



Doncaster Council

Agenda

To all Members of the

AUDIT COMMITTEE

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

Venue: Council Chamber, Floor 2, Civic Office, Waterdale, Doncaster DN1 3BU

Date: Thursday, 31st January, 2019

Time: 10.00 am

Items for Discussion:

	PageNo.
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 25th October, 2018	1 - 8

Jo Miller
Chief Executive

Issued on: Wednesday, 23 January 2019

Governance Services Officer for this meeting: Sarah Maxfield
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Doncaster Metropolitan Borough Council
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A. Reports where the public and press may not be excluded

5.	Audit Committee Action Log	9 - 16
6.	Covert Surveillance - Regulation of Investigatory Powers Act 2000 (RIPA) Update.	17 - 82
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8.	Update Report on Contract and Commissioning in Adults, Health and Wellbeing.	103 - 110
9.	Internal Audit Progress Report for the period: October to December 2018.	111 - 138
10.	External Auditor (Grant Thornton) Audit Plan 2018/19 and Arrangements for the preparation of the 2018/19 Accounts.	139 - 166

Members of the Audit Committee

Chair – Councillor Austen White

Vice-Chair – Councillor Richard A Jones

Councillor Iris Beech, Mark Houlbrook and David Nevett

Co-opted Member: Kathryn Smart

Agenda Item 4

DONCASTER METROPOLITAN BOROUGH COUNCIL

AUDIT COMMITTEE

THURSDAY, 25TH OCTOBER, 2018

A MEETING of the AUDIT COMMITTEE was held at the COUNCIL CHAMBER - CIVIC OFFICE on THURSDAY, 25TH OCTOBER, 2018, at 10.00 am.

PRESENT:

Vice-Chair - Councillor Richard A Jones (in the Chair)

Councillors Iris Beech, Mark Houlbrook and Invitee Kathryn Smart

APOLOGIES:

Apologies for absence were received from Councillors Austen White and David Nevett

18 Declarations of Interest, if any

There were no declarations made at the meeting.

19 Minutes of the meeting held on 26th July, 2018

RESOLVED that the minutes of the Meeting of the Audit Committee held on Thursday, 26th July, 2018, be approved as a true record and signed by the Chair subject to the addition of the following point made by Councillor Mark Houlbrook to page 8, paragraph 5:-

“Councillor Houlbrook stated that £100,000 was a massive amount of money at a time when the Council was trying to cut back with its finances. It was reported that the Council needed to look forward to the future and it was very positive that the Smartlight Project was in place, however it was a large oversight which obviously wasn't intentional.

Councillor Houlbrook commented that there needed to be lessons learned to make sure this never happened again as it was embarrassing that this amount of money had been overspent.”

20 Audit Committee Action Log

Members considered a report that provided an update on the Action Log, which provided an overview of actions agreed at previous Audit Committees.

Members welcomed the report which informed the Committee that all outstanding actions had been cleared and the two long running issues, which had been of previous concern to the Committee were being dealt with.

With regard to the Business Waste Income Reconciliation, Internal Audit now regarded this action as fully complete.

With regard to Smartlight, Andy Rutherford, Highways and Street scene was in attendance at the meeting to provide Members with a full update of where they currently were in terms of the stock position.

Members noted that there had been a lot of work done in working to progress this issue, and negotiations were ongoing with the supplier and a very cautious plan was now in place. This should see the stock fully utilised by 2022.

The Committee were informed that the service was continuing to work with the NHS and other partners in order to utilise the resources and stock they had remaining. Whilst lessons had been learned, and a number of things could have been done better, the Authority had successfully delivered a very large project in a short space of time, and the position they now found themselves in with regard to the surplus stock was not dissimilar to a number of other local authorities.

Members welcomed the update provided, and were pleased to see that Officers had addressed the concerns that had been raised at the last Committee meeting, but still requested that a further update be provided at a later date with regard to surplus stock and how they would be utilised in the coming months. However, it was acknowledged that actually, whilst there still remained a lot of unused stock, which was perceived to be 'a waste of money', this stayed on the Council balance sheet as they were going to be used and therefore was not seen as a loss. In fact, the Committee were informed that in Phase 2 of the Smartlight Project, which totalled over £14M, it was still underspent, and had actually achieved £1.2M of savings for the Council.

RESOLVED that:-

- 1) A further update on the Smartlight Project be provided to the Audit Committee at a future Committee Meeting; and
- 2) The Audit Committee note the progress made against the actions agreed at the previous Committee Meetings.

21 Deprivation of Liberty Safeguards (DoLS) - Update - Progress Report.

Members were presented with an update report following an earlier report in April 2018 that had highlighted weaknesses in the Council's processes for managing and monitoring the carrying out of Deprivation of Liberty Safeguards (DoLS) assessments by the Council. This substantial project had been ongoing, and 49 Audit recommendations had been agreed by Management out of which, 26 had now been completed and almost all others were currently in progress.

It was noted that significant progress had been made by the DoLS Team over a relatively short period of time, and whilst further work was still needed in some areas, it was felt that this area could now be removed from the 'critical list' as a result of satisfactory improvements.

Members were invited to address Officers with any questions or concerns that they may have in relation to this issue in order to accept the recommendations contained within the report.

The Committee welcomed the positive report, and in relation to a number of queries regarding the outstanding actions and risks, Members were assured that whilst there had been some slippage of dates on some actions, progress was still considered to be good.

The Assistant Director of Social Care and Safeguarding was in attendance at the meeting and endeavoured to provide Members with any further information they required in relation to issues they raised.

Issues with regard to assessments and referrals were raised as Members were concerned that these had increased and that there were a number of outstanding assessments. The Committee was reassured that whilst it there had been an increase in assessments waiting to be undertaken, there were always peaks and troughs within this service and this could also be seen nationally across the board, where the national trend had shown an increase in 10% per annum for referrals and subsequent assessments. However, Members were also informed that figures were affected by working to a managed level of a waiting list of 20% which had been assessed as realistic to manage and that there could never be no waiting list due to the processes involved. There were complications in relation to a number of individuals across the Borough who currently resided in settled placements but who were battling a condition such as dementia, and therefore there was continuing conflict as to how to deal with these cases. However, this issue was being looked at in more depth in order to ensure that the problem regarding prioritisation of referrals and assessments was legitimately addressed,

With regard to a query regarding staffing levels and problems, team motivation and morale, Members were informed that whilst there were some staffing issues, a new full time DoLS Manager had been appointed and this had made a big change with an improved focus by the team overall, and they looked to be in a much better place moving forward. Additional staffing had been put into place for the next 12 months, and the team had adapted well to the Improvement Plan that had been put into place.

Councillor Jones thanked Officers for the report and Members were pleased with the progress made but still felt there was a way to go and felt that the Committee would be neglecting their responsibility if they did not look at this issue again.

RESOLVED that:-

- 1) Members receive an update report at a future meeting; and
- 2) The Audit Committee note the current DoLS position and the progress made.

22 Direct Payments Update - Internal Audit Follow Up Report.

The Committee were presented with a report that provided an update on Direct Payments following a review of the audit undertaken in the 2017/18 Financial Year. Officers informed the Committee that following a limited assurance opinion, a lot of work had been done in this area and good progress was being made and was on track to be removed from the Annual Governance Statement.

Debbie Crohn, Head of Service, Care Management was in attendance at the meeting, along with Anthony Patterson, Professional Business Support, who looked to provide further updates where needed and endeavoured to answer any queries put forward by Members.

Questions were raised with regard to a number of issues, most of which largely centred on whether the debts identified and raised were recoverable or not. Members were assured that whilst there was a lot of identified debt, the Council was looking to recoup as much of this as possible, although some would be written off due to being irrecoverable. However, in the future they were looking at reducing the occurrence of debt in the first place. This was already progressing through moving more people onto prepayment card accounts which would also allow the Council to claw back any money unused in the event of death. Additional staff were being used for a short period to work on recovering the outstanding debts more quickly than the existing resources allowed, reviewing packages where budgets were not being spent, and supporting people receiving Direct Payments until the Direct Payment Service was fully operational.

A further action was to create an identified Direct Payment Champion within each locality team. One Member raised a concern that this was in fact just devolving responsibility from one area to another. However, assurance was given that the Champions were experts in their

fields, and were more widely supported by people within their teams to assist and ensure that the public had adequate guidance in this area. It was also noted that the Citizens Advice Bureau offered a lot of support to local people, and links in this area were being extended with a view to providing additional help. A lot of positive engagement was taking place, which complemented the work undertaken by Direct Payments Team and long term would be of benefit to all. Members applauded the work being done and looked forward to seeing the progress made in the future.

Queries were raised with regard to any timescales that the Team had in place for the recovery of debt, and were informed that additional actions were due to be put in place very soon. With regard to the ongoing implementation of the new DIPS system, it was considered that once fully operational would be much more efficient and following implementation could be relied on to work effectively.

From the Chair, Councillor R. Allan Jones thanked Officers for their update, but based on a number of issues still unresolved, asked for a further update at a future meeting.

RESOLVED that

- 1) An update report be provided to the Audit Committee in 6 months with regard to any further progress made; and
- 2) The Audit Committee note the content of the report, and the actions taken, along with any outstanding actions still to be resolved.

23 Income Management Progress Report.

Members were presented with a report that provided an update on progress with regard to Income Management since the previous report considered in October 2017. Members noted the change in direction now required in training management to carrying out their income reconciliations and the amended guidance would shortly be uploaded onto the Council's intranet for information.

Members were pleased to see that progress had been made in this area, and that the Income Management Working Group that had been established was working well to produce a training plan and establish good communication links with staff in order to ensure greater awareness.

It was reported that there was still progress to be made in this area, and whilst the main areas of concern had been targeted, there was still some further work to be done, and officers would look to update the Committee with regard to this in another 12 months.

RESOLVED that:-

- 1) An update report be provided to the Audit Committee in 12 months with regard to any further progress made; and
- 2) The Audit Committee note the content of the report and the actions taken, along with any outstanding actions still to be resolved.

24 Risk Management Strategy Review.

The Committee considered the review of the Risk Management Strategy which had been revised following the conclusions of an internal audit review, and aimed to embed risk management within the Council's planning and business processes and organisations in order to create an environment in which continuous improvement in service delivery was achieved.

The review that had been carried out saw the amalgamation of the current risk documents into one key document which looked to focus on:-

- Simplifying the approach
- Outlining a risk appetite
- Ensuring risks were owned and managed
- Embedding operational risks into the Resource Management process
- Standardising the approach to managing risks within transformational programmes by using Pentana
- Adding a date field to the 'target risk' profile.

Members raised a number of points during the course of the discussions, with focus placed on some of the terminologies used, with Members feeling that there was not enough clarity when reference was made to risk appetite, and that there could benefit in adding in greater separation between the issues of risk tolerance and appetite.

Officers commented that whilst they were happy to accept Members views, it was something that they would reflect on as time moved forward, as currently; they were trying to provide a more simplified strategy as it was embedded across the organisation.

A number of points were discussed and concerns raised with regard to ensuring that everything linked together properly to ensure that the strategy was considered alongside and in conjunction with the performance management framework. Members were assured that the process and strategy would be monitored and evaluation undertaken, and then relooked at.

RESOLVED that:-

- 1) The Audit Committee note the review of the Risk Management Strategy and the contents of the report; and
- 2) The Risk Management Strategy be brought back to the Committee following consideration of a number of points made by the Committee with regard to terminology used.

25 Breaches and Waivers to the Council's Financial and Contract Procedure Rules.

Members were presented with the six monthly update report in terms of breaches and waivers made to the Financial Procedure Rules and Contract Procedure Rules for the period 28 February, 2018 and 31 August, 2018.

The table contained within the report detailed the number of new waivers and breaches during this period and there were a total of 3 breaches and 21 waivers. Officers reported that progress had been made over the past 12 months, and whilst there were still further improvements that could be made, it demonstrated that good systems were in place.

Members were afforded the opportunity to speak on the issues contained within the report, and raised any concerns that they had. Members were informed that officers were continuing to work closely with managers across different directorates, and a corner had been turned with a lot of positives to take from recent reports. Members welcomed this but reinforced that whilst the values contained within reports had decreased a great deal over the period of the last 5 years, there was still the need to be proactive and remind Teams and Staff about the processes to ensure further improvements were made.

RESOLVED that the Audit Committee note the information and actions contained within the report relating to the breaches and waivers of the Financial and Contract Procedure Rules.

26 Adjournment of Meeting

RESOLVED that in accordance with Council Procedure Rule 32.1, the meeting stand adjourned at 12.00pm, to be reconvened, on this day at 12.10 pm.

27 Reconvening of Meeting

The meeting reconvened at 12.10 pm.

28 2017-18 Annual Governance Statement - Progress Update

The Audit Committee had been presented with the 2017/18 Annual Governance Statement (AGS) in July 2018, and following this, now considered an update on any progress made against the actions and issues that had been initially identified.

Officers reported that the report was generally quite self-explanatory and good progress had been made to date and the majority of issues were on track for completion against their target dates.

Following consideration of the report, Members of the Committee were provided with the opportunity to ask any questions of officers at the meeting in relation to the issues that were presented.

Queries were raised on the following issues, on which Officers provided more depth and clarity where necessary.

GDPR continued to be an issue on which Members sought reassurance, as it still remained a high risk across the Authority and it was queried as to why this wasn't reported as a separate risk, independent to the Annual Governance Statement. It was reported that as this was such a significant issue for the organisation when the AGS was being drafted and finalised, it had been included on the Annual Governance Statement to raise awareness. Good progress had been made, and arrangements were being embedded across the Council, but it was still felt that it was prudent to keep it on the Statement in order to allow reflection and evaluation.

RESOLVED that the Audit Committee note the content of the report.

29 Internal Audit Report for the Period: July to September 2018.

Members were updated with the work undertaken by Internal Audit for the period July to September, 2018 and provided detail with regard to any internal audit recommendations and Internal Audit's performance information.

Members were updated with regard to the work undertaken, and were advised that 6 new jobs had been added to the plan in relation to emerging risks and concerns. In order to accommodate this, some planned work has been removed from the plan.

Members were afforded the opportunity to raise any questions on the issues arising from the report, in order to gain clarity on any concerns they may have. Members worried if there were enough resources in place in order to deal with all the audit recommendations, as there was a great deal of activity to follow up. Members were informed that the Internal Audit Team had the full support of their Directors, and tight arrangements were in place to ensure that the necessary work was undertaken in working towards completing the recommendations.

Concerns were voiced regarding 12 outstanding items, and the Committee sought assurance that progress was being made. Members were informed that these were being progressed through Management Teams as well as Directors and whilst exact timescales as to when they would be completed could not be guaranteed, good progress was being made.

Queries were also raised with regard to Performance Indicators for Internal Audit Performance and as to whether or not these were affected due to the percentage of planned Audit work being reduced as a result. On the back of this, it was also queried if issues within directorates that caused the initial problems were related to problems such as sickness and training and if these were why work was not carried out to its full potential. Concerns were voiced that staff were not being motivated well enough and if they were looked after, such problems may not initially arise. In response, Members were assured that the Health and Well-Being of staff was taken very seriously, and whilst managers endeavoured not to place too much pressure on staff there was a balance required in ensuring work was completed. The Internal Audit Team worked well together, and it wasn't felt that any shortfalls in completing the work was down to work related sickness; there was a series of issues affecting performance of which sickness was not the most significant.

It was acknowledged by the Committee, that the Internal Audit Team carried out a lot of very good work and worked hard in undertaking required investigations and implementing recommendations. This sentiment was shared by all Members of the Committee.

RESOLVED that

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

30 Preventing and Detecting Fraud and Error - October 2017 to September 2018.

The Head of Internal Audit presented the Committee with the Preventing and Detecting Fraud and Error report for the period from October 2017 to September, 2018. The report summarised the work undertaken by the Council during this period to prevent, detect and investigate fraud and corruption.

Members noted that overall the incidence of fraud remained very low when the Councils activities were taken into account, and proactive counter fraud activities continued to be a big focus in the Council's strategy.

Members commented that they were pleased to see that the overall level of fraud was low when looking at the size of the organisation, and whilst the amount of savings recovered were only a small percentage of the Councils finances, it still demonstrated the good work being carried out.

RESOLVED that the Audit Committee support the production of the Fraud Response Report and agree to appropriate publicity being produced to highlight the outcomes from the Council's anti-fraud activity and to act as a deterrent to fraud.

31 External Auditor (KMPG) Annual Audit Letter 2017/18.

The Audit Committee considered the External Auditor Annual Audit Letter for 2017/18 that had been issued by KPMG, the Council's outgoing external auditor. The Annual Audit Letter signified the formal sign off of the Audit to the Audit Committee, and in signing off, the letter confirmed the external auditor:-

- a) Issued an unqualified opinion on the Council's Core financial statements and associated disclosure notes included in the Council's 2017/18 Statement of Accounts;
- b) Concluded that the Council made appropriate arrangements to secure financial resilience and economy , efficiency and effectiveness in the use of its resources; and
- c) Issued an audit certificate to demonstrate that the full requirements of both the Audit Commissions Code of Practice and the Audit Commission Act 1998 had been discharged for the year.

There were no high priority recommendations from KPMG, but two medium priority recommendations had been raised. The first of these had been identified previously in 2016/17 regarding Universal Housing password controls. The second recommendation related to the contract with Link Asset Services for Treasury Consultancy Services. Members queried if these had been dealt with, and Officers informed the Committee that the recommendation in relation to Link Asset Services had been resolved while the other recommendation was in progress and was awaiting the implementation of a new system.

RESOLVED that the Audit Committee note the contents of the Annual Audit Letter.

32 Grant Thornton - 2018/19 Progress Report and Sector Update

The Committee welcomed Perminder Sethi from Grant Thornton to the meeting who was in attendance in his capacity as External Auditor. Grant Thornton were newly appointed as the Councils External Auditors, and Mr Sethi explained that himself and Sarah Howard would be working closely with the Council on Grant Thornton's behalf and would look to actively engage throughout the year in order to build a good working relationship.

The Committee were given an overview and background of Grant Thornton and their areas of work and expertise, and an outline of what would be undertaken in the coming year and it was mutually acknowledged that they would look forward to working alongside each other.

RESOLVED that the Audit Committee note the update given by the representative from Grant Thornton.

CHAIR: _____

DATE: _____



Doncaster Council

Report

31st January 2019

To the Chair and Members of the AUDIT COMMITTEE

AUDIT COMMITTEE ACTIONS LOG

Relevant Cabinet Member(s)	Wards Affected	Key Decision
n/a	n/a	No

EXECUTIVE SUMMARY

1. The Committee is asked to consider the attached Audit Committee Actions Log which updates Members on actions agreed during Audit Committee meetings. It allows Members to monitor progress against these actions, ensuring satisfactory progress is being made.
2. All actions are progressing well (see paragraph 7 below).

EXEMPT REPORT

3. The report does not contain exempt information.

RECOMMENDATIONS

4. The Committee is asked to;
 - Note the progress being made against the actions agreed at the previous committee meetings and
 - Advise if any further information / updates are required.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

5. Regular review of the actions agreed from the Audit Committee meetings enables the Committee to ensure it delivers against its terms of reference and is responding to important issues for citizens and the borough. The action plan update helps support openness, transparency and accountability as it summarises agreed actions from reports and issues considered by the Audit Committee.

BACKGROUND

6. The Audit Committee Actions Log, which is updated for each Audit Committee meeting, records all actions agreed during previous meetings. Items that have been fully completed since the previous Audit Committee meeting are recorded once as complete on the report and then removed for the following meeting log. Outstanding actions remain on the log until completed.
7. The action log shows detail relating to 9 actions requested in the October meeting. There are no actions outstanding from earlier meetings. Of these:
 - 4 have been completed and will be removed from the next action log
 - The remaining 5 are all in progress and will be cleared in the course of future meetings – none of these represent longer running issues.

OPTIONS CONSIDERED AND RECOMMENDED OPTION

8. There are no specific options to consider within this report as it provides an opportunity for the Committee to review and consider progress made against ongoing actions raised during previous Audit Committee meetings.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

9.

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that</p>	

	<p>is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes. 	
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<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>The work undertaken by the Audit Committee improves and strengthens governance arrangements within the Council and its partners.</p>

RISKS AND ASSUMPTIONS

10. The Audit Committee contributes to the effective management of risks in relation to audit activity, accounts / financial management / risk management and other governance / regulatory matters.

LEGAL IMPLICATIONS (HP 15/01/19)

11. There are no specific legal implications associated with this report. The individual matters listed in the Appendix have all been subject to appropriate legal advice at the time of consideration by the Audit Committee.

FINANCIAL IMPLICATIONS [SB 18/01/19]

12. There are no specific financial implications associated with this report.

HUMAN RESOURCES IMPLICATIONS [KG 15/01/19]

13. There are no specific human resources issues associated with the contents of this report.

TECHNOLOGY IMPLICATIONS [PW 15/01/19]

14. There are no specific technological implications associated with this report.

EQUALITY IMPLICATIONS [PJ 15/01/19]

15. We are aware of the Council's obligations under the Public Sector Equalities Duties and there are no identified equal opportunity issues within this report.

HEALTH IMPLICATIONS [RS 15/01/19]

16. Good governance is important for healthy organisations and for healthy populations. Specific health implications should be addressed through individual audits and action plans.

CONSULTATION

17. The Audit Committee Action Log has been produced following consultation with members of the Audit Committee to address the risk of agreed actions not being implemented.

BACKGROUND PAPERS

18. None

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**Steve Mawson
Chief Financial Officer &
Assistant Director of Finance**

AUDIT COMMITTEE ACTION LOG – OCTOBER 2018

Follow-up actions from previous meetings:-

Ref:	Minute/ Action	Progress update	Responsible Officer	Completed (Y/N)
Meeting October 2018				
	Action Log – Smart Lights Project Committee requested further updates on progress in managing stock position	<p>Following on from the Internal Audit investigation for S2 a recovery plan was produced, agreed and signed off. This plan provides an ongoing position regarding lantern stock and future usage up to 2022. Monthly meetings have been held since October 18 to update the plan and monitor progress to actively reduce stocks levels.</p> <p>Negotiations are still ongoing with Urbis Schröder and Legal Services to then enable the Council to take delivery of the remaining 1035 Type A lanterns with minimal financial impact.</p> <p>Overall All savings 2016 to date have been fully achieved for phase 1 and 2 and are still on track to deliver the remaining savings for 19/20, as part of the wider Street Scene and Highways savings targets.</p>	Andy Rutherford	In Progress – further update will be provided at April 2019 Audit Committee
	Deprivation of Liberty Safeguards Committee requested further updates on implementation of remaining Audit recommendations	A report is scheduled for April 2019 Audit Committee	Peter Jackson	In Progress – for completion April 2019 Audit Committee

Ref:	Minute/ Action	Progress update	Responsible Officer	Completed (Y/N)
	Direct Payments –Audit Recommendation update Committee requested further updates on implementation of remaining Audit recommendations including how money recovered is used and accounted for	A report is scheduled for April 2019 Audit Committee	Peter Jackson	In Progress - for completion April 2019 Audit Committee
	Direct Payments –Update on Case Study Committee requested further update on case study highlighted in Appendix B to the report and also on partially sighted users	Unfortunately, the individual we were piloting the case study with has had a change in their personal situation so at the moment the piece of work with the Alexa is on hold. Two case study videos with members of the partially sighted society about how they use their assistive technology were filmed. One went out on social media before Christmas and the other will be released at a later stage. The former video has been made available to members of the Audit Committee	Debbie Crohn Debbie Crohn	Complete Complete
	Income Management Committee requested further updates on progression of actions in this area in 12 months	A report is scheduled for October 2019 Audit Committee	Steve Mawson	In Progress for completion October 2019 Audit Committee
	Risk Management - training Committee requested further training be considered for members as well as officers.	Training will be offered to all members as part of their induction. Any other training needs for Audit Committee members will be identified and actioned	Sennette Wroot	In Progress – for completion by June 2019
	Risk Management – Policy Update Committee requested revisions to be considered to be made to the policy	A report with the revised policy has been provided to January 2019 Audit Committee.	Debbie Hogg	Complete

Ref:	Minute/ Action	Progress update	Responsible Officer	Completed (Y/N)
	<p>Breaches and Waivers – Stainforth Bridge Committee requested confirmation that the bridge repairs in Stainforth had been recharged</p>	<p>A claim has been made via the Council's Insurance Team with the Insurers of the vehicle which caused the damage. The claim will follow the normal settlement process</p>	<p>Mark Watson</p>	<p>Complete</p>
	<p>Annual Governance Statement – GDPR – Archiving Arrangements Committee requested further information around the Council's arrangements for the archiving of documents</p>	<p>Policies and guidance have been provided to audit committee members</p>	<p>Peter Jackson</p>	<p>Complete</p>

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Doncaster Council

31st January 2019

**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 occasionally has a need to utilise covert methods in the investigation of matters for the purposes of detecting and preventing particular crimes. On such occasions, the Regulation of Investigatory Powers Act 2000 (RIPA) provides a mechanism to make it lawful for public authorities to use directed (i.e. covert) surveillance and covert human intelligence sources ("CHIS") e.g. undercover officers and informants. The Council has a RIPA Policy and Procedures that govern the use of those powers. In addition, the Home Office issues statutory codes of practice on the use of RIPA powers that must be complied with, including requiring elected members to have oversight of the use of RIPA powers and to agree the RIPA Policy/Procedures on an annual basis.
- 1.2 At its meeting held on 27th July 2010, the Audit Committee agreed it should receive reports reviewing the Council's use of RIPA. These reports are brought on a six monthly basis due to the Council's limited use of the RIPA powers. The Home Office issued revised codes of practice in August 2018 and it is appropriate that the Council now amends its RIPA policy and related procedures and the Non RIPA Policy at this point.

