall control environment. Accordingly, on the basis of this work, we can confirm that the Council's system of internal control for 2015/16 was adequate and operated satisfactorily during the year.

Colin Earl
Head of Internal Audit
22nd March 2016

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7th April, 2016

To the Chair and Members of the AUDIT COMMITTEE

INTERNAL AUDIT PLAN – 2016/17

EXECUTIVE SUMMARY

1. Internal Audit in Doncaster complies with the UK Public Sector Internal Audit Standards (the Standards). A key principle for the service is to assist management through proactive advice and involvement in new developments, systems or any irregularities they experience. This is a modern audit approach, designed to provide as much value to the organisation as possible, whilst recognising we are also required to fulfil our statutory responsibility for checking the Council's control systems. The approach fully reflects the wording and the spirit of the Standards.
2. The Internal Audit annual audit plan for 2016/17 is attached at **Appendix A** and is presented to the Audit Committee for comments. The Standards require Internal Audit's plans to be risk based and informed by the organisation's risk management, performance management and other assurance processes.
3. Risks have been assessed through review of a range of sources, including:
 - Review of the Council's risk registers
 - Review of revenue and capital budgets
 - Cumulative audit knowledge and experience
 - Review of key plans, reports and press coverage
 - Awareness of priorities identified by the Council's Directors and Assistant Directors
 - Knowledge of existing management and control environments, including information relating to any system changes
 - Information Asset and Systems Asset Registers
 - Review of major partnership risks and major contracts
 - Professional judgement on the risk of fraud or error.
4. There are five 'types' of work included in the plan:
 - Mandatory work – work required to enable the Section 151 Officer (for Doncaster this is the Director of Finance and Corporate Services) to fulfil his statutory responsibility to ensure the proper financial administration of the Council's affairs. This includes counter fraud work and the review of the Council's Annual Governance Statement
 - Must-do work – including the National Fraud Initiative and certification of grant claims
 - An allowance for follow-up work in areas where significant weaknesses were identified during the last audit

- An allocation for responsive work. This is work in response to requests from managers for advice and investigation work
 - Key Council priorities and risks.
5. Internal Audit's establishment for DMBC's audit is 10.7 fte. Overall availability for the 2016/17 financial year is 1,821 days (1,775 in 2015/16). Through a careful approach to risk based planning and robust performance management of our resources, it is the opinion of the Head of Internal Audit that current level of resource is sufficient to provide an opinion at the end of the year to the Audit Committee and the Director of Finance and Corporate Services on the adequacy of the Council's control environment.
6. Main points to note within this plan are:
- We plan to maintain our proactive work on the risk of fraud. A full review of the Council's Anti-Fraud and Corruption Framework was undertaken in 2015/16 and a full programme of training was delivered to managers, other key officers and Members. Fraud risk registers were created and populated. Further work is now required to ensure that this work leads to a better understanding of risks and stronger management of them.
 - The Digital Council / Customer Services programmes involve major changes to processes and have been reflected in our plan. We have included time to both advise on controls during programmes implementation and to test the existence and operation of controls in completed projects.
 - The plan includes an allocation for follow up work which is necessary to maximise the benefit of the original audit work by ensuring actions have been implemented and appropriate outcomes achieved. This level of days has been increased based on the previous year's need for follow-ups.
 - A contingency has been set aside to provide for emerging risks / requests for advice / assistance that arise throughout the year. Client feedback tells us that our ability to respond promptly to unforeseen issues of this nature is highly valued. The amount of resource reserved for these contingencies has increased from 138 to 166 days in 2015/16. Previous years' contingency levels have proved insufficient due to major issues arising such as SAPAT (the Safeguarding Adults Personal Assets Team) and local drainage boards. As a result, this has been raised to a more reflective level.
 - The risk based element of the plan is directly linked to corporate and service risks and, in particular, how these risks are being managed. The plan contains several reviews directly supporting Transformation Programmes within both the Adult Health and Wellbeing and Learning & Opportunities: Children & Young People directorates.

Summary of 2016/17 Audit Plan.

Detailed below is the proposed allocation of resources for 2016/17 at a summary level:

*NB – All figures are rounded where necessary.

Strand	Activity	2016/17 Days	2016/17 %	2015/16 Days	2015/16 %
Mandatory	Corporate	62		61	
	Follow-up	91		80	
	Previous Year Completions	60		60	
	Core Systems	145		211	
	ICT Audit	67		72	
	Financial Administration	218		141	
	Schools Financial Administration	69		88	
		712	40%	712	40%
Must do work	Governance	51		30	
	Grant and Performance Certification	61		75	
	Counter Fraud	116		184	
	National Fraud Initiative	15		36	
	Internal Projects	53		0	
		296	16%	325	18%
Responsive work	Advice and Short Term Consultancy	105		109	
	Fraud investigations	135		135	
		240	13%	244	14%
Risk related work	Consultancy	31		25	
	Financial Administration	87		25	
	Governance	56		30	
	Major Partnerships	36		38	
	Management of significant changes	103		66	
	Procurement and Contracts / Major Project Management	36		93	
	Schools Financial Administration	46		69	
	VFM	12		10	
Contingency	166		138		
		578	31%	494	28%
Total Plan		1821		1775	

7. Other main variances and reasons are as follows:

- Core systems work has fallen significantly this year from 211 to 145 days. Systems introduced as part of the ERP project are now more stable and established and, whilst improvements are still underway, the overall risk of these systems is falling. Systems that were reviewed last year in full such as Council Tax, Business Rates and Housing Benefits will be reviewed at a higher level. This reduces the resources needed and is reflective of well-established and overall stable systems. This has enabled us to focus more financial administration work on systems within directorates, hence the increase in Financial Administration work from 141 days to 218 days.

- **Must Do – Internal Projects.** This is a new category of work for this financial year and reflects projects that the service is required to participate in during the financial year such as the Active Navigation Project (a project being run by ICT to ensure the proper storage of electronic information and to reduce the cost of electronic document storage by removing unnecessary, duplicated and temporary files) and participation in the required “Peer Review” of the internal audit function. The UK Public Sector Internal Audit Standards requires that public sector internal audit procedures and processes are reviewed at least once every 5 years. Kirklees Council’s Internal Audit Service will be reviewing our compliance with the Standards during 2016/17, and we will; be conducting a review of Bradford Council’s audit function. Time included in the plan allows for supporting the Kirklees Council review and our independent assessment of Bradford Council’s Internal Audit Service.