RECOMMENDATIONS

3. To note that the Council has had one RIPA directed application authorised since the last report to the Audit Committee on the 21st June 2018 and this and updates on recent authorisations are detailed at Appendix 3.
4. To approve the Council's revised RIPA Policy and Procedure, attached at Appendix 1, and the Council's Non RIPA Procedure, attached at appendix 2 which have been amended in compliance with the latest Home Office codes of practice.

5. To note that further training will be provided to relevant officers on the amendments to the Home Office codes of practice.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

6. A RIPA policy and procedures that are fit for purpose assist in ensuring that the Council has appropriate arrangements in place to comply with the law relating to RIPA authorisations, and ensure that it only makes use of those powers where it is necessary and proportionate to do so.

BACKGROUND

7. RIPA 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 Office of Surveillance Commissioners has now become part of the Investigatory Powers Commissioner's Office ("IPC"). The Council has been subjected to five inspections namely in, 2003, 2004, 2009, 2012 and most recently in January 2016.
8. 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 or alcohol to underage children.
9. 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.
10. Details of the one authorisation since the last report to the Audit Committee on the 21st June 2018 are detailed at Appendix 3.
11. The Council's RIPA policy and procedures are reviewed and re-set as part of an annual report and this was last done by the Audit Committee on the 21st June 2018. However, in August 2018, the Home Office issued revised codes of practice in relation to the use of RIPA powers, which requires amendments to be made to the Council's RIPA policy and related procedures at this point. The Non RIPA policy was approved by Audit Committee in February 2018. RIPA ensures that certain types of covert surveillance undertaken by public authorities is undertaken in such a way as is human rights compliant. However, RIPA is permissive legislation and does not prevent covert surveillance being undertaken outside the limited scope of RIPA e.g. to investigate underage firework sales. To ensure a Non RIPA process is lawful it is important that it is only carried out in accordance with a proper process, as set out in Appendix 2, which is used only in exceptional circumstances where necessary and proportionate to do so, and a paper audit trail exists.

12. The proposed amended policy and procedures are attached at Appendix 1 and 2. Those documents are now compliant with the new codes of practice and an outline of the key amendments made are as follows:
- (i) Details of the new statutory requirements to self-report relevant errors to the IPC as soon as reasonably practicable and in any event within 10 working days, and to have thorough procedures in place to comply with these requirements. A relevant error would include carrying out directed surveillance without an appropriate authorisation, or failing to properly handle the product of such surveillance. A serious error is a relevant error that the IPC conclude has caused significant prejudice or harm to the person(s) concerned. If the IPC determines that there has been a serious error, they may decide it is in the public interest for the person(s) concerned to be informed of the error and any rights they may have to complain to the Investigatory Powers Tribunal (see paragraph 26 of the revised policy).
 - (ii) Clarification about safeguards relating to the dissemination, copying, storage, retention and the destruction of private information obtained through the use of RIPA powers (see paragraphs 19 and 20 of the revised policy).
 - (iii) Further explanation of collateral intrusion (see paragraph 8.1 of the revised policy).
 - (iv) A new section explaining the requirement to present the circumstances in an application in a fair and balanced way (see paragraph 8.5 of the revised policy).
 - (v) Further detail regarding the requirements to carry out regular reviews of authorisations and on renewals of authorisations (see paragraphs 9.1 and 9.3 of the revised policy).
 - (vi) Expanded guidance on confidential material (e.g. medical records, confidential journalistic material or confidential discussions between MPs and their constituents), or legally privileged material (see paragraph 20 of the revised policy).
 - (vii) Further clarification around the use of social media as an investigative tool (see paragraph 17 of the revised policy).
 - (viii) A new section on the use of drones for surveillance purposes (see paragraph 18 of the revised policy).
 - (ix) An amended section on the oversight role of the IPC and their access to documentation and systems to fulfil their role (see paragraph 27 of the revised policy).
 - (x) The Non RIPA Procedure has also been amended at section 4.5 to explicitly include as grounds of authorisation the safeguarding of children or vulnerable adults, alongside preventing or detecting crime or disorder.
13. Further training on RIPA and the changes introduced by the revised Home Office codes of practice is to be provided to relevant Council officers.

OPTIONS CONSIDERED

14. The Home Office has issued revised Codes of Practice on the use of RIPA powers which must be complied with. Therefore, the only option considered is the revision of the Council's RIPA Policy and Procedures in compliance with the codes of practice.

REASONS FOR RECOMMENDED OPTION

15. This will ensure that the Council has fit for purpose arrangements in place to comply with the law relating to RIPA authorisations, and ensure that it only makes use of those powers where it is necessary and proportionate to do so.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

16.

	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 for RIPA powers used by the Council are overseen ensuring good governance arrangements and compliance with the law and statutory codes of practice.

RISKS AND ASSUMPTIONS

17. Failing to have a fit for purpose RIPA Policy and Procedures compliant with statutory codes of practice will put the Council at risk of acting unlawfully, having evidence ruled inadmissible in prosecution proceedings, facing complaints to the Investigatory Powers Tribunal and receiving criticism at the next inspection by the IPC.

LEGAL IMPLICATIONS [Officer Initials NC Date 11.1.19]

18. RIPA provides Local Authorities with the mechanism in which they can carry out covert surveillance without breaching individuals' human rights under Article 8 of the Human Rights Act 2000. Failure to follow the law, statutory codes of practice and could be the subject of a challenge in court proceedings where RIPA powers were relied upon and also would lead to criticism at the next inspection by the Commissioner's Office. The Covert Surveillance and Covert Human Intelligence Source Codes of Practice provide that 'elected members of a local authority should review the authority's use of the 2000 Act and set the policy at least once a year. However, this should be done more frequently where there has been any significant changes in the law or statutory codes of practice in the intervening period. They should also consider internal reports on use of the 2000 Act on a regular basis to ensure that it is being used consistently with the local authority's policy and that the policy remains fit for purpose.

FINANCIAL IMPLICATIONS [Officer Initials AT Date 11/1/19]

19. There are no specific implications associated with this report. Any costs to implement the amendments and training will be met from existing budgets.

HUMAN RESOURCES IMPLICATIONS [Officer Initials RH Date 11.01.19]

20. The annual PDR process should identify any officers who require training to ensure understanding of RIPA and the correct application within the context of their duties and responsibilities. This requirement will not apply to all officers but will be relevant dependent upon the nature of the role. It is important to ensure that timely communications with reminders or updates are provided to officers whose work must give consideration to RIPA.

TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 11.1.19]

21. There are no technology implications in relation to this report

HEALTH IMPLICATIONS [Officer Initials RS Date 10.1.19]

22. Public Health is in support of this recommendation in order to prevent and / or detect crime and prevent disorder. This recommendation is in the interests of public safety and protection of the health or the public. This in turn could reduce admissions to A&E.

EQUALITY IMPLICATIONS [Officer Initials...NC... Date...11.1.19.....]

23. 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.

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Appendix 1

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)

Contents

- 1. Background**
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- 23. Working in Conjunction with Other Agencies**
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- 26. Errors**
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- 28. Use of Covert Surveillance Outside of RIPA**
- 29. Complaints**

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 required; where appropriate council internal forms should be used for access to email and internet information and where necessary the non-RIPA procedure (see 28.1) may be used following consultation with the RIPA Coordinating Officer in Legal Services.
- 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 managers in the following departments:
 - Legal
 - Trading Standards
 - Enforcement

2. Objective of This Procedure

- 2.1 The objective of this procedure is to ensure that all work involving Directed Surveillance and Covert Human Intelligence Sources 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 Home Office Codes of Practice relating to the Use of Covert Human Intelligence Sources and Directed Surveillance, which are 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.

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; and
- 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 making general observations).

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*).

Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person's activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a public authority of that person's activities for future consideration or analysis. Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information which is on the internet, particularly where accessing information on social media websites.

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;
- 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 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 officer carrying out such 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. If there is a need to access employee computer and phone records advice should be sought from human resources and / or internal audit. The Information Commissioner's Office 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. They must be at least the rank of Service Manager or above and have been suitably trained. The current list of Authorising Officers is available on the Legal & Democratic Services intranet page.
- 3.7 **Private information** includes information about a person relating to his private or family life (see paragraph 3.4 above).
- 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.
- 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.
- 3.11 **Senior Responsible Officer** is the Assistant Director of Legal & Democratic Services.
- 3.12 **RIPA Co-ordinating Officer** is the Principal Legal Officer (Education and Litigation Team) in Legal & Democratic Services.

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><u>Overt</u></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 fly tipping controlled waste. - A test purchase where the purchaser is wearing recording equipment, or an Council Officer is observing
<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 Senior Responsible Officer or RIPA Co-ordinating Officer 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) Order 2010.

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);
- confidential journalistic material; or
- material relating to the constituency business of Members of Parliament.

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 Assistant Director of Legal & Democratic 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 raised with Legal Services.

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 Legal & Democratic Services page on the intranet and MUST be personally completed by the applicant in all circumstances.

7.6 **Period of Validity of Authorisations**

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 immediately 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 review form, which must be attached to the original authorisation.

7.11 The respective forms, Codes of Practice and supplementary material is available on the Council Intranet, or directly from Legal Services.

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. In order to give proper consideration to collateral intrusion, an authorising officer or person considering issuing the authorisation should be given full information regarding the potential scope of the anticipated surveillance, including the likelihood that any equipment or software deployed may cause intrusion on persons or property other than the subject(s) of the application. If an automated system such as an online search engine is used to obtain the information, the authorising officer should be made aware of its potential extent and limitations. Material which is not necessary or proportionate to the aims of the operation or investigation should be discarded or securely retained separately where it may be required for future evidential purposes. The authorising officer or person considering issuing the authorisation should ensure appropriate safeguards for the handling, retention or destruction of such material in accordance with the codes of practice and data protection requirements. Please refer to the Council's Data Protection Policy, Law Enforcement (Data Protection) Policy, and Information Security Policy. 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; and
- 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 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 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. The case for an authorisation should be presented in the application in a fair and balanced way. In particular, all reasonable efforts should be made to take account of information which supports or weakens the case for the authorisation. If an authorisation is refused, this should still be sent through to Legal Services 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 if 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 Directed Surveillance

9.1 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. Even in instances where it is anticipated that an authorisation will only be required for a period of time less than three months, authorisation should still be granted for the statutory three month period, subject to review at an interval reflecting expected duration (and in any event at least every four weeks), and the authorisation cancelled immediately when it is no longer necessary.

9.2 Time Periods for Renewals for Directed Surveillance

9.2.1 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.

9.2.2 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.

9.3 **Review of Ongoing Authorisations for Directed Surveillance**

9.3.1 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. During a review, the reviewing officer may amend aspects of the authorisation for example to cease directed surveillance against one of a number of named subjects or to discontinue the use of a particular tactic.

10. **Cancellation of Directed Surveillance Authorisation**

10.1 The Authorising Officer must immediately 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.

10.2 There is nothing in the **RIPA** which prevents material obtained from properly authorised surveillance from being used in other investigations. However, the material must be processed in accordance with the safeguards set out in paragraph 19 below. Authorising Officers must also ensure compliance with the appropriate data protection requirements.

11. **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.

12. **Procedure Relating To The Deployment Of A Covert Human Intelligence Source (CHIS)**

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**.

12.1 **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.

- 12.2 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.
- 12.3 *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*.

12.4 **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.

- 12.5 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

12.6 **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.

12.7 **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.

12.8 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).

- 12.9 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.

12.10 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.

- 12.11 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.

13. CHIS Authorisation Procedure

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

13.2 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.

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

13.4 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.

13.5 ***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.

13.6 **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.

13.7 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.

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

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

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

13.11 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.

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

14. Authorisation Criteria

14.1 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.

14.2 Necessity for *CHIS*

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

14.3 Effectiveness of *CHIS*

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

14.4 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?

14.5 **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*.

14.6 **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.

14.7 ***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).

14.8 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.

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

15. ***CHIS* Time Periods**

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

15.2. ***CHIS* Time Periods for Renewals**

15.2.1 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.

15.2.2 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.

15.3 **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.

15.4 **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.

16. **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.

17. **Online Covert Activity and Investigations involving Social Media**

17.1 The internet provides a useful tool for intelligence and evidence gathering. It is important that public authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual's online presence becomes persistent, RIPA authorisations may need to be considered. 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.

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

information was shared online. 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.

- 17.3 Depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings. In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, if reasonable steps have been taken to inform the public or particular individuals that the surveillance is or may be taking place, this can be regarded as overt and a directed surveillance authorisation will not normally be available.
- 17.4 In order to determine whether a directed surveillance authorisation should be sought for accessing information on a website as part of a covert investigation or operation, it is necessary to look at the intended purpose and scope of the online activity it is proposed to undertake. Factors that should be considered in establishing whether a directed surveillance authorisation is required include:
- Whether the investigation or research is directed towards an individual or organisation.
 - Whether it is likely to result in obtaining private information about a person or group of people.
 - Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile.
 - Whether the information obtained will be recorded and retained.

- Whether the information is likely to provide an observer with a pattern of lifestyle.
- Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life.
- Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s).
- Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.
- Systematic viewing of a profile will normally amount to surveillance and a RIPA authorisation should be obtained.
- 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.

17.5 Where a Council Officer or member of the public is tasked by the Council to use an internet profile to establish or maintain a relationship with a subject of interest for a covert purpose, or otherwise undertakes such activity on behalf of the public authority, in order to obtain or provide access to information, a CHIS authorisation is likely to be required. For example:

- An investigator using the internet to engage with a subject of interest at the start of an operation, in order to ascertain information or facilitate a meeting in person.
- Directing a member of the public (such as a CHIS) to use their own or another internet profile to establish or maintain a relationship with a subject of interest for a covert purpose.
- Joining chat rooms with a view to interacting with a criminal group in order to obtain information about their criminal activities

A CHIS authorisation will not always be appropriate or necessary for online investigation or research. Some websites require a user to register providing personal identifiers (such as name and phone number) before access to the site will be permitted. Where a Council officer sets up a false identity for this purpose, this does not in itself

amount to establishing a relationship, and a CHIS authorisation would not immediately be required, though consideration should be given to the need for a directed surveillance authorisation if the conduct is likely to result in the acquisition of private information, and the other relevant criteria are met.

Where a website or social media account requires a minimal level of interaction, such as sending or receiving a friend request before access is permitted, this may not in itself amount to establishing a relationship. Equally, the use of electronic gestures such as “like” or “follow” to react to information posted by others online would not in itself constitute forming a relationship. However, it should be born in mind that entering a website or responding on these terms may lead to further interaction with other users and a CHIS authorisation should be obtained if it is intended for an officer or a CHIS to engage in such interaction to obtain, provide access to or disclose information.

Where covert surveillance is being considered by using the internet the Home Office Codes of Practice sections entitled ‘Online Covert Activity’ should be read in full. Internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, may still require a directed surveillance authorisation

18. Aerial Covert Surveillance

Where surveillance using airborne crafts or devices, for example helicopters or unmanned aircraft (colloquially known as ‘drones’), is planned, the considerations set out in paragraphs 3 and 5 of the Home Office Covert Surveillance Code of Practice should be considered as to whether a directed surveillance authorisation is appropriate. In considering whether the surveillance should be regarded as covert, account should be taken of the reduced visibility of a craft or device at altitude.

19. Safeguards in regard to material/information acquired.

The Home Office Covert Surveillance Code of Practice provides detailed guidance at Section 9 which should be read. In summary:

19.1 Lawful, justified and strictly controlled

Public authorities should ensure that their actions when handling Information obtained by means of covert surveillance or property interference comply with relevant legal frameworks and this code so that any interference with privacy is justified in accordance with Article 8(2) of the European Convention on Human Rights. Compliance with these legal frameworks, including data protection requirements, will ensure that the handling of private information so obtained continues

to be lawful, justified and strictly controlled, and is subject to robust and effective safeguards.

19.2 **Safeguards**

All material obtained under the authority of a covert surveillance authorisation must be handled in accordance with safeguards which the Council has in place in its policies, in particular in the Data Protection Policy, the Law Enforcement (Data Protection) Policy and the Information Security Policy. These safeguards will be made available to the Investigatory Powers Commissioner (IPC) if requested. Doncaster Council will keep its internal safeguards as set out in those policies under periodic review to ensure that they remain up-to-date and effective.

19.3 **Use of material kept to the minimum necessary**

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

- is, or is likely to become, necessary for any of the statutory purposes set out in RIPA in relation to covert surveillance;
- is necessary for facilitating the carrying out of the functions of the Council under RIPA;
- is necessary for facilitating the carrying out of any functions of the Commissioner or the Investigatory Powers Tribunal;
- is necessary for the purposes of legal proceedings; or
- is necessary for the performance of the functions of any person by or under any enactment.

19.4 **Use of material as evidence**

Material obtained through directed surveillance may be used as evidence in criminal proceedings. Ensuring the continuity and integrity of evidence is critical to every prosecution. Accordingly, considerations as to evidential integrity are an important part of the disclosure regime under the Criminal Procedure and Investigations Act 1996 and these considerations will apply to any material acquired through covert surveillance that is used in evidence. When information obtained under a covert surveillance authorisation is used evidentially, Doncaster Council should be able to demonstrate how the evidence has been obtained, to the extent required by the relevant rules of evidence and disclosure. Where the product of surveillance could be relevant to

pending or future criminal or civil proceedings, it should be retained in accordance with Doncaster Council's established disclosure requirements.

19.5 Handling Material

Authorising officers, must ensure compliance with the appropriate data protection requirements under the Data Protection Act 2018 and the General Data Protection Regulation and Doncaster Council's Data Protection, Law Enforcement (Data Protection) and Information Security Policies.

19.6 Dissemination of Information

Material acquired through covert surveillance will need to be disseminated both within Doncaster Council and with other public authorities, where necessary in order for action to be taken on it. The number of persons to whom any of the information is disclosed, and the extent of disclosure, should be limited to the minimum necessary for the authorised purpose(s). This obligation applies equally to disclosure to officers within Doncaster Council and to disclosure outside the authority. In the same way, only so much of the material may be disclosed as the recipient needs; for example if a summary of the material will suffice, no more than that should be disclosed.

19.7 Copying

Material obtained through covert surveillance may only be copied to the extent necessary for the authorised purpose. Copies include not only direct copies of the whole of the material, but also extracts and summaries which identify themselves as the product of covert surveillance, and any record which refers to the covert surveillance and the identities of the persons to whom the material relates.

19.8 Storage

Material obtained through covert surveillance, and all copies, extracts and summaries of it, must be handled and stored securely, so as to minimise the risk of loss or theft. It must be held so as to be inaccessible to persons without the required level of security clearance (where applicable). This requirement to store such material securely applies to all those who are responsible for the handling of the material.

19.9 Destruction

Information obtained through covert surveillance and all copies, extracts and summaries thereof, should be scheduled for deletion or destruction and securely destroyed in accordance with Doncaster Council's retention policy.

20. Confidential or privileged material

Particular consideration should be given in cases where the subject of the investigation might reasonably assume a high degree of confidentiality. This includes where the material contains information that is legally privileged, confidential journalistic material or where material identifies a journalist's source, where material contains confidential personal information or communications between a Member of Parliament and another person on constituency business. Directed surveillance likely or intended to result in the acquisition of knowledge of confidential or privileged material may be authorised only by authorising officers entitled to grant authorisations in respect of confidential or privileged information which for Doncaster Council is the Chief Executive (or their appointed deputy).

20.1 Confidential personal information and communications of a Member of Parliament

Confidential personal information is information held in confidence concerning an individual (whether living or dead) who can be identified from it, and the material in question relates to his physical or mental health or to spiritual counselling. Such information can include both oral and written communications. Such information as described above is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure or any legal obligation of confidentiality. Confidential constituent information is information relating to communications between a Member of Parliament and a constituent in respect of constituency business. Again, such information is held in confidence if it is held subject to an express or implied undertaking to hold it in confidence or it is subject to a restriction on disclosure or an obligation of confidentiality contained in existing legislation. Where the intention is to acquire confidential personal information, or communications of a Member of Parliament, the reasons should be clearly documented and the specific necessity and proportionality of doing so should be carefully considered by the authorising officer in accordance with the safeguards.

20.1.1 Material which has been identified as confidential personal or confidential constituent information should be retained only where it is necessary and proportionate to do so in accordance with the authorised purpose as set out in 9.5 above or where otherwise required by law. It should be securely destroyed when its retention is no longer needed for those purposes. If such information is retained, there should be adequate information management systems in place to ensure that continued retention remains necessary and proportionate for the authorised purpose and the material is marked as confidential. In any case where confidential personal or constituent information is retained, other than for the purpose of destruction, and

disseminated it must be reported to the IPC as soon as reasonably practicable, and any material which has been retained will be made available to the Commissioner on request so that the Commissioner can consider whether the correct procedures and considerations have been applied. Further guidance is detailed within the Home Office Codes of Practice and advice should be sought from the RIPA Co-ordinating Officer.

20.2 Confidential Journalistic Material

Confidential journalistic material includes material acquired or created for the purposes of journalism and held subject to an undertaking to hold it in confidence, as well as communications resulting in information being acquired for the purposes of journalism and held subject to such an undertaking. An authorisation to obtain such material will only be granted where the Court are satisfied that there are appropriate safeguards relating to the handling, retention, use and disclosure of the material are in place. Where confidential journalistic material, or that which identifies a source of journalistic information, has been obtained and retained, other than for the purposes of destruction, the matter should be reported to the Commissioner as soon as reasonably practicable by the RIPA Co-ordinating Officer. Further guidance is detailed in the Code of Practice and advice should be sought from the RIPA Co-ordinating Officer.