RECOMMENDATION

8. The Audit Committee is asked to support the 2016/17 Internal Audit Plan.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

9. Effective oversight through the audit committee adds value to the Council operations in managing its risks and achieving its key priorities.

OPTIONS CONSIDERED AND RECOMMENDED OPTION

10. The audit plan shows the areas proposed for coverage in the year. Internal Audit is not aware of any significant risks not covered by the audit plan or by other sources designed to provide assurance about the mitigation of relevant risks.

IMPACT ON THE COUNCIL’S KEY OUTCOMES

11. Internal Audit contributes to the effective management of the Council’s risks, which in turn contributes to the achievement of the Council’s goals.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster’s vital services</i> 	None
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding</i> 	None

	<p>our Communities</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	None
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	None
	<p>Council services are modern and value for money.</p>	<p>Effective oversight through the Audit Committee adds value to the Council operations in managing its risks and achieving its key priorities of improving services provided to the citizens of the borough</p>
	<p>Working with our partners we will provide strong leadership and governance.</p>	<p>The work undertaken by the Audit Committee improves and strengthens governance arrangements within the Council and its partners.</p>

RISKS & ASSUMPTIONS

12. The Council must provide an effective internal audit if it is to meet its statutory obligations.
13. Failure to direct internal audit resources to the most appropriate areas would limit the contribution the team can make to the Council. It would also limit the ability of the Head of Internal Audit to provide an opinion on the internal control environment or to deliver the most effective internal audit and joint audit arrangement with the External Auditor. These risks are managed through having an appropriate internal audit plan, supported by adequate internal audit resources.

LEGAL IMPLICATIONS

14. The Council must provide an adequate and effective internal audit in order to comply with the requirements of the Accounts and Audit Regulations.

FINANCIAL IMPLICATIONS

15. The revenue budget for the internal audit function carried out for DMBC is £525,000, including corporate recharges, and is within the Finance and Corporate Services Directorate agreed budget.

HUMAN RESOURCES IMPLICATIONS

16. None

TECHNOLOGY IMPLICATIONS

17. None

EQUALITY IMPLICATIONS

18. None

CONSULTATION

19. The Director of Finance and Corporate Services, the Chief Executive and other Directors were consulted on Internal Audit's proposals.

BACKGROUND PAPERS

Accounts and Audit Regulations 2015
UK Public Sector Internal Audit Standards
Council Risk Register

CONTACT OFFICER AND REPORT AUTHOR

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Colin Earl
Head of Internal Audit

**INTERNAL AUDIT
AUDIT PLAN 2016/17**

**Colin Earl MBA (Dist), CPFA
Head of Internal Audit**

1. Purpose

- 1.1 This document provides details of the Internal Audit annual plan for 2016/17 for Doncaster Council. The definition of Internal Audit is set out in the UK Public Sector Internal Audit Standards (the Standards), as:

“Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes”.

- 1.2 Internal Audit is also a statutory requirement. The Accounts and Audit Regulations 2015 state:

“A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”

- 1.3 The overall opinion issued each year by Internal Audit on the adequacy and effectiveness of the control environment is used as a key source of assurance to support the Annual Governance Statement.

- 1.4 Internal Audit also has an important role in supporting the Director of Finance and Corporate Services to discharge his statutory responsibilities, which include:

- S151 Local Government Act 1972 – to ensure the proper administration of financial affairs.
- S114 Local Government Act 1988 – to ensure the Council's expenditure is lawful.
- Accounts and Audit Regulations 2015 – to ensure the Council has an adequate and effective internal audit (see 1.2 above).

- 1.5 A further underlying objective of Internal Audit is to assist Doncaster Council in achieving its key priorities. Internal Audit contributes to these aims by helping to promote a suitably secure and robust internal control environment, including the effective management of risks that could prevent the achievement of key priorities..

- 1.6 The audit plan is important because it sets out the components of the control environment that need to be audited. In addition it provides a statement of intent and a performance target for Internal Audit and subsequent accountability to the Mayor, Audit Committee and Directors. Internal Audit adopts a risk based approach to identifying areas to be included in the plan and to the performance of its work.

2. Key Aims

The key aims of Internal Audit are to:

- Add value to the organisation through its activities;
- Independently review, appraise and report on the adequacy of the systems of control throughout the Authority;
- Provide assurance to management that agreed policies are being implemented effectively;
- Provide assurance to management that internal controls mitigate risks to acceptable levels;
- Facilitate and encourage good practice in managing risks;
- Promoting an environment and culture which will help deter and identify fraud;
- Be a source of advice on risk and control issues;
- Recommend improvements in control, performance and productivity in achieving corporate objectives;
- Work in partnership with the Council's external auditor to provide an overall efficient audit input.

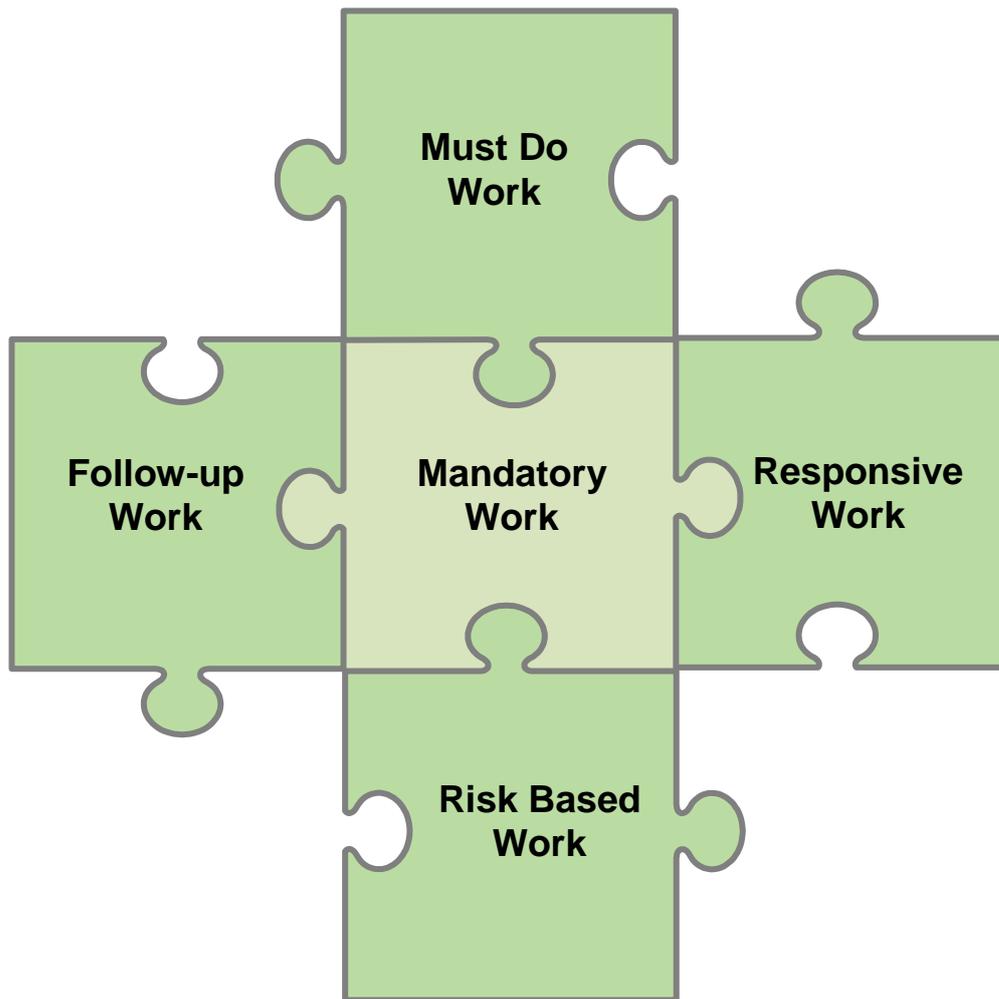
3. Basis of the Plan.

The plan has been prepared in line with the requirements of the Standards and associated guidance. It is focused on ensuring that the Council has a sound system of internal control which facilitates the effective exercise of its functions and the achievement of its aims and objectives. The Standards require the audit plan to be risk based and informed by the organisation's risk management, performance management and other assurance processes. Risks have been assessed through review of the corporate risk register, other key plans and documents and discussions with Directors about the issues and emerging risks that they feel should be considered for inclusion in the plan

A detailed schedule of work included in the annual plan is attached at **Appendix 1**.

Details of the plans construction and various categories are given on the next page.

There are 5 main areas forming the audit plan:



Each strand of the plan contributes, to a greater or lesser extent, to the Head of Internal Audit's annual opinion on the Council's control environment. Mandatory and must-do work is focused on meeting statutory requirements or other imperatives. Internal Audit must deliver this work efficiently in order to maximise the time available for responsive and risk based work, which is often highly regarded by the Council's managers as it helps to address a wide range of issues arising during the course of the year. To this end, Internal Audit is:

- Continuously seeking to improve the efficiency and focus of mandatory and must-do work and adding value to the organisation wherever resources are used;
- Extending the scope of a number of mandatory audits to examine operational risks and opportunities to add value within individual assignments.

3.1 Mandatory Work

Mandatory work helps the Director of Finance and Corporate Services to fulfil his statutory responsibilities to ensure the proper administration of the Council's

financial affairs (Section 151, Local Government Act 1972). It also assists the authority in the requirement to review the effectiveness of the internal control environment and prepare an Annual Governance Statement in line with the requirements of the Accounts and Audit Regs 2015.

- Review of fundamental financial systems and ICT arrangements to ensure there are adequate controls in place to produce accurate and complete statutory annual accounts.
- Review of financial administration and arrangements for safeguarding the Council's cash, assets and financial interests. This includes work which is targeted towards areas with a risk of fraud or error. The selection of areas for review in any one year is made following a risk assessment identifying the areas of greatest risk.

In addition, the mandatory work includes audits of the Council's information security arrangements, Annual Governance Statement, risk management, schools and elements of the governance framework.

We adopt a risk based approach to identifying the specific work that needs to be carried out under this heading, taking into account:

- Analysis of income and expenditure (including revenue / capital budgets)
- Cumulative audit knowledge and experience
- Review of key plans, reports and press coverage
- Discussions with management. Internal Audit consulted with Directors and their management teams during the audit planning process
- Existing management and control environments, including information relating to any systems changes
- Views on the risk of fraud or error.

3.2 'Must Do' Work

'Must do' work includes:

- Reviews of governance arrangements
- Specific anti-fraud and corruption work including investigating items identified through the National Audit Office's National Fraud Initiative, and review of the Council's risk management arrangements.
- Auditing specific grant claims
- Counter fraud work
- Participation in peer reviews with other South and West Yorkshire Internal Audit teams.

3.3 Follow-up Work

Targeted follow-up is designed to maximise the benefit of the original work, by ensuring agreed recommendations have been implemented and appropriate

outcomes achieved. Such work reflects best Internal Audit practice. A specific provision has been made in the plan for follow up work.

3.4 Responsive Work

An allowance is made within the plan to deal with requests for advice and unplanned audit work which arise throughout the year. The work usually follows requests from managers or directors for support and advice, items reported under the Council's Whistleblowing Policy and specific issues arising during the course of individual audits. Internal Audit's ability to respond promptly to issues of this nature is highly valued and can often highlight some of the more significant items of concern and areas for improvement.

On a quarterly basis, or as and when required, the plan will be reviewed. Any significant changes in risks or priorities for the Council will be examined and may result in changes. Audits that are deemed to be more important or higher risk will displace lower risk audits during this process, resulting in a flexed plan that keeps up to date with the Council's needs. Where changes are necessary to the audit plan, these will be reported at the next available Audit Committee.

3.5 Risk Related Work

Internal Audit provides assurance to management, Members and other stakeholders that the Council's risks are being effectively identified and adequately mitigated.