20.3 Items subject to Legal Privilege

Any communication or items held between lawyer and client, or between a lawyer and another person for the purpose of actual or contemplated litigation (whether civil or criminal), must be presumed to be privileged unless the contrary is established: for example, where it is plain that the communication or item does not form part of a professional consultation of the lawyer, or there is clear evidence that the ‘furthering a criminal purpose’ exemption applies. Where there is doubt as to whether the material is subject to legal privilege or over whether material is not subject to legal privilege due to the “in furtherance of a criminal purpose” exception, advice should be sought from a the RIPA Co-ordinating Officer. The acquisition of matters subject to legal privilege is particularly sensitive and may give rise to issues under Article 6 (right to a fair trial) of the ECHR as well as engaging Article 8. Further guidance is detailed in the Home Office Code of Practice where it is likely that covert surveillance will result in the acquisition of knowledge of matters subject to legal privilege and advice should be sought from the RIPA Co-ordinating Officer. Where items identified by a Doncaster Council’s Legal Services as being legally privileged have been acquired, this should be reported to the Commissioner as soon as reasonably practicable by the RIPA Co-ordinating Officer. Further guidance is detailed in the Code of Practice and advice should be sought from the RIPA Co-ordinating Officer.

20.3.1 Dissemination

In the course of an investigation, Doncaster Council must not act on or further disseminate legally privileged items unless it has first informed the IPC that the items have been obtained, except in urgent circumstances. Where there is an urgent need to take action and it is not reasonably practicable to inform the IPC that the material has been obtained before taking action, Doncaster Council may take action before informing the IPC and in consultation with the Co-ordinating Officer and Senior Responsible Officer in Legal Services. Doncaster Council must not disseminate privileged items if doing so would be contrary to a condition imposed by the IPC in relation to those items. The dissemination of legally privileged material to an outside body should be accompanied by a clear warning that it is subject to legal privilege. It should be safeguarded by taking reasonable steps to remove the risk of it becoming available, or its contents becoming known, to any person whose possession of it might prejudice any criminal or civil proceedings to which the information relates, including law enforcement authorities. In this regard civil proceedings includes all legal proceedings before courts and tribunals that are not criminal in nature. Legal Services will ensure that the prosecuting authority lawyer who has conduct of a prosecution will not have sight of any legally privileged material, held by the relevant public authority, with any possible connection to the proceedings. In respect of civil proceedings, there can be no circumstances under which it is proper for any public authority to have sight of or seek to rely on legally privileged material in order to gain a litigation advantage over another party in legal proceedings. In order to safeguard against any risk of prejudice or accusation of abuse of process, Doncaster Council will take all reasonable steps to ensure that lawyers or other officials with conduct of legal proceedings should not see legally privileged material relating to those proceedings (whether the privilege is that of the other party to those proceedings or that of a third party). If such circumstances do arise, Doncaster Council will seek independent advice from Counsel and, if there is assessed to be a risk that sight of such material could yield a litigation advantage, the direction of the Court must be sought.

21. **Monitoring**

- 21.1 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.
- 21.2 At least annually the Council's arrangements will be reviewed and a report submitted to the Audit Committee to set the RIPA Policy/Procedures. Interim Update reports shall be delivered to the Committee at intervals of approximately six months.

22. Training and Training Records

- 22.1 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.
- 22.2 The Directors shall ensure that appropriate records of such training is retained so that it may be produced during an inspection by the IPC.

23. Working in conjunction with Other Agencies

- 23.1 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.
- 23.2 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 *RIPA* Co-ordinating Officer/Senior Responsible Officer in 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; and
 - (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.
- 23.3 In terms of paragraph 23.2(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.

- 23.4 IF THERE IS ANY REASON FOR DOUBT OR UNCERTAINTY REGARDING PROCEDURAL ISSUES, please consult with the Assistant Director of Legal & Democratic Services or RIPA Co-ordinating Officer at the earliest opportunity.

24. 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 General Data Protection Regulations, Data Protection Act 2018 and the Codes of Practice and relevant DMBC policies.

25. Internal Overview, Equipment and Records Management

- 25.1 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* Codes 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 IPC. The Assistant Director regularly attends Corporate Leadership Team meetings in accordance with the requirements of the *RIPA* Codes of Practice.

25.2 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 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.

25.3 Councillor Overview Role

The Codes also require that:

- a) Councillors should review the use of *RIPA* by DMBC and also review and set the policy/procedures 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.

25.4 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.

25.5 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).

25.6 Central Register maintained by the Assistant Director of Legal & Democratic Services

Authorised Officers MUST forward each original authorisation form and then each renewal or cancellation form to the Assistant Director of Legal & Democratic Services (as RIPA Senior Responsible Officer) 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 Assistant Director of Legal & Democratic Services they are sent in sealed envelopes and marked 'Strictly Private and Confidential'. The Assistant Director of Legal & Democratic Services will monitor the same and give appropriate guidance, from time to time, or amend this Document, as necessary.

- 25.7 DMBC will retain records for a period of at least five years from the ending of the authorisation. The IPC can audit/review DMBC's policies and procedures, and individual authorisations.

25.8 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 five years from the ending of the authorisation. Documentation should be securely maintained, with limited access, to ensure confidentiality is not breached.

25.9 Each form will have a URN. These are allocated by Legal Services (see chapter 16 above).

25.10 **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 IPC.

26. **Errors**

26.1 **Relevant Errors**

An error must be reported if it is a “relevant error”. This is any error in complying with any requirements that are imposed on the Council by any enactment which are subject to review by a Judicial Commissioner, including the RIPA legislation. Examples of relevant errors occurring would include circumstances where:

- Surveillance or property interference activity has taken place without lawful authority.
- There has been a failure to adhere to the safeguards set out Chapter 19 above, in the relevant statutory provisions and Chapter 9 of the Home Office Code of Practice.

26.2 Timescale for external report

Errors can have very significant consequences on an affected individual's rights and all relevant errors made by Doncaster Council must be reported to the IPC when the Council is aware of the error. The Assistant Director (Legal and Democratic Services) must notify the IPC as soon as reasonably practicable, and no later than ten working days (or as agreed with the Commissioner) after it has been established that a relevant error has occurred.

26.3 Error Reporting Form

Any errors by Doncaster Council must be reported on the Error Reporting Forms that are available on the Legal & Democratic Services intranet page and sent to the Assistant Director (Legal and Democratic Services) using the Monitoring Officer email box immediately when the error comes to the awareness of a council officer. Where the full facts of the error cannot be ascertained within that time, the Assistant Director (Legal and Democratic Services) will send an initial notification with an estimated timescale for the error being reported in full and an explanation of the steps being undertaken to establish the full facts of the error. When the Council identifies that a relevant error may have occurred, the Council will take steps to confirm the fact of an error as quickly as it is reasonably practicable to do so. Where it is subsequently confirmed that an error has occurred and that error is notified to the Commissioner, the Council will inform the Commissioner of when it was initially identified that an error may have taken place.

26.4 Full external report

A full report must be sent to the IPC as soon as reasonably practicable in relation to any relevant error, including details of the error and, where it has not been possible to provide the full report within ten working days (or timescale as agreed with the Commissioner) of establishing the fact of the error, the reasons this is the case. The report will include information on the cause of the error; the amount of surveillance conducted and material obtained or disclosed; any unintended collateral intrusion; any analysis or action taken; whether any material has been retained or destroyed; and a summary of the steps taken to prevent recurrence.

26.5 Errors made in good faith in reliance on information.

In addition to the above, errors may arise where an authorisation has been obtained as a result of the Council having been provided with information which later proved to be incorrect due to an error on the part of the person providing the information, but on which the public authority relied in good faith. Whilst these actions do not constitute a relevant error on the part of the Council which acted on the

information, such occurrences should be brought to the attention of the IPC as detailed above.

26.6 **Serious Errors**

Section 231 of the Investigatory Powers Act 2016 states that the IPC must inform a person of any relevant error relating to that person if the Commissioner considers that the error is a serious error and that it is in the public interest for the person concerned to be informed of the error. The Commissioner may not decide that an error is a serious error unless he or she considers that the error has caused significant prejudice or harm to the person concerned. The fact that there has been a breach of a person's Convention rights (within the meaning of the Human Rights Act 1998) is not sufficient by itself for an error to be a serious error. In deciding whether it is in the public interest for the person concerned to be informed of the error, the Commissioner must in particular consider:

- The seriousness of the error and its effect on the person concerned.
- The extent to which disclosing the error would be contrary to the public interest or prejudicial to:
 - (i) national security;
 - (ii) the prevention or detection of serious crime;
 - (iii) the economic well-being of the United Kingdom; or
 - (iv) the continued discharge of the functions of any of the security and intelligence services. Before making his or her decision, the Commissioner must ask the Council which has made the error to make submissions on the matters concerned. Public authorities must take all such steps as notified to them by the IPC to help identify the subject of a serious error. When informing a person of a serious error, the Commissioner must inform the person of any rights that the person may have to apply to the Investigatory Powers Tribunal, and provide such details of the error as the Commissioner considers to be necessary for the exercise of those rights.

26.7 **Internal Review of Errors Process**

The Senior Responsible Officer will review any errors that have occurred on a six monthly basis prior to the report to Audit Committee and will report on any errors that may have occurred in the time period since the last Committee report. The Pre Audit Report 6 monthly Check Report will normally be completed by the RIPA Coordinator and passed to the Senior Responsible Officer. Any required actions will also be referred to in the Audit Committee report.

27. **External Overview**

- 27.1 The IPC 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 IPC.

- 27.2 It is anticipated that the inspectors will speak to the Assistant Director (Legal and Democratic Services) as Senior Responsible Officer, the RIPA Co-ordinating Officer, and Authorising Officers.
- 27.3 Inspections can take place unannounced. The IPC will have unfettered access to locations, documentation and information systems as necessary to carry out their full functions and duties. Council officers are required to provide all necessary assistance to the Inspectors.
- 27.4 The Human Rights Act 1998 (which brought much of the European Convention on Human Rights and Fundamental Freedoms 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.
- 27.5 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 earlier in this document); and
 - (c) proportionate (as defined earlier in this document).
- 27.6 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.
- 27.7 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.
- 27.8 If the correct procedures are not followed, evidence may be disallowed by the courts, there could be an adverse inspection report issued by the IPC, a complaint could be made to the Investigatory Powers Tribunal, 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.

28. Use of covert surveillance outside of RIPA

28.1 *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 that the Council maintains 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.

29. Complaints

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

29.2 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.

29.3 Copies of the *RIPA* Code of Practice and this 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**
- 8th Amendment - January 2019**

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**DONCASTER METROPOLITAN BOROUGH
COUNCIL**

**NON-RIPA Authorisation
Procedure.**

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1. Introduction

- 1.1 This procedure document has resulted from the change in the law in respect of Directed Surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA) and the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2012. From the 1st November 2012 Directed Surveillance under RIPA only applied to the detection and prevention of a criminal offence that attracts a penalty of 6 months imprisonment or more or are offences involving sale of tobacco and alcohol to underage children. This essentially takes out surveillance of disorder (unless it has 6 months custodial sentence) and most summary offences such as littering, dog fouling, underage sales of fireworks lower level benefit fraud and anti-social behaviour from regulation.
- 1.2 Enforcement officers can undertake such surveillance but because it is not now regulated by the Investigatory Powers Commissioner's Office (IPC). The Council should have procedures in place to ensure that we can prove that we have given due consideration to necessity and proportionality, central tenets of European Law and the likely grounds of any challenge that may be received.
- 1.3 RIPA is there to ensure that certain types of covert surveillance undertaken by public authorities is done in such a way as is human rights compliant. RIPA is permissive legislation. Authorisation under RIPA affords a public authority a defence under Section 27 i.e. the activity is lawful for all purposes. However, failure to obtain an authorisation does not make covert surveillance unlawful. Section 80 of RIPA provides that the Act should not be construed so as to make it unlawful to engage in any conduct of that description which is not otherwise unlawful under this Act and would not be unlawful apart from this Act. Case law confirms that lack of authorisation under RIPA does not necessarily mean that the carrying out of directed surveillance is unlawful. Local authorities will still be able use covert surveillance for such purposes as long as it is necessary and proportionate in accordance with Article 8 of the European Convention on Human Rights (right to privacy).

2. Overview

- 2.1 The forms to be completed are an amended version of RIPA forms as used by the Home Office. It will be the responsibility of Authorising Officers to ensure that their relevant members of staff are suitably trained so as to afford common mistakes appearing on forms for Directed Surveillance authorisations. A current list of authorising officers is available on the Covert Surveillance page of the intranet. Authorising officers will also ensure that

staff who report to them follow this Procedure and do not undertake or carry out any form of surveillance without first obtaining the relevant authorisations in compliance with this document.

- 2.2 Health and safety: Authorising Officers must also pay particular attention to Health and Safety issues that may be raised by any proposed surveillance activity. Under no circumstances should an Authorising Officer approve any form unless, and until s/he is satisfied that the health and safety of Council employees/agents are suitably addressed and/or risks minimised, so far as is possible and proportionate to/with the surveillance being proposed. A risk assessment should be undertaken. If an Authorising Officer is in any doubt he should obtain prior guidance on the same from Legal Services.
- 2.3 Private and confidential information: Particular consideration should be given in cases where the subject of the investigation might reasonably assume a high degree of confidentiality. This includes where the material contains information that is legally privileged, confidential journalistic material or where material identifies a journalist's source, where material contains confidential personal information or communications between a Member of Parliament and another person on constituency business. Surveillance likely or intended to result in the acquisition of knowledge of confidential or privileged material may be authorised only by authorising officers entitled to grant authorisations in respect of confidential or privileged information which for Doncaster Council is the Chief Executive (or their appointed deputy). Special considerations apply where any confidential information has been obtained and it may be necessary to notify the Investigatory Powers Commissioner. If such information is obtained you must immediately contact the RIPA Co-ordinating Officer.
- 2.4 Necessity and proportionality: The Authorising Officer must ensure proper regard is had to necessity and proportionality before any applications are authorised. Stock phrases or cut and paste narrative must be avoided as the use of the same may suggest that insufficient detail and consideration had been given to the particular circumstances of any person likely to be the subject of surveillance. Any equipment to be used in any approved surveillance must also be properly controlled, recorded and maintained for audit purposes. The Human Rights Act requires the Council 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. The European Convention did not however, make this an absolute right, but a qualified right. Accordingly, in certain circumstances the Council may interfere in the citizen's right mentioned above, if such interference is - (a) in accordance with the law; (b) necessary; and (c) proportionate

- 2.5 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 by the Investigatory Powers Tribunal. It is essential that that all involved with surveillance comply with this procedure and seek advice from Legal Services.

3. Types of Surveillance

- 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 and Surveillance, by or with, the assistance of appropriate surveillance devices. Surveillance can be overt or covert.
- 3.2 Overt Surveillance: Most of the surveillance carried out by the Council will be done overtly – there will be nothing secretive, clandestine or hidden about it. In many cases, officers will be going about Council business openly. Similarly, surveillance will be overt if the subject has been told it will happen (e.g. where a noise maker 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 of 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. It cannot however be necessary if there is reasonably available an overt means of finding out the information desired.
- 3.4 Directed Surveillance: Directed Surveillance is surveillance which:-is covert; and is not intrusive surveillance (see the definition below). The Council must not carry out any intrusive surveillance or any interference with private property. It should not carry out any unauthorised surveillance unless 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. Authorisation must be obtained where surveillance 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).
- 3.5 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 a 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 them and others that they comes into contact, or associates with. Similarly, although overt town centre CCTV cameras do not formally require authorisation, if the cameras are to be directed for a specific purpose to observe particular individuals, authorisation will be required. The way a person runs their business may also reveal information about their private life and the private lives of others.

- 3.6 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.

- 3.7 Investigations involving Social Media: The internet provides 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. Whether a public authority interferes with a person's private life includes a consideration of the nature of the public authority's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require cover surveillance authorisation. But where a public authority is systematically collecting and recording information about a particular person or group, an authorisation should be considered. These considerations apply regardless of when the information was shared online. 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. Officers should not engage in any form of relationship with the account holder. Depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention

when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings. In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, if reasonable steps have been taken to inform the public or particular individuals that the surveillance is or may be taking place, this can be regarded as overt and a directed surveillance authorisation will not normally be available.

In order to determine whether a directed surveillance authorisation should be sought for accessing information on a website as part of a covert investigation or operation, it is necessary to look at the intended purpose and scope of the online activity it is proposed to undertake. Factors that should be considered in establishing whether a directed surveillance authorisation is required include:

- Whether the investigation or research is directed towards an individual or organisation;
- Whether it is likely to result in obtaining private information about a person or group of people;
- Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;
- Whether the information obtained will be recorded and retained;
- Whether the information is likely to provide an observer with a pattern of lifestyle;
- Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;
- Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);
- Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties;
- Systematic viewing of a profile will normally amount to surveillance and an Authorisation should be obtained;

- 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.

Where covert surveillance using the internet is being considered the Codes of Practice sections entitled 'Online Covert Activity' should be read in full. Internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, may still require a directed surveillance authorisation.

It will only be in exceptional circumstances that a NON RIPA authorisation will be considered appropriate for social media. Before any such investigation commences, the Assistant Director, Legal and Democratic Services should be contacted. Further guidance is also available on the intranet in the Council's RIPA procedure.

3.8. Aerial Covert Surveillance

Where surveillance using airborne crafts or devices for example helicopters or unmanned aircraft (colloquially known as 'drones'), is planned, the considerations set out in paragraphs 3 and 5 of the Covert Surveillance Code of Practice should be considered as to whether a covert surveillance authorisation is appropriate. In considering whether the surveillance should be regarded as covert, account should be taken of the reduced visibility of a craft or device at altitude. Before any such investigation commences, the Assistant Director, Legal and Democratic Services should be contacted.

- 3.9 Procedure: For the avoidance of doubt, only those Officers designated and certified to be Authorised Officers for the purpose of surveillance under RIPA can authorise an application for Non-RIPA Surveillance if and only if the authorisation procedures detailed in this document are followed.

- 3.10 Necessity and Proportionality: Obtaining an authorisation under the non RIPA surveillance procedure will only ensure that there is a justifiable interference with an individual's Article 8 rights if it is necessary and proportionate for these activities to take place. RIPA requires that the person granting an authorisation believes that the authorisation is necessary in the circumstances of the particular case for directed surveillance. Once necessity is established then proportionality must be considered. The following elements of proportionality should be considered: balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence; explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others; considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result; evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented. This involves the balancing the intrusiveness of the activity on the target subject and others who might be

affected by it or against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the circumstances – each case will be judged on and be unique on its merits – or if the information which is sought could be reasonably be obtained by other less intrusive means. All such activity must be carefully managed to meet the objective in question and must not be arbitrary or unfair. Extra care should also be taken over any publication of the product of the surveillance.

- 3.11 It is important that when setting out the proportionality and necessity of the surveillance, that the applications include clear statements of the other reasonably possible methods of obtaining the desired information and the reasons why they have been rejected. It is therefore crucial that the Authorising Officer give particular attention to necessity and proportionality and expresses his own view rather than those explanations given by the applicant.
- 3.12 Collateral Intrusion: Before authorising surveillance the Authorising Officer should also take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation (collateral intrusion). Measures should be taken, wherever practicable, to avoid or minimise unnecessary intrusion into the lives of those not directly connected with the investigation or operation. Those carrying out the surveillance should inform the Authorising Officer if the investigation or operation unexpectedly interferes with the privacy of individuals who are not covered by the authorisation. When the original authorisation may not be sufficient, consideration should be given to whether the authorisation needs to be amended and reauthorized or a new authorisation is required.
- 3.13 Safeguards and Retention and destruction of product surveillance: Where the product of surveillance could be relevant to pending or future criminal or civil proceedings, it should be retained in accordance with established disclosure requirements for a suitable period and subject to review. There is nothing which prevents material obtained from properly authorised surveillance from being used in other investigations. Authorising Officers must ensure therefore, that they follow the procedures for handling, storage and destruction of material obtained through the use of covert surveillance. Information obtained through covert surveillance and all copies, extracts and summaries thereof, should be scheduled for deletion or destruction and securely destroyed in accordance with Doncaster Council's retention policy.

All material obtained under the authority of a covert surveillance authorisation must be handled in accordance with safeguards which the Council has in place in its policies, in particular in the Data Protection Policy, the Law Enforcement (Data Protection) Policy and the Information Security Policy. Doncaster Council will keep its internal safeguards as set out in those policies

under periodic review to ensure that they remain up-to-date and effective. Dissemination, copying and retention of material must be limited to the minimum necessary for authorised purposes. Further information on the use of information as evidence, handling and dissemination of materials, copying, storage and destruction is detailed in the RIPA procedure.

4. Authorisation Procedures

- 4.1 Directed Surveillance can only be lawfully carried out if properly authorised, and in strict accordance with the terms of the authorisation.
- 4.2 Authorising Officers: Forms can only be signed by Authorising Officers. Legal Services will keep the list of Authorising Officers up to-date. All authorisations for Directed surveillance are for specific investigations only, and must be reviewed, renewed or cancelled once the specific surveillance is complete or about to expire. The authorisations do not lapse with time. On completion of the authorisation, the Authorising officer must pass the authorised form to Legal Services (using Document 5 in the Appendices) to be approved. Surveillance cannot commence until written approval has been obtained from Legal Services for the surveillance.
- 4.3 Training: Appropriate training has been given to Authorising Officers and Enforcement personnel. The training is an ongoing programme and an online course is available on the intranet.
- 4.4 Application Forms: Only the surveillance forms set out in this document and available on the Councils intranet are permitted to be used. Any other forms used will be rejected by the Authorising Officer and/or Legal Services. The forms are
1. Non RIPA Application for Authorisation to carry out Directed Surveillance
 2. Non RIPA Review of a Directed Surveillance Authorisation
 3. Non RIPA Renewal of a Directed Surveillance Authorisation
 4. Non RIPA cancellation of Directed Surveillance Authorisation
 5. Non RIPA form for legal services approval
- 4.5 Grounds for Authorisation: Directed Surveillance which does not meet the crime threshold under RIPA has no statutory grounds. However, the Council will only authorise on the grounds of preventing or detecting crime or disorder or for the purposes of safeguarding children or vulnerable adults.

- 4.6 Assessing the Application Form: Before an Authorising Officer signs a form, they must:-
- (a) Follow the procedures as laid down in this procedure
 - (b) Satisfy themselves that an authorisation is:-(i) In accordance with the law
(ii) Necessary in the circumstances of the particular case on the grounds mentioned in paragraph (enter) above; and (iii) Proportionate to what it seeks to achieve.
- 4.7 In assessing whether or not the proposed surveillance is proportionate the Authorising Officer must consider whether there are any other non-intrusive means to meet the required aim, if there are none, whether the proposed surveillance is no more than necessary to achieve the objective, as the least intrusive method will be considered proportionate by the Courts. Consideration is required of the risk of intrusion into the privacy of persons other than the specified subject of the surveillance (Collateral intrusion). Measures must be taken wherever practicable to avoid or minimise (so far as is possible) collateral intrusion as the matter may be an aspect of determining proportionality.
- 4.8 Completing the Application Form: All forms must be given a unique reference number. Legal Services will issue the unique reference number. A date for review of the authorisation should be set. The review should take place on that date using the relevant form. A copy of every form/notice and documents in support must be sent to Legal Services for the Central Register within one week of the relevant authorisation, review, renewal, cancellation or rejection.
- 4.9 Duration: There is now no specified time for duration but it is proposed to keep to the times provided for under RIPA for consistency. Forms must be reviewed in the time stated, renewed and/or cancelled immediately once it is no longer needed. The authorisation to carry out/conduct the surveillance lasts for a maximum of three months (from authorisation) for Directed Surveillance. In other words the forms do not expire, they have to be reviewed, renewed and/or cancelled once they are no longer required. Authorisations should be renewed before the maximum period in the authorisation 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. An authorisation cannot be renewed after it has expired. In such event a fresh authorisation will be necessary.
- 4.10 Record Management: A Central Register of all Authorisations, Reviews, Renewals and Cancellations and Rejections will be maintained and monitored by Legal Services in regard to Non RIPA Directed Surveillance. Authorised Officers will be required to send Legal Services a copy of all forms with

immediate effect – within one week of authorisation. The Council will retain records for a period of at least three years from the ending of the authorisation. The documents to be stored will include a copy of the Forms together with any supplementary documentation and notification of the approval given by the Authorising Officer.