In order to do this, Internal Audit reviews the Council's risk registers to identify the key risks faced by the Council in delivering its objectives. We also aim to review any significant service level risks. However, before accepting the contents of risk registers we must satisfy ourselves that the system and associated processes for identifying and recording risks are reliable. We also review the application of key policies, management control systems and processes that are crucial in controlling risks.

Risks have also been assessed through discussions with Directors and their management teams about the issues and emerging risks that they feel should be considered for inclusion in the plan.

We take into account whether there is likely to be any external examination / assurance provided in relation to a particular risk or risks as part of external inspection e.g. OFSTED, Care Quality Commission, or internal activity such as Digital Council (business process re-engineering) reviews. Internal Audit is mindful to avoid any possible duplication of effort in this regard.

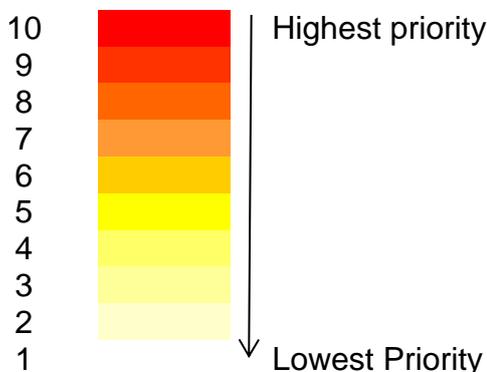
The plan will remain flexible and will be adapted during the course of the year to prioritise any new emerging issues or to address any changing risk associated with items included above.

Proposals for coverage under this part of the audit plan are shown in the table below. As part of our assessment, each of the audits put forward for review in the risk based category are given a priority rating from 1 to 10. Projects with the highest overall rating are selected for inclusion in the plan. This priority rating,

also assists Internal Audit in re-evaluating the plan should any plan revisions need to be included during the financial year.

The priority ratings used in this document are as follows:

Priority



Group and Project	Rationale / Coverage	Priority
Consultancy		
Better Care Fund Governance	Senior representatives from the Council and Doncaster CCG are to review the current governance arrangements in place over the Better Care Fund as it is considered that improvements need to be made. Internal Audit will provide advice and support over any proposed changes to these arrangements.	5
Cleaner Streets Performance Indicator	A requested review of the performance information / data quality behind the Cleaner Streets indicator as this is a publically published indicator subject to public challenge.	6
Early Help Collaborations-	As part of the Learning and Opportunities Transformation Plan, Internal Audit advice and support has been requested in establishing appropriate financial and governance arrangements for Early Help collaborations.	6
Financial Administration		
Bereavement Services – Financial Administration Review	A re-review of the financial administration arrangements within Bereavement Services. Significant issues were uncovered during the last review (2013/14) surrounding the management of debts owed to the Council from Funeral Directors. This re-review has been commissioned to ensure that the arrangements are now financially sound.	7
Car Park Income Management	Financial administration / contract administration review of car parking income and fines. (This review will look at the arrangements to ensure collected monies are properly administered and accounted for but will review contract monitoring arrangements where collections are made by a 3 rd party). This area is overdue for a full financial administration review.	7

Group and Project	Rationale / Coverage	Priority
Energy Team	A financial administration review of the Energy Team to ensure that income / grants are being properly dealt with and that financial systems in use are fit for purpose.	6
Financial Assessments	The Financial Assessments Team undertake financial assessments of users accessing care to determine the appropriate level of contributions that they need to make towards their respective care packages. Extensive financial assessment guidelines exist and the area was subject to changes from the Care Act 2014. This review will look at the arrangements for undertaking financial assessments, data sharing arrangements, data protection and any impacts caused by the introduction of Universal Credit.	9
Innovation Fund Grants	A review of the grant giving scheme and associated financial and anti-fraud controls surrounding the Innovation Fund in Adults Health and Wellbeing.	7
Planning - Financial Administration Review	A review of cash handling processes within the Planning Team	6
Voluntary and Community Support Fund	A risk based review of the new Voluntary and Community Support Fund allowing grants of up to £30k for community support. This will consider linkages with other grant funding sources to ensure that outcomes from the fund are maximised and there is no duplication between the various funding sources.	6
Governance		
Corporate Data Quality Strategy	The strategic risk register states that a data quality strategy will be re-developed during 16/17. Input into this is essential to ensuring that it is operationally effective. There are also proposals for a data hub for the council. Involvement in this technological item in terms of scoping is essential to ensure that maximised and data matching opportunities are exploited wherever possible.	9
Drainage Board governance support	Concerns were raised during 2014 about the operation of local drainage boards contributed to by Doncaster Council. Ongoing support has been provided to the boards in dealing with those concerns and further concerns which have been raised since.	10
Doncaster East Drainage Board	An urgent review of the Governance Arrangements for a major project undertaken for the Doncaster East Drainage Board.	10
Taxi Licensing / Children's Safeguarding	A review of tax licensing procedures, monitoring arrangements and other controls in relation to the transport of school children will be undertaken to ensure risks are appropriately controlled / mitigated.	8

Group and Project	Rationale / Coverage	Priority
Major Partnerships		
Children's Trust Contract Monitoring Arrangements	A review of the arrangements in place to monitor the performance of the Children's Trust through the review of contract monitoring arrangements.	10
Social Care Arrangements with Prison Partners	Overarching review ensuring care/safeguarding data protection risks are appropriately managed.	6
Management of Significant Changes		
Customer Services	A review of the Customer Services front line One Stop Shop service to ensure that data is properly safeguarded and financial processes (see below) are sound. Several services have been transferred to the team in the last 12 months including cash pay-outs to SAPAT clients and a review of the service in light of these has been requested.	7
Digital Council Programme	Liaison with, feed into and general advice and support to the Digital Council Programme on any interactions with financial systems that could have an impact on the control environment or financial implications.	6
ERP Phase 2	Advice to the ERP Phase 2 programme as it progresses to ensure that any impact on core financial systems and the Council's accounts and processes are understood, documented and properly managed.	8
Learning and Opportunities: Children and Young People Transformation Plan support	The Learning and Opportunities - Children and Young People Directorate is developing a comprehensive Transformation Programme. Internal audit will provide support for a number of areas within this programme as directed by the board.	5
Services transferring to the Children's Trust	Reviewing the management arrangements for the preparations to transfer the Children with Disabilities Service, Early Help Management and the Oaklands Centre services to the Children's Trust.	7
Universal Credit - Preparation and partnership working	Universal Credit has already been introduced in Doncaster for new single person job seeker claims. This has an impact on several areas including Troubled Families, Housing Benefits, SAPAT and other areas. This piece of work will review the potential impact and the arrangements in place to mitigate risks in key areas.	8