- 4.11 Risks: Where there is an interference with the right to respect for private life and family guaranteed under Article 8 of the European Convention on Human Rights, and where there is no other source of lawful authority for the interference, or if it is held not to be necessary or proportionate to the circumstances, the consequences of not obtaining or following the correct authorisation procedure set out in this document, may be that the action (and the evidence obtained) will be held to be unlawful by the Courts pursuant to Section 6 of the Human Rights Act 1998 and compensation may be payable to those whose privacy rights have been infringed. Challenges could also occur under Article 8 of the European Convention on Human Rights. Obtaining an authorisation and following this document, will assist in showing that the action is carried out in accordance with the law and subject to stringent safeguards against abuse of anyone's human rights.

5. Errors

An error must be reported to the IPC if it is a "relevant error". This is any error in complying with any requirements that are imposed on it by any enactment which are subject to review by a Judicial Commissioner, including the RIPA legislation. Examples of relevant errors occurring would include circumstances where:

- Surveillance or property interference activity has taken place without lawful authority.
- There has been a failure to adhere to the safeguards set out in the relevant statutory provisions and Chapter 9 of the Statutory Code of practice.

For the purposes of this procedure, it may be where covert surveillance has taken place without following this procedure where it should have been.

Errors can have very significant consequences on an affected individual's rights and all relevant errors made by Doncaster Council must be reported to the IPC when the Council is aware of the error. The Assistant Director (Legal and Democratic Services) must notify the IPC as soon as reasonably practicable, and no later than ten working days (or as agreed with the Commissioner) after it has been established that a relevant error has occurred. Therefore, where an officer becomes aware of an error, they must immediately notify the Assistant Director of Legal and democratic Services. Further detailed information is available on this in the Chapter 26 of the Council's RIPA procedure.

Policy drafted: November 2017

Updated: January 2019

Appendices

1. Non RIPA Application for Authorisation to carry out Directed Surveillance
2. Non RIPA Review of a Directed Surveillance Authorisation
3. Non RIPA Renewal of a Directed Surveillance Authorisation
4. Non RIPA cancellation of Directed Surveillance Authorisation
5. Non RIPA form for legal services approval

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Doncaster MBC, Policy Statement - Regulation of Investigatory Powers Act 2000

Policy Background

The Council and its business operations are often affected by legislation.

The Regulation of Investigatory Powers Act 2000 (R.I.P.A) provide a legal framework for covert surveillance activities by public authorities, including local authorities, and it also provides an independent inspection regime to monitor those activities(Investigatory Powers Commissioner's Office (IPCO))

This legislation impacts upon the Council in that it prescribes a legal framework which must be followed by the Council, to ensure that the use of surveillance is subject to an authorisation, review and cancellation procedure.

Practical Implications

Surveillance is a requisite part of the delivery of some of the Council's functions e.g. trading standards and public health officers, in that it is a tool to prevent and detect crime. Surveillance does from time to time also involve the use of covert human intelligence sources (suppliers of information), whose activities are also covered by the Act.

This policy statement endorses the practices prescribed in the R.I.P.A. 2000 Act, and the related Home Office Code of Practice. Through this the Council will ensure that:-

- it will not undertake any activity defined within the Regulation of Investigatory Powers Act 2000 without prior authorisation;
- such authorisation will only be given by trained senior officers who are empowered to grant such consents;
- authorising officers will not permit the use of covert surveillance techniques or covert human intelligence sources unless the authorisation can be shown to be necessary; is to prevent or detect a crime, 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. In very exceptional cases, a non RIPA procedure mirroring the RIPA procedure may be considered.
- authorising officers will only authorise covert surveillance where it is believed to be proportionate to what it is seeking to achieve;

- authorising officers will only approve the use of covert surveillance or covert human intelligence sources where they believe that the information being sought cannot be achieved through other means;
- authorising officers will only approve the use of covert surveillance or covert human intelligence sources where they are satisfied that efforts will be made to reduce the impact, of the surveillance or information gathering, on other people who are not the subject of the operation;
- authorising officers will, ensure that authorisation is sought and made in writing, and contains details of; the action to be authorised, the identity (where known) of the subject of the investigation, the grounds for making application for undertaking the use of covert surveillance or information gathering, the information being sought, and the potential intrusion resulting from these actions, into the activities of others.
- All authorisations must be authorised by a Magistrate

Publicising of Policy

This policy will be brought to the attention of all the Council's employees and its Members, and will be made available to the public at the Council's key public access points and on reasonable request.

Complaints relating to this policy may be made through the Council's normal corporate Complaints Procedure or directly to the IPC.

This Policy & Human Rights

By their nature, covert surveillance and covert intelligence gathering may constitute an interference with a person's right to privacy and may give rise to legal challenge as a potential breach of Article 8 (the right to respect for private and family life) of the European Convention on Human Rights and the Human Rights Act 1998. Compliance with this policy is intended to balance the rights of the individual with those of the public interest. It is for this reason that the Council stresses the importance of the need for due and proper compliance with this policy statement and the requirements of the Regulation of Investigatory Powers Act 2000.

Explanation of Terms in this Policy Statement

The following items are provided by way of assisting in the understanding of this policy.

Covert Surveillance	- includes the monitoring, observing or listening to persons, their movements, their conversations or other activities or communication, in a covert (without their knowledge) manner. It also includes the recording of anything monitored, observed or listened to in the course of surveillance. This
---------------------	--

includes surveillance by or with the assistance of a surveillance device.

Covert Human Intelligence Source

-is a person who covertly uses a relationship (personal or other) to obtain information or provide access to any information or another person, or covertly discloses information obtained either by the use of such a relationship or as a consequence of the existence of such a relationship. More simplistically, if person A requests that person B provide, in a covert manner, information on person C, without the knowledge of Person C, then Person B acts as a covert human intelligence source.

Procedures Putting this Policy Into Practice

The Council has established procedures for the delivery of this policy into practice and thereby compliance with the Regulation of Investigatory Powers Act 2000. There is a requirement for all those involved in the undertaking of or authorisation of, actions covered under this policy, to comply with those procedures.

External Inspection

It is anticipated that the Council will be subject to inspection by the Office of Surveillance Commissioners from time to time in order to assess compliance with the Act and guidance issued by the Home Office.

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Appendix 3 – Update on recent RIPA matters

141.	19.4.18	URN108	Illegal tobacco sales (3 premises)	Chief trading standards officer	For each premise: (1)Prosecution (2) Discounted from enquiries, (3)Prosecution
142.	19.4.18	URN109	Illegal tobacco sales (6 premises)	Chief trading standards officer	For each premise the following outcomes: (1)1 caution; 1 warning (2)3 prosecutions pending; 1 caution; 1 warning (3) 2 cautions (4) 3 prosecutions pending; 2 warnings (5)1 prosecution pending (6) 2 prosecutions pending
143.	20.8.18	URN110	Illegal tobacco sales (7 premises)	Chief Trading Standards Officer	5 prosecutions pending and 2 license reviews pending.

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Doncaster Council

Report

Date: 31st January 2019

To the Chair and Members of the
AUDIT COMMITTEE

RISK MANAGEMENT STRATEGY

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

EXECUTIVE SUMMARY

1. Audit Committee have a role to consider the effectiveness of the council's approach to risk management and seek assurance that action is being taken in risk related issues. The purpose of this report is to represent the revised Risk Management Strategy that incorporated recommendations made at the last Audit Committee meeting. Attached as Appendix A

EXEMPT REPORT

2. Not applicable.

RECOMMENDATIONS

3. The Chair and Members of the Audit Committee are asked to note and comment on the report

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. 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

BACKGROUND

5. The objective of the Risk Management Strategy is to embed risk management within the Council's planning and business processes and organisational culture, creating an environment in which objectives are successful and continuous improvement in service delivery is achieved.
6. Over the past few years the Council's approach to risk management has been developed and improved. This has resulted in a more transparent approach aligned to the Management of Risk principles, stronger governance and clearer levels of responsibility.
7. The Council's current approach to risk management has been reviewed by the Corporate Strategy & Performance Team. It has been revised to reflect the results of a Risk Management review undertaken by Internal Audit and to ensure our approach continues to be fit for purpose. The Internal Audit report stated that 'there is a clear and documented process in place for the management of strategic risks, the current process appears to be working well and is firmly embedded. For service/operational risks, the audit review did demonstrate a general lack of compliance. The revised approach sees the amalgamation of the current risk documents into one key document with a focus on:
 - streamlining and simplifying our approach to focus on the main themes within the Strategy without losing the corporate grip (merging the three documents that made up the Risk Management Framework into a Strategy document);
 - Outlining a risk appetite;
 - Ensuring risks are owned and managed within service areas;
 - Embedding the updating and reviewing of operational risks into the Resource Management process;
 - Standardising the approach to managing risks within transformational programmes/projects by utilising Pentana, the Council's electron performance management system;
 - Adding a date field to the 'target risk' profile;
8. The changes also reflect the outcomes of an informal discussion with Audit Committee during the review of the Risk Management approach. Specifically the addition of a date field to the target risk profile and the further embedding of risk management at an operational level.
9. This Risk Management Framework has already been to Audit Committee and is being represented for consideration with the recommended changes around:
 - being more specific about our 'risk appetite' (page 2 & 3);
 - Making sure the 'review and embed' element references the importance of evaluation (page 5, 9 and 10)

To make it easier to review the amendments Appendix B highlights the original text and the amended version.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

10.

Outcomes	Implications
<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future; Better access to good fulfilling work Doncaster businesses are supported to flourish Inward Investment</p>	<p>The embedding of robust risk management arrangements within the Council will contribute to the effective delivery of all the Council's key priorities</p>
<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time; The town centres are the beating heart of Doncaster More people can live in a good quality, affordable home Healthy and Vibrant Communities through Physical Activity and Sport Everyone takes responsibility for keeping Doncaster Clean Building on our cultural, artistic and sporting heritage</p>	
<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling; Every child has life-changing learning experiences within and beyond school Many more great teachers work in Doncaster Schools that are good or better Learning in Doncaster prepares young people for the world of work</p>	
<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents; Children have the best start in life Vulnerable families and individuals have support from someone they trust Older people can live well and independently in their own homes</p>	
<p>Connected Council: A modern, efficient and flexible workforce Modern, accessible customer interactions Operating within our resources and delivering value for money A co-ordinated, whole person, whole life focus on the needs and aspirations of residents Building community resilience and self-reliance by connecting community assets and strengths Working with our partners and residents to provide effective leadership and governance</p>	

RISKS AND ASSUMPTIONS

11. Consideration of the effective development and operation of risk management within the Council is an important governance and performance management process which helps reduce risks that could prevent or delay delivery of objectives.
12. Reviewing the Council's approach to risk management is a matter of good management and good governance. Failure to carry out basic management and governance processes could lead to a risk that our policies and systems are not fit for purpose and lead to a risk to the credibility of the council.

LEGAL IMPLICATIONS [Officer Initials SRF Date 15/10/2018]

13. There is no specific requirement for a local authority to have a Risk Management strategy but it is considered good practice to do so. Further legal advice is available to deal with arising risks on a project by project basis.

FINANCIAL IMPLICATIONS [Officer Initials AT Date 15/10/2018]

14. There are no direct financial implications arising from this report's recommendations. Should any specific initiatives or actions be required in response to the identification and management of risks, any cost implications will be considered at that time.

HUMAN RESOURCES IMPLICATIONS [Officer Initials RH Date 15/10/18]

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

TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 15/10/2018]

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

HEALTH IMPLICATIONS [Officer Initials RS Date 15/10/2018]

17. Good governance and risk management is crucial to improve health and wellbeing. This approach to risk management should contribute to improving health and wellbeing.

EQUALITY IMPLICATIONS [Officer Initials SW Date 09/10/2018]

18. There are no specific equality implications arising from this report. However, any activities arising from the management of risks may be the subject of separate 'due regard' assessments.

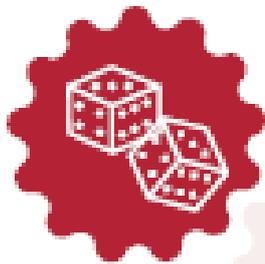
BACKGROUND PAPERS

19. The previous Risk Management Framework and a risk review report from Internal Audit and minutes from the last Audit Committee meeting.

REPORT AUTHOR & CONTRIBUTORS

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Debbie Hogg
Director of Corporate Services



Risk Management Strategy

Version	Date	Author	Comments/Modification
1.0	15/10/2018	SW	Review in response to Internal Audit report
1.1	15/01/2019	SW	Additional amendments requested by Audit Committee

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Introduction

Doncaster Council recognises that risk management is an integral part of good governance and management practice. Managing our risks effectively contributes to the delivery of the strategic and operational objectives of the authority. We strive to embed risk management within our planning and business processes and into our organisational culture, creating an environment in which we can successfully meet our objectives and achieve continuous improvement in service delivery. Our Risk Management Strategy is designed to provide structure and guidance to support our organisation, and the individuals within it, to take positive risks in an informed way.

This Strategy forms part of a suite of documents, that when combined, make up the Corporate Performance Management Framework.

What is Risk Management?

Risk is an uncertain event or set of events that, should it occur, will have an effect on the achievement of objectives.

Risk Management is the process by which we identify, evaluate and manage risks.

Risk Management should be viewed as a positive and enabling process that, if embraced, can help an organisation to achieve positive outcomes from the decisions it makes. All too often, risk management can become a process of identifying the negatives of why a decision, action or opportunity should not be taken; this leads to opportunities not being pursued.

Risk management is not a process of completely avoiding risk, but more a process that, if used effectively, can help The Council to pursue innovative

opportunities with higher levels of risk because exposure to risk is understood and managed down to acceptable levels.

Every organisation manages risk but not always in a way that is visible, repeatable and consistently applied throughout the organisation. A risk management process tries to ensure that the organisation undertakes cost-effective actions to manage and control risk to acceptable levels, through everyone following a well-defined and structured process. The aim of risk management is to enable better decision making, by having the best understanding of the potential problems before they happen and to enable pre-emptive action to be taken.

Risk Management is also an essential part of the CIPFA/SOLACE framework 'Delivering Good Governance in Local Government' recommended as good practice for all Local Authorities.

Risk Appetite

In order for The Council to achieve its objectives some amount of risk taking is inevitable. By being 'risk aware' The Council can identify and avoid threats and take advantage of opportunities.

Risk appetite can be defined as 'the amount and type of risk that an organisation is willing to take in order to meet their strategic objectives.'

Our risk appetite reflects our current position; encouraging managed risk taking for minor to moderate level risks, but controlling more closely those risks that come further up the scale. Our appetite for risk will vary over time depending on our ambitions and priorities and the environment we work in.

The chart below shows the Corporate Risk Matrix that the Council has adopted. Typically those risk that, when mitigated, lie in the green or yellow zone lie within the accepted appetite. Those that are red zone fall outside of our risk appetite and must be a priority for immediate management action.

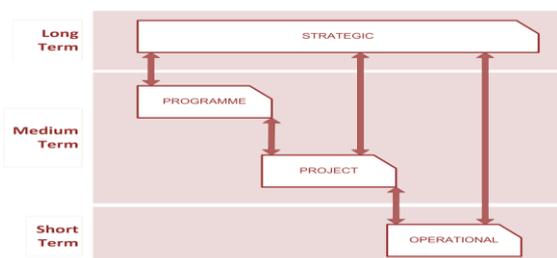
		Impact on objectives					
		<i>slight</i>	<i>moderate</i>	<i>significant</i>	<i>major</i>	<i>critical</i>	
		1	2	3	4	5	
Likelihood	Very Likely	5	L	M	M	H	H
	Likely	4	L	M	M	H	H
	Possible	3	L	M	M	M	M
	Unlikely	2	L	L	M	M	M
	Very unlikely	1	L	L	L	L	L

To ensure a consistent application of the risk appetite all relevant information is recorded on Pentana, The Councils performance management system, and is subject to regular review as part of the 'Resource Management' process

The risk appetite is reviewed periodically or when there are significant changes to the organisation.

When to Implement Risk Management

Risk Management should be most rigorously applied where critical decisions are being made. Decisions about risk will vary depending on whether the risk relates to long, medium or short-term goals. Strategic decisions are primarily concerned with long-term goals, medium-term goals are usually addressed through programmes and projects to bring about business change and short-term goals usually ensure on-going continuity of business services. This approach is shown in the diagram below.



Roles and Responsibilities

Clear roles and responsibilities have been established to ensure the successful implementation of The Councils Risk Management Strategy and ensure Officers and Members are aware of the part they will play to introduce, embed and own the risk management process.

Chief Executive:

- Ultimate officer responsible for embedding risk management throughout The Council.

Elected Members:

- Receive reports outlining strategic risks;
- Attend awareness training where relevant;
- Adopt the Risk Management Strategy;
- They should also have due regard to the risks facing the authority in determining its policy and ensure a balance between managed risk taking in order to enable improved services and the achievement of objectives and risk control to protect the reputation and assets of the Authority.

Cabinet:

- Consider and approve the Risk Management Strategy;
- Monitor the Strategic Risk Register.

Audit Committee:

- Consider the effectiveness of the risk management arrangements within The Council;
- Seek assurance that action being taken in risk related issues determined by Auditors and Inspectors;
- Be satisfied that the Annual Governance Statement properly reflects the risk environment and actions to improve it;

Directors:

- Monitor performance to ensure the effective management of critical risks and the implementation of the Risk Management Policy and Process Guide, for the quarterly performance reporting process.

Directorate Management Teams:

- Apply the Risk Management Strategy and Process Guide within the service area they manage following the current guidance;
- Identify risks for major projects and contracts;
- Assess & prioritise risks;
- Ensure Pentana is updated in line with the quarterly performance reporting process.

Service Managers:

- Manage risks in their service areas;
- Identify and develop staff competencies in risk management through the staff appraisal process.

Employees

- Assess risks in their service area in association with service managers;
- Recognise and accept responsibility for risk management for self and others.

Corporate Strategy & Performance Unit:

- Develop the Risk Management Strategy (including an annual review);
- Corporate advisor of risk at strategic and operational level;
- Promote a positive culture of risk awareness within the organisation and to all partners;
- Continual development and maintenance of the corporate risk registers;
- Regular reporting of strategic risks;
- Design and implement risk management training;

- Provision of corporate and service based risk management advice and support as required.

Internal Audit

- Challenge established process, risk identification and evaluation and provide assurance to officers and members, when appropriate, on the effectiveness of controls;
- Feed the results of risk analysis onto its annual audit plan;

Monitoring, Reviewing & Reporting Risks

The Pentana Performance Management System is used to record, monitor and report on all risk registers and progress against all mitigating actions.

Reviewing the progress and mitigating actions against the operational and strategic risk registers is embedded in the quarterly Resource Management process. The Resource Management process informs the contents of reports to Director, Executive Board, Cabinet and Overview and Scrutiny Management Committee. The quarterly Strategic Risk update will also be presented at Audit Committee.

Strategic risks will be monitored at corporate level and operational risks will be monitored and reviewed at directorate level. Risks may be promoted and demoted as part of the quarterly Resource Management process or at any Directors Meeting. This will allow The Council to effectively react to changes in priorities.

Review

The Risk Management Strategy will be reviewed on an annual basis to incorporate lessons learned and to

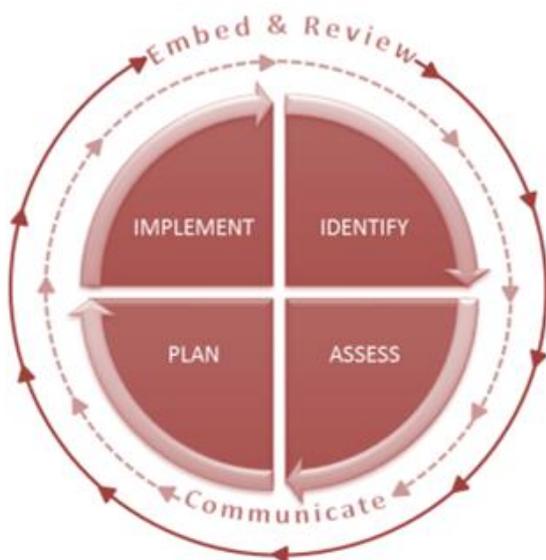
continually improve our risk management arrangements.

Risk Management Process Guide

This section outlines the detailed process required to introduce and embed risk management. The risk management process is based on good practice and can be applied at all levels of the organisation and beyond.

The management of risk process is divided into four primary elements:

- Identify
- Assess
- Plan
- Implement



Additionally, the 'Communicate' and 'Review and Embed' activities operate through each stage. This is to ensure activity is constantly evaluated throughout the life cycle of the risk.



Identify

The primary goal of the 'Identify' step is to identify the risks to The Council that would reduce or remove the likelihood of The Council achieving its objectives, whilst

maximising opportunities that could lead to improved performance.

A risk is defined as: 'An uncertain event or set of events that, should it occur, will have an effect on the achievement of objectives'.

An opportunity is defined as 'an uncertain event that could have a favorable impact on objectives or benefits'.

The starting point to identifying risks and/or opportunities is therefore clarity on what the objectives are. The Council's Priorities and key objectives are identified in the Corporate Plan. Objectives in Projects and/or Partnerships are identified in the initiation documents.

When describing a risk it is good practice to consider 3 key terms, **cause, event and effect**. The following prompts may be used to ensure risks are effectively identified and described.

As a result of
(cause)
There is a threat/opportunity.....
(event)
That could lead to
(effect)

When creating a list of potential risks it is sometimes easier to focus on categories of risks. The categories of risk that have been adopted by Doncaster Council can be viewed in Appendix A.

For effective risk management, it is critical that each risk has an 'owner' who is responsible for dealing with the risk, ensuring that all internal controls are working and that relevant mitigating actions are taken. The role involves regularly monitoring the risk status and adjusting risk ratings accordingly, based on current information and knowledge.

Some risks identified will already have measures in place to control the impact or likelihood of the risk occurring. To be effective these internal controls should be demonstrated by policy, procedure or practice. Controls can be classified in four ways:

- **Directive controls:** these controls are designed to ensure that a particular outcome is achieved. They are particularly important when it is critical that an undesired event should be avoided. An example of directive controls would be training staff with required skills before allowing them to work unsupervised.
- **Preventive controls:** these controls are designed to limit the possibility of an undesirable outcome being realised. The more important it is that an undesirable outcome should not arise; the more important it becomes to implement appropriate preventive controls. An example of preventive control is separation of duties (e.g. the person who authorises payment of an invoice is separate from the person who ordered the goods, thus preventing one person securing goods at public expense for their own benefit).
- **Detective controls:** These controls are designed to identify occasions when undesirable outcomes have been realised. These types of control, by definition, occur 'after the event'. An example of detective control is an asset check (this might identify assets that have been removed without authorisation).
- **Corrective control:** These controls are designed to correct undesirable outcomes, which have been realised. They provide a route of recourse to achieve some sort of recovery against

loss or damage. An example of a corrective control is 'claw back' for staff who have been overpaid.

A key question is whether the existing controls are adequate or whether further controls / solutions are required to effectively manage the risk.

Assess



The primary goal in the 'Assess' step is to understand the effect of the identified threats and opportunities on the activity. In order to decide which risks are most important and merit most attention, there needs to be some way of comparing risks relative to each other. Using a score to rate risks provides a quantitative basis for comparison and can be achieved by assessing the risk along two dimensions:

- The **likelihood** (or probability) that the risk will occur.
- The **impact** (or severity) that the risk will have if it occurs.

The first evaluation should be undertaken on the 'inherent risk' i.e. the risk before any controls have been put in place. This is to ensure that all significant risks are highlighted and assurance provided that these risks are being managed. If you only assess the risk after controls have been put in place, 'residual risk', then you are assuming that the controls will always be there. The inherent and residual risk scores are calculated using the following equation:

Likelihood score x Impact score

The impact of a risk is often considered in terms of the level of severity. Establishing a consistent approach for scoring the risk impact is more complex than likelihood as it will vary by risk category. For consistency a table that outlines elements

Risks rated Low – Entered onto Pentana, linked to the relevant actions and reviewed annually.

Risks rated Medium - Entered onto Pentana, linked to the relevant actions, controls and mitigating actions recorded and reviewed quarterly as part of the Resource Management process

Risks rated High– Entered onto Pentana, linked to relevant actions, additional controls and mitigating actions recorded, reviewed quarterly as part of the Resource Management Overview meetings and the Resource Management process

to consider in terms of their impact from a number of perspectives can be viewed at Appendix B. The criterion against each score are to be used as a guide and is not exhaustive. This table can be personalised by service areas to take account of their own perspectives. When using this approach if more than one perspective applies choose the column containing the more serious outcome.

Likelihood is often considered in the context of ‘what timescale the risk might occur within, or what frequency’. A table that contains descriptions for the risk event with an associated score for each descriptor can be viewed at Appendix C.

A target profile is input onto Pentana. This is to demonstrate where the risk will be managed down to and by what date the target profile is expected to be achieved.

The Council uses the 5 x 5 risk matrix to display its risk profiles. This allows us to align with partner organisations, improve the scope for a flexible risk appetite and

distinguish between serious and critical events.

The risk rating corresponds to the traffic light status below.

Plan

The primary goal of the ‘Plan’ step is to prepare specific management responses to the threats and opportunities identified, to remove or reduce these threats, and to maximise the opportunities.

Once the risks have been identified and assessed, appropriate management action needs to be taken. The ‘Four Ts’ is the generic approach that can be used when planning how to manage a risk or opportunity:

Tolerate: The risk is accepted making limited, if any, efforts to mitigate it or reduce its likelihood/impact. This may be because the cost of mitigation exceeds the consequence of the risk.



Transfer: The risk rating is reduced by transferring the risk to a third party by changing contractual terms. Typically this would mean The Council discontinuing the activity that gives rise to the risk, and sub-contracting/outsourcing that activity to another organisation. Other alternatives include insurance or private finance initiatives.

Treat: Actions will be taken to reduce the risk, possibly by putting in additional controls.

Terminate: The activity that gives rise to the risk will cease, be avoided or altered, thus eliminating the risk.

With the exception of taking a ‘tolerate’ approach, mitigating actions will need to be developed and monitored in order to effectively manage the risk.

The risk, the risk profile and the mitigating action against each activity are recorded collectively in the form of risk registers. All corporate risk registers within The Council are recorded on Pentana, and monitored and reviewed in line with this Risk Management Strategy.

Programme and Project risks must be managed in line with this Risk Management Strategy but may contain bespoke elements to meet the needs of the programme/project, for example a tailored impact or likelihood guide or a reporting cycle. This approach compliments the principles in ‘Managing Successful Programmes’ (MSP).

Risk Registers are structured under the following headings on Pentana:

Operational Risk Register: All risks identified with the delivery of the Service.

Strategic Risk Register: Any risk from the operational risk register that may prevent or delay the delivery of The Council’s shared priorities, or that may prevent or delay the delivery of the internal cross-cutting actions needed by The Council to improve performance and underpin the Borough Strategy may be elevated to a Strategic Risk. In addition new or emerging risks may be added directly to the strategic risk register either through the Resource Management process or from the weekly Directors Meeting.

Programme & Project Register: All risks associated with the delivery of high level programmes and projects.

Fraud Risk Register: The Fraud Risk Register is a specific register dedicated to the assessment, monitoring and treatment of the risks relating to fraud and corruption. It is an integral part of the Risk Management strategy designed to focus attention on minimising the damage caused by fraud and corruption and on upholding The Council’s principles of zero tolerance to fraudulent and corrupt activity. The fraud risk register will be used by both management and Internal Audit Services to focus anti-fraud and corruption resources and training on raising the awareness of fraud and corruption and its associated effects.



Implement

The primary goal of the ‘Implement’ step is to ensure that the planned risk management actions are implemented and monitored as to their effectiveness, and corrective action is taken where responses do not match expectations.

Pentana is used to record, monitor and report on all corporate risk registers and progress against all mitigating actions.

- Operational risks will be reviewed at directorate level as part of the Resource Management process.
- Strategic risks will initially be reviewed as part of the Resource Management process and then as part of the Resource Management Overview meeting. These risks will then be reported to Executive Board, Cabinet and Audit Committee.
- Fraud Risk will be regularly reviewed and reported upon by The Council’s Internal Audit function.
- Programme and Project risks will be directly managed within the

governance of the programme or project. If the programme or project is part of The Councils transformation approach these will also be reviewed as part of the Resource management process



Communicate

‘Communicate’ is not a distinct step in the management of risk process, it is an activity that is carried out throughout the whole process. Doncaster Council’s exposure to risk is never static: effective communication is key to the identification of new threats and opportunities, or changes in existing risks.

The implementation of risk management is dependent on participation, and participation, in turn, is dependent on communication. It is important for managers to engage with staff across The Council to ensure that:

- Everyone understands The Council’s Risk Management Strategy in a way that is appropriate to their role. If this is not achieved, effective and consistent embedding of risk management will not be realised and risk priorities may not be addressed;
- Everyone understands the benefits of effective risk management and the potential implications if it is not done or is done badly;
- Each level of management actively seeks and receives appropriate and regular assurance about the management of risk within their control. Effective communication provides assurance that risk is being managed within the expressed risk appetite and that risks exceeding tolerance levels are being escalated;

- There is no misunderstanding over the respective risk priorities within and across business perspectives. This will help management to avoid being diverted from the most significant risks and will enable appropriate levels of control to be applied;

- Any organisation providing outsourcing services has adequate risk management skills and processes. Gaining assurance that a partner organisation has implemented adequate risk management for itself will avoid dependence on a third party that may fail to deliver in an acceptable way, or may not deliver at all.



Embed & Review

How an organisation manages its risks demonstrates a part of that organisation’s core values and improves stakeholder’s confidence in the organisation’s ability to cope and manage its risks.

Doncaster Council needs to ensure that risk management has been integrated successfully, has the necessary support, is addressed in an appropriate way and is successful. Key indicators that demonstrate that the management of risk culture had been embedded are:

- The understanding of risk management policies and the benefits by all staff;
- The existence and operation of a transparent and repeatable risk management framework;
- The support by the organisational culture of well thought-through risk taking innovation;
- The close linking of management of risk with the achievement of objectives;

- The explicit assessment and management of the risks associated with working with partners;
- The active monitoring and regular review of risks;
- The reporting of risks to management in a timely manner (together with sufficient information to enable risk treatment to be developed) and the escalation of risks within appropriate timescales if they develop.

As the management of risk is a live process it is vital to constantly review and evaluate during all elements of the process. Mitigating actions can be amended to target emerging issues throughout the life cycle of the risk and to ensure the desired outcomes are delivered.



Corporate Governance

Good governance is about getting things right first time. It is about demonstrating legitimate leadership, respecting the democratic process, making proper and timely decisions, managing risk and allocating resources for valid reasons.

Good governance principles should be instilled in everything that we do at every level of the organisation. It is embedded in a number of key policies and procedures maintained and published by The Council. Compliance with these policies and procedures is the key to instilling good governance throughout Doncaster Council and the Risk Management Strategy, as part of the Performance Management Framework, has been identified as a key governance document.

APPENDIX A

Categories of Risk

- **Equipment** – this extends to the equipment utilised for the operation and conduct of The Council.
- **Financial** – e.g. budgetary requirements.
- **Fraud** – this relates to the assessment, monitoring and treatment of risks relating to fraud and corruption. There is the potential for fraud to occur within each of the categories. Therefore, the risk of the occurrence of fraud should be considered when identifying risks within each category.
- **Legal/compliance** – this category includes compliance with legal requirements such as legislation, regulations, standards, codes of practice and contractual requirements.
- **Organisational** – this relates to the internal requirements of The Council, extending to the cultural, structural and people issues associated with its effective operation.
- **Reputation** – this entails the threat to the reputation of The Council due to the conduct of the entity as a whole, the viability of the product or service, or the conduct of employees or other individuals associated with The Council.
- **Safety** – this category includes the safety of everyone associated with the authority from individual safety, to workplace safety, public safety and to the safety and appropriateness of products and services delivered by The Council.
- **Security** – this includes the overall security of council premises, assets and people and extends to security of information, intellectual property and technology.
- **Service Delivery** – this relates to the delivery of services, including the quality and appropriateness of service provided, or the manner in which the service is delivered, including customer interaction.
- **Stakeholder Management** – this category relates to the management of stakeholders, and includes identifying, establishing and maintaining an appropriate relationship. This includes both internal and external stakeholders.
- **Strategic** – this includes the planning, scoping and resourcing requirements of the establishment.
- **Technology** – this includes the implementation, management, maintenance and upgrades associated with technology.

APPENDIX B

Impact Table

IMPACT	PERSPECTIVE							
	Personal safety	Property damage	Failure to provide statutory service	Financial loss	Disruption in service (days)	Privacy infringement	Community	Embarrassment
1 = Slight				<£10k	None			
2 = Moderate	Minor injury	Minor damage to 1 property	Litigation, claim or fine £2k to £50k	£10k to £100k	1	Isolated personal detail comprised	Impact on an individual or small group	Contained within service
3 = significant	Major injury to an individual	Significant damage to small building or minor damage to several	Litigation, claim or fine £50k to £250k	£100k to £500k	2-3	Several persons details revealed	Impact on a local community	Local public or press interested
4 = Major	Major injury to several people or death of an individual	Major damage to critical building or serious damage to several properties	Litigation, claim or fine £250k to £1m or custodial sentence imposed	£500k to £1m	4-14	Several persons details comprised	Impact on several communities	National public or press interested
5 = Critical	Death of several people	Total loss of critical building	Multiple civil or criminal actions. Litigation, claim or fine above £1m	>£1m	>14	All personal details revealed / comprised	Impact on whole of the borough	Officer(s) and/or members forced to resign

APPENDIX C

Likelihood Table

Score	Descriptor	Description
5	Very likely	I would not be at all surprised if this happened within the next few months.
4	Likely	I think this could occur sometimes in the coming year or so.
3	Possible	I think this could maybe occur at some point, but not necessarily in the immediate future.
2	Unlikely	I would be mildly surprised if this occurred, but cannot entirely rule out the possibility.
1	Very unlikely	I would be very surprised to see this happen, but cannot entirely rule out the possibility.

Original text**How much risk can we accept?**

In order for The Council to achieve its objectives some amount of risk taking is inevitable. By being 'risk aware' The Council can identify and avoid threats and take advantage of opportunities. Doncaster Council has focused on the Red, Amber, Green status of risks in determining the risk appetite of the organisation. Red risks are considered unacceptable and every effort must be made to reduce the risk to the organisation.

		Impact on objectives				
		slight 1	moderate 2	significant 3	major 4	critical 5
Likelihood	Very Likely 5	L	M	M	H	H
	Likely 4	L	M	M	H	H
	Possible 3	L	M	M	M	M
	Unlikely 2	L	L	M	M	M
	Very unlikely 1	L	L	L	L	L

To ensure a consistent application of the risk appetite all relevant information is recorded on Pentana, The Councils performance management system, and is subject to regular review as part of the 'Resource Management' process

The risk appetite is reviewed periodically or when there are significant changes to the organisation.

Revised text**Risk Appetite**

In order for The Council to achieve its objectives some amount of risk taking is inevitable. By being 'risk aware' The Council can identify and avoid threats and take advantage of opportunities.

Risk appetite can be defined as 'the amount and type of risk that an organisation is willing to take in order to meet their strategic objectives.

Our risk appetite reflects our current position; encouraging managed risk taking for minor to moderate level risks, but controlling more closely those risks that come further up the scale. Our appetite for risk will vary over time depending on our ambitions and priorities and the environment we work in.

The chart below shows the Corporate Risk Matrix that the Council has adopted. Typically those risk that, when mitigated, lie in the green or yellow zone lie within the accepted appetite. Those that are red zone fall outside of our risk appetite and must be a priority for immediate management action.

		Impact on objectives				
		slight 1	moderate 2	significant 3	major 4	critical 5
Likelihood	Very Likely 5	L	M	M	H	H
	Likely 4	L	M	M	H	H
	Possible 3	L	M	M	M	M
	Unlikely 2	L	L	M	M	M
	Very unlikely 1	L	L	L	L	L

To ensure a consistent application of the risk appetite all relevant information is recorded on Pentana, The Councils performance management system, and is subject to regular review as part of the 'Resource Management' process

The risk appetite is reviewed periodically or when there are significant changes to the organisation.

Original text – page 5

Additionally, the 'Communicate' and 'Review and Embed' activities operate through each stage.

Revised text – page 5

Additionally, the 'Communicate' and 'Review and Embed' activities operate through each stage. This is to ensure activity is constantly evaluated throughout the life cycle of the risk.

New paragraph – page 10

As the management of risk is a live process it is vital to constantly review and evaluate during all elements of the process. Mitigating actions can be amended to target emerging issues throughout the life cycle of the risk and to ensure the desired outcomes are delivered.



Doncaster Council

Report

Date: 31st January 2019

To the Chair and Members of the
AUDIT COMMITTEE

**UPDATE REPORT ON CONTRACTS AND COMMISSIONING IN ADULTS,
HEALTH AND WELLBEING**

Relevant Member(s)	Cabinet	Wards Affected	Key Decision
Cllr Blake			No

EXECUTIVE SUMMARY

1. This report provides Members a six month progress update on improvements made by the adults commissioning and contracts function (from July 2018 to January 2019) since initially reported in April 2017.

EXEMPT REPORT

2. There are no exemptions in this report.

RECOMMENDATIONS

3. To note the information contained in this report, and to stand down the 6 monthly progress reporting of the adult Commissioning and Contracts function to Audit Committee (which has been in place since April 2017).

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. Effective commissioning and contract management is essential, to ensure the delivery of value for money, quality, effective and efficient services to the citizens of Doncaster. The Commissioning and Procurement Plan supports the Adult Transformation Programme as well as the Doncaster Place Plan and Doncaster Growing Together.

BACKGROUND

5. Progress reports on commissioning activity have been presented to Audit Committee at 6 monthly intervals since April 2017. The purpose of these progress reports has been to give assurance to Audit Committee that sustained improvement is being made over a continuous period.
6. In March 2018, Cabinet Committee were asked to approve proposals to re-commission 30 contracts due to expire in 2018/19. To date the re-commissioning of those contracts is on track, however, some short term waivers of CPR's have been necessary to ensure that the re-commissioning of these services can be effectively and safely delivered within the prescribed timescales.

Resource Capacity

7. Two Head of Service and a Commissioning Manager (within the Adult Commissioning and Contract function) have been recruited. These posts are providing the additional capacity required to support and deliver the Commissioning and Procurement Plan, service transformation, and joint commissioning activity.

Activity

8. Achievements by the Commissioning and Contracts function in the last six months since July 18 are as follows:-
 - Reduced off contract spend (i.e. spend where no contract has been put in place or the contract has expired) from £5.4m in April 2017 to £978k (December 2018)
 - Achieved savings of circa £323,000 (full year effect) savings in 18/19 whilst continuing to support vulnerable service users through redesigned service delivery. Targeted savings of £719,000 in 18/19 (£360,000 of this being met via iBCF funding).
 - Safely transferred circa 1100 hours of domiciliary care services from a provider experiencing financial difficulties to the Council's contracted Strategic Lead Providers of domiciliary care without service disruption to vulnerable people
 - Awarded the remaining Supported Living Service contract (due to commence 28th January 19) with a new provider of supported living services Creative Support.
 - Developing a Joint Commissioning Strategy with the Clinical Commissioning Group (CCG) in line with the Place Plan to deliver integrated working across the commissioning and contracts functions which is due to be presented to Cabinet on the 12th March 19.
 - In the process of retendering the RDASH residential contract for individuals with learning disabilities and complex needs. The tender is closed 21st January 2019;
 - Tender, award and mobilisation of Mental Health Floating Support service
 - Tender, award and mobilisation of previous Offender supported accommodation contract resulting in the establishment of a new contract for the provision of supported accommodation for people with multiple

complex needs. The contract, which commenced on 19 November 2018 will also provide additional supported accommodation to enhance the homeless resettlement pathway,

- Tender, award and mobilisation of Supported Lodgings and Floating Support service for young people, new contract commenced on 10 December 2018
- Tender and award of supported accommodation service for people with mental health issues at Morley Road. New contract to commence February 2019.
- Awarded a new money management service to support individuals who choose a direct payment / individual budget to purchase their own care packages.
- Safely decommissioned three services whilst continuing to provide redesigned services to service users
- Led bronze command meetings as part of the new town centre / complex lives governance arrangements to create a more integrated structure, strength and engagement with wider stakeholders. This has resulted in an overall reduction of rough sleepers, greater understanding of the pathway and service offer which will inform future commissioning intentions to improve outcomes.
- Commissioned extra provision to support homelessness over the Christmas period;
- Begun the negotiation with care home providers regarding the fees to be paid to care homes from April 2019;
- Provide ongoing support and expert advice to the Directorates transformation programme and top priority improvement projects.

Waivers to CPR's

9. The number of waiver reported to audit committee in the last six months reporting period is detailed in the table below, together with the number of waivers previously requested. The increase in the number of waivers this last period is attributable to the high number of contracts that have required to be renewed. As such, it has been necessary to put in place some short term waivers to effectively manage and resource the work needed to deliver this activity.

Six monthly update on waivers

October to February 2018	February 2018 to July 18	July 2018 to December 2018
5	4	7

Solar Centre Update

10. A separate report on the Solar Centre Service and Travis Gardens will be presented to Cabinet in May 19. Work is currently progressing in partnership with RDASH, families and carers to refresh the individual's needs assessments and to undertake best interest assessments. This work will inform commissioning options for the remaining 15-20 service users who live at home or in residential accommodation (other than the RDASH accommodation) who attend the Solar Centre.

OPTIONS CONSIDERED

11. Option 1 – do nothing. This option would not effectively support the delivery of the commissioning plan and priorities or the delivery of the Transformation Programme. There would likely be an increase in the number of contracts in breach.
12. Option 2 – To note the information contained in this report, and the actions and progress made by the Commissioning and Contracts function in Adults Health and Wellbeing (AHWb) since initially reported to audit committee in April 2017 and to stand down the reporting of activity by the adult Commissioning and Contracts function to Audit Committee going forward.

REASONS FOR RECOMMENDED OPTION

13. To ensure that the Council continues to delivery it's commissioning priorities and supports the delivery of the transformation programme.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

14.

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<p>The commissioning and procurement plan:-</p> <ul style="list-style-type: none"> • Benefits the local economy by increasing opportunities for local service providers. • Supports the delivery of modern, quality, value for money services.
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	<p>Commissioning, procurement and contract management supports modern, quality, value for money services.</p>
	<p>Doncaster Learning: Our vision is for</p>	

	<p>learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	<p>Robust contract management processes will ensure that individuals remain safe and supported.</p>
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	

RISKS AND ASSUMPTIONS

15. The principle risk would be a reduction in key posts within the commissioning and contracts function which would impact on the team's ability to deliver business as usual, the commissioning plan and provide support to the transformation programme.

LEGAL IMPLICATIONS (SRF 16/1/19)

16. The Council has a series of legal powers and duties around the provision of Adult Services. The Council must also follow both internal and external regulations surrounding its Commissioning and Procurement processes including compliance with both Contract Procedure Rules and European Procurement Regulations.

Legal Services provides ongoing advice and assistance on commissioning and procurement exercises and contract matters and will continue to input into the matters detailed with this report.

FINANCIAL IMPLICATIONS [PW 16/01/19]

17. There are no direct financial imps arising from this report as it is just for noting. It should be noted however that the reduction in the level of waivers, contract breaches and off-contract spend detailed in the body of the report should lead to improved financial planning and management around the Commissioning function. There have been £323k of budget reductions in 18/19 against a targeted reduction of £360k (a further £360k was met via iBCF) and a further planned reduction of £703k for 19/20. The adult Commissioning and Contracts team are currently reviewing how this will be delivered and this includes work with Finance colleagues to deliver adult transformation and efficiency targets.

HUMAN RESOURCE IMPLICATIONS (DD 16/01/19)

18. There are no direct HR implications in respect of this report. Continued HR & OD support will be provided to the Commissioning & Contracts Team to assist them in delivering their key priorities.

TECHNOLOGY IMPLICATIONS: (PW 11/01/19)

19. There are no direct technology implications in relation to this report

HEALTH IMPLICATIONS (RS 11/01/19)

20. Commissioning is a key way to improve and protect the health of Doncaster residents and this includes both the policy making and sourcing elements of the commissioning processes. Decision makers should welcome this update on key elements of the commissioning cycle and should also take note of the performance and contribution of key contracts in improving health and reducing health inequalities.

EQUALITY IMPLICATIONS [DB 12/12/18]

21. Due Regard Statements will be completed in line with Council Policy and the Public Sector Equality Duty.

CONSULTATION

22. Consultation will be undertaken with key stakeholders associated with in pursuit of the delivery of commissioning and procurement priorities and to support the delivery of the Transformation Programme as well as the Doncaster Place Plan and Doncaster Growing Together programme.

BACKGROUND PAPERS

23. REPORT TITLE: Transformation of Residential Care Services for People with Learning Disabilities, provided by Rotherham, Doncaster and South Humber NHS Foundation Trust. Presented Cabinet on the 4th September.

REPORT TITLE: Update Report on Contracts and Commissioning in Adults, Health and Wellbeing Presented to Audit Committee on the 26th July 2018

REPORT AUTHOR & CONTRIBUTORS

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Damian Allen - Director of People



Doncaster Council

Report

Date: 31st January 2019

To the Chair and Members of the
AUDIT COMMITTEE

INTERNAL AUDIT REPORT FOR THE PERIOD: OCTOBER TO DECEMBER 2018

Relevant Cabinet Member(s)	Wards Affected	Key Decision
		No

EXECUTIVE SUMMARY

1. The report attached at **Appendix 1** updates the Audit Committee on the work done by Internal Audit for the period October to December 2018, and shows this in the context of the audit plan for the year. The report includes details on the implementation of internal audit recommendations and the Internal Audit Teams performance information.
2. The attached report is in four sections:
 - Section 1. The Audit Plan / Revisions to the Plan
 - Section 2. Audit Work Undertaken During the Period
 - Section 3. Implementation of Audit Recommendations
 - Section 4. Internal Audit Performance
3. A summary of the main points from each of the sections is provided in the following paragraphs:

Section 1: The Audit Plan / Revisions to the Plan

4. Section 1 of the attached update report shows that 4 new jobs have been added to the plan or have substantially increased in scope due to anomalies identified. The changes are in response to emerging risks and concerns.
5. Some planned work has been removed from the plan to help accommodate this. Current progress in delivering the audit plan is commented in more detail within Section 2 of this report.

Section 2: Audit Work Undertaken During the Period

6. Details of the work being carried out in this area are included in Section 2 of this report.
7. The audit work done continues to confirm the Council generally has appropriate controls in place and that the controls are operating effectively. More details are provided in paragraph 2.4 and Appendix A of the attached report.
8. Internal Audit continues to deliver unplanned work, either in response to requests from management or contingency work identified by Internal Audit. This work is important as it helps to address weaknesses and potential errors and/or irregularities, and Internal Audit's support is generally highly regarded in these circumstances.
9. Considerable resource has been applied in working with Management in the implementation of audit recommendations and further detail is set out in the following section.

Section 3: Progress on the implementation of audit recommendations

10. There are now 10 overdue major recommendations; these all fall within Adults, Health and Wellbeing. This is a decrease from the number outstanding reported last period of 12 (also, all within Adults). Although originally agreed timescales have not been fully met for some recommendations, there has been significant progress made overall, implementing other major and lower level recommendations.
11. The current number of audit recommendations outstanding overall is down to 85 (99 reported last period) of which 50 (84 reported last period) of these have revised implementation dates that were beyond their original agreed implementation date. This is a good improvement from the position previously reported and demonstrates the commitment by management to improve the position. Further information is set out in Section 3 of the report.

Section 4: Performance Information

12. Performance on four out of the service's six key performance indicators are above target and is currently below target on the other two as summarised below.
13. The percentage of planned audit work completed is below target at 66% compared to a target of 75%. This is due to several factors including:-

Issues within customer directorates

- High levels of responsive work experienced by the team in the first quarter.
- A higher degree of follow up work than budgeted for, the majority taking place in Adults Health and Wellbeing.

- Additional time being required to complete some jobs due to the number or complexities of issues identified as the audit progressed.

Issues within Internal Audit

- Higher levels of time spend than planned for due to a full risk assessment of services to inform the 19/20 Internal Plan currently being drafted.
 - Higher levels of sickness than budgeted for
 - Higher levels of training than budgeted for.
14. The plan for the remainder of the Financial Year has been assessed and the Head of Internal Audit considers that sufficient work will be delivered to be able to provide his opinion on the Council's, risk governance and control arrangements. Should delivery of this programme of work become a problem, then additional resources will be put into the team in line with existing assurances to the Audit Committee and past actions by the Chief Financial Officer.
15. The percentage of jobs completed within 110% of the time allowed is slightly below target at 83% against target of 90%. Results relating to major recommendations and customer satisfaction remain very positive, with 100% of critical or major recommendations agreed and 100% of Customer Satisfaction Surveys rated Satisfactory or above.
16. Issuing draft reports within 15 days of fieldwork completion is exceeding target at 95% against a target of 90% as is issuing final reports within 5 days of client feedback on the draft report at 100% against a target of 90%.

RECOMMENDATIONS

17. The Audit Committee is asked:
- To note the changes to the original audit plan
 - To note the internal audit work completed in the period
 - To note progress made by officers in implementing previous audit recommendations
 - To note information relating to Internal Audit's performance in the period.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

18. 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

19. This report provides the Audit Committee with information on the outcomes from internal audit work and allows the Committee to discharge its responsibility for monitoring Internal Audit activity.

OPTIONS CONSIDERED

20. Not applicable - for information only

REASONS FOR RECOMMENDED OPTION

21. Not applicable - for information only

IMPACT ON THE COUNCIL'S KEY OUTCOMES

22. 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.

Outcomes	Implications
Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future; <ul style="list-style-type: none">• Better access to good fulfilling work• Doncaster businesses are supported to flourish• Inward Investment	
Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time; <ul style="list-style-type: none">• The town centres are the beating heart of Doncaster• More people can live in a good quality, affordable home• Healthy and Vibrant Communities through Physical Activity and Sport• Everyone takes responsibility for keeping Doncaster Clean• Building on our cultural, artistic and sporting heritage	
Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling; <ul style="list-style-type: none">• Every child has life-changing learning experiences within and beyond school	

<ul style="list-style-type: none"> • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	
<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes. 	
<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<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>The work undertaken by the Audit Committee improves and strengthens governance arrangements within the Council and its partners.</p>

RISKS AND ASSUMPTIONS

23. The implementation of internal audit recommendations is a response to identified risks and hence is an effective risk management action.

LEGAL IMPLICATIONS [SRF16/01/19]

24. 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.

Legal advice can be provided on individual items on the work plan as required.

FINANCIAL IMPLICATIONS [SB 18/01/19]

25. There are no specific financial implications associated with this report. Internal Audit’s budget forms part of the monthly monitoring process and is not reporting any significant issues.

HUMAN RESOURCE IMPLICATIONS [AT 22/01/19]

26. There are no specific human resource implications associated with this report.

TECHNOLOGY IMPLICATIONS [PW 15/01018]

27. There are no specific technology implications associated with this report. As outlined in Appendix 1, work is progressing to implement an upgraded version of the PNC system used within the Alarm Receiving Centre (ARC). The overdue recommendation relating to Contract Monitoring Review – Supported Living is being addressed as part of the implementation of the Doncaster Integrated People Solution (DIPS), as outlined in Appendix B..

EQUALITY IMPLICATIONS [PJ 21/01/19]

28. 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 covered by the document will have taken into account any relevant equality implications.

HEALTH IMPLICATIONS [RS 16/01/19]

29. Good governance is important for healthy organisations and for healthy populations. Specific health implications should be addressed through individual audits and action plans.

CONSULTATION

30. 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. Regular meeting are held with Senior Management to ensure there is effective and relevant Internal Audit coverage provided.

BACKGROUND PAPERS

31. United Kingdom Public Sector Internal Audit Standards, audit working files and management information, customer satisfaction responses.

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Peter Jackson
Head of Internal Audit

Appendices Attached

Appendix 1 - Internal Audit Progress Report to December 2018



**Doncaster
Council**

Appendix 1

Doncaster Council

Internal Audit Progress Report

October to December 2018

Section 1: Revisions to the Audit Plan

- 1.1. The 2018/19 Audit Plan was approved by the Audit Committee on 5th April 2018. As the audit year progresses, the plan is reviewed to take into account new and emerging risks and any responsive work arising. During 2018/19 the service has continued to receive and responded to a number of responsive work requests (see section 2). These, alongside significant ongoing work within the Adults Health and Wellbeing directorate, have required a review of the plan alongside a review of available resources. Significant amendments to the plan, this quarter, are set out below.
- 1.2. The following jobs have been added to the plan, or significantly increased in scope:
 - Direct Payments Year-End Follow Up Review – added at the request of Audit Committee
 - Deprivation of Liberty Standards (DoLS) - Year-End Follow up Review - added at the request of Audit Committee
 - Data Matching - Supplier to Payroll Payments – Increased due to volume of matches
 - Adult, Health and Wellbeing Governance Development (significantly increased due to departmental complexities)
 - General Follow up work – increased as budget for year exceeded
- 1.3. The following jobs have been deleted from the plan (these will be considered for inclusion in future years plans) or have been significantly reduced:
 - Data Matching – Creditors to Debtors - removed
 - Resilience and Emergency Planning - removed
 - Fleet Management - Customer Charges - removed
 - Highways Operation and Street Lighting Costing - removed
 - DIPS System Advice and Support (reduced with agreement of Manager)
 - Improving Data Quality (reduced due to delays in starting)

Section 2: Audit Work Undertaken During the Period

Internal Audit Opinion

- 2.1 Internal Audit provides an opinion on the control environment for all systems, services or functions which are subject to planned audit review. The opinions given are taken into account when forming our overall annual opinion on the adequacy and satisfactory operation of the Council's governance, risk management and internal control arrangements at the end of the year.
- 2.2 A "*substantial*" opinion is given where there are no/low levels of concern. A "*partial*" opinion is given where there are issues of concern that need to be addressed but represent a reasonable level of assurance. A "*limited*" opinion is

given in any area under examination where one or more concerns of a 'fundamental' nature are identified. A 'no assurance' opinion is given where the area under review is considered to be fundamentally exposed to critical risks, although 'no assurance' opinions are rare.

Summary of Findings from Audit Reviews

2.3 Summary conclusions on all significant audit work October to December 2018 are set out in **Appendix A**.

Responsive Audit Work and Investigations

2.4 In addition to our planned assurance work, we also investigate allegations of fraud, corruption or other irregularity and/or error, and respond to requests for assistance from services and functions in the Council. A summary of the significant pieces of work that have been completed or are ongoing is provided below:

Audit Area	Update
Bereavement Services, Stocks and Sales	<p>During previous investigation work it was identified that there are weak controls in this area. This piece of work ensured that income and stock, in this area are correctly accounted for and adequately protected.</p> <p>Complete – Limited Assurance report issued containing 21 agreed management actions, of which 5 have already been implemented.</p>
Review of ARC Practices	<p>A review of systems and processes within the Alarm Recording Centre (ARC) has raised concerns about the efficacy and business continuity of assistive technology.</p> <p>A new system has been procured and is being installed. Ongoing support is being provided to the appointed Project consultants. Project end anticipated March / April 19.</p>
Officer working arrangements	<p>Management concerns raised have resulted in an investigation into a potential conflict between an officer's private work and their employment with DMBC.</p>
Income Management Project Support	<p>The piece of consultancy work is to support corporate arrangements in the identification and reconciliation of income. It is an important area due to weaknesses identified in this area though both audit work and in income project work previously carried out by Financial Management.</p> <p>Ongoing support</p>

Audit Area	Update
Liquid Logic Access	<p>Assistance from Internal Audit regarding a potential issue with access to the Liquid Logic Children's system and the Early Help module, revealed access rights were not being systematically amended / cancelled when staff leave the authority or change posts.</p> <p>Complete – Information provided to management for further action</p>
Doncaster East Internal Drainage Board (DEIDB)	<p>Support continues to be provided to the Board in finalising a governance review of a major project. Independent consultants have been engaged to support this review and their findings are being assessed by the Board supported by Legal advisers</p> <p>Ongoing</p>
Data Matching - Supplier to Payroll Payments	<p>Additional time required to allow completion of the routine monthly checks which are proving very worthwhile in identifying anomalies that require investigating. For example, employees are being paid through both Payroll and Accounts Payable which may be in breach of Inland Revenue regulations (IR35) or where the employee has not informed their manager of secondary employment.</p> <p>Ongoing</p>
Invoice Fraud (IPOS)	<p>Concerns were raised regarding an 'invoice' from Intellectual Property Organisation Service, for services that we had received and paid for. Investigation showed that the Intellectual Property Office website holds a trademark register that details all the trademarks that have been applied for and granted, with the name and address of the organisation requesting the trademark and the application number. Clearly the sender of the scam invoice has lifted the information from the website as this is freely available information.</p> <p>The fraudulent 'invoice' was not paid and was referred to Action Fraud for assessment. Action Fraud is the UK's national fraud reporting service. When a fraud is reported to Action Fraud, victims are given a crime reference number and their case is passed on to the National Fraud Intelligence Bureau (NFIB), which is run by the City of London's police service.</p>

Savings / Income Resulting from Audit Reviews

- 2.5 Internal Audit work, both planned and responsive, adds value to the organisation by providing assurance and support to Management. In some instances, Internal Audit work results directly in quantifiable monetary savings or income generation, which cannot always be identified until some time after the completion of Internal Audit work. Further detail on such savings / income is listed below:

Business Waste and Recycling

A data comparison exercise undertaken by Internal Audit identified customers that had not been billed for differing lengths of time. Subsequently, an Internal Audit recommendation for a quarterly reconciliation to be carried out of income due to income actually billed has been implemented. To date, backdated bills have been raised totalling in excess of £50,000. The quarterly reconciliations are now identifying limited anomalies but ensure that any 'missed' bills are identified and rectified in a timely manner.

Section 3: Implementation of Audit Recommendations

- 3.1 Following the completion of audit work, improvement plans are produced in consultation with service management containing details of actions and dates agreed by management for their implementation. Final reports, incorporating agreed improvement plans, are then formally issued to the appropriate Director, Assistant Director and Head of Service.
- 3.2 Internal Audit subsequently seeks assurance that agreed actions arising from audit work have actually been implemented. This involves contacting the officer allocated to complete the action to obtain evidence that agreed actions have been implemented or, where they have not, that appropriate progress is being made. Where fundamental weaknesses in internal control arrangements have been identified, more detailed follow up work is undertaken.
- 3.3 Any major recommendations that are not implemented in line with agreed timescales are reported as part of the Council's Resource Management processes (previously called the Quarterly Finance and Performance Challenge) and consequently monitored through that process. It is now intended to report the total number of overdue recommendations in addition to major ones.. Additionally, Assistant Directors are provided each month with details of all actions outstanding in their area and these are then reviewed with Internal Audit and the Director and their management teams each quarter. Major recommendations outstanding are reported routinely by Internal Audit to the Audit Committee
- 3.4 A summary of overdue major recommendations is provided in **Appendix B**. The number of both major and lower level recommendations that are currently overdue for completion is distributed as follows:

Directorate	Overdue major recommendations		Overdue lower level recommendations	
	At 02/07/18	At 15/01/19	At 02/07/18	At 15/01/19
Adults, Health and Wellbeing	16	10	53	29
Regeneration & Environment	0	0	11	7
Corporate Resources	0	0	22	1
Learning & Opportunities (Children & Young People)	0	0	10	2
Council Wide	0	0	2	1
TOTAL	16	10	98	40

- 3.5 The majority of the Adults, Health and Wellbeing overdue major recommendations listed above are in respect of the audits of the Deprivation of Liberties Safeguards and Direct Payments / Personalised Budgets and further information is detailed below.

Deprivation of Liberties Safeguards – in total, 15 actions remain outstanding, of which 4 are overdue major recommendations

One major action as well as a number of lower rated actions have been implemented this period. There have been major staffing changes in the management of the service which has been a major contributory factor in the implementation of the outstanding actions and has caused some delays.

Consequently, there has been some slippage in the outstanding major actions and these are partly due to the DoLS team being dependent on other teams to provide information or complete processes in order to complete the actions in question. Progress is still being made with these actions and the service is currently operating effectively and performance has improved.

Direct Payments / Personalised Budgets Follow Up – in total, 8 actions remain outstanding, of which 4 are overdue major recommendations

Strong progress continues to be made in this area. Implementation of actions has progressed satisfactorily under the new leadership in this area.

- 3.6 Both the number of major and lower level recommendations overdue has decreased this period (major recommendations by 1, lower by 4). Internal Audit will continue to rigorously pursue their implementation with senior management.

- 3.7 The number of audit recommendations currently awaiting implementation is 85 (99 reported last period) of which 50 (84 reported last period) have passed their original agreed implementation date. The above noted Deprivation of Liberties Safeguards, Direct Payments audits and the previous Safeguarding Adults Personal Assets Team (SAPAT) audit account for a significant number of the recommendations currently awaiting implementation. Internal Audit are working closely with these sections to promote the timely implementation of these recommended actions.
- 3.8 In this period, extensive work has again been undertaken on implementing long overdue outstanding recommendations. The spread of recommendations still awaiting implementation is shown below:

Directorate	Number of rec's at April 2018	Plus New rec's in year	Less Rec's implemented	Number rec's at 15 th Jan 2019
Adults, Health and Wellbeing	43	+157	-155	45
Regeneration & Environment	15	+64	-47	32
Corporate Resources	35	+19	-50	4
Learning & Opportunities (Children & Young People)	8	+29	-34	3
Council Wide	5	14	-18	1
TOTAL	106	+283	-304	85

- 3.9 This represents a more positive situation than has been previously reported reflecting the extensive work put into clearing the actions by Management and Auditors in all directorates and not just within the Adult, Health and Wellbeing Directorate. At Directors meeting in 13th January, a further measure to improve arrangements was agreed; this was that all future extensions of time to implements actions would need to be authorised by the relevant Assistant Director.

Section 4: Internal Audit Performance

Performance Indicators

- 4.1 The Audit Committee has previously 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 period October to December 2018:

Performance Indicator	Target	Oct to Dec 2018	Variance (positive is good)
Percentage of planned audit work completed	75%	66%	-9%
Draft reports issued within 15 days of field work being completed	90%	95%	+5%
Final reports issued within 5 days of customer response	90%	100%	+10%
% of critical or major recommendations agreed	100%	100%	0%
Percentage of Customer Satisfaction Surveys rated Satisfactory or above	90%	100%	+10%
Percentage of jobs completed within 110% of budget	90%	83%	-7%

4.2 The percentage of planned audit work completed is below target. This is due to several factors including:-

Issues within customer directorates

- High levels of responsive work experienced by the team in the first quarter.
- A higher degree of follow up work than budgeted for, the majority taking place in Adults Health and Wellbeing.
- Additional time being required to complete some jobs due to the number or complexities of issues identified as the audit progressed.

Issues within Internal Audit

- Higher levels of time spend than planned for due to a full risk assessment of services to inform the 19/20 Internal Plan currently being drafted.
- Higher levels of sickness than budgeted for
- Higher levels of training than budgeted for.

4.3 The plan for the remainder of the Financial Year has been assessed and the Head of Internal Audit considers that sufficient work will be delivered to be able to provide his opinion on the Council's, risk governance and control arrangements. Should delivery of this programme of work become a problem, then additional resources will be put into the team in line with existing

assurances to the Audit Committee and past actions by the Chief Financial Officer.

- 4.4 Results relating to major recommendations and customer satisfaction remain very positive, with 100% of critical or major recommendations agreed and 100% of Customer Satisfaction Surveys rated Satisfactory or above.
- 4.5 Issuing draft reports within 15 days of fieldwork completion is at 95% and issuing final reports within 5 days of client feedback on the draft report is at 100% which is good performance in this area.
- 4.6 The percentage of jobs completed within 110% of the budget is slightly below target but this is anticipated to improve.

Summary of Planned Audit Work Completed in Period

APPENDIX A

Audit Area	Assurance Objective	Final Report to Mgmt.	Overall Audit Opinion	Summary of Significant Issues
LEARNING AND OPPORTUNITIES:CYP – Nothing to Report				
CORPORATE RESOURCES				
Core Financial Processes – Procure to Pay	Ensure the operational risks and operational processes are effectively managed within Procure to Pay to ensure that the right goods and services are procured correctly and the right amount is paid to the right suppliers at the right time.	16/11/18	Partial Assurance	This audit assessed two fraud related risks which will always be present in this system but further controls are considered to be disproportionate to the level of these risks. This is reflected in the overall opinion for the system.
Disaster Recovery	To provide an independent assurance of the extent to which the ICT Disaster Recovery Plan covers all areas required to enable minimal disruption to the business in the event that the plan is activated.	16/11/18	Substantial Assurance	None.
Core Financial Processes – Cash Book	Review of the arrangements to collect, record and receipt income collected to ensure all income is adequately receipted and is not lost.	10/01/19	Partial Assurance	Whilst we are able to provide substantial assurance over the central cash book system, team and processes, we are only able to provide partial assurance for the establishment cash book processes. This overall opinion is due to the risk exposures within the

Audit Area	Assurance Objective	Final Report to Mgmt.	Overall Audit Opinion	Summary of Significant Issues
				<p>establishments which sit outside the control of the Cashbook Team.</p> <p>The 4 establishments reviewed were Museums (Substantial Assurance), Markets (Substantial Assurance), Tourist Information (Partial Assurance) and Thorne Library (Substantial Assurance).</p>
REGENERATION AND ENVIRONMENT				
Bereavement Services – Sales and Stocks	To give assurance that income and (where appropriate) stocks, processed by Bereavement Services are correctly accounted for and are properly protected.	10/01/19	Limited Assurance	Delays in the billing of Funeral Directors. Money Laundering checks had not been undertaken as appropriate. Outstanding debts were not being chased. Delays in completing purchasing transactions.
Bereavement Services – Public Health Funerals	To give assurance on the proper financial administration of public health funerals / environmental health funerals (as they are sometimes known).	10/01/19	Partial Assurance	A lack of policy and procedural documentation. Not recharging the NHS when they have responsibility for deceased patients. Poor budget monitoring and financial reconciliations.
ADULTS AND COMMUNITIES				
Troubled Families Grant (August to	Grant certification. Confirm expenditure and that it is in keeping with the conditions of	16/11/18	No report, grant certification only	None

Audit Area	Assurance Objective	Final Report to Mgmt.	Overall Audit Opinion	Summary of Significant Issues
November)	the grant.			
COUNCIL WIDE				
National Fraud Initiative (NFI)	<p>The NFI for this year consisted of 3 main strands;</p> <ul style="list-style-type: none"> • the investigation of released possible fraud / error matches from the 2016/17 data matching work completed by the Cabinet Office (this includes any subsequent re-matches released in 17/18); • the submission of new data sets as required for the upcoming 2018-2020 data matching exercise; and • participation in a pilot exercise releasing data matches for investigation with a business rates theme. 	Not applicable	Not applicable. Each match is dealt with on its own merits.	Not applicable. The results of these exercises are reported annually in October in the Preventing and Detecting Fraud and Error Report to Audit Committee.

Overdue Major Recommendations

APPENDIX B

Audit Area	Finding	Risk Exposure	Action Agreed	Estimated Impl'n Date	Revised Impl'n Date	Current Status
ADULTS AND COMMUNITIES						
Solar Centre	The DMBC / RDaSH contract for the provision of services at the Solar Centre ended March 2013 with a CPR Waiver to extend for 1 year. However, actual service provision is still ongoing which is a breach of CPR's.	Penalties for non compliance with EU Procurement Regulations. Best value is not obtained.	Allocate responsibility; produce a clear project plan with timescales, report to and challenge by each DLT.	30/06/18	30/11/18	<p>Assistant Director responsibility and a Project Lead is in place. A Joint Project Board (Senior Leadership Team and all partners) meets regularly and is responsible for monitoring the project plan and unblocking problems.</p> <p>Slippage against the Project Plan occurred and a revised time lined plan is not currently available. A 'preferred options and timescales report' is now to be submitted to May 19 Cabinet. Work is currently progressing in partnership with RDASH, families and carers to refresh the individual's needs assessments and to undertake best interest assessments. This work will</p>

Audit Area	Finding	Risk Exposure	Action Agreed	Estimated Impl'n Date	Revised Impl'n Date	Current Status
						inform commissioning options for the remaining 15-20 service users who live at home or in residential accommodation (other than the RDASH accommodation) who attend the Solar Centre.
Contract Monitoring Review - Supported Living	The CareFirst system is not currently capable of being used to record service delivery and associated payment. A project is currently being progressed under the Council's Digital Transformation Programme, which should address this issue.	Changes to client related data may not be updated on a timely basis by both the Council and the CCG. This issue is reinforced as at the 21st July 2017, circa £2.4M of debt was in the process of being recovered from the CCG, of which circa	As part of the scope of the CareFirst project the intention is to move all elements of care packages onto CareFirst which will include Service Provider payment processes. Progression of the project will be closely monitored in order to ensure that project deliverables are met including improved payment processes.	31/05/18	31/07/19	A decision was taken in March 2018 that due to a number of issues linked in the main to data quality and the implementation of the DIPs system, that it would not be possible to move the care packages onto CareFirst. The Board agreed that all elements of care packages, including the service provider payment process would now be included in the new IT system which was procured in June 2018 with an implementation date of July 2019. Interim arrangements continue

Audit Area	Finding	Risk Exposure	Action Agreed	Estimated Impl'n Date	Revised Impl'n Date	Current Status
		£1.3M related to Supported Living.				to be reviewed
Direct Payments / Personalised Budgets Follow-up	There are limited procedures documented for the social care workers to follow when completing an assessment or review of a service user. It is also acknowledged by management that there are different systems and processes potentially operating within the different areas as well as for different staff.	Inappropriate and ineffective practices may be being followed.	Procedures will be documented for all the systems and processes in operation to ensure that all staff are consistent in their work. A subsequent exercise will be completed for staff feedback on what is actually working in practice. This will then be incorporated into the wider review for the processes moving forward with the new systems to be established.	31/03/18	28/02/19	A revised direct payment policy was signed off by Damian Allen on the 16th October 2018. A working group of staff are now developing the supporting procedures. Subsequently training will be provided to all staff to ensure that they know the most up-to-date procedures and where to find them.
Direct Payments /	There is still a backlog of care plan	The service user may not	The Programme Management Office	30/06/18	31/03/19	It is believed that this is in a good position and reducing

Audit Area	Finding	Risk Exposure	Action Agreed	Estimated Impl'n Date	Revised Impl'n Date	Current Status
Personalised Budgets Follow up Review	reviews to be undertaken to ensure all existing service users have been reviewed within the year. The backlog figure as at December 2017 was 242 reviews overdue out of 760 current Direct Payment service users.	be getting the care they require and incorrect payments may be being made.	team will work with area teams to reduce the backlog figure and ensure these are as up-to-date as possible.			however the figures need evidencing and clarifying.
Direct Payments / Personalised Budgets Follow up Review	A post has previously been in place within Adult Social Care which has provided a vital link between Finance and Adult Social Care. The role has helped to reduce packages on review, avoided future debt arising and contributed to the collection / reduction of outstanding debt. If cases are reviewed which are considered higher financial risk	Lower cost care plans may be set up and debt may increase due to the lack of debt management in place.	Management should review the debt management arrangements taking into account a holistic view of the costs and benefits for the Council. This will be included within the Direct Payment Project Board agenda for future developments.	30/06/18	30/06/19	Work continues embedding robust processes to manage direct payment debt management. Additional funding has been secured as part of the transformation project to undertake a project to recover outstanding debt from direct payment recipients. Carers' payments are now being issued on pre-paid cards. The completion date has been extended due to the additional piece of work being undertaken around debt management.