Group and Project	Rationale / Coverage	Priority
Procurement and Contracts / Major Project Management		
Contract Monitoring (review of Supported Living)	This audit will review how Adults, Health and Wellbeing ensure appropriate contracts are established and delivered to specification and that payments made reflect outcomes / services actually contracted / commissioned and delivered in the area of Supported Living Arrangements.	10
Stronger Families - Case Management System	A case management system for Troubled Families has been on the horizon during the last 2 financial years. Pressure to introduce a robust case management system is increasing. This piece of work will provide advice during the commissioning / build process to ensure that the case management system is robust and can support the Trouble Families Payment By Results Scheme.	9
Schools Financial Administration		
School Governance Agenda	This project has been set up to provide information, advice and support the (school) Governors' Support Service to ensure audit and governance issues are consistently dealt with across all schools.	7
School Themes - Parent Pay Financial Administration Review	Advice was given in 15/16 during the commissioning stage of the new schools payment system Parent Pay. This review will look at the system in practice and ensure that proper financial controls (from both the schools and schools catering side) are being put in place.	8
School Themes - Voluntary Funds	A thematic review of the administration of school voluntary funds across Doncaster maintained schools.	8
Value for Money		
Grey Fleet Savings Review	Requested review / data analysis of grey fleet usage across the authority to highlight areas of non-compliance with pool car policies. This review will not cover savings targets or make any judgement on whether these are likely to be achieved.	6

4. Audit Resources

In preparing the audit plan, the total number of 'available audit days' is calculated by making proper and adequate provision against the total working days available for known and estimated non-productive time, e.g. annual leave, sickness provision, training, management and administration, etc. (See Appendix 2).

Internal Audit's establishment is 10.7fte.

5. Summary of 2016/17 Audit Plan.

Detailed below is the proposed allocation of resources for 2016/17 at a summary level:

Strand	Activity	2016/17 Days	2016/17 %	2015/16 Days	2015/16 %
Mandatory	Corporate	62		61	
	Follow-up	91		80	
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			296	16%	325
Responsive work	Advice and Short Term Consultancy	105		109	
	Fraud investigations	135		135	
		240	13%	244	14%
Risk related work	Consultancy	31		25	
	Financial Administration	87		25	
	Governance	56		30	
	Major Partnerships	36		38	
	Management of significant changes	103		66	
	Procurement and Contracts / Major Project Management	36		93	
	Schools Financial Administration	46		69	
	VFM	12		10	
	Contingency	166		138	
		578	31%	494	28%
Total Plan		1821		1775	

More details of the 2016/17 Plan are provided in **Appendix 1**.

In the event of any significant change in the resources available during the year, the plan will be prioritised to ensure the principal risks are addressed. Where necessary, additional resources would be sought to ensure sufficient work can be completed to fulfil Internal Audit's objectives.

6. Emerging risks and revisions to the plan

There is increasing pressure on internal audit sections to manage within shorter timeframes and to have flexible plans and resources to adapt to emerging risks. Once the Internal Audit Plan is approved, it is subject to constant and on-going

review throughout the year. This is to ensure that it reflects any new or changed priorities that may arise during the course of the year. Time charged to 'responsive work' in previous years has included audit activity relating to emerging risks.

Progress against the plan is regularly monitored as part of Internal Audit's performance management arrangements and is reported quarterly to Audit Committee. Any amendments to the plan will be reported to the Audit Committee.

7. The benefits of Internal Audit.

Internal Audit:

- Is a powerful aid to management and corporately helps the Council to achieve its objectives and priorities
- Adds value to the Council through its activities
- Ensures there is a strong control and governance framework operating within the Council
- Deters, detects and reduces fraud and the risk of fraud

Internal Audit also considers the external auditor's plan to co-ordinate our work and avoid any unnecessary duplication of effort.

Detailed Audit Plan – Doncaster Council

Appendix 1

Mandatory		Follow-Up	
Core Systems		Follow up of external recommendations	10
Benefits	10	Follow-ups	81
Business Rates	10		
Cash Book	10	Previous Year Completions	
Council Tax	10	Previous Year Completions	60
Debtors	21		
Housing Rents	5	ICT Audit	
Payroll	10	Data quality - Home Care Salaries	15
Procure to Pay	16	Data quality review – (Supported Living)	15
Purchase card administration	16	Cyber Security Incident Policy and Testing	16
Stores (including vehicle stores)	21	Mobile Devices (including telephones)	21
Treasury Management	16		
Corporate		Schools Financial Administration	
Annual Governance Statement (input and challenge)	10	Schools and Schools of Concern	59
Annual Reporting	16	SFVS Challenge	10
Audit Committee Reporting	26		
External Audit Liaison	10	Must do	
Financial Administration		Counter Fraud	
Aiming High Respite Care Follow-up	16	Blue Badge - Anti Fraud Review	10
Central Print Unit	10	Business Doncaster - Loans and business support - Anti-Fraud and Financial Administration Review	16
Early Help - funding 2-4 year olds	10	Continual Analytics - Payroll to creditor matching	10
Land Charges	10	Counter Fraud Training and Money Laundering Training	10
Local Transaction Processing	46	Data Matching	80
SAPAT Responsive Review (Phase 2)	91	Governance	
Short break Respite Care Follow-up	16	Declarations of Interest - Counter Fraud Management	10
Travis Gardens Care Home Financial Administration Review	10	Equalities	10
Wickett Hern Road - Financial Administration Review	10	Information and Decisions Reported to the Council	10
		Risk Management	21

Detailed Audit Plan – Doncaster Council

Appendix 1

Grant and Performance Certification	
Disabled Facilities Grant	3
Highways Grants (Various)	16
Short- and Long-Term Support (SALT) return validation	10
Stronger Families Claim 1	16
Stronger Families Claim 2	16
Internal Projects	
Active Navigation Clean-up	20
Peer Review Arrangements	31
Traded Services Event	2
National Fraud Initiative	
National Fraud Initiative	15
Responsive	
Advice and Short Term Consultancy	
Advice - Doncaster Council	61
Advice - Schools	34
Better Care Fund Pooled budget	5
Stronger Families Programme Development Advice	5
Fraud Investigations	
Fraud Investigations	135
Risk	
Consultancy	
Better Care Fund Governance	10
Cleaner Streets Performance Indicator	10
Early Help Collaborations	11

Contingency	
Contingency	166
Financial Administration	
Bereavement Services FA Review	10
Car Park Income Management	16
Energy Team	10
Financial Assessments	21
Innovation Fund Grants	10
Planning - Financial Administration Review	10
Voluntary and Community Support Fund	10
Governance	
Corporate Data Quality Strategy	10
Doncaster East Drainage Board	21
Drainage Board governance support	15
Taxi Licensing / Children's Safeguarding	10
Major Partnerships	
Children's Trust Contract Monitoring Arrangements	15
Drainage Board representation	6
Social Care Arrangements with Prison Partners	15
Management of Significant Changes	
Customer Services	15
Digital Council Programme	16
ERP Phase 2	26
Learning and Opportunities Transformation Plan support	21
Services transferring to the Children's Trust	10
Universal Credit - Preparation and partnership working	15

Detailed Audit Plan – Doncaster Council

Appendix 1

Procurement and Contracts / Major Project Management	
Contract Monitoring (review of Supported Living)	20
Stronger Families - Case Management System	16
Schools Financial Administration	
School Governance Agenda	21
School Themes - Parent Pay Financial Administration Review	10
School Themes - Voluntary Funds	15
Value for money	
Grey Fleet Savings Review	12
Grand Total	1821

NB the above table is subject to rounding

APPENDIX 2: CALCULATION OF AUDIT RESOURCES 2016/17

	2013/14	2014/15	2015/16	2016/17
Gross Days	2645	2715	2679	2788
Less: annual and statutory leave (and TOIL)	424	453	476 *	485**
maternity leave	0	151	0	0
special leave (other)	5	6	8	9
unpaid leave	13	13	20	8
Election leave	9	7	11	12
Available days:	2194	2085	2164	2273
Less: Sickness	68	77	64	70
Service development and improvement	26	24	24	56 ⁺
Professional training and CPD	122	100	108	129 [^]
Management & supervision	164	157	167	174
Administration & support	25	22	26	24
Planned Days	1789	1705	1775	1821

Notes / Explanations

*This increase is caused mainly by the fact that Easter falls twice within the 2015/16 financial year.

** Increase caused by a change in Council policy surrounding the use of Time Off In Lieu (TOIL). This change is mandating the discharge of significant amounts of Toil built up during investigations during previous financial years.

⁺ This increase is caused by the re-tendering of a contract for the provision of internal audit software (which is now due out of contract).

[^] This increase is caused by staff turnover. A member of the audit team left the Council in February 2016 and is to be replaced with a trainee post. This post will require additional investment in training.

7th April 2016

**To the Chair and Members of the
AUDIT COMMITTEE**

AUDIT COMMITTEE ANNUAL REPORT 2015/16

EXECUTIVE SUMMARY

1. The production of an annual report allows the Audit Committee to demonstrate it has fulfilled its terms of reference and share its achievements with the whole Council. The production of such a report also complies with current best practice for audit committees. This report asks Members to note and approve the draft Audit Committee Annual Report for 2015/16, attached to this report.
2. Particular ways in which the Audit Committee has contributed during the year include:
 - Improving the control environment by ensuring appropriate action is taken to implement audit and inspection recommendations and calling officers to account where explanations over progress are required,
 - Reviewing, in particular, reports into significant weaknesses relating to the management of the Markets Function and governance of drainage boards and supporting management actions to address weaknesses found,
 - Strengthening the strategic risk register and risk mitigation actions by critically appraising the risk register,
 - Supporting the Council's improved quality of accounts and the arrangements to produce the accounts in shorter timescales through oversight of the accounts preparation arrangements,
 - Supporting the development of the Council's Anti-Fraud and Corruption arrangements,
 - Ensuring the Council's surveillance policies are kept up to date and reviewing surveillance carried out by the Council, and
 - Supporting the development of the Council's Partnership Governance arrangements.
3. This is, therefore, a positive report which appropriately reflects the effective contribution made by the Audit Committee during the year.

RECOMMENDATION

4. The Audit Committee is asked to consider the contents of the report and if satisfied that it fairly summarises the work of the Committee are asked to approve the attached draft Annual Report.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

5. Effective oversight through the Audit Committee adds value to the Council operations in managing its risks and achieving its key priorities.

BACKGROUND

6. The Audit Committee is a key part of the governance arrangements of the Council. It is appropriate that the important work of the Committee is shared with the rest of the Council and other stakeholders. The draft Annual Report of the Audit Committee, attached at **Appendix 1** to this report, sets out key aspects of the work undertaken by the Committee during 2015/16.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

7. A key role for the Audit Committee is to oversee the effectiveness of the management of risks and internal controls, which contributes to the successful achievement of the Council's objectives. Any improvement in the management of the risks will have a positive impact increasing the likelihood of the Council achieving these objectives and goals. The Audit Committee's work is, therefore, relevant to all priorities but in particular the following:

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none">• <i>Mayoral Priority: Creating Jobs and Housing</i>• <i>Mayoral Priority: Be a strong voice for our veterans</i>• <i>Mayoral Priority: Protecting Doncaster's vital services</i>	
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none">• <i>Mayoral Priority: Safeguarding our Communities</i>• <i>Mayoral Priority: Bringing down the cost of living</i>	

	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	<p>Council services are modern and value for money.</p>	<p>Effective oversight through the Audit Committee adds value to the Council's operations in managing its risks and achieving its key priorities of improving services provided to the citizens of the borough.</p>
	<p>Working with our partners we will provide strong leadership and governance.</p>	<p>The work undertaken by the Audit Committee improves and strengthens governance arrangements within the Council and its partners.</p>

RISKS AND ASSUMPTIONS

8. The Audit Committee contributes to the effective management of risks. The ways in which it does this are summarised in the attached draft report.