Audit Area	Finding	Risk Exposure	Action Agreed	Estimated Impl'n Date	Revised Impl'n Date	Current Status
	these can help prevent further debts being raised and ensure appropriate care is provided.					
Direct payment follow up review	Whilst there has been a positive increase in Direct Payment uptake of 91%, there is however a concerning increase of 22% in the average cost of a Direct Payment.	Inconsistency of decisions for service users and therefore inappropriate plans may be agreed. Budgetary pressures on Adult Social Care.	The team are currently undertaking a deep dive audit of all Direct Payments authorised to date this financial year to ensure the costs associated are reasonable and appropriate plans are in place for service users care needs.	31/12/18	31/04/19	The team are undertaking a deep dive audit of all Direct Payments authorised to date this financial year to ensure the costs associated are reasonable and appropriate plans are in place for service users care needs. All new Direct Payments are now authorised at Risk Panel and evidence is suggesting that Direct Payment costs are now reducing.
DoLS	The DoLS team have not determined a series of specific exception reports that they require to provide management information on the processes carried out by the team. These	Management information is not available to enable performance monitoring ensuring key targets are	The DoLS team will determine what their exception reporting requirements are and arrange for the Strategy and Performance Team to develop the	30/06/18	30/04/19	The reports were being developed using a new system, PowerBI, for which DoLS were part of a pilot scheme, however SPU have now withdrawn their support due to resource issues. The reports in PowerBI are in the final stages of development

Audit Area	Finding	Risk Exposure	Action Agreed	Estimated Impl'n Date	Revised Impl'n Date	Current Status
	would help inform them of any part of the process taking longer than expected, any cases stuck at particular stages, parts of the process not being completed or data quality errors that require correction.	met. Data quality and processes issues cannot be detected and corrected.	appropriate reports.			although adjustments are still required for the more complicated data and support is required. Enquiries are being made to request further support to finalise the reports.
DoLS	The DoLS team have not determined a series of specific exception reports that they require to provide management information on the processes carried out by the team. These would help inform them of any part of the process taking longer than expected, any cases stuck at particular stages, parts of the process not being completed or data quality errors	Management information is not available to enable performance monitoring ensuring key targets are met. Data quality and processes issues cannot be detected and corrected.		31/08/18	31/01/19	This cannot be actioned until the exception reports are in place. The reports were being developed using a new system, PowerBI, for which DoLS were part of a pilot scheme, however SPU have now withdrawn their support due to resource issues. The reports in PowerBI are in final stages of development although adjustments are still required for the more complicated data and support is required. Enquiries are being made to request further support to finalise the reports.

Audit Area	Finding	Risk Exposure	Action Agreed	Estimated Impl'n Date	Revised Impl'n Date	Current Status
	that require correction.					
DoLS	<p>The transfer of sensitive personal information between the DoLS team and external assessors is not carried out using a secure method.</p> <p>External assessors have not been made aware of data protection rules and requirements and have therefore not agreed to adhere to them.</p> <p>Whilst the individuals contracted to do the assessments are not part of the Council, they are in fact data processors for the Council. It is the Council that retains overall liability for any data protection</p>	<p>Breach of the Data Protection Act</p> <p>Inefficient manual intervention is needed to take the assessment information into CareFirst.</p>	<p>The Framework Contract for DoLS external assessors that is currently being procured will include in its terms and conditions the data protection rules and requirements. All assessors will be required to read and agree to these terms and conditions. This will include the external assessors responsibilities regarding data protection and also the consequences of a breach occurring and reporting arrangements.</p>	30/09/18	18/02/19	<p>A decision has been made to use the recruitment agency Reed to manage our framework of assessors. Data protection rules and requirements will be included in the framework contract with Reed which is due to become live in February 2019.</p>

Audit Area	Finding	Risk Exposure	Action Agreed	Estimated Impl'n Date	Revised Impl'n Date	Current Status
	breach, whether this is caused by the Council or by the independent assessor.					
DoLS	Data quality within the DoLS element of the CareFirst system is poor. A monitoring exercise was carried out during the audit on cases that had already been validated by the allocated admin worker and issues were found on every case checked which raises serious concerns over the data quality of the information contained in the CareFirst system and consequently the information reported to Audit Committee and the Annual Report.	Data quality issues may affect the annual return to Government. Poor data quality may lead to inappropriate service decisions and an inability to answer any litigation brought against the Council. Breach of the Data Protection Act	Management will ensure that data quality issues within the Carefirst system for 2018/19 cases are investigated and rectified. Once other actions resulting from this audit have been implemented the number of data quality problems should decrease, thereby reducing the number of corrections required.	30/06/18	18/02/19	Weekly and monthly monitoring actions and checks are carried out which have had a positive impact on staff morale, output and data quality. Weekly validation work is underway to ensure the data is ready for the 2019 annual return submission. This work is ongoing and is on track to be completed by the time the annual return is due.

Audit Area	Finding	Risk Exposure	Action Agreed	Estimated Impl'n Date	Revised Impl'n Date	Current Status
	It would be difficult for the team to produce an accurate data response in the event of a Data Subject Access Request.	(Principle 4 - Accuracy).				



Doncaster Council

Date: 31st January, 2019

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

EXTERNAL AUDITOR (GRANT THORNTON) AUDIT PLAN 2018/19 AND ARRANGEMENTS FOR THE PREPARATION OF THE 2018/19 ACCOUNTS

EXECUTIVE SUMMARY

1. The external auditor – Grant Thornton – will undertake a programme of work in order to deliver their Code of Audit Practice audit which will cover work on the financial statements and the value for money conclusion for the 2018/19 financial year.
2. Attached to this report, at Appendix A, is Grant Thornton's plan for completing this review of the Council's financial statements and associated disclosure notes and providing an audit opinion on the Council's 2018/19 Statement of Accounts.
3. This report also provides details of the audit plan and timetable for producing the 2018/19 Statement of Accounts. The statutory deadlines for producing the unaudited accounts and the approved audited accounts are set out in regulation and are currently 31st May and 31st July respectively.
4. The Accounts and Audit Regulations 2015 brought forward the timetable for the preparation and approval of the 2018/19 unaudited accounts to the current dates. The Government believes that this change will reduce the burden of the closure process, enabling finance staff to give more time to in-year financial management.
5. The Council moved to the 31st July deadline from 2016/17; a year earlier than required. The unaudited accounts for 2018/19 will be certified and published by 31st May with the audited accounts to be finalised and published by 25th July.

EXEMPT REPORT

6. Not applicable.

RECOMMENDATIONS

7. The Audit Committee is asked to note: -
 - a. the content of Grant Thornton's Audit Plan 2018/19;
 - b. the arrangements, including the draft timetable, to produce the 2018/19 accounts.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

8. The audit programme of work is necessary to enable Grant Thornton to satisfy themselves that the Council has secured good governance and value for money in its use of public resources.
9. 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

External Auditors Audit Plan

10. The External Audit Plan covers how the audit is performed in terms of the risks identified, key deliverables, timeline and fees for the audit.
11. Grant Thornton are required to satisfy themselves that the Council's accounts comply with statutory requirements and that proper practices have been observed in their compilation. The statutory responsibilities and powers are set out in the Local Audit and Accountability Act 2014, the National Audit Office's Code of Audit Practice and the PSAA Statement of Responsibilities.
12. The Code of Audit Practice covers two main responsibilities requiring Grant Thornton to review and report on the Council's: -
 - a. Financial statements (including the Annual Governance Statement) providing an opinion on the Council's accounts; and
 - b. Use of Resources, concluding on the arrangements in place for securing economy, efficiency and effectiveness in the Council's use of resources (the 'value for money' or VfM conclusion).
13. There are no significant changes to the accounting standards and financial reporting framework in 2018/19. Based on initial planning work, Grant Thornton have identified four significant risks for the audit: -
 - a. Management override of controls
 - b. Fraudulent revenue recognition
 - c. Property, Plant and Equipment valuation including the 3 PFI schemes; and
 - d. The pension fund net liability valuation.

14. Further details on these and the impact on the audit are provided on pages 6 to 8 of the Audit Plan.
15. Grant Thornton have identified two significant VfM risks: -
 - a. Financial Standing; and
 - b. Brexit.
16. Further details on this and the impact on audit are provided on page 11 of the Audit Plan.
17. The main year-end audit is currently planned to commence on 3rd June 2019. The interim visit will take place in January and March 2019 when Grant Thornton will evaluate and test controls over key financial systems identified as part of our risk assessment; review the work undertaken by the internal audit function on controls relevant to our risk assessment; review the accounts production process; and review progress on critical accounting matters.

Timetable for the Preparation of the Accounts

18. The accounts and audit regulations 2015 require that the responsible financial officer, by no later than 31st May, signs and certifies that the statement of accounts presents a true and fair view of the financial position of the council for the year to 31st March previous, subject to the views of the external auditor (Grant Thornton).
19. The regulations further require that on or before the 31st July, approval needs to be given to the Statement of Accounts by resolution of the Audit Committee. This approval will take into account the views of Grant Thornton. This is done so that the Statement of Accounts can then be published.
20. To achieve this, a draft timetable has been developed which will enable the closedown process for the 2018/19 accounts to be proactively managed. Appendix B provides a summary version of the timetable showing the key dates and deadlines.
21. The date for the sign off of the unaudited 2018/19 accounts has been set as Friday, 31st May 2019 with the audited 2018/19 accounts expected to be presented to this Committee on Wednesday, 24th July 2019. It is expected that future years' accounts will be produced in line with these dates.
22. The timetable continues to be extremely challenging. However, the professionalism, knowledge and experience of key finance officers; and the continued development of the ERP financial system will assist in making these future deadlines achievable.
23. The Council moved to the 31st July deadline, see paragraph 4, from 2016/17; a year earlier than required. Meeting this deadline again will be subject to embedding changes to internal procedures, doing as much as possible in advance of the year-end, e.g. production of notes that are not

dependent on the year-end position and the early availability of external audit resources.

24. The preparation and production of last year’s Statement of Accounts went well and KPMG highlighted officers’ hard work and the high quality of working papers as major contributory factors. KPMG issued an unqualified opinion on both the Statement of Accounts and the Council’s Value for Money conclusion following the presentation of the accounts to this Committee on 27th July 2018.
25. Work to improve the quality and timeliness of both the Statement of Accounts and associated working papers continues. Internal Financial Management Final Accounts meetings are held on a regular basis over the four month period to May to ensure that accounting procedures are applied consistently; best practice is shared; there is a shared understanding of any difficulties or delays that are happening and to disseminate updated information quickly and consistently.

OPTIONS CONSIDERED

26. Grant Thornton’s Audit Plan includes information about planned audit work and the related fees for this work which Grant Thornton deem to be necessary to fulfil their legal obligations. The Council is required to meet such fees.

REASONS FOR RECOMMENDED OPTION

27. The Council is subject to statutory external audit and performance evaluation by Grant Thornton and must prepare annual accounts.

IMPACT ON THE COUNCIL’S KEY OUTCOMES

28. These are detailed in the table below: -

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<p>The audited Statement of Accounts provides information on all Council priorities incorporating income and expenditure for all Council services.</p> <p>An unqualified audit opinion from Grant Thornton on the</p>
	<p>Doncaster Living: Our vision is for Doncaster’s people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport 	

	<ul style="list-style-type: none"> • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<p>financial statements and supporting disclosure notes, together with an unqualified VfM conclusion assists with the positive reputation of the Council and ensures that strong governance is in place.</p>

RISKS AND ASSUMPTIONS

29. Grant Thornton identifies respective risks which their work is intended to consider. Assumptions about these risks have been made by Grant Thornton in the planning of this work and the calculation of the respective fees.
30. Materiality for planning purposes has been set at £12.1 million which equates to 1.5% of gross expenditure
31. Failure to meet the statutory deadlines for signing, producing and/or publishing the accounts would attract adverse comments from Grant Thornton, who could issue a public interest report.
32. Grant Thornton 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 [Officer Initials...SRF... Date...16.01.19]

33. The Council is subject to statutory external audit and performance evaluation by Grant Thornton in their role as the external auditor for the Council.
34. The statutory responsibilities and powers governing this work are set out in the Local Audit and Accountability Act 2014, the National Audit Office's Code of Audit Practice and the PSAA Statement of Responsibilities.

FINANCIAL IMPLICATIONS [Officer Initials...KK... Date...15.01.19]

35. The proposed fee for this work for the 2018/19 audit is £126,930, compared to £164,844 for 2017/18.
36. Audit fees will continue to be minimised if the Council continues to achieve an efficient and well controlled financial closedown and accounts production process which complies with good practice and appropriately addresses new accounting developments and risk areas.

HUMAN RESOURCES IMPLICATIONS [Officer Initials...KM... Date...22.01.19]

37. There are no immediate HR implications associated with this report.

TECHNOLOGY IMPLICATIONS [Officer Initials...PW... Date...16.01.19]

38. There are no specific technology implications in relation to this report. However, the Audit Approach outlined in Appendix A of the External Audit Plan refers to the use of audit, data interrogation and analytics software including extracting data directly from client systems. Further consultation would be needed with ICT in relation to the use of these tools, where applicable.

HEALTH IMPLICATIONS [Officer Initials...RS... Date...16.01.19]

39. Good governance is important for healthy organisations and for healthy populations. Specific health implications should be addressed through individual audits and action plans.

EQUALITY IMPLICATIONS [Officer Initials...RI... Date...15.01.19]

40. This report has no equality implications.

CONSULTATION

41. This report consults with members of the Audit Committee in these matters. There is consultation with managers at the outset, throughout and at the conclusion of the annual audit in order to ensure that key audit issues are identified and resolved and that adjusted / unadjusted audit differences and performance improvement recommendations are adequately communicated.

BACKGROUND PAPERS

42. None.

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Chief Financial Officer
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External Audit Plan

Year ending 31 March 2019

Doncaster Metropolitan Borough Council

11 January 2019



Contents



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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Authority or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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Introduction & headlines

Purpose

This document provides an overview of the planned scope and timing of the statutory audit of Doncaster Metropolitan Borough Council ('the Authority') for those charged with governance.

Respective responsibilities

The National Audit Office ('the NAO') has issued a document entitled Code of Audit Practice ('the Code'). This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. Our respective responsibilities are also set out in the Terms of Appointment and Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA), the body responsible for appointing us as auditor of Doncaster Metropolitan Borough Council. We draw your attention to both of these documents.

Scope of our audit

The scope of our audit is set in accordance with the Code and International Standards on Auditing (ISAs) (UK). We are responsible for forming and expressing an opinion on the :

- Authority and Group's financial statements that have been prepared by management with the oversight of those charged with governance (the Audit Committee); and
- Value for Money arrangements in place at the Authority for securing economy, efficiency and effectiveness in your use of resources.

The audit of the financial statements does not relieve management or the Audit Committee of your responsibilities. It is the responsibility of the Authority to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for.

Our audit approach is based on a thorough understanding of the Authority's business and is risk based.

Group Accounts	The Authority is required to prepare group financial statements that consolidate the financial information of St Leger Homes of Doncaster Ltd.
Significant risks	<p>Those risks requiring special audit consideration and procedures to address the likelihood of a material financial statement error have been identified as:</p> <ul style="list-style-type: none">• management override of controls• fraudulent revenue recognition• Property, Plant and Equipment valuation (including the Council's 3 PFI schemes in the first year of audit)• Pension fund net liability valuation. <p>We will communicate significant findings on these areas as well as any other significant matters arising from the audit to you in our Audit Findings (ISA 260) Report.</p>
Materiality	We have determined planning materiality to be £12,075k (PY £11,000k) for the group and £12,000k (PY £11,000k) for the Authority, which equates to 1.5% of your prior year gross expenditure for the year. We are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. Clearly trivial has been set at £600k (PY £550k).
Value for Money arrangements	<p>Our risk assessment regarding your arrangements to secure value for money have identified the following VFM significant risks:</p> <ul style="list-style-type: none">• Financial standing - Doncaster Metropolitan Borough Council as other authorities, continues to operate under significant financial pressures. For 2018/19, the Council is planning to deliver a balanced outturn position but to achieve this, needs to deliver savings of some £7.8m whilst managing cost pressures within Children's Services and Adult Social Care at a time of reduced funding. The Quarter 2 Finance Report (to month 6) presented to Cabinet on 20 November 2018 forecasts an overall overspend of £0.4m for 2018/19. The report also refers to the Chief Financial Officer's concerns about the on-going budget pressures and the impact on the medium-term financial strategy for 2019/20.• Brexit - the UK is due to leave the European Union on 29 March 2019. There will be national and local implications resulting from Brexit that will impact on Doncaster Metropolitan Borough Council, which the Authority will need to plan for.
Audit logistics	Our interim visit will take place in January and March and our final visit will take place in June and July 2019. Our key deliverables are this Audit Plan and our Audit Findings Report. Our fee for the audit will be £126,930 (PY: £164,844) for the Authority, subject to the Authority meeting our requirements set out on page 13.
Independence	We have complied with the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements.

Key matters impacting our audit

External Factors	Internal Factors	
<p>The wider economy and political uncertainty</p> <p>Local Government funding continues to be stretched with increasing cost pressures and demand from residents.</p> <p>For 2017/18, Doncaster Metropolitan Borough Council delivered a £2.5m General Fund overspend mainly as a result of Children’s Services expenditure being in excess of budget. For 2018/19, the Council is planning to deliver a balanced outturn position but to achieve this, needs to deliver savings of some £7.8m whilst continuing to manage cost pressures within Children’s Services and Adult Social Care. The Quarter 2 Finance Report (to month 6) presented to Cabinet on 20 November 2018 forecasts an overall overspend of £0.4m for 2018/19. This overspend results mainly from Adult Social Care (£0.7m) and Children’s Services (£0.8m), with both being offset by savings of £1.1m in other departments. The Chief Financial Officer is planning a balanced budget in 2019/20, however, he has concerns about on-going budget pressures and the impact on the medium-term financial strategy for 2019/20.</p> <p>At a national level, the government continues its negotiation with the EU over Brexit, and future arrangements remain clouded in uncertainty. The Authority will need to ensure that it is prepared for all outcomes, including in terms of any impact on contracts, on service delivery and on its support for local people and businesses.</p>	<p>Changes to the CIPFA 2018/19 Accounting Code</p> <p>The most significant changes relate to the adoption of:</p> <ul style="list-style-type: none"> IFRS 9 Financial Instruments which impacts on the classification and measurement of financial assets and introduces a new impairment model. IFRS 15 Revenue from Contracts with Customers which introduces a five step approach to revenue recognition. 	<p>Local issues</p> <p>The Council values its land and buildings on a rolling five year basis with valuations taking place on 1 April each year, the start of the financial year. Following each annual valuation, consideration is given to the appropriateness of the valuation at the year end.</p> <p>Doncaster Children’s Services Trust was set up in October 2014 following an agreement with central government and the Council. The Trust provides social care and support services to children, young people and families in Doncaster.</p>
Our response		
<ul style="list-style-type: none"> We will consider your arrangements for managing and reporting your financial resources as part of our work in reaching our Value for Money conclusion. We will consider whether your financial position leads to material uncertainty about the going concern of the Authority and will review related disclosures in the financial statements. We will continue to meet with senior managers and consider the Authority’s financial position and delivery of the £7.8m savings programme. 	<ul style="list-style-type: none"> We will keep you informed of changes to the financial reporting requirements for 2018/19 through on-going discussions and invitations to our technical update workshops. As part of our opinion on your financial statements, we will consider whether your financial statements reflect the financial reporting changes in the 2018/19 CIPFA Code. 	<p>We have identified Land and Buildings as a significant risk. As part of our work in this area, we will consider the arrangements management has used to ensure the valuation as at 1 April 2018, remains appropriate at 31 March 2019.</p> <p>We will continue to meet with senior officers to monitor progress in working with Doncaster Children’s Services Trust.</p>

Group audit scope and risk assessment

In accordance with ISA (UK) 600, as group auditor we are required to obtain sufficient appropriate audit evidence regarding the financial information of the components and the consolidation process to express an opinion on whether the group financial statements are prepared, in all material respects, in accordance with the applicable financial reporting framework.

Component	Individually Significant?	Audit Scope	Risks identified	Planned audit approach
Doncaster Metropolitan Borough Council	Yes		<ul style="list-style-type: none"> Incomplete or incorrect consolidation 	Full scope UK statutory audit performed by Grant Thornton UK LLP
St Leger Homes of Doncaster Ltd	Yes		<ul style="list-style-type: none"> Incomplete or incorrect consolidation 	Full scope UK statutory audit performed by Beever and Struthers. The nature, time and extent of our involvement in the work of Beever and Struthers will begin with a discussion on risks, guidance on designing procedures, participation in meetings, followed by the review of relevant aspects of audit documentation and meeting with appropriate members of management.

Key changes within the group

Up to the time this plan was prepared there have been no significant changes within the group. Should this change before the year end we will re-assess the components and provide an update to the Audit Committee.

Audit scope

- Audit of the financial information of the component using component materiality
- Audit of one more classes of transactions, account balances or disclosures relating to significant risks of material misstatement of the group financial statements
- Review of component's financial information
- Specified audit procedures relating to significant risks of material misstatement of the group financial statements
- Analytical procedures at group level

Significant risks identified

Significant risks are defined by ISAs (UK) as risks that, in the judgement of the auditor, require special audit consideration. In identifying risks, audit teams consider the nature of the risk, the potential magnitude of misstatement, and its likelihood. Significant risks are those risks that have a higher risk of material misstatement.

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
<p>The revenue cycle includes fraudulent transactions</p>	<p>Under ISA (UK) 240 there is a rebuttable presumed risk that revenue may be misstated due to the improper recognition of revenue. This presumption can be rebutted if the auditor concludes that there is no risk of material misstatement due to fraud relating to revenue recognition.</p> <p>Having considered the risk factors set out in ISA240 and the nature of the revenue streams at the Authority, we have determined that the risk of fraud arising from revenue recognition can be rebutted, because:</p> <ul style="list-style-type: none"> • there is little incentive to manipulate revenue recognition • opportunities to manipulate revenue recognition are very limited • the culture and ethical frameworks of local authorities, including Doncaster Metropolitan Borough Council, mean that all forms of fraud are seen as unacceptable <p>Therefore we do not consider this to be a significant risk for Doncaster Metropolitan Borough Council.</p>	<p>As we do not consider this to be a significant risk for the Authority, we will not be undertaking any specific work in this area other than our normal audit procedures, including validating total revenues to council tax, non domestic rates and central government grants income.</p>
<p>Management over-ride of controls</p>	<p>Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management over-ride of controls is present in all entities. The Authority continues to face financial pressures and this could potentially place management under undue pressure in terms of how they report performance.</p> <p>We therefore identified management override of control, in particular journals, management estimates and transactions outside the course of business as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>We will:</p> <ul style="list-style-type: none"> • evaluate the design effectiveness of management controls over journals • analyse the journals listing and determine the criteria for selecting high risk unusual journals • test unusual journals recorded during the year and after the draft accounts stage for appropriateness and corroboration • gain an understanding of the accounting estimates and critical judgements applied and made by management and consider their reasonableness with regard to corroborative evidence • evaluate the rationale for any changes in accounting policies, estimates or significant unusual transactions.

Significant risks identified continued

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
<p>Valuation of land and buildings (rolling revaluation) including the Council's 3 PFI schemes in the first year of audit</p>	<p>The Authority revalues its land and buildings on a rolling five-yearly basis. This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved (over £1 billion) and the sensitivity of this estimate to changes in key assumptions. Additionally, management will need to ensure the carrying value in the Authority financial statements is not materially different from the current value or the fair value (for surplus assets) at the financial statements date.</p> <p>We therefore identified valuation of land and buildings, particularly revaluations and impairments, as a significant risk, which was one of the most significant assessed risks of material misstatement, and a key audit matter.</p>	<p>We will:</p> <ul style="list-style-type: none"> • evaluate management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation experts and the scope of their work • evaluate the competence, capabilities and objectivity of the valuation expert • discuss with the valuer the basis on which the valuation was carried out • challenge the information and assumptions used by the valuer to assess completeness and consistency with our understanding • test revaluations made during the year to see if they had been input correctly into the Authority's asset register • consider how management have confirmed assets valued at 1 April 2018 have not significantly changed in value by the year end, 31 March 2019 • evaluate the assumptions made by management for those assets not revalued during the year and how management has satisfied themselves that these are not materially different to current value at year end • review the Authority's 3 PFI schemes to consider the appropriateness of the accounting entries • consider management's assessment of property values in the light of Britain leaving the European Union on 29th March 2019.

Significant risks identified continued

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
Valuation of the pension fund net liability	<p>The Authority's pension fund net liability, as reflected in its balance sheet as the net defined benefit liability, represents a significant estimate in the financial statements.</p> <p>The pension fund net liability is considered a significant estimate due to the size of the numbers involved (£376 million in the Authority's balance sheet) and the sensitivity of the estimate to changes in key assumptions.</p> <p>We therefore identified valuation of the Authority's pension fund net liability as a significant risk, which was one of the most significant assessed risks of material misstatement, and a key audit matter.</p>	<p>We will:</p> <ul style="list-style-type: none"> • update our understanding of the processes and controls put in place by management to ensure that the Authority's pension fund net liability is not materially misstated and evaluate the design of the associated controls • evaluate the instructions issued by management to their management expert (the actuary) for this estimate and the scope of the actuary's work • assess the competence, capabilities and objectivity of the actuary who carried out the Authority's pension fund valuation • assess the accuracy and completeness of the information provided by the Authority to the actuary to estimate the liability • test the consistency of the pension fund asset and liability and disclosures in the notes to the core financial statements with the actuarial report from the actuary • undertake procedures to confirm the reasonableness of the actuarial assumptions made by reviewing the report of the consulting actuary (as auditor's expert) and performing any additional procedures suggested within the report • obtain assurances from the auditor of South Yorkshire Pension Fund as to the controls surrounding the validity and accuracy of membership data; contributions data and benefits data sent to the actuary by the pension fund and the fund assets valuation in the pension fund financial statements • assess the related impact of Britain leaving the European Union on 29 March 2019.

We will communicate significant findings on these areas as well as any other significant matters arising from the audit to you in our Audit Findings Report in July 2019.

Other matters

Other work

In addition to our responsibilities under the Code of Practice, we have a number of other audit responsibilities, as follows:

- We read your Narrative Report and Annual Governance Statement and any other information published alongside your financial statements to check that they are consistent with the financial statements on which we give an opinion and consistent with our knowledge of the Authority.
- We carry out work to satisfy ourselves that disclosures made in your Annual Governance Statement are in line with the guidance issued by CIPFA.
- We carry out work on your consolidation schedules for the Whole of Government Accounts process in accordance with NAO group audit instructions.
- We consider our other duties under legislation and the Code, as and when required, including:
 - Giving electors the opportunity to raise questions about your 2018/19 financial statements, consider and decide upon any objections received in relation to the 2018/19 financial statements
 - issue of a report in the public interest or written recommendations to the Authority under section 24 of the Act, copied to the Secretary of State
 - Application to the court for a declaration that an item of account is contrary to law under Section 28 or for a judicial review under Section 31 of the Act
 - Issuing an advisory notice under Section 29 of the Act.
- We certify completion of our audit.

Other material balances and transactions

Under International Standards on Auditing, "irrespective of the assessed risks of material misstatement, the auditor shall design and perform substantive procedures for each material class of transactions, account balance and disclosure". All other material balances and transaction streams will therefore be audited. However, the procedures will not be as extensive as the procedures adopted for the risks identified in this report.

Going concern

As auditors, we are required to "obtain sufficient appropriate audit evidence about the appropriateness of management's use of the going concern assumption in the preparation and presentation of the financial statements and to conclude whether there is a material uncertainty about the Authority's ability to continue as a going concern" (ISA (UK) 570). We will review management's assessment of the going concern assumption and evaluate the disclosures in the financial statements.

Materiality

The concept of materiality

The concept of materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law. Misstatements, including omissions, are considered to be material if they, individually or in the aggregate, could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

Materiality for planning purposes

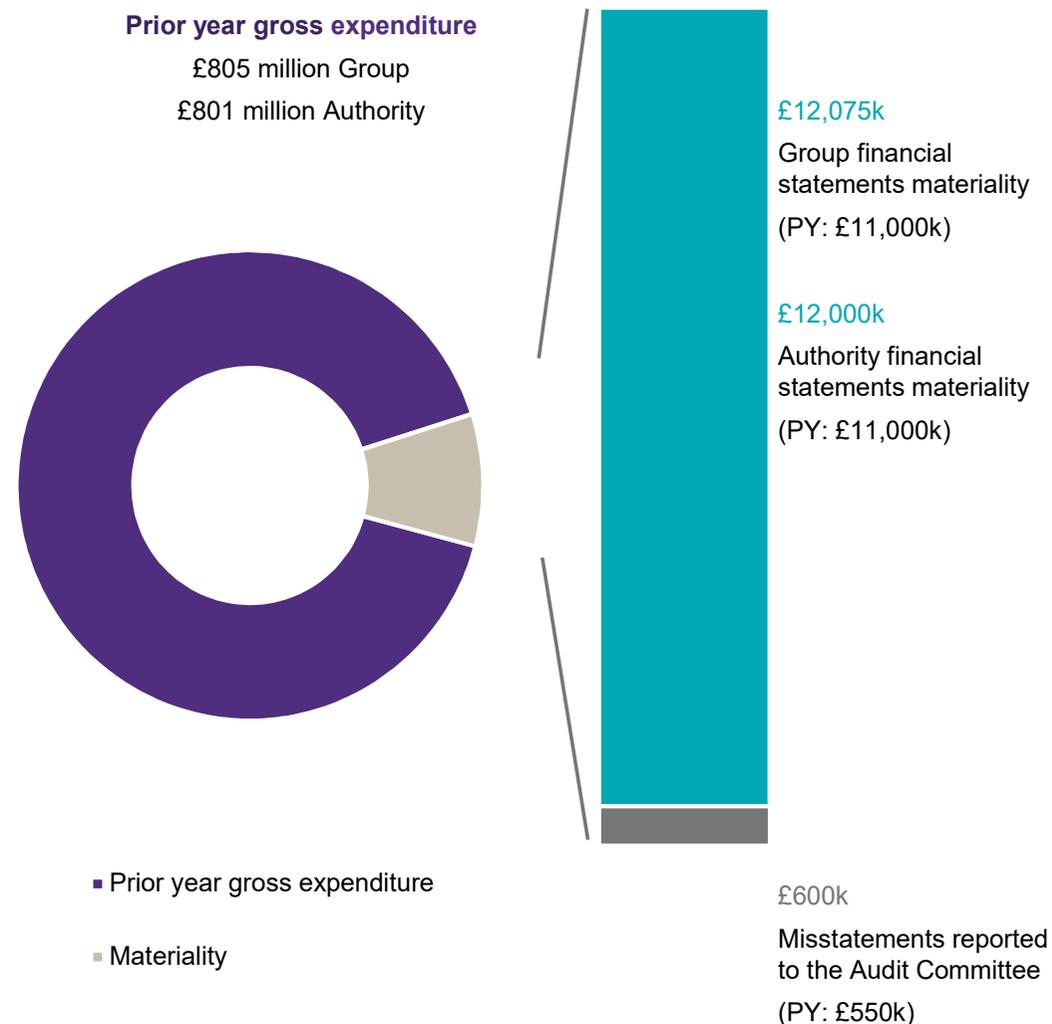
We have determined financial statement materiality based on a proportion of the gross expenditure of the group and Authority for the financial year. In the prior year the same benchmark was used. Materiality at the planning stage of our audit is £12,075k (PY £11,000k) for the group and £12,000k (PY £11,000k) for the Authority, which equates to 1.5% of your prior year gross expenditure for the year. We design our procedures to detect errors in specific accounts at a lower level of precision which we have determined to be £15,000 for Senior officer remuneration.

We reconsider planning materiality if, during the course of our audit engagement, we become aware of facts and circumstances that would have caused us to make a different determination of planning materiality.

Matters we will report to the Audit Committee

Whilst our audit procedures are designed to identify misstatements which are material to our opinion on the financial statements as a whole, we nevertheless report to the Audit Committee any unadjusted misstatements of lesser amounts to the extent that these are identified by our audit work. Under ISA 260 (UK) 'Communication with those charged with governance', we are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. ISA 260 (UK) defines 'clearly trivial' as matters that are clearly inconsequential, whether taken individually or in aggregate and whether judged by any quantitative or qualitative criteria. In the context of the Authority, we propose that an individual difference could normally be considered to be clearly trivial if it is less than £600k (PY £550k).

If management have corrected material misstatements identified during the course of the audit, we will consider whether those corrections should be communicated to the Audit Committee to assist it in fulfilling its governance responsibilities.



Value for Money arrangements

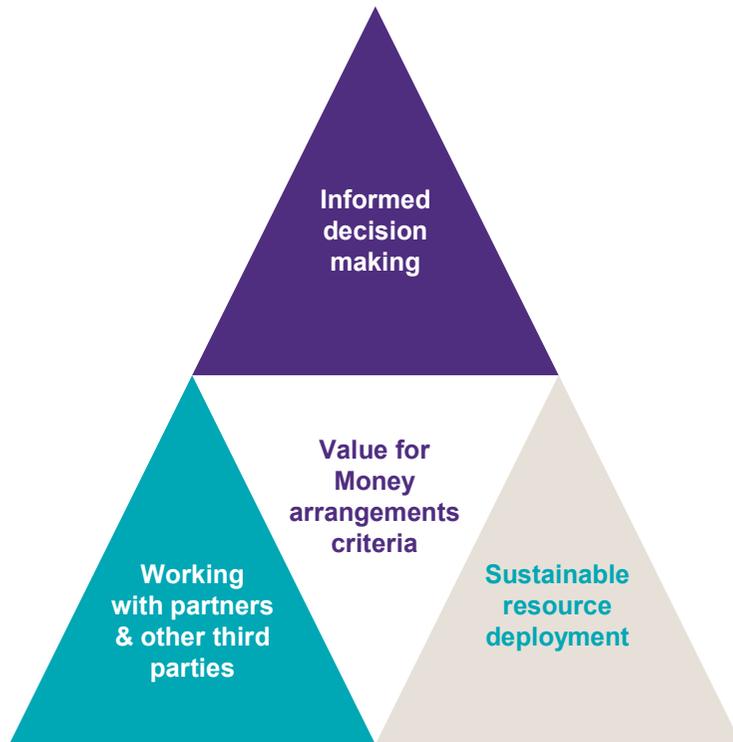
Background to our VFM approach

The NAO issued its guidance for auditors on Value for Money work in November 2017. The guidance states that for Local Government bodies, auditors are required to give a conclusion on whether the Authority has proper arrangements in place to secure value for money.

The guidance identifies one single criterion for auditors to evaluate:

“In all significant respects, the audited body takes properly informed decisions and deploys resources to achieve planned and sustainable outcomes for taxpayers and local people.”

This is supported by three sub-criteria, as set out below:



Significant VFM risks

Those risks requiring audit consideration and procedures to address the likelihood that proper arrangements are not in place at the Authority to deliver value for money.

Financial standing



Doncaster Metropolitan Borough Council as other authorities, continues to operate under significant financial pressures. For 2018/19, the Council is planning to deliver a balanced outturn position but to achieve this, needs to deliver savings of some £7.8m whilst managing cost pressures within Children’s Services and Adult Social Care at a time of reduced funding. The Quarter 2 Finance Report (to month 6) presented to Cabinet on 20 November 2018 forecasts an overall overspend of £0.4m for 2018/19. This overspend results mainly from Adult Social Care (£0.7m) and Children’s Services (£0.8m), with both being offset by savings of £1.1m in other departments.

The Chief Financial Officer is planning a balanced budget in 2019/20, however, he has concerns about on-going budget pressures and the impact on the medium-term financial strategy for 2019/20.

We will continue to monitor the Authority’s financial position through regular meetings with officers and consider how the Authority manages overspends within both Children’s and Adult Social Services. We will continue to assess progress in the identification and delivery of the £7.8m savings required and plans in place to identify cost improvements into 2019/20 and beyond.

Brexit



The UK is due to leave the European Union on 29 March 2019. There will be national and local implications resulting from Brexit that will impact on the Authority, which the Authority will need to plan for.

We will consider the Authority’s arrangements and plans to mitigate any risks on Brexit. We will consider areas such as workforce planning, supply chain analysis, regulatory risk and the impact on finances including investment and borrowing as well as any potential impact on the valuation of the Council’s assets.

Audit logistics, team & fees



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Audit fees

The planned audit fees are £126,930 (PY: £164,844) for the financial statements audit completed under the Code, which are inline with the scale fee published by PSAA. In setting your fee, we have assumed that the scope of the audit, and the Authority and its activities, do not significantly change.

Our requirements

To ensure the audit is delivered on time and to avoid any additional fees, we have detailed our expectations and requirements in the following section 'Early Close'. If the requirements detailed overleaf are not met, we reserve the right to postpone our audit visit and charge fees to reimburse us for any additional costs incurred.

Any proposed fee variations will need to be approved by PSAA.

Early close

Meeting the 31 July audit timeframe

The statutory date for publication of audited local government accounts last year was brought forward to 31 July 2018, across the whole sector. This was a significant challenge for local authorities and auditors alike. For authorities, the time available to prepare the accounts was curtailed, while, as auditors we had a shorter period to complete our work and faced an even more significant peak in our workload than previously.

We have carefully planned how we can make the best use of the resources available to us during the final accounts period. As well as increasing the overall level of resources available to deliver audits, we have focused on:

- bringing forward as much work as possible to interim audits
- starting work on final accounts audits as early as possible
- seeking further efficiencies in the way we carry out our audits
- working with you to agree detailed plans to make the audits run smoothly, including early agreement of audit dates, working paper and data requirements and early discussions on potentially contentious items.

We are satisfied that, if all these plans are implemented, we will be able to complete your audit and those of our other local government clients in sufficient time to meet the earlier deadline.

Regular liaison

We consider it important to meet on a regular basis to understand the Council's plans and developments, as well as any emerging issues which may impact on the financial statements and our audit work. To this end, we have met with the Chief Executive and Senior Officers. We have also held meetings with senior finance managers on a number of occasions to consider the approach to the 2018/19 audit, specific issues, including for example, the valuation date for land and buildings, as well as early planning to ensure the audit process runs smoothly. We will continue to meet on a regular basis throughout the audit process.

Client and audit responsibilities

To meet the earlier timetable, we will work together with you so that you are able to:

- produce draft financial statements of good quality by the deadline you have agreed with us, including all notes, the narrative report and the Annual Governance Statement
- ensure that good quality working papers are available at the start of the audit, in accordance with the working paper requirements schedule that we will share with you
- ensure that agreed data reports are available to us at the start of the audit and are reconciled to the values in the accounts, in order to facilitate our selection of samples
- ensure that all appropriate staff are available on site throughout (or as otherwise agreed) the planned period of the audit
- respond promptly and adequately to audit queries.

We will also ensure that:

- the audit runs smoothly with the minimum disruption to your staff
- you are kept informed of progress through the use of an issues tracker and weekly meetings during the audit
- we are available to discuss issues with you prior to and during your preparation of the financial statements.

Independence & non-audit services

Auditor independence

Ethical Standards and ISA (UK) 260 require us to give you timely disclosure of all significant facts and matters that may bear upon the integrity, objectivity and independence of the firm or covered persons relating to our independence. We encourage you to contact us to discuss these or any other independence issues with us. We will also discuss with you if we make additional significant judgements surrounding independence matters.

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements.

We confirm that we have implemented policies and procedures to meet the requirements of the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements. Further, we have complied with the requirements of the National Audit Office's Auditor Guidance Note 01 issued in December 2017 and PSAA's Terms of Appointment which set out supplementary guidance on ethical requirements for auditors of local public bodies.

Other services provided by Grant Thornton

For the purposes of our audit we have made enquiries of all Grant Thornton UK LLP teams providing services to the Authority. No other services were identified. A summary of our previous engagements with the Authority are provided overleaf on page 15.

Service	£	Threats	Safeguards
Audit related			
NONE			
Non-audit related			
NONE			

Independence & non-audit services

Non-audit services provided prior to appointment

Ethical Standards require us to draw your attention to relevant information on recent non-audit / additional services before we were appointed as auditor. In the table below we have set out the previous services we have provided to the Authority.

Service	Date of service	Fees £	Would the service have been prohibited if we had been auditor?	Commentary
Advice provided in respect of Aggregates Levy	January 2017	1,400	Y	Self review and management threat considered immaterial to both the accounts and VFM work.
Cost assurance review	June 2017	11,210	Y	Self review and management threat considered immaterial to both the accounts and VFM work.

We do not believe that the previous services detailed above will impact our independence as auditors.

Appendices

A. Audit Approach

Appendix A - Audit approach

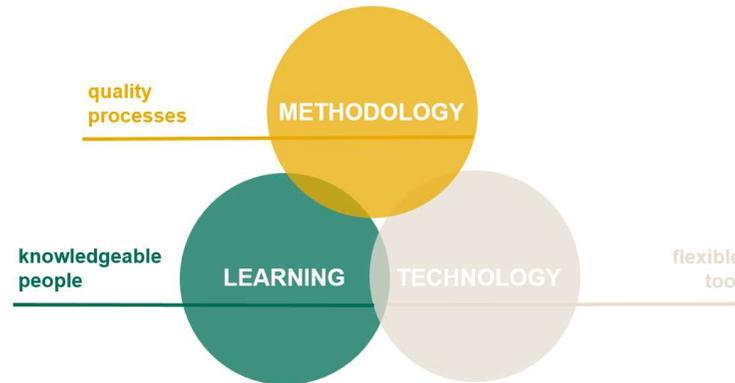
Use of audit, data interrogation and analytics software

LEAP



Audit software

- A globally developed ISA-aligned methodology and software tool that aims to re-engineer our audit approach to fundamentally improve quality and efficiency
- LEAP empowers our engagement teams to deliver even higher quality audits, enables our teams to perform cost effective audits which are scalable to any client, enhances the work experience for our people and develops further insights into our clients' businesses
- A cloud-based industry-leading audit tool developed in partnership with Microsoft



Info



Cloud based software which uses data analytics to identify trends and high risk transactions, generating insights to focus audit work and share with clients.



REQUEST & SHARE

- Communicate & transfer documents securely
- Extract data directly from client systems
- Work flow assignment & progress monitoring



ASSESS & SCOPE

- Compare balances & visualise trends
- Understand trends and perform more granular risk assessment



VERIFY & REVIEW

- Automate sampling requests
- Download automated work papers



INTERROGATE & EVALUATE

- Analyse 100% of transactions quickly & easily
- Identify high risk transactions for investigation & testing
- Provide client reports & relevant benchmarking KPIs



FOCUS & ASSURE

- Visualise relationships impacting core business cycles
- Analyse 100% of transactions to focus audit on unusual items
- Combine business process analytics with related testing to provide greater audit and process assurance



INSIGHTS

- Detailed visualisations to add value to meetings and reports
- Demonstrates own performance and benchmark comparisons

IDEA



- We use one of the world's leading data interrogation software tools, called 'IDEA' which integrates the latest data analytics techniques into our audit approach
- We have used IDEA since its inception in the 1980's and we were part of the original development team. We still have heavy involvement in both its development and delivery which is further enforced through our chairmanship of the UK IDEA User Group
- In addition to IDEA, we also other tools like ACL and Microsoft SQL server
- Analysing large volumes of data very quickly and easily enables us to identify exceptions which potentially highlight business controls that are not operating effectively

Appian



Business process management

- Clear timeline for account review:
 - disclosure dealing
 - analytical review
- Simple version control
- Allow content team to identify potential risk areas for auditors to focus on



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Final Accounts Summary Timetable 2018/19

Date	Item	Responsibility
01/04/2019	Final valuation report signed, certificate and supporting schedules	DMBC
09/04/2019	Capital funding agreed for all capital programmes including all capital financing	DMBC
18/04/2019	HRA outturn	SLHD
18/04/2019	Deadline for finalising Revenue Outturn Position and Balance Sheet	DMBC
10/05/2019	Completion of Core Statements	DMBC
10/05/2019	Draft Statement of Accounts (excluding Cash Flow Statement) sent to RFO	DMBC
17/05/2019	Completion of Cash Flow Statement and supporting notes	DMBC
24/05/2019	Draft Statement of Accounts (including Cash Flow Statement) sent to RFO	DMBC
31/05/2019	Draft Statement of Accounts signed by RFO	DMBC
31/05/2019	Draft Statement of Accounts distributed to Audit Committee members	DMBC
31/05/2019	Draft Statement of Accounts published on Council website	DMBC
03/06/2019	Public inspection of accounts starts for statutory six week period	DMBC
03/06/2018	Audit of Statement of Accounts starts	Grant Thornton
05/06/2019	Informal Audit Committee (Workshop to consider draft accounts)	DMBC / Audit Committee
06/06/2019	Audit Committee report & draft accounts deadline	DMBC
20/06/2019	Audit Committee – draft Statement of Accounts for endorsement	DMBC / Audit Committee
13/06/2019	Unaudited Whole of Government Accounts (WGA) deadline	DMBC
12/07/2019	Public inspection of accounts finishes	DMBC
12/07/2019	Finalise WGA with audit adjustments	DMBC
12/07/2019	Audit of Statement of Accounts finishes - IAS260 issued	Grant Thornton
15/07/2019	Date of representation to external audit	Grant Thornton
15/07/2019	Audit Committee report & ISA260 deadline	DMBC

tbc	Audited WGA return submitted to CLG by Grant Thornton	Grant Thornton
24/07/2019	Audit Committee – to approve and certify final audited Statement of Accounts, Letter of Representation	DMBC / Audit Committee
24/07/2019	Final audited Statement of Accounts published on Council website (subject to audit opinion being received)	DMBC