LEGAL IMPLICATIONS

9. The Audit Committee is a key part of the Council's control environment and the work it does contributes to the Council's overall responsibility to maintain an adequate and effective system of internal control.

FINANCIAL IMPLICATIONS

10. There are no identified financial implications arising from this report.

HUMAN RESOURCES IMPLICATIONS

11. There are no identified human resources implications arising from this report.

TECHNOLOGY IMPLICATIONS

12. There are no identified technology implications arising from this report.

EQUALITY IMPLICATIONS

13. We are aware of the Council's obligations under the Public Sector Equalities Duties and whilst there are no identified equal opportunity issues within this report, all of the reports identified within the annual report would have been subject to their own relevant equalities implications assessment.

CONSULTATION

14. This report consults with the Audit Committee over the production of an Annual Report.

BACKGROUND PAPERS

15. Various Audit Committee Reports from July 2015 to April 2016 Audit Committees.

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Simon Wiles
Director of Finance and Corporate Services

**Annual Report of the
Audit Committee
2015/16**

Annual Report of the Audit Committee 2015/16

Foreword by Chair of the Audit Committee

I am pleased to present this report which highlights the contribution this Committee has made during 2015/16 to the achievement of good governance and internal control within the Council.

The Audit Committee oversees the production of the Council's statutory accounts, the management of risks within the Council and the operation and effectiveness of the Council's internal control arrangements.

It fulfils this role by considering and approving reports from officers responsible for financial management and governance within the Council and from the Council's external auditors. Where relevant, the Committee also makes recommendations for action to address any deficiencies identified by or reported to the Audit Committee.

The Committee has requested officers to attend Committee to provide additional information on particular areas of concern. This has improved arrangements in the implementation of internal audit recommendations and has helped to ensure arrangements to prevent future breaches of regulations are appropriate.

The additional work reviewed by the Audit Committee includes work set out below and the outcomes / improvements that have been driven out through this oversight:

Area	Improvement
<ul style="list-style-type: none">Progress on Implementing External Inspection recommendations	<ul style="list-style-type: none">There are now less than 10 overdue recommendations compared to 55 in 2013
<ul style="list-style-type: none">Drainage Board Governance	<ul style="list-style-type: none">Fundamental improvements have been made
<ul style="list-style-type: none">Progress on implementing outstanding recommendations in Adults Services, including refunds of Mental Health charges	<ul style="list-style-type: none">The number of outstanding actions reduced from 84 in February 2015 to 30 in January 2016
<ul style="list-style-type: none">Markets Review	<ul style="list-style-type: none">Significant improvement in financial governance and health and safety arrangements
<ul style="list-style-type: none">Electronic and Physical Records Update Report	<ul style="list-style-type: none">Considerable savings will be made from revised storage arrangements
<ul style="list-style-type: none">Accounts production and closedown	<ul style="list-style-type: none">The External Auditor has commented favourably on the quality of the accounts and the arrangements to produce the accounts in shorter timescales
<ul style="list-style-type: none">Compliance with Contract Procedure Rules	<ul style="list-style-type: none">Raising awareness and compliance through calling officers to attend committee to account for breaches

During the year we have taken steps to further our anti-fraud and corruption arrangements including the further development of the Council's fraud risk register. This is important at any time, but more so in periods of austerity when public expectations are for us to ensure we gain best value from our limited resources and minimise our losses to fraud and corruption.

We have sought to develop our Committee during the year. We have sought to conduct our business in an efficient and effective way. We have also received updates on developments relating to the Committee's responsibilities, including overall governance arrangements, risks, accounts and procurement.

We are not complacent and we will continue to address any matters needing to be addressed and we recognise our need for continuous improvement. The Audit Committee will continue to lead and contribute to this aim.

Councillor Austen White
Chair of the Audit Committee, 2015/16

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	• Regulatory Framework	
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A	Audit Committee Activity 2015/16	5

1. INTRODUCTION

This annual report on the work of the Council's Audit Committee shows:

- How the Audit Committee has fulfilled its terms of reference.
- How the Council's arrangements comply with national guidance relating to audit committees.
- How the Audit Committee has contributed to strengthening risk management, internal control and financial governance arrangements.

2. TERMS OF REFERENCE

The Committee's Terms of Reference for the Audit Committee are reviewed each year to ensure they represent best practice as outlined within new guidance for Audit Committees from the Chartered Institute of Public Finance and Accountability.

The core functions of the Audit Committee are:

- To oversee audit activity at the Council (including Internal Audit, External Audit and Inspections).
- To ensure the Council's risk management are effective.
- To ensure there is an appropriate regulatory framework that operates effectively.
- To oversee the production of the Council's accounts.
- To ensure appropriate standards of ethical governance are in place and maintained.

The current Terms of Reference and more details about the responsibilities relating to Standards can be found on the Council's website.

3. COMMITTEE INFORMATION

Audit Committee Membership

The Committee has five elected members:

- Councillor Austen White(Chair)
- Councillor R. Allen Jones. (Vice Chair)
- Councillor Susan Durant
- Councillor John Healy
- Councillor Alan Jones

The Committee has one independent co-opted member with non-voting rights serving on the Audit Committee, Kathryn Smart.

Audit Committee Meetings

The Committee has met on six occasions during the year:

- July 2015 (twice)

- September 2015
- November 2015
- January 2016
- April 2016

This frequency of meeting is agreed to ensure the Audit Committee can fulfil its responsibilities in an efficient and effective way.

The July 2015 and September 2015 meetings of the Audit Committee were particularly important, when the Committee fulfilled its responsibility to approve the 2014/15 Statement of Accounts and to note the adoption of the 2014/15 Annual Governance Statement.

Various other reports are fundamental to the Audit Committee, including:

- Internal and External Audit Plans for the year.
- The External Auditors Annual Audit Letter.
- The Head of Internal Audit's Annual Report.

The Audit Committee has fulfilled its mandatory obligations during 2015/16.

4. COMMITTEE ACHIEVEMENTS

A list of the reports considered by the Audit Committee can be found in **Appendix A**.

The main outcomes of the Committee's work in relation to its core functions can be summarised as follows:

Internal Audit

The Audit Committee:

- Received and considered the 2015/16 Annual Report of the Head of Internal Audit, which included his opinion on the Council's internal control environment.
- Received and considered information on the performance and effectiveness of the internal audit team.
- Received and considered regular reports from the Head of Internal Audit on the Internal Audit Team's progress in delivering the planned work plan and summaries of reports issued. The reports also provided monitoring information on the implementation of agreed audit recommendations.
- Continued to provide support to the Internal Audit Service to ensure management was responsive to recommendations made and agreed.
- Received and considered the review of the Internal Audit Strategy and Charter.
- Agreed the Internal Audit Annual Plan for 2016/17.

External Audit

The Audit Committee:

- Received and considered reports on the External Auditor's progress against the agreed plan.
- Considered fees proposals for the external auditors.
- Continued to provide support to the External Auditors to ensure management was responsive to recommendations made and agreed.

Regulatory Framework

The Audit Committee has:

- Considered and noted the Audit Committee Terms of Reference and Work Programme.
- Noted and approved the Annual Report of the Audit Committee
- Overseen the production of and recommended the adoption of the Annual Governance Statement.
- Received reports on Compliance with the Council's Financial Procedure Rules and Contract Standing Orders, including waivers of the Contract Procedure Rules.
- Received reports on risk management and its operation within the Council including the updated strategic risk register.
- Considered and approved updates to the Council's Anti-Fraud and Corruption Policy and Strategy.
- Received and considered the Annual Fraud Report for the Council.
- Considered and noted the revised Whistleblowing Policy.
- Received and considered the Audit Commission Fraud Survey: KPMG presentation of results.
- Received and noted reports on progress on the Governance Plan, which includes all actions the Council has committed to, to enable it to maintain strong governance arrangements.
- Received regular reports on surveillance conducted by the Council under the Regulation of Investigatory Powers Act 2000.
- Considered and noted the Annual report of the Monitoring Officer.

Core Function - Accounts

The Audit Committee has:

- Received reports on the Statement of Accounts and accounting policies used to prepare the accounts.
- Approved the Statement of Accounts and the amendments to the accounts following their approval by the Director of Finance and Corporate Services.
- Received and considered reports from the External Auditor on the Statement of Accounts.
- Received and considered a report on the Certification of claims and returns.

Other Issues

The Audit Committee also considered reports on the following specific issues which arose in the period:

- Payroll Overpayments,
- Progress on Implementing External Inspection recommendations,
- Drainage Board Governance,
- Progress on implementing outstanding recommendations in Adults Services, including refunds of Mental Health charges,
- Markets Review,
- Insurance Fund,
- Electronic and Physical Records Update Report.

Compliance With Best Practice

Prior to its meeting in January 2016, the Audit Committee attended a facilitated self-assessment session assessing the Audit Committee's compliance with current best practice. This assessment was against a checklist from the Chartered Institute of Public Finance and Accountancy (CIPFA) guidance "Audit Committees – Practical Guidance for Local Authorities and Police 2013 Edition."

The Committee was pleased to note that it substantially complied with current best practice; however, there were further areas that they thought they could improve. These included:

- Raising awareness about the role and purpose of the Audit Committee with possible extended reporting to full Council – better promotion of the outcomes achieved by the committee.
- Increasing the skills of Audit Committee members through induction and ongoing targeted training.
- Supporting the development of risk management.

Further training and updates were provide to the Audit Committee and other interested members throughout the year. Topics included:

- Audit Committee assessment against CIPFA's "Audit Committees – Practical Guidance for Local Authorities and Police 2013 Edition."
- Update for Audit Committee members (KPMG Audit Institute).
- Fraud arrangements update including funding for internal audit work and update for SFIS.
- Training on the Statement of Accounts.

AUDIT COMMITTEE ACTIVITY – 2015/16

Appendix A

Function / Issue	July 2015	Sept 2015	Nov 2015	Jan 2016	April 2016
Audit Committee Terms of Reference and Work Programme	Received				
Payroll Overpayments Update Report 2014/15	Received				
Annual Fraud Report 2014/15 Executive Summary	Received				
Update on the Anti-Fraud, Bribery and Corruption Framework	Received				
Statement of Accounts 2014/15	Received	Received			
Annual Governance Statement 2014/15	Received	Received			
Annual Report of the Monitoring Officer	Received				
Revised Whistleblowing Policy	Received				
Doncaster Market Review Report	Received				
External Audit Progress Report and Technical Update	Received				
Risk Management Policy Review and update	Received				
Review of Progress on Implementing External Inspection Recommendations		Received	Received		
Covert Surveillance – Regulation of Investigatory Powers Act 2000 Update		Received			Received
Doncaster Council Governance Plan		Received		Received	
Strategic Risk Update		Received		Received	Received
Internal Audit Progress Report – April 2015 to August 2015		Received			
Adults, Health and Wellbeing Audit Recommendations Progress Report		Received		Received	
Financial and Purchasing and Contract Procedure Rules			Received		Received
Drainage Board Governance Review Update			Received		
KPMG - Annual Audit Letter 2014/15			Received		
Electronic and Physical Records Progress Report				Received	
Internal Audit report for the period: September 2015 to December 2015				Received	
Arrangements and Timetable for the preparation of Accounts 2015/16				Received	
The Insurance Fund				Received	
Certification of Claims and Returns – Annual Report 2014/15				Received	
KPMG External Audit Plan 2015/16				Received	
Annual Report of Audit Committee 2015/16					Received
Annual Report of Head of Internal Audit Services 2015/16					Received
Internal Audit Plan 2016/17					Received
Report on any non-compliance with Financial Procedure Rules and Contract Procedure Rules					Received

